

RAILWAY CLAIMS TRIBUNAL
RANCHI BENCH, RANCHI.

CORAM:

DHRUV SINGH - Member Technical.

Claim Application No. : OA(IIU)/RNC/73/2019
Check List No. : 2907190019
Date of Incident : 17.06.2018
Date of filing : 14.06.2019
Date of decision : 27.06.2024

- 1) Md.Mobin alias Md.Mobin Ansari, aged about 41 years, father of deceased Md.Furkan Ansari
- 2) Sabila Khatun alias Sabila Bibi, aged about 38 years, mother of deceased Md.Furkan Ansari
- 3) Chandni Khatun, aged about 18 years, sister of deceased Md.Furkan Ansari
- 4) Imtiyaz Ansari, aged about 13 years, minor brother of deceased Md. Furkan Ansari
- 5) Khusnasib Alam, aged about 03 years, minor brother of deceased Md. Furkan Ansari

Applicant Nos.4 and 5 being minor are represented through their natural guardian applicant Nos.1 and 2.

All are residents of Village/Mohalla : Husainabad, P.O + P.S : Devipur, Dist : Deoghar (Jharkhand).

...Applicants.

Versus

Union of India represented by
The General Manager,
Western Railway,
Mumbai.

... Respondents.

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

Ld. Counsel for Applicants - Shri Vijay Shanker Jha
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 applicants 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 OA(IIU)/RNC/73/2019

Rs.8,00,000/- (Rupees Eight Lakhs only) along with interest from the Respondent Railway for the death of Md.Purkan Ansari (hereinafter referred to as *the "deceased"*) in an alleged untoward incident that occurred on 17.06.2018. Applicants are the parents, sister and brother of the deceased.

02. Brief facts of the case:-

As per the claim application, the deceased Md.Furkan Ansari, son of Md.Mobin alias Md.Mobin Ansari was travelling along with his friend by a local train from Jogeshwari railway station to go to Mumbai Central after purchasing two valid journey ticket Nos.T-68342203 and T-68342204 respectively which is now under custody of railway police, Mumbai. During the course of journey, the deceased fell down from the running train due to heavy rush between Parel to Elitistan railway stations. The railway police immediately reached the place of occurrence and took the deceased to the Nayar Hospital Central, Mumbai in ambulance. On duty Doctor Mr.Prashanta examined the deceased and declared him dead at 18.35 hrs. A UD Case No.21/2018 dated:17.06.2018 was registered by Railway Police u/s 174 of Cr.P.C. and started investigation. After enquiry railway police submitted their Final Report stating that the deceased died after falling down from an unknown DN train due to profuse bleeding from his head. The dead body of the deceased was handed over to the relatives of the deceased for cremation on 18.06.2018.

The applicant Nos.1 and 2 i.e. Md.Mobin alias Md.Mobin Ansari, father of the deceased and Sabila Khatun alias Sabila Bibi, mother of the deceased and applicant Nos.3 to 5 sister and brother of the deceased being dependents are entitled to compensation.

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

The respondents have on the other hand pleaded that the case is not maintainable either in law or on facts and liable to be dismissed. The respondents have submitted that the initial burden is on the applicants to prove that the deceased was a bonafide passenger as per the principle laid down in the case of Rina Devi-vrs-UOI. The injuries recorded in the Station Master's charge book are crush injury on head, both legs and hands fracture. Such grievous injuries cannot be due to fall from the train. Nobody had seen the incident and there is no eye witness to the incident. Thus, it has been prayed that the claim application must be dismissed.

04. From the pleadings, following issues were framed on 29.06.2021:-

1. *Whether this case comes under the jurisdiction of Ranchi Bench?*
2. *Whether Md.Furkan Ansari was a bonafide passenger?*
3. *Whether the deceased died in an Untoward Incident as defined under Section 123 (c) (2) of the Railways Act, 1989 while travelling by any local train on 17.06.2018?*
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– Md.Mobin alias Mobin Ansari filed his affidavit for examination in chief as AW-1 and Md.Rahmat filed his affidavit for examination in chief as AW-2. They were cross-examined by the respondent and discharged. The following documents have been marked exhibited as under:-

- | | |
|--------------------------------------|----------|
| 1. Certified copy of Station Memo | – Ext.A1 |
| 2. Attested copy of Death Panchnama | - Ext.A2 |
| 3. Attested copy of PMR dtd:18.06.18 | – Ext.A3 |

4. Attested copy of challan dtd:18.06.18 by Municipal Corporation of Greater Mumbai – Ext.A4
5. Original copy of Certificate for Dead body to be removed from Mumbai to Mofussil – Ext.A5
6. Attested copy of Cause of Death Certificate – Ext.A6
7. Certified copy of letter dated:09.07.2018 for order of enquiry
8. Certified copy of dead body challan dtd:18.06.2018
9. Translated copy of letter dtd:09.07.2018 of page 9
10. Translated copy of Death Panchnama
11. Photo copy of Family Certificate issued by Mukhiya dtd:04.07.18
12. Photo copy of the Aadhar Card of the deceased
13. Photo copy of Voter ID and Bank particulars of the applicants

06. Respondents have not produced any oral evidence but submitted Statutory Enquiry Report (DRM's Report), which is marked as Ext.R1.

07. Heard both the 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

08. Issue No.1: Territorial Jurisdiction

From perusal of case file, it is observed that though the incident took place between Parel to Elphinstone railway station which falls in Mumbai, Maharashtra but the applicants are residents of Deoghar District (Jharkhand) which is within the territorial jurisdiction of this Tribunal. Moreover, respondents have not raised any objection, regarding territorial jurisdiction of this claim or Tribunal. As such, this Tribunal has the territorial jurisdiction to

try, entertain and determine this present OA. Accordingly, issue no.1 is decided in favour of the applicants.

09. Issue Nos.2 and 3: Bonafide Passenger Status and Untoward Incident

Both the issues are discussed together being inter-connected.

The applicants have pleaded that the deceased was a bonafide passenger and he was travelling along with his friend with valid journey ticket Nos.T-68342203 and T-68342204 from Jogeshwari to Mumbai which is in custody of Railway Police, Mumbai. As per the Panchnama prepared on 17.06.2018, it has been mentioned under "Particulars" that one photo, one purse of chocolate colour, one Sumsung China Phone and two railway tickets bearing No.T 68342203 and T 68342204 were recovered from the possession of the deceased (Ext.A2). The respondents have however denied that the deceased was travelling from Parel to Elphinstone after purchasing a valid journey ticket but they have not been able to contradict the claim of the applicants that the deceased was a bonafide passenger and have not been able to disprove the ticket attached with the claim application either. Moreover, as per the DRM's report the recovery of ticket has been mentioned and the same has been duly verified.

As far as the untoward incident is concerned, the applicants have pleaded that the deceased died due to fall from a local train between Parel and Elphinstone railway station due to heavy rush of passengers. The railway police immediately reached the place of occurrence and took the deceased to

the Nayar Hospital Central, Mumbai in ambulance. On duty Doctor Mr.Prashanta examined the deceased and declared him dead at 18.35 hrs.

The respondents have on the other hand pleaded that this untoward incident was announced by on duty Station Master, Naresh Prasad on 17.06.2018 at 17.03 hrs that one person, aged about 20 years, lying dead between KM No.7/10 to 7/11 due to crush injury on head, leg and hands fracture while travelling from Lower Parel to Elphinstone. The injuries have also been recorded in the Station Master's charge book. It is further pleaded that such grievous injuries are not due to fall from the train. Nobody had seen the incident. There is no eye witness to the incident. It is totally false to say that the deceased fell down from the running train as there was crowd and heavy rush. If the train was crowded and a person falls there would have been alarm chain pulling which has not been reported and the claimant is put to strict proof of the same.

In this regard, I have perused the Panchnama available on file which mentions that the deceased fell down from a local train and died due to injuries. Moreover, the Untoward Incident "Particulars" in the Panchnama available on file reads as under:-

On 17.06.2018, on duty Station Master Naresh Prasad at 17.03 hrs stated by announcement that one person, aged about 20 years, had died due to injuries on head, hand and leg between KM No.7/10 to 7/11 from Parel to Elphinstone. On the basis of the written memo, with the help of four persons (Hamali), the deceased was taken to Nayar Hospital Central Mumbai in

Ambulance No.MH-01-B-5014 where the Doctor Prashanta declared him dead at 18.35 hrs before allotting casualty No.10868.

The respondents during statutory enquiry (DRM's report) recorded the statement of Mustak Ali, co-passenger which is as follows:-

मैं दिनांक 17.06.2018 को करीबन 12.20 बजे के आसपास मेरा दोस्त फुरकान मो0 अंसारी, उम्र 15 वर्ष, दोनों मुंबई घूमने के लिए घर से निकल कर तथा धीमी लोकल से मरीनलाईन रेलवे स्टेशन पर आकर उपस्थित हुए तथा मुंबई घूमना होने के बाद हम करीबन समय 16.00 बजे मरीनलाइन रेलवे स्टेशन पर उपस्थित होकर तथा नालासोपारा का रेलवे टिकट निकालकर DN तेज लोकल के सामान्य डिब्बे में चढ़ गये । गाड़ी में अधिक भीड़ होने के कारण हमें जगह न मिलने के कारण हम दोनों गंगवे (दरवाजे के पास ही खड़े हो गए) । कुछ समय बाद मुंबई सेंद्रल में उक्त गाड़ी खड़ी होने के पश्चात् वहां पर भी बहुत यात्री डिब्बे में चढ़े और मुंबई सेंद्रल से गाड़ी चलने के पश्चात् दादर रेलवे स्टेशन आने के पहले मेरा दोस्त लोअर परेल रेलवे स्टेशन के पहले ही मेरा दोस्त फुरकान उक्त गाड़ी से गिर गया ।

The respondents have however not produced any witness to prove that the case of the applicant is not an untoward incident. The cause of death in the Post-mortem Report is Part-1 (a) Crushing injury of head and face (b) Alleged history of fall from running local train and Part-2 Nil. Manner of death – Accidental as per police inquest (Ext.A3).

Station Master - Kamlesh Kumar in his daily diary mentioned that information was received from unknown travelling public at 17.03 hrs. Reach at site – 17.13 hrs. H/o GRP – 17.25 hrs. one unknown male person, aged about 25 years, found lying dead between PL-EPR DN/T/Line west side KM 7/10-7/11. Sustained – crush injury on head and both legs and hands fracture. Not EMR Doctor available. Sent to BL Nair Hospital – BCT with GRP No.HC – 3438 by Ambulance No.MH-01-BS-0114.

During enquiry according to the police the relatives of the deceased came to know that the deceased died due to fall from unknown DN local train between Parel to Elphinstone at KM No.07/11-12 on 17.06.2018 at 17.13 hrs. He was sent for treatment to the hospital where he was declared dead before admission.

It is also observed that the time of purchase of ticket matches with the time of the incident. The respondents have not been able to produce any eye witness to the incident to prove that the deceased did not die due to in an untoward incident. Therefore, the death of the deceased is covered under the definition of an untoward incident as defined under Section 123 (c)(2) and Section 124-A of the Railways Act, 1989.

The Hon'ble Supreme Court in the judgments in the cases of Union of India Vs. Prabhakaran Vijaya Kumar & Ors. (2008) 9 SCC527 and Jameela and Ors. Vs. Union of India (2010) 12 SCC 443 on beneficial legislation state that the liability of the Railways is a strict liability and even if there is negligence of the bonafide passenger, compensation has to be awarded unless it is found that the deceased died not only on account of negligence but also his own criminal negligence or such self-inflicted injuries, attempted suicide etc. which would have caused his death. It has also been held by the Apex Court in Union of India-vs-Prabhakaran Vijaya Kumar 2008 (2) T.A.C.777(SC) that liability of the railways under Section 124-A is a strict liability and it is immaterial who is at fault.

Keeping in view the above facts, circumstances, evidence and documents available on record, this Bench of the Tribunal is of the opinion that there is no doubt to hold that the victim sustained injuries as a result of falling down from the running train and death and as such, the incident, as alleged, is an “untoward incident” within the provisions of Section 123(c) (2) of the Railways Act, 1989. Thus, these issues are decided in favour of the applicants.

10. **Issue Nos. 3 and 4:- Dependency of applicants and relief**

So far as the dependency is concerned applicant nos. 1 and 2 are the parents and applicant nos.3 to 5 are the sister and brother of the deceased. In their support applicants have filed copy of Aadhar Cards, Family Membership Certificate and residential proof along with bank account passbook. As per claim application the deceased was a student 15 years of age. He was unmarried at the time of the incident. 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 respondents have not disputed the dependency of applicants and their relationship with the deceased. Thus, I hold that the applicant nos.1 and 2 being parents are the dependents of the deceased under Section 123 (b) (i) of the Railways Act, 1989 and accordingly, they are entitled to compensation approved by Ministry of Railways. Railway Board's notification dated: 22nd December 2016 under GSR 1165 has amended the amount of compensation payable in respect of death in a railway untoward incident to Rs.8,00,000/- (Rupees Eight Lakhs only) in favour of the applicants along with simple interest @ 9% per annum.

11. In view of the above, it is hereby

ordered

that the claim application is allowed. Respondents 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 on 17.06.2018 till the date of judgment.

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 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.	Md.Mobin alias Md.Mobin Ansari	Father	41	Rs.4,00,000	Rs.40,000	Rs.3,60,000
2.	Sabila Khatun alias Sabila Bibi	Mother	36	Rs.4,00,000	Rs.40,000	Rs.3,60,000

12. 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.

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 Claimants i.e. the savings bank account of the Claimants 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 Claimants 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 Claimants. 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 Claimants so that no debit card be issued in respect of the account of the Claimants 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 Claimants 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 Claimants are sufficient compliance of clause (g) above.
- (i) The concerned Bank of the claimants 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.

Given under my hand on seal of this Tribunal on this day of 27.06.2024.

Dictated on 27.06.2024.

Pronounced in Open Court.

DHRUV SINGH
Member (Technical)
RCT/Ranchi
27.06.2024.

Corrected and signed by me on 27.06.2024.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
27.06.2024.