

**BEFORE THE RAILWAY CLAIMS TRIBUNAL,
RANCHI BENCH.**

CORAM:

GYAN PRAKASH TEWARI - Member Judicial.

Claim Application : OA(IIU)/RNC/48/2019
Check List No. : 2906190012
Date of incident : 14.02.2019
Date of filing : 10.05.2019
Date of judgement : 25.01.2024

1. Tara Devi, aged about 40 years, wife of deceased Arun Saw @ Arun Sahu
2. Vijay Kumar, aged about 19 years, son of deceased Arun Saw @ Arun Sahu
3. Ajay Kumar, aged about 13 years, minor son of deceased Arun Saw @ Arun Sahu **(Became major now)**.
4. Puja Kumari, aged about 15 years, minor son of deceased Arun Saw @ Arun Sahu **(Became major now)**.

All are Residents of Singh More, Road No. 6,
Kalyanpur, P.O: Hatia, P.S : Jagarnathpur,
Dist-Ranchi-834004(Jharkhand).

----- Applicants

Versus

Union of India represented by
The General Manager,
South Eastern Railway,
Kolkata.

----- Respondent

Claim for Rs.8,00,000/- (with interest)

Ld. Counsel for Applicants - Shri Dwarika Prasad.
Ld. Counsel for Respondent - Shri Sudhir Kumar Srivastava.

JUDGEMENT

01. This claim application (O.A) is filed by the applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 123 (c) (2) and Section 124-A of Railways Act, 1989 seeking compensation of Rs.8 lakhs with

interest from respondent railway arising out of the death of Arun Saw @ Sahu (hereinafter referred to as 'the deceased') who allegedly died on 15.02.2019 in an untoward incident by train carrying passenger. Applicants are wife, son and daughter of the deceased.

02. Brief facts of the case: As per claim application, it is alleged that deceased Arun Saw @ Arun Sahu was travelling on 14.02.2019 by train no. 58162 from Balsiring Station to Hatia after purchasing a second class general ticket. Said journey ticket was purchased by deceased in presence of Janardhan Prasad a private railway maintenance worker and Sandip Kumar which was lost during incident and further stated that due to heavy rush and jerk of the train he accidentally fell down from the train and got injured in which his left leg was cut. Train was stopped and with the help of railway staff and passengers he was shifted to Hatia Railway Hospital by the said train and later on referred to RIMS Hospital for better treatment where during treatment he died on 15.02.2019. GRP has registered a case U.D. No. 02/19 based on fardbayan written by the son of the deceased, Later on the completion of inquest and post mortem dead of the deceased was handed over to the family members for cremation. As per claimants incident happened during train journey hour. Hence being family member and dependent of the deceased they have filed this claim petition to get compensation from the respondent railway.

03. Respondent's reply: Respondent have submitted Written Statement denying its liability, bonafide status and untoward incident. Respondent further stated that incident happened due to gross negligence of the deceased and at the time of incident no journey ticket was found from the possession of the deceased. Moreover no journey ticket was also issued to any passenger from Balsiring Railway Station on 14.02.2019. Therefore claim application filed by the applicants are false, tribulous and liable to be dismissed.

04. Issues: From the pleadings of the parties, the following issues were framed on 19.3.2021 by the Tribunal for determination of claim:

1. Whether this case comes under the jurisdiction of Ranchi Bench?
2. Whether Arun Saw @ Arun Sahu was a bonafide passenger?
3. Whether any untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989 happened with train no.58162 on 14.02.2019 ?
4. Whether the applicant or other dependents of the deceased are entitled to get compensation?
5. Relief.

05. In support of their claim, Applicant no.1 Smt. Tara Devi examined as AW-1 and Sri Janardhan Prasad examined as AW-2 and both were cross-examined by the Respondent counsel. The applicants/claimants in support of their case have filed the copies of following documents which were marked exhibited as:-

- | | | |
|---------------------------------|---|--------|
| (1) Certified copy of PM Report | - | Ext.A1 |
| (2) Certified copy of Fardbeyan | - | Ext.A2 |
| (3) Certified copy of FIR | - | Ext.A3 |

- | | | |
|---|---|--------|
| (4) Certified copy of Inquest Report | - | Ext.A4 |
| (5) Certified copy of dead body challan | - | Ext.A5 |

06. Respondent have examined three witnesses, Pandey Manish Sr. Passenger Guard/Manager as RW-1, Rajesh Khalko Pointsman-1 RW-2, and Surendra kr. Seth, Station Superintendent of Balsiring Railway Station as RW-3 and submitted Statutory Enquiry Report (DRM Report) along with other relevant documents which is marked as Exht.R-1.

07. Heard both sides' counsels and perused the case file. On consideration of materials available on record and the contentions of the learned Counsels appearing for both the parties, issues wise findings are recorded as follows:

FINDINGS

Issue No.1 :Territorial Jurisdiction

08. Though respondent have not raised a question regarding territorial jurisdiction for disposal of this case, moreover from perusal of case file it is observed that deceased Arun Saw @ Arun Sahu was travelling by train no. 58162 from Balsiring Railway Station to Hatia on 14.02.2019 and during journey hour he accidentally fell down got injured, his leg was cut and later on died during treatment. It is further observed that residence of the applicants is Singh More, Road no. 6, Kalyanpur, Jagarnathpur, Hatia, Dist. Ranchi (Jharkhand) and place of incident is Balsiring Railway Station. Both comes in the territory of Dist. Ranchi (Jharkhand). Therefore RCT/Ranchi Bench has ample territorial jurisdiction to try, determine and entertain this O.A. Accordingly, issue no. 1 is decided in favour of the applicants.

Issues No.2 & 3 : Bonafide Status and Untoward Incident

The above two issues are taken up together for convenience being inter-connected.

09. (a) According to applicants deceased Arun Saw was travelling on 14.02.2019 after purchasing a second class journey ticket from Balsiring to Hatia by train no. 58162 holding a IInd class journey ticket and during journey hour due to sudden jerk, jolts and pushed by passengers he accidentally fell down from running train and become injured seriously in which his left leg was cut. He was shifted from Balsiring to Hatia Railway Hospital through same train after where first aid referred to RIMS Hospital, Ranchi for better treatment, where he died during treatment. As per claimants during incident he was badly injured and his ticket was lost and further stated that journey ticket was purchased by deceased in presence of Janardhan Prasad and Sandip Kumar who are friends of the deceased. Thus at the time of incident he was a bonafide passenger. Respondent railway has refuted the bonafide status of the deceased stating that at the time of incident no journey ticket was found from the possession of the deceased.

(b) To conclude the bonafide status of the deceased, it is observed that journey ticket is not available with case file. Moreover applicants have not filed any journey ticket by which deceased was said to be travel truly and further said that during incident journey ticket was lost. In support of his claim applicant have examined Janardhan Prasad as AW-2 who has filed an affidavit stating that deceased was travelling on 14.02.2019 from Balsiring to Hatia from train no. 58162 and purchased journey ticket in his presence. Respondent has cross-examined in detail

and nothing found false and against towards regarding purchase of journey ticket. Applicant have argued that because of deceased died during treatment hour nothing is available to prove the true facts of the incident but through filing of affidavit by AW-2 Janardhan Prasad, it is proved that journey ticket was purchased by deceased and moreover they have discharged their burden in light of judgment of pronounced by the Hon'ble Supreme Court in the Union of India vs. Rina Devi (2018).

(c) To Counter the bonafide status of deceased, Respondent have examined RW-3 Surendra Kr. Seth Station Superintendent of Balsiring Railway Station who has stated that "UPS was damaged on 14.02.2019 after 12 0' clock so that no ticket was issued on that day". If said evidence is taken into consideration regarding UPS was damaged on 14.02.2019 then another issue arise naturally that, at what time UPS became functional. Surprisingly in case on hand nothing explained by respondent properly. It would be important to say that, case on hand is a case of accidental death during to train journey hour. Inquest and post mortem report shows the left leg of the deceased was cut and he died due to injuries and over bleeding occurred during incident. In the above circumstances, it can be construed that journey ticket might have been lost. Further, important to say that railway accidental claim cases are made for the welfare of the victim/deceased. Hon'ble Supreme Court has pronounced in the case of Union of India Vs. Rina Devi (2018) "We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bonafide passenger for which claim for compensation could be maintain. However mere absence of

journey ticket with such injured or deceased will not negative the claim that he was a bonafide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found". Thus it is held that although journey ticket is not filed and said to be lost but injuries occurred with deceased and fact and circumstances of the present case deceased was a bonafide passenger and argument advanced by respondent, regarding not availability of journey ticket has no substance.

(d) So far as untoward incident is concern, it is alleged by the applicants that deceased was travelling from Balsiring to Hatia Railway Station on 14.02.2019 from passenger train no. 58162 holding a IInd class journey ticket which was lost during incident and due to sudden jerk and jolts he accidentally fell down from said train and got fatal injuries and his left leg was cut and on the next day he died during treatment at RIMS, Hospital Ranchi which is covered under the definition of Section 123(C)(2) and Section 124-A of Railway Act, 1989 as untoward incident. Respondent countered stating that at the time of incident deceased was trying to catch the moving train and due to imbalance he accidentally fell down and got injured and incident happened due to the gross negligence of the deceased for which none is a responsible except deceased himself.

(e) To substantiate untowards incident, it is admitted that deceased Arun Saw was accidentally fell down from moving train on 14.02.2019 at platform no. 2 of Balsiring Railway Station and after incident his left leg was cut. Train no. 58162

stopped immediately and later on with the help of railway employee, he was sent from Balsiring to Hatia Railway Hospital by said train and later on referred to RIMS Hospital Ranchi for better treatment where he died on 15.02.2019. During DRM Enquiry it is further found that incident was first seen by the train Guard Manish Pandey (RW-1) who deposed to E.O. and stated in Court that he was Guard of the train no. 58162 on 14.02.2019 and said train reached Balsiring Railway Station at 16:59 hrs. and departed at 17:01 hrs. after two minute stoppage. Meantime he observed that one person was trying to deboard in said train and due to imbalance he slipped and went under the track from platform and got injured. After that he suddenly used vacuum drop and train was stopped with the help of Loco Pilot. During deposition he has admitted that with the help of railway employees he pull out injured and through mobile of injured convey the message to his son and boarded injured in the same train upto Hatia Railway Station, where after first aid handed over to the railway doctor. In this regard, evidence available in DRM Enquiry, it is observed that deceased accidentally slipped and fell down at Balsiring Railway Station between platform and track. Train was stopped immediately and left leg of injured was cut and heavy bleeding started. With the help of a railway employee he was sent to Hatia Railway Station through the same train, These voluminous evidence proves that, incident happened within the railway premises and respondent has admitted the accidental fall of the deceased, points man has spotted the deceased from Balsiring to Hatia Railway Station in the injured condition. Nothing is found, against the version of applicants. Respondent has not contradicted or falsify the case of applicants. Hence it is held that the death of the

deceased is covered under the definition of untoward incident as defined under Section 123 (c)(2) and Section 124-A of the Railway Act, 1989.

Accordingly, issue no. 2 and 3 are decided in favour of the applicants and against the respondent.

ISSUE NO. 4 and 5:- Dependency of applicants and relief

10. So far as dependency is concern applicant nos. 1 to 4 are wife and children of deceased. In their support, applicants have filed photocopies of Aadhar Cards and Family Membership Certificate along with bank account passbook. There is no dispute about the inter se relationship of the applicants and their relationship with the deceased. Even, at the time of arguments, Counsel for the respondent has not disputed seriously about the dependency of applicants and their relation with the deceased. Thus, it is held that applicant no.1 to 4 are dependents of the deceased.

On disposal of issue no. 2 to 5, it is held that at the time of incident deceased was a bonafide passenger and he was died during journey hour, Hence, applicants being wife and children are dependents of deceased entitle to get prescribed compensation.

11. In view of the above, the applicants are entitled to get compensation amounting to Rs.8,00,000/-(Rupees Eight Lakhs only) along with simple interest @ 9% per annum from the date of incident on 14.02.2019 till date of realization without costs.

O R D E R

For the determination of the amount of award, I have heard the learned counsel for the parties and perused the case file relying upon the judgement rendered by the Hon'ble Delhi High Court in the case of **Geeta Devi Vs Union of India** and in pursuance of **Rule 5**, the amount of award along with the interest in the present case shall be disbursed in the following manner:

<i>Sl. No.</i>	<i>Name of the Applicant(s)</i>	<i>Relationship with deceased</i>	<i>Age in years</i>	<i>Amount Awarded (Rs.)</i>	<i>Transfer of 10% of respective share to the account of party/ parties (Rs.)</i>	<i>Amount to be kept in Fixed Deposit for a period of three years (Rs.)</i>
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
1.	Tara Devi	Wife	40	Rs.5,00,000	Rs.50,000	Rs.4,50,000
2.	Vijay Kumar	Son	19	Rs.1,00,000	Rs.10,000	Rs.90,000
3.	Ajay Kumar (DOB: 2003)	Minor Son (became major now)	13	Rs.1,00,000	Rs.10,000	Rs.90,000
4.	Puja Kumari (DOB: 2001)	Minor Daughter (became major now)	15	Rs.1,00,000	Rs.10,000	Rs.90,000

12. The respondent Railway is hereby directed to deposit the awarded amount in the suitor's account of Additional Registrar of this Tribunal within a period of 30 days from the date of communication of the judgement. Failing which the applicant shall be entitled to receive interest @ 10% per annum from the date of award till the actual date of depositing the amount.

13. The applicants are hereby directed to submit the details of their Aadhar linked Bank accounts of a Nationalized Bank mentioned in the schedule Appendix-I of the Railway Accidents and Untoward Incidents (Compensation)

Rules, 1990, situated near their place of permanent residence to the Additional Registrar of this Tribunal.

14. If the claimants are entitled to exemption of deduction of TDS, they shall submit Form 15-G or Form 15-H (for senior citizen) to the Presenting Officer of the Railways (as applicable under sub-section (2) of Section 19 of the Railway Claims Tribunal Act, 1987) so that no TDS is deducted.

15. Terms and conditions:

(a) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the Claimant i.e. the savings bank account of the Claimant shall be an individual savings bank account and not a joint account.

(b) The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the Claimant(s).

(c) The monthly interest be credited by Electronic Clearing system (ECS) in the savings bank account of the Claimant near the place of their permanent residence.

(d) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their permanent residence.

(e) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the RCT.

(f) The concerned bank shall not issue any cheque book and/or debit card to the Claimant. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall freeze the account of the Claimant so that no debit card be issued in respect of the account of the Claimant from any other branch of the bank.

(g) The bank shall make an endorsement on the passbook of the Claimants to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the RCT and Claimant shall produce the passbook with the necessary endorsement before the RCT on the next date fixed for compliance.

(h) It is clarified that the endorsement made by the bank along duly signed and stamped by the bank official on the passbook of the Claimant is sufficient compliance of clause (g) above.

(i) The concerned Bank of the claimant be directed to permit the claimant to withdraw money from his savings bank account by means of a withdrawal form only.

16. Copy of this order be supplied to both the parties free of costs, and the file, after its due completion, be consigned to the Record Room.

(GYAN PRAKASH TEWARI)
Member (Judicial)
RCT/Ranchi.

APPENDIX

WITNESSES EXAMINED FOR APPLICANT:

- 1) AW.1 - Tara Devi.
- 2) AW.2 - Janardhan Prasad.

DOCUMENTS MARKED FOR APPLICANTS:

- 1) Ext.A.1 - Certified copy of PM Report
- 2) Ext.A.2 - Certified copy of Fardbeyan
- 3) Ext.A.3 - Certified copy of FIR
- 4) Ext.A.4 - Certified copy of Inquest Report
- 5) Ext.A.5 - Certified copy of dead body challan

WITNESSES EXAMINED FOR RESPONDENT:

- 1) RW.1 - Pandey Manish, Sr. Passenger Guard/CKP.
- 2) RW.2 - Surendra Kr. Seth, Ex-SS/BLRG
- 3) RW.3 - Rajesh Khalko, Pointsman-I/BLRG

DOCUMENTS MARKED FOR RESPONDENT:

- 1) Ext.R.1 - Divisional Railway Manager's Report.

(GYAN PRAKASH TEWARI)
Member (Judicial)
RCT/Ranchi.