

RAILWAY CLAIMS TRIBUNAL  
RANCHI BENCH, RANCHI

CORAM:

GYAN PRAKASH TEWARI - Member Judicial.

DHRUV SINGH - Member Technical.

Claim Application No. : OA(IIU)/RNC/7/2021

Check List No. : 2907190015

Date of Incident : 01.12.2017

Date of filing : 12.7.2019

Date of decision : 21.03.2024

Ritesh Kumar Pandey alias Ritesh Pandey, aged about 20 years, son of Sri Raj Kumar Pandey

R/o. Vill – Maheshpur Madhuban, P.O & P.S - Madhuban, District – Dhanbad, Pin-828125 (Jharkhand)

...Applicant.

*Versus*

Union of India represented by  
The General Manager,  
East Central Railway,  
Hazipur.

...Respondent.

*Claim for Rs.14,10,000/- (With interest)*

Ld. Counsel for Applicant - Sri Krishna Mohan Murari

Ld. Counsel for Respondent - Shri Sudhir Kumar Srivastava

**J U D G E M E N T**

01. This claim application has been filed by the Applicant under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 123 (c) (2) and Section 124-A of the Railways Act, 1989 seeking compensation of Rs.14,10,000/- (Rupees fourteen lakhs ten thousand only) along with interest @ 12% per annum from the Respondent Railway for the injuries sustained by Ritesh Kumar Pandey alias Ritesh Pandey in an alleged untoward incident that occurred on 01.12.2017.

## 02. **Brief facts of the case:-**

As per claim application, the injured was performing his duty as a coach attendant on Ranchi-Garib Rath Train No.12878 DN from New Delhi to Ranchi on 30.11.2017. When the Train reached Dehri-on-sone on 01.12.2017 at about 2.50 am, the applicant de-boarded the train and while boarding the train, he accidentally fell down from the moving train. As a result, his left leg and left hand came under the wheels of the train and got amputated below hip and amputation on left forearm through shoulder joint.

The Station Master/Dehri-on-sone informed GRPS/Dehri-on-sone to take necessary steps towards providing medical treatment. A memo was issued to Sub-divisional Hospital/Dehri where the first aid was provided and thereafter the injured was referred to Narayan Medical College Hospital at Jamuhar and from there referred for further treatment to BHU Varanasi. The injured remained under treatment from 01.12.2017 to 10.12.2017. On 14.01.2018 he gave his fardbayan before GRPS/Dehri and narrated what happened with him. Two coach attendants Sri Anwar Ansari and Sri Prakash Kumar helped the applicant in admitting him to the hospital. Since the applicant was on duty as such no ticket/pass is required. However, he was travelling on the authority issued by South Eastern Railway, Hatia Division which is on record as Annexure – 4. Applicant himself filed this claim to get compensation from railway regarding his injuries occurred during train journey hour.

03. The applicant has filed delay condonation petition along with the claim application which was allowed by the Tribunal on 15.03.2021 and claim was registered after condonation of delay.

04. **Respondent's reply:-**

The respondent has submitted that the claim application is not maintainable either in facts or in law and fit for dismissal. There is no eye witness to the said incident. The on duty guard was also not aware of any such incident and further the destination station of the applicant was not Dehri-on-sone station. The injured was the coach attendant of Train No.12878 DN and he was an employee of Sarda Chemicals, Hatia. This is not a case of untoward incident as defined under Section 123 (c)(2) read with Section 124-A of the Railways Act, rather it is a case of self-inflicted injury due to negligent act of the deceased and the Railway Administration is protected under exceptional clause of Section 124-A of the Railways Act. The injured was the coach attendant of the said train, however no railway journey particulars were found. Therefore, the respondent prayed that the claim application is liable to be dismissed.

05. From the pleadings, following issues were framed on 17.8.2021:-

1. *Whether this case comes under the jurisdiction of Ranchi Bench?*
2. *Whether Ritesh Kumar Pandey alias Ritesh Pandey was a bonafide passenger as alleged?*
3. Whether the injured suffered injuries due to alleged Untoward Incident as defined under Section 123 (c) (2) of the Railways Act, 1989 while travelling by Ranchi-Garib Rath Train No.12878 DN on 01.12.2017?
4. Whether the applicant has sustained grievous injury or minor injury in the accident?

5. *Whether any compensation or relief has already been extended to the victim?*
6. *Whether the applicant is entitled for the compensation as claimed and other relief, if any?*

06. In support of his claim, the injured applicant Ritesh Kumar Pandey has filed his affidavit for examination in chief as AW-1 and is cross-examined by the Respondent. The following documents have been marked as exhibits as under:-

- |                                                                               |          |
|-------------------------------------------------------------------------------|----------|
| 1. Certified copy of Rail Memo                                                | - Ext.A1 |
| 2. Certified copy of Case Summary and Discharge Record                        | - Ext.A2 |
| 3. Certified copy of Fardbayan of Ritesh Kumar Pandey                         | - Ext.A3 |
| 4. Copy of I.Card of the applicant of Sharda Chemicals                        | - Ext.A4 |
| 5. Copy of Handicapped Certificate                                            | - Ext.A5 |
| 6. Copy of Aadhar Card of Ritesh Kumar Pandey                                 | - Ext.A6 |
| 7. Copy of bank particulars of Ritesh Kumar Pandey                            | - Ext.A7 |
| 8. Photo copy of medical bill receipt of Sir Sunderlal Hospital, BHU/Varanasi |          |
| 9. Photo copies of Cash memo of various medical bills                         |          |

07. Respondents have produced Sri Dayanand Ram, Guard as RW(1) and Sri Mohan Sharma, Loco Pilot as RW(2) and submitted Statutory Enquiry Report (DRM's Report) which is marked as Ext.R1.

08. Heard both sides counsels and perused the case file. On consideration of material available on record and the contentions of the learned Counsels appearing for both the parties, issue wise findings are recorded as follows:-

### **FINDINGS**

09. **Issue No.1 : Territorial Jurisdiction**

From perusal of case file, it is observed that though the incident took place at Dehri-on-sone which falls in Bihar state but the applicant is the  
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resident of Vill – Maheshpur, Madhuban, P.O & P.S- Madhuban, District – Dhanbad, Pin-828125 (Jharkhand) which falls within the territorial jurisdiction of this Tribunal. Moreover, respondents have not raised any objection, regarding territorial jurisdiction of this claim. As such, this Tribunal has the territorial jurisdiction to try, entertain and determine this present OA. Therefore, issue No.1 is decided in favour of the applicant.

**10. Issue Nos. 2, 3 and 4 : Bonafide Status of Passenger, Untoward Incident and injuries sustained**

For the sake of convenience, above three issues are taken up together being inter-connected.

As per claim application, the injured Ritesh Kumar Pandey alias Ritesh Kumar was performing his duty as a coach attendant on 30.11.2017 on Ranchi-Garib Rath Train No.12878 DN from New Delhi to Ranchi. When the train reached Dehri-on-sone on 01.12.2017 at about 02.50 am the injured applicant de-boarded from the train and while boarding the train he accidentally fell down from the moving train. His left leg and left hand came under the wheels of train and got amputated below hip and amputation of left forearm through shoulder joint. As per applicant, the incident happened during his duty hours; therefore he is entitled to get compensation for the injuries sustained due to accidental fall as an untoward incident.

Per contra, the respondent railway has refuted the bonafide status of the deceased as well as untoward incident stating that no journey ticket/authority was found and none is the eye witness of the said incident. Therefore, the claim is liable to be dismissed.

To substantiate the claim, as per claim application, it has been pleaded that the injured Ritesh Kumar Pandey alias Ritesh Pandey got injured while performing his duty as a coach attendant on Ranchi-Garib Rath Train No.12878 DN. He was on duty in G-8 coach. The incident occurred while boarding the train at Dehri-on-sone on 01.12.2017 at about 02.50 am. In this regard the identity card of the injured has been annexed as Annexure-4 with the claim application duly signed by the employee, the contractor (employer) and the railway authority. Moreover, a station memo was issued on 01.12.2017 at 02.55 hrs just after incident has also clarified as follows:-

“यात्रियों द्वारा सुचना मिला कि 2878 DN Exp से एक Coach attendant, Platform No.4 Foot Over Bridge के नीचे गिर गया है जिसका बाया पैर तथा बाया हाथ कट गया है ।”

The DRM's report under SI.No.14 has also mentioned that on 01.12.2017 SM/DOS gave a memo to RPF/DOS that the passengers informed him that the coach attendant of Train No.12878 DN has fallen down on Platform No.4 near the over bridge whose left leg and left hand has been cut. Further, in the DRM's report under SI.No.21 concluded that the injured was a coach attendant of Train No.12878 DN and an employee of Sarda Chemicals, Hatia (contractor). Similarly, the investigation report of accident compensation case filled in RCT/PNBE by East Central Railway, DDU Division has also mentioned under SI.No.12 that the claimant is a coach attendant.

As per Section 2(29) of the Railway Claims Tribunal Act, 1987 “passenger” means a person travelling with a valid pass or ticket.

In this case, on the basis of evidence available with case file, we would like to conclude that Ritesh Kumar Pandey being a coach attendant of Train OA(IIU)/RNC/7/2021

No.12878 DN was travelling on a valid authority and became injured while performing his duty at Dehri-on-sone station, Platform No.4.

So far as untoward incident and injuries to applicant is concerned, it is proved from the SM's memo of Dehri-on-sone railway station, the DRM's report and the investigation report of ECR/DDU Division that the coach attendant was injured while trying to board the train during the course of his duty on Train No.12878 DN at Dehri-on-sone railway station.

From respondent sides, in this regard, guard and driver of Train No.12878 have appeared as RW(1) and RW(2) and in their cross-examination they have denied that any such untoward incident occurred during their duty hours. The Driver's Note Book available on the record however shows that Train No.12878 DN arrived Dehri-on-sone at 2.50 hrs and left at 2.52 hrs. There is an entry of ACP between 02.53 to 03.09 hrs near the over bridge which seems to indicate that the train was stopped at the station due to same incident and injuries suffered by the coach attendant of Train No.12878 DN.

The Court has to rely on the observation made by the Hon'ble APEX Court in a case of similar nature. Accordingly the case reported in 2008(2) TAC 777 (S.C) in the case of U.O.I –vs- Prabhakaran Vijaya Kumar and others has been taken up for consideration. In Para-10 of that judgement, the Hon'ble Apex Court has observed that it will not legally make any difference whether the deceased was actually inside the train when he fell down or whether he was only trying to get into the train when he fell down and in their opinion in either case it amounts to an 'accidental falling of a passenger from a train carrying passengers' and hence, it is covered under the definition of an OA(IIU)/RNC/7/2021

‘untoward incident’ as per Section 123(c) (2) of the Railways Act, 1989. In deciding this case, Hon’ble Apex Court has also held that the provision for compensation in Railways Act is a beneficial piece of legislation and in deciding such claim for compensation a liberal and wider interpretation should be taken and the interpretation should not be narrow and technical one. The object of the Act is for the benefit of the person for whom the Act was made and should be given a liberal and not literal and strict interpretation. Further, in this case Hon’ble Supreme Court also observes that Section 124-A lays down strict liability or no fault liability in case of railway accidents. Hence, if a case comes within the purview of Section 124-A, it is wholly irrelevant as to who was at fault. Therefore, the plea taken by the respondent that it is a case of self-inflicted injury does not stand to reason. However, no element of criminal negligence has been proved by the respondents.

The respondents have produced nothing to contradict the bonafide status and untoward incident. Hence, we have no hesitation to hold that being a coach attendant, injured was a bonafide passenger at the time of the incident and suffered injuries while he was performing his duty.

Keeping in view the above facts, circumstances, evidence and documents available on record, this Bench of the Tribunal holds that the victim sustained injuries as a result of falling down from the running train and as such, the incident, as alleged, is an “untoward incident” within the provision of Section 123(c) (2) and Section 124-A of the Railways Act, 1989. Thus, these issues are decided in favour of the applicant.

11. **Issue No. 5:-**

During course of trail, it is observed that no compensation or relief has been extended to the victim. Hence, this issue is decided accordingly.

12. **Issue No.6 :-**

In his claim application applicant Ritesh Kumar Pandey alias Ritesh Pandey has claimed compensation for the injuries suffered by him while performing his duty. In his support, the applicant has submitted the case summary and copy of Discharge Record of Trauma Centre and Super Speciality Hospital, IMS, BHU, Varanasi which shows that the injured applicant was admitted to the said hospital on 01.12.2017 and discharged on 10.12.2017 (Ext.A2). He has also submitted the photo copy of Disability Certificate issued by the Office of the Civil Surgeon-cum-Chief Medical Officer, Dhanbad (Annexure.A5) which shows and proves traumatic amputation (L) arm upper and traumatic amputation (L) thigh upper and he has 90% permanent disability.

The applicant injured Ritesh Kumar Pandey appeared before the Court as AW(1) and has corroborated the facts mentioned in the O.A. as well as in the fardbayan and during cross-examination it has been seen that his injury falls under the item No.2 of Part-II of schedule of Railway Accidents and Untoward Incidents (Compensation) Rules,1990 being a case of double imputation.

In view of the above observations, Ritesh Kumar Pandey is entitled to get compensation of Rs.8,00,000/- along with interest @ 9% per annum.

Therefore, we hold that the respondent railway is liable to pay compensation of Rs.8,00,000/- along with interest @ 9% per annum to the applicant Ritesh Kumar Pandey alias Ritesh Pandey for the grievous injuries sustained (double imputation case) by himself after having an accidental fall from train. The issue is answered in favour of the applicant.

13. In view of the above, it is hereby

**ordered**

**that the claim application is allowed. Respondent is directed to pay compensation amounting to Rs.8,00,000/- (Rupees eight lakhs only) along with simple interest @ 9% per annum from the date of incident i.e. 01.12.2017 till the date of judgement.**

For the determination of the amount of award, relying upon the judgement rendered by the 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 injured</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.             | Ritesh Kumar Pandey alias Ritesh Pandey | Himself                          | 20                  | Rs.8,00,000                 | Rs.80,000                                                                         | Rs.7,20,000                                                                 |

14. The respondent Railway Administration is hereby directed to deposit the amount awarded with the 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.

15. The applicant is hereby directed to submit the details of his 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 his place of permanent residence to the Additional Registrar of this Tribunal.

16. If the claimant is entitled to exemption of deduction of TDS, he 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.

17. **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 Claimants 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 his 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 his 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 Claimant 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.
18. 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.

(DHRUV SINGH)  
Member (Technical)  
RCT/Ranchi  
21.03.2024.

(GYAN PRAKASH TEWARI)  
Member (Judicial)  
RCT/Ranchi  
21.03.2024.