

RAILWAY CLAIMS TRIBUNAL
RANCHI BENCH, RANCHI

CORAM:

GYAN PRAKASH TEWARI - Member Judicial.

DHRUV SINGH - Member Technical.

Claim Application No.: OA(IIU)/RNC/98/2019

Check List No. : 2910190001

Date of Incident : 15.4.2019

Date of filing : 27.08.2019

Date of decision : 04.04.2024

- 1) Sita Devi, aged about 52 years, wife of deceased Chando Singh
 - 2) Dashrath Singh, aged about 36 years, son of deceased Chando Singh
 - 3) Nandlal Singh, aged about 40 years, son of deceased Chando Singh
- R/o. Village : Hethali, Bodara, P.S : Vishnugarh, Dist : Hazaribagh
(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 Ramesh Prasad Yadav

Ld. Counsel for Respondent - Shri Sudhir Kumar Srivastava

JUDGEMENT

01. This claim application has been filed by the applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Section 124-A of the Railways Act, 1989 seeking compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) with interest from the Respondent Railway for the death of Chando Singh (hereinafter referred to as "*the deceased*") in an alleged

untoward incident that occurred on 15.4.2019. Applicants are the wife and two sons of the deceased.

02. Brief facts of the case:-

As per claim application, the deceased Chando Singh went for treatment of his eyes with his daughter Dulari Devi to Dhanbad on 15.4.2019. After treatment of his eyes, the deceased was returning with his daughter Dulari Devi by Asansol-Gaya Memo Passenger Train No.63547. As per claim application, the deceased was travelling to Chichaki but before reaching Chichaki station, the deceased fell down from the running Train No.63547 Asansol-Gaya Memo Passenger due to overcrowding and jostling and push by some passengers. It has been pleaded in the claim application that the daughter Dulari Devi obtained a general ticket from Dhanbad to Chichaki and gave the said ticket to her father. Dulari Devi was also travelling on the train from Dhanbad to Chaudhribandh and she got down from the train at Chaudhribandh station and her father Chando Singh continued to travel to the next station Chichaki. That the deceased was a bonafide passenger and the dependents being the legal heirs have claimed compensation from the railways. The ticket has been misplaced at the time of the incident.

03. Respondent's reply:-

The respondents have denied the fall of the deceased in the claim application and have stated that the statement made in the Para:6 of the claim application is denied. The version of the incident in the claim application is not correct. The actual fact is that it is not known to anybody how and under what

circumstances the incident took place because there is no eye witness of the occurrence rather only a hypothetical story has been made in the case to claim compensation. The deceased was not a bonafide passenger as no journey ticket was found from the possession of the deceased. There is no evidence to show that the deceased was actually travelling on the train and met with an untoward incident, hence, the applicants are not entitled to any compensation. The respondent prayed for dismissal of the case.

04. **Issues:-** From the pleadings, following issues were framed on 29.6.2021:-

1. *Whether this case comes under the jurisdiction of Ranchi Bench?*
2. *Whether Chando Singh was a bonafide passenger?*
3. *Whether the deceased had died due to alleged Untoward Incident as defined under Section 123 (c)(2) of the Railways Act while travelling by Asansol-Gaya Memo passenger train No.63547 on 15.4.2019?*
4. *Whether the applicant or other dependents of the deceased are entitled to get compensation?*
5. *Relief.*

05. In support of their claim, the applicants have produced Sita Devi as AW(1), Dulari Devi as AW(2) and Dashrath Singh as AW(3) and filed their affidavits for examination in chief. They were cross-examined and discharged by the respondent. They have filed the following documents which are marked exhibits as under:-

- | | |
|--|----------|
| 1. Certified copy of fardbayan of Dashrath Singh | - Ext.A1 |
| 2. Certified copy of FIR | - Ext.A2 |
| 3. Certified copy of Inquest Report | - Ext.A3 |

- | | |
|---|----------|
| 4. Certified copy of PM Report | - Ext.A4 |
| 5. Certified copy of Final report | - Ext.A5 |
| 6. Original copy of Family member certificate | - Ext.A6 |
| 7. Photo copy of Aadhar card of Sita Devi | - Ext.A7 |
| 8. Photo copy of Aadhar card of Dashrath Singh | - Ext.A8 |
| 9. Photo copy of Aadhar card of Nandlal Singh | - Ext.A9 |
| 10. Photo copy of Bank passbook of Sita Devi | |
| 11. Photo copy of Bank Passbook of Dashrath Singh | |
| 12. Photo copy of Bank Passbook of Nandlal Singh | |

06. Respondents have adduced Sri Balmiki Pathak, ASI/Rail PS/Gomoh and Sri Shamsheer Ali, Retired Officer In-charge/Rail P.S./Gomoh as RW(1) and RW(2) respectively and submitted the Statutory Enquiry Report (DRM's Report) along with relevant documents 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 the applicants are residents of Village : Hethali, Bodara, P.S : Vishnugarh, Dist : Hazaribagh (Jharkhand) and the place of incident before Chichaki railway station which also falls within the territorial jurisdiction of this Tribunal. Moreover, the respondent has 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 applicants.

09. Issue Nos.2 and 3: Bonafide Passenger status and Untoward incident

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

As far as the bonafide status is concerned, it has been pleaded in the claim application that the deceased was travelling by Train No.63547 with his daughter Dulari Devi who had obtained a general ticket from Dhanbad to Chichaki for her father and had given the said ticket to her father. It has also been pleaded that Dulari Devi was also travelling with her father from Dhanbad and deboarded at Chaudhribandh. Her father continued in the same train towards Chichaki.

The respondent on the other hand denied the bonafide passenger status saying that the deceased was not a bonafide passenger and no journey ticket was found from the possession of the deceased.

In this regard, Dulari Devi has filed an affidavit in which she has reiterated the facts mentioned in the claim application. During her cross-examination she was asked the following questions and her replies are as under:-

3. प्रश्न – और उस घटना के समय आप कहां पर थी ? इसमें तो पता दूसरा है ?

उत्तर – मैं अपने ससुराल चौधरीबांध में थी । गाँव हेथली बोदरा मेरा मायका है ।

4.प्रश्न – आप मायका में रहती हैं कि ससुराल में रहती हैं ?

उत्तर – मैं अपने ससुराल में रहती हूँ ।

5. प्रश्न – आपके पिताजी कहाँ जा रहे थे ?

उत्तर – वे धनबाद से चिचांकी स्टेशन जा रहे थे ।

6. प्रश्न – क्या आप भी साथ में यात्रा कर रही थी ?

उत्तर – जी नहीं मैं साथ में यात्रा नहीं कर रही थी ।

7. प्रश्न – घटना के समय आप अपने घर में थी ? कौन घर ?

उत्तर – घटना के समय मैं अपने घर चौधरीबांध सिमराबेडा गिरीडीह में थी ।

कोर्ट प्रश्न – आपको घटना का पता कैसे चला था ?

उत्तर – घटना के दूसरे दिन मेरे भैया के मोबाइल में वाट्सअप में मैसेज आया और वो मुझे भेजा तब घटना का पता चला था ।

कोर्ट प्रश्न – घटना के समय आप कहाँ पर थीं ?

उत्तर – घटना के दिन अपने ससुराल में थी ।

कोर्ट प्रश्न – और कहीं गयी तो नहीं थीं ?

उत्तर – जी नहीं ।

From the above, it is clear that the submission mentioned in the claim application regarding purchase of ticket by the daughter of the deceased Dulari Devi for her father for travel from Dhanbad to Chichaki on 15.04.2019 by Train No.63547 has been proven to be incorrect as Dulari Devi has categorically stated during her cross-examination before the Court that she was not travelling with her father on the date of the incident and that she had not gone anywhere on that day. It is observed that the main witness of the applicants produced to establish the bonafide passenger status i.e. the daughter of the deceased has categorically answered the questions put to her that on the date of the incident she was at home and therefore it is not correct to say that she had purchased the ticket for her father from Dhanbad to Chichaki and was also travelling with him. This witness, it seems has been added to prove the bonafide passenger status of the deceased. It has also been observed that in the fardbayan lodged by Dashrath Singh, son of the deceased he has nowhere mentioned that Dulari Devi had purchased the ticket for her father and was also travelling with her father. This is an

OA(IIU)/RNC/98/2019

afterthought story and has been added in the claim application to prove the bonafide status of the deceased.

As far as the untoward incident is concerned, it has been pleaded in the claim application that the deceased was travelling by Train No.63547 from Dhanbad to Chichaki with his daughter and fell down due to overcrowding, jostling and push by some passengers before reaching Chichaki station and therefore the applicants are entitled to compensation as the incident was an accidental fall from the running train which is covered under Section 123 (c) (2) read with Section 124-A of the Railways Act, 1989.

The respondent has on the other hand stated that it is denied that the deceased was travelling with his daughter by Train No.63547 and fell down from the said train. There is no eye witness and it is only a hypothetical story to claim compensation. There is no evidence to show that the deceased was actually travelling and met with an untoward incident and hence, the applicants are not entitled to any compensation.

As far as the untoward incident is concerned, it is observed that as per Form-2 available in case file, the dead body was found lying besides the railway track at KM No.334/05-07 on 15.4.2019 at 17.50 hrs and the DRM's report has also concluded that the deceased died due to fall down from Train No.63547. In this regard, Balmiki Pathak, ASI/GRPS/Sahibganj and the IO of the case during cross-examination as RW(1) has stated that the body was found between the two tracks and the residence of the deceased is approximately 1½ Kms from the site of the incident.

To conclude, it is safe to say that neither the bonafide passenger status of the deceased has been established nor his travel by Train No.63547 as the co-passenger Dulari Devi, who is the daughter of the deceased has categorically answered to the question put to her by the Court that on the date of the incident she was at her residence and that she was not travelling with her father. In all likelihood it appears that the death of the deceased was due to some other reason and not by an accidental fall from the running train.

It is pertinent to quote the provisions of Section 2 (29) of the Railways Act, 1989 wherein "Passenger" means a person travelling with a valid pass or ticket and Section 123(c) (2) of the Railways Act, 1989, "Untoward incident" means the accidental falling of any passenger from a train carrying passengers. From the provisions mention above, it is clear that two ingredients are necessary to prove "Untoward incident" i.e., (1) The deceased must be a bonafide passenger (2) and his death must be occurred due to accidental falling from a train carrying passenger.

From the facts and evidence available with case file, this bench is of the view that the applicants have failed to prove their initial burden that the deceased was a bonafide passenger when the incident occurred and thereafter the deceased died due to an untoward incident as defined under Section 123 (c) (2) of the Railways Act, 1989.

Thus from the above facts and material available on record, it is held that no bonafide status has been established and neither the falling down incident from Asansol-Gaya Memo Passenger Train No.63457 has been

proven by the applicants. Therefore, issue Nos.2 and 3 are decided against the applicants.

10. **Issue No. 4: Dependency of the applicants**

The applicants have proved on record their Aadhar Cards and family member certificate. There is no dispute about inter se relationship of the applicants and their relationship with the deceased. Even, at the time of arguments, Counsel for the Respondent has failed to argue on the said issue. Thus in view of above, we hold that the applicants – wife and sons are the dependents of the deceased under Section 123 (b) (i) of the Railways Act, 1989. Accordingly, issue No.4 is decided in favour of the applicants.

11. **Issue No.5 : Relief**

In the light of the findings on the issue Nos.2 and 3 above, wherein it is held that the deceased was not a bonafide passenger of the train nor met with the alleged untoward incident.

12. It is therefore

Ordered

that the claim application filed by the applicants is devoid of merits and hence dismissed, on contest. There is no order as to costs.

13. **The Registry** shall supply a copy of this Order to the applicants and the Respondent separately by Speed Post in compliance of Rule 34(3) of the Railway Claim Tribunal (Procedure) Rules, 1989.

(DHRUV SINGH)
Member (Technical)
RCT/Ranchi
04.04.2024.

(GYAN PRAKASH TEWARI)
Member (Judicial)
RCT/Ranchi
04.04.2024.