

BEFORE THE RAILWAY CLAIMS TRIBUNAL,
RANCHI BENCH.

Case No.OA(IIU)/RNC/50/2021

Check List No.2901210006

Date of incident : 08.07.2018

Date of filing : 24.09.2020

Date of judgement: 20.10.2023

1. Parvati Devi, aged about 61 years, Late Bhade Singh

Residents of Village/Mohalla : Bendi, PO- Gajhandi, PS- Chandwara, Dist-
Koderma, Pin Code- 825409 (Jharkhand)

----- Applicant

Versus

Union of India through the General Manager, East Central Railway, Hajipur

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----- Respondent

CORAM : Sri Dhruv Singh, Member (Technical)/RCT/Ranchi.

Sri Pramod Kumar, Ld. Counsel for the Applicant.

Sri Sudhir Kumar Srivastava, Ld. Counsel for the Respondent.

JUDGEMENT

01. This original application has been filed by the mother of the deceased to claim compensation under Section 16 of the Railway Claims Tribunal's Act, 1987 claiming compensation from Railway Administration for alleged death of Sri Dinesh Kumar Singh (hereinafter called the deceased) in an alleged untoward incident during alleged journey by train.

02. Brief facts of the case: It is alleged that on 08.07.18 the deceased Dinesh Kumar Singh was travelling by Jammu Tawi Express Train no. 131510 UP from Gujandih to Lucknow on a valid journey ticket along with Sri Vaijnath Singh, S/o Bllo Singh and during the course of journey, Dinesh Kumar Singh accidentally fell down from the running train near Dilwa Station, sustained injuries and died at the spot. The co-passenger Vaijnath Singh cried but train did not stop and thereafter Vaijnath Singh alighted from the train at Paharpur Station and informed Station Master, Paharpur Station about the accident and also the family of the deceased. Police registered UD case no. 71/18 dated 09.07.2018 lodged with GRP Gaya Junction and applicant being dependent is entitled to the compensation. It is alleged that the ticket was lost during incident. The deceased was unmarried son of the applicant.

03. The applicant had been filed the condonation petition along with the OA which was condoned by this Tribunal on 07.07.2021.

04. Respondent's reply: Respondent appeared and filed its Written Statement. In Written Statement Respondent denied its liability, bonafide passenger status, untoward incident and travel and the applicant put to strict proof by the documentary evidence. That nobody has seen the occurrence but the statement of Annexure-I, Para-VII of the claim application is totally false. It is totally false to

say that the death of the deceased was due to heavy rush, gross negligence of the administration. It is prayed for dismissal of the case.

05. Issue: From the pleadings of the parties, the following issues were framed on 13.07.2021 by the Tribunal for determination:-

1. Whether this case comes under the jurisdiction of Ranchi Bench?
2. Whether Dinesh Kumar Singh was a bonafide passenger ?
3. Whether any train accident as defined under Section 123(c) (2) of the Railways Act, 1989 happened with train no.13151 UP by Jammu Tawi Express Train on 02.07.2018?
4. Whether the applicant or other dependents of the deceased are entitled to get compensation?
5. Relief.

06. Applicant's Evidence: The applicants in support of their case have filed the certified photo copies of the following documents :- (1) Station Memo (2) FIR- (3) Inquest Report (4) Dead body Challan (5) PM report (6) Final Report (7) photo copy of Dependency certificate (8) Aadhar card of Parvati Devi (9) Aadhar card of Dinesh Kumar Singh (10) Bank Passbook of Parvati Devi. In this case applicant has failed to step into the witness box to prove her case but alleged

co-passenger Sri Vaijnath Singh appeared as AW-1. He was cross-examined by the Ld.Counsel for the respondent and discharged.

07. Respondent's Evidence: The Respondent Railway on the other hand have filed the DRM's statutory investigation report along with other relevant documents but did not adduce any oral evidence.

08. At the time of final hearing Ld. Counsel for the parties argued as under :-

“Ld. Counsel for the Respondent argued that the applicant has not turned up for Applicant's evidence despite several opportunities and AW-2 has admitted during cross-examination that he was not travelling with the deceased. He also admitted that he had signed on the statement given to the GRP as he wanted his Bhabhi and other family members to receive compensation. The Counsel for the Respondent also argued that this is a fabricated case fit to be dismissed.

09. *The Counsel for the applicant did not have any counter to the arguments by the Counsel for the respondent and admitted that AW-2 during his cross-examination admitted to the facts argued by the Ld. Counsel for the respondent.”*

10. FINDINGS: I have carefully gone through the pleadings of the parties, material made available on record, evidence adduced on behalf of the applicant as well as documentary evidence filed by the respondent and heard the arguments of both the sides. My findings on the aforesaid issues are as under:-

11. Issue No.1 :-

The applicant is residing at Village/Mohalla : Bendi, PO- Gajhandi PS- Chandwara, Dist- Koderma, Pin Code- 825409 (Jharkhand) and the incident took place near Dilwa station. The place of residence of the applicant and the place of incident, both falls within the territorial jurisdiction of this Tribunal. As such this Tribunal has the territorial jurisdiction to try, entertain and determine this present O.A. Accordingly, this issue is decided in favour of the applicant.

12. Issues No.2 & 3:-

Both the issues are taken up together being inter-connected.

It is the unique case where the claimant has not stepped into the witness box but the witness co-passenger appeared in the witness box and deposed about travel and incident in terms of pleadings made in the OA. Before proceeding further I would like to reproduce statements of applicant Parvati Devi recorded during the course of the DRM's Enquiry पूछने पर मैं पार्वती देवी, पति स्व. भादे सिंह पता उपरोक्त बिना भय दबाव अथवा लोभ लालच के स्वेच्छा पूर्वक सच सच बयान करता हूँ कि मृतक दिनेश कुमार सिंह मेरा छोटा बेटा था जिसका उम्र लगभग 22 वर्ष था तथा वह मजदूरी करता था बाद में उसकी दिमागी हालत खराब हो गया व विक्षिप्त रहने के कारण इधर उधर भाग जाता था बाद में घर में भी आ जाता था जिसका हमलोग इलाज व झाल. फूंक कराये थे। दिनांक 08.07.2018 को मेरे घर का तीन मुर्गी जो किसी कारणवश मर गया था जिसे मेरा लडका दिनेश कुमार सिंह ऑगन में मर कर पड.। हुआ तीनों मुर्गी को देखकर विचलित हो गया तथा उसकी तबीयत खराब हो गया व उसी समय उल्टी करने लगा जिसे उसकी

पत्नी द्वारा उसकी सफाई व स्नान कराया गया। फिर थोड़ी देर बाद वह विचलित होकर घर से बाहर आकर जंगल की तरफ भागने लगा उसके भागने के क्रम में घर में मौजूद मैं तथा दिनेश की पत्नी मुन्नी देवी उसको पकड़ने की कोशिश किये लेकिन वह जंगल की तरफ भाग गया। इस संबंध में मेरा बड़ा लड़का कैलाश सिंह जो हैदराबाद में रह कर काम करता था उसको बताया गया बाद में हमारे व उसकी पत्नी द्वारा खोजबीन किया गया लेकिन रात व अंधेरा होने के कारण उसे खोज नहीं सके। अगले दिन दिनांक 09.07.2018 को सुबह में किसी ग्रामीण द्वारा हमलोगों को सूचना दिया गया कि आपका लड़का दिनेश जो नाथगंज स्टेशन के पास किसी ट्रेन से धक्का लगकर उसका दोनों पैर कटा हुआ है व शरीर क्षत-विक्षत होकर रेलवे लाइन के किनारे मृत पड़ा हुआ है। सूचना पाकर हमलोग शव को देखने घटनास्थल नाथगंज स्टेशन के पास पहुँचे तो पता चला कि तब तक जीआरपी/गया के पुलिस पदाधिकारी के द्वारा शव को उठाकर अग्रिम कार्यवाही हेतु गया ले जाया गया था। बाद में ग्रामीण तथा हमारे परिजन लोग जीआरपी गया जाकर शव का पहचान किये जो मृतक दिनेश कुमार सिंह का ही शव था जो किसी अज्ञात ट्रेन से धक्का लगने के कारण ही उसकी मृत्यु हुई है। बाद में पुलिस पदाधिकारी गया के द्वारा शव का पोस्टमार्टम तथा सभी कार्यवाही पश्चात शव को हमारे परिजन को सौंपा गया जिसे हमारे परिजन लोग शव लेकर हिन्दू रीति रिवाज के साथ शव का दाह संस्कार किया गया। यही मेरा बयान है।

13. and statement of one Sri Kailash Singh brother of the deceased Dinesh Kumar Singh is as under:-

पूछने पर मैं कैलाश सिंह, पति स्व. भादे सिंह पता उपरोक्त बिना भय दबाव अथवा लोभ लालच के स्वेच्छा पूर्वक सच सच बयान करता हूँ कि मृतक दिनेश कुमार सिंह मेरा छोटा भाई था वह मजदूरी का काम करता था व बाद में वह दिमागी रूप से विक्षिप्त हो गया था जिसका हमलोग इलाज व झाड़ फूक कराये थे। दिमाग विक्षिप्त होने के कारण वह कभी कभी इधर उधर भाग जाता था तथा बाद में घर आ भी जाता है। घटना के समय मैं घर से बाहर काम करने हैदराबाद गया हुआ था तथा हैदराबाद में ही रहकर

काम कर रहा था । दिनांक 08.07.2018 को भाम में ग्राम वेंदी घर से मेरी माँ व पत्नी के द्वारा मेरे मोबाईल में फोन करके बतायी कि फिर से दिनेश का तबीयत खराब हो गया है तथा वह उल्टी भी किया व घर का तीन मुर्गी भी मर गया है इसके पश्चात दिनेश घर से भाग कर जंगल की तरफ चला गया। सूचना पाकर मैं अपनी पत्नी व माँ को फोन से ही बोला कि उसे इधर उधर तथा जंगल की तरफ जाकर खोजबीन करो। सुबह दिनांक 09.08.2018 को मेरी पत्नी द्वारा सूचना मिला कि दिनेश घर से भागकर व रेलवे लाइन की ओर चला गया था वह किसी ट्रेन द्वारा रेलवे लाइन पर धक्का लगने से मृत अवस्था में पडा हुआ है। सूचना पाकर मैं हैदराबाद से घर तीन दिन पश्चात आया व छोटा भाई के जिसका दाह संस्कार व ब्रह्म भोज में शामिल हुआ।

14. And one statement of Sri Anuj Soren, Line man पूछने पर मैं अनोज सोरेन, पिता स्व. शिवलाल सोरेन पता उपरोक्त बिना भय दबाव अथवा लोभ लालच के स्वेच्छा पूर्वक सच सच बयान करता हूँ कि दिनांक 08.07.2018 को मैं तथा मेरा जोड़ीदार मिथिलेश कुमार यादव दोनों की डियूटी नाथगंज स्टेशन किलोमीटर सं.414 से किलोमीटर सं. 412/1.3 तक समय 22.00 बजे से दिनांक 09.07.2018 को सुबह 06.00 बजे तक के लिए ट्रैक पेट्रोलिंग डियूटी पर कार्यरत था। मैं तथा मेरा जोड़ीदार दोनों लोग दिनांक 08.07.2018 को समय 22.00 बजे नाथगंज स्टेशन से डियूटी ऑन कराकर ट्रैक पेट्रोलिंग करते हुए किलोमीटर सं.412/1.3 तक गये। बाद में किलोमीटर सं.412/1.3 से नाथगंज स्टेशन की तरफ वापसी के दौरान दिनांक 09.07.2018 को समय लगभग 00.30 बजे किलोमीटर सं.413/33-35 पर पहुँचे तो देखे कि एक व्यक्ति जिसकी उम्र लगभग 32 वर्ष होगी मृत अवस्था में रेल लाइन के बगल में जिसका शरीर क्षत-विक्षत अवस्था में पडा हुआ था। जिसे देखकर हमलोगों के द्वारा तुरंत अपने वरिष्ठ अधिकारी को सूचित किया। जिनके द्वारा निर्देश दिया गया कि आपलोग तुरंत इसकी सूचना नाथगंज आर्न डियूटी स्टेशन मास्टर को अग्रिम कार्यवाही हेतु दे तथा मृतक शरीर की सुरक्षा व देखरेख हेतु घटनास्थल पर ही रहे। बाद में हमलोगों के द्वारा नाथगंज स्टेशन मास्टर को सूचना देकर समय लगभग 08.00 बजे तक मृतक शरीर की सुरक्षा हेतु उक्त किलोमीटर पर उपस्थित रहे। बाद में मेरे मेठ वासुदेव द्वारा हमलोगों

को रिलीज किया गया जिसके पश्चात हमलोग विश्राम हेतु अपने अपने क्वार्टर वापस आ गये। इस संबंध में मेरा यही बयान है।

15. All the statements are relevant and as per these statements applicant in her statement highlighted following facts:-

1. Deceased was a married person and name of his wife is Munni Devi.
2. There is no indication of travel, purchase of ticket and journey in the statement rather as per statement deceased was having some mental health problem and he was under stress after seeing the death of three hens kept by their family in their house and he started vomiting. Thereafter, he ran towards the forest and ultimately they came but know about his death in a train accident. Brother of the deceased also gave statement on similar lines whereas Gangman deposed how he came to know about the dead body lying at the place of the incident and to whom he reported the matter.

16. AW-2 although in examination in-chief and cross-examination tried to support the case of the applicant and deposed on such lines, but ultimately during cross-examination he replied that he was not travelling with the deceased on the date of the incident. Leaving aside such admission, so made during cross-examination, I have independently examined the veracity of fact of his co-travel with the deceased. There was no ACP and further AW- 1 has failed to prove on record any ticket to show travel. Further, as per statement of AW-2 he got down at

Paharpur Station and informed Station Master, Paharpur about the incident but there is no communication or message from Station Master, Paharpur about the incident. Neither Railway Authorities nor the applicants have proved any such communication on record. Rather Gangman Anuj Soren in his statement during DRM's Enquiry explained how during patrolling he saw one dead body lying on the track and the further process of information given by him to the station Authorities. It shows that the deposition of AW-2 that he informed Station Authorities about the incident appears to be a concocted story and this further refutes the pleadings of travel of the deceased and co-travel by AW-2. No ticket has been proved on record rather statement of applicant during course of DRM's Enquiry is in contradiction with the pleadings made in the OA.

17. The applicant has failed to step into the witness box so the applicant has failed to discharge the initial burden regarding bona fide passenger status and untoward incident as required in terms of judgement in the case of Rina Devi Vs. Union of India.

18. In the backdrop of the above, the deceased cannot be treated as a bona fide passenger and applicant has failed to prove on record any travel. Rather statement given during the course of the DRM's Enquiry reveals that it was a case of accident while crossing the railway track or otherwise but for the sake of compensation alleged incident has been concocted as a case of travel and

accidental fall. The applicant has failed to prove on record that the deceased was travelling by any train or he accidentally fell down from the running train. So, both these issues are decided against the applicant and in favour of the respondent.

19. Issues No. 4 & 5:-

As per statement given during the course of the DRM's enquiry, the applicant herself revealed that the deceased was a married person and also disclosed name of wife of the deceased as Munni Devi in the statement. It is said that when deceased started vomiting after seeing dead hens, his wife cleaned him. The statement was given in the normal course by the applicant and in this case the applicant has failed to step into the witness box. In the OA, the applicant has failed to disclose anything about the details of wife and children of the deceased. Rather in reply to Cl No. 6, the deceased has been shown as unmarried person. Though applicant is the mother of the deceased but applicant has not come to this Tribunal with clean hands and has concealed the marital status and actual dependency of the deceased.

So applicant has not come to this Court with clean hands. Therefore, this OA is liable to be decided against the applicant as applicant has failed to approach this Tribunal with clean hands.

Hence it is

ORDERED

That the applicant is not entitled for any compensation and the claim application of the applicant being devoid of merits is dismissed on contest with no order as to costs.

Given under my hand on seal of this Tribunal on this day of 20.10.2023.

Dictated on 20.10.2023.

Pronounced in Open Court.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
20.10.2023.

Corrected and signed by us on 20.10.2023.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
20.10.2023.