

रेल दावा अधिकरण, सिकंदराबाद पीठ, सिकंदराबाद
RAILWAY CLAIMS TRIBUNAL, SECUNDERABAD BENCH
AT SECUNDERABAD
CORAM

HON'BLE JUSTICE ANANT KUMAR, VICE CHAIRMAN (JUDICIAL)
HON'BLE N.MADHUSUDAN RAO, MEMBER (TECHNICAL)

Claim Application No.OAII(U) No.11 of 2023

Date of Filing : 14.11.2022
Date of decision : 23.11.2023

1. Mohammed Nayeem @ Nayeemuddin,
Aged about 56 years, Occ: Labourer
2. Aneezunnisa W/o. Mohammed Nayeemuddin
Aged about 51 years, Occ: Housewife

Both are R/o. H.No.19-4-281/C/11,
Ansari Road, Jahanuma,
Charminar, Hyderabad,
Telangana – 500 053

...Applicants

Versus

Union of India rep. by
The General Manager,
South Central Railway,
Secunderabad

...Respondent

Counsels Appeared:

For the Applicants : Sri Illiyaz Ahmed
For the Respondent : Smt.Naga Prashanthi

J U D G M E N T

1. This claim application is filed by Mohammed Nayeem @ Nayeemuddin and his wife for the death of their son Mohammed Waseemuddin (hereinafter referred as deceased) under Section 16 of RCT Act, 1987 read with Section 124A and 125 of Indian Railways Act, 1989 seeking compensation of Rs.8,00,000/- with interest at 9% from the date of accident till the date of actual payment from respondent railway for the death of the deceased who died in an alleged untoward incident that occurred on 04.12.2019.

2. The case of the applicants is that on 04.12.2019 early morning at about 03.30 AM the deceased started from his home by informing his mother that he is going to Kalburgi (Gulbarga) to visit “Khaja Bande Nawaz Darga” and after Ziarat he will come back home on the next day morning. He reached Falaknuma railway station morning at about 04.15 hours and purchased a journey ticket from Falaknuma railway station morning from Falaknuma to Kalburgi and after some time boarded into some unknown train carrying passengers. When the train was passing between Chittapur and Sulahalli railway stations at Km.No.11/151-17 the deceased had accidentally slipped and fallen down from the train and by sustaining serious injuries he died.

3. The respondent submitted their written statement stating that the application filed by the applicants is not maintainable either in law or on facts. The respondent denied all the allegations and averments made in the application and put the applicants to strict proof thereof. The respondent specifically denies the particulars averred in Para II of the OAA, regarding the alleged travel of the deceased and the applicants are put to strict proof of the same by causing production of documentary evidence, failing which the OAA is liable to be dismissed. The respondent denies that the deceased herein was a bonafide passenger of unknown train on 04.12.2019 in between Falaknuma to Kalburgi railway stations and applicants are put to strict proof of the same, failing which OAA is liable to be dismissed. The respondent further specifically denied that the deceased died due to untoward incident of accidental fall from the train. The respondent submitted that the matter is investigated by Sr.DSC/SC which reveals that there is no eye witness to prove that the deceased had travelled in

any train and fell down from the coach. Further the SSE/P.Way/Sedam also certified that the track was fit for smooth running of trains between Chittapur – Sulhelli railway stations and there is no jerk and jolts/ACP by any Loco Pilot /Guard of any train or Station Master. It is submitted that during Joint Observation Report, inquest report the journey ticket available from Falaknuma to Kalburgi railway stations dated 04.12.2019 which was invalid and no journey ticket from Kalburgi to Falaknuma was found with the deceased. Moreover, as per the statement of the mother of the deceased stated that the deceased attended Khaja Bande Nawaz Darga at Kalburgi at about 12.00 PM and 02.00 PM he attended prayers after that on the same day at about 14.30 hours he informed that he was returned by train from Kalburgi. Further on 05.12.2019 she received a phone call from Police her son was found in between at KM.No.11/15-17 Sulahalli-Chittapur railway stations. There is no evidence to prove that the deceased was a bonafide passenger, hence the railway administration is not liable to pay any compensation to the applicants. It is submitted that as per the sketch and photographs which shows that actual position of the body two legs cut in the middle of the track and the body beside the up line between Sulahalli-Chittapur railway stations, it is not a case of untoward incident. In view of the facts and circumstances stated above, the case of the applicants for compensation in the case, is not tenable in law or on facts. Therefore, the respondent prays that the Hon'ble Tribunal be pleased to dismiss the application with costs in the interest of justice.

4. On the strength of the pleadings the following issues were settled.

1. Whether the deceased was a bonafide passenger of the train in question and died as a result of an untoward incident ?
2. Whether the applicants are dependents of the deceased?

3. Whether the applicant(s) is/are entitled to the compensation as claimed ?
4. And to what relief ?

6. The father of the deceased who is applicant No.1 was examined as AW1 and Ext.A1 to A10 were marked on behalf of applicants where (i) Ext.A1 is the Attested copy of FIR, (ii) Ext.A2 is the attested copy of Inquest report, (iii) Ext.A3 is the Attested copy of PME report, (iv) Ext.A4 is the attested copy of the journey ticket. (v) Ext.A5 is the death certificate of the deceased. (vi) Ext.A6 is the copy of final report. Ext.A7 is the copy of ration card. Ext.A8 is the Copy of Aadhar card of Mohammed Nayeem. Ext.A9 is the copy of Aadhar card of Aneezunnisa. Ext.A10 is the copy of Aadhar card of deceased. On behalf of the Respondent Railway, Mahender Kumar Meena, Trackman was examined and cross examined as RW1 and the DRM report filed by respondent is marked as Ext.R1. Ext.R2 is the Attendance Register of RW1.

7. Arguments of learned counsel for applicants and learned counsel for respondent were heard. Perused the records. On a consideration of the material available on record and the contentions of the learned counsel for both parties, the findings on the issues are recorded as below.

F I N D I N G S

Issue No.1:

8. Vide para VI (b) of the claim application applicants have stated that the deceased was in possession of train journey ticket bearing No.UPF77610717, dated 04.12.2019 for travel from Falaknuma to Kalburgi. The same is mentioned in Para VII of the inquest report.

9. The case of the applicants is that on 04.12.2019 early morning at about 03.30 AM the deceased started from his home by informing his mother that he is going to Kalburgi (Gulbarga) to visit “Khaja Bande Nawaz Darga” and after Ziarat he will come back home on the next day morning. He reached Falaknuma railway station morning at about 04.15 hours and purchased a journey ticket from Falaknuma railway station morning and purchased a journey ticket from Falaknuma to Kalburgi and after some time boarded into some unknown train carrying passengers. When the train was passing between Chittapur and Sulahalli railway stations at Km.No.11/151-17 the deceased had accidentally slipped and fallen down from the train and by sustaining serious injuries he died.

10. In support of their case applicants have filed Ext.A1 First Information Report, bearing No.0115/2019, dated 05.12.2019 on the basis of complaint lodged by on duty Dy.SM/Sulhalli railway station, which states that the accident took place between 09.00 PM of 04.12.2019 to 05.00 AM of 05.12.2019 in between up and down lines at Km.No.11/15-17, Chittapur – Sulhalli railway stations, which is based on the message of Sri Mahender, Keyman, dated 05.12.2019, Unit No.2/Chittapur, stating that a dead body of an unknown male person aged around 30 years found lying between Up and Down lines at Km.No.11/15-17 of Chittapur-Sulhalli Section of Secunderabad division. Ext.A2 is the inquest report, dt.05.12.2019. Inquest is attended by Sri Mahender Kumar, on duty Keyman and mother of the deceased. As per para 11 and 16 of the inquest report, it is reported that on 04.12.2019 at about 03.30 AM, the deceased left his home, informed his mother that he is going to visit Khaja

Bandenawaz Darga at Kalburgi, travelled by Falaknuma express, and while travelling in train, he accidentally fallen down from train at Km.No.11/15-17 between Chittapur – Sulahali railway stations, sustained grievous injuries and died on the spot. Ext.A3 is the PME report. Cause of death as per PME is shock and haemorrhagic shock. Ext.A5 is the death certificate of the deceased. Ext.A6 is the final report, which concluded the death of the deceased as Accidental death.

11. AW1, the father of the deceased filed an affidavit reiterating the facts stated in the claim application. During the cross examination as AW1 he deposed on the same lines of his affidavit. AW1 admitted during the cross examination that the statements of himself and his wife was recorded during DRM enquiry which are a true statement.

12. On behalf of the respondent railway Ext.R1 DRM report is filed. As per the investigation caused in the matter, on 05.12.2019 at about 09.30 hours a message received from SS/Sulhalli to GRP/Wadi and RPF/SEM stating that Sri Mahender Kumar Meena, Keyman of Chittapur, a dead body of one unknown male person aged about 30 years found lying between Up and Down lines at Km.No.11/15-17 of Chittapur-Sulhalli stations of Secunderabad division. On receipt of information Sri Veerabhadra, SI/GRP/Wadi and B.D.Jadhav, HC-388/RPF/SEM attended the above spot. GRP/Wadi conducted inquest. During inquest/joint observation report the deceased found a journey ticket bearing No.UPF77610717, Ex.Falaknuma-Kalburgi, dated 04.12.2019, Adult 01 in his possession. The deceased body noticed with two legs cut and head injury and the body lying at Km.No.11/15-17, Up line between Chittapur-Sulhalli station.

Further the respondent in its DRM report concluded that there is no eye witness to the incident. SSE/P.Way/Sedam also certified that the track was fit for smooth running of trains between Chittapur-Sulhalli railway stations. As per the statement of the deceased mother, the deceased boarded the return train on 04.12.2019. But no return journey ticket found at the time of preparing Joint Observation Report or in GRP/WD panchanama. The journey ticket which was found from the deceased is past journey ticket which is invalid on 05.12.2019. In view of the above facts, the death of the deceased appears to be suspicious in nature. There is no fault on the part of the railways in the subject incident.

a) As a part of the investigation in the case, the statement of mother of the deceased Aneezunnisa, recorded by ASI/RPF was recorded. As per which she stated on 04.12.2019 her deceased son left house at about 04.00 AM to attend Khaja Bande Nawaz Darga at Kalburgi. *After that in the afternoon at about 12.00 PM he called her and **stated that he reached Kalburgi.** After that 02.00 PM he again called and informed that he attended prayers.* After that on the same day he called her at about 16.00 hours and informed that he was returning by train from Kalburgi. After that she tried to call him at 18.00 hours but he did not pick up the phone. On 05.12.2019 she stated that she received a call from police personnel through her son's mobile and stated that her younger son Md.Wasimuddin found dead between Sulhalli-Chittapur stations.

b) As a part of the investigation, statement of father of the deceased was also recorded by ASI/RPF. As per which, on 04.12.2019 his deceased son Md.Wasimuddin, left their house at about 04.00 AM to attend Khaja Bande Nawaz Darga at Kalburgi. *After that in the afternoon at about 12.00 PM he called*

he called his mother Aneezunnisa and stated that he reached Kalburgi. After that at 02.00 PM he again called his mother and informed that he attended prayers. After that on the same day he called his mother at about 16.00 hours and informed that he was returned by train from Kalburgi. After that she tried to call him at 18.00 hours but he did not pick up the phone. On 05.12.2019 he stated that his wife received a call from police personnel through her son's mobile, stating that her younger son Md.Wasimuddin found dead between Sulhalli-Chittapur stations. To a query he stated that he did not notice any journey ticket from Md.Wasimuddin's dead body which was kept in Govt. Hospital, Chittapur.

13. On behalf of the respondent railway, Mahender Kumar Meena, the then Keyman, filed affidavit as RW1 stating that on 05.12.2019 when he was on duty of morning shift from 06.00 hours to 17.00 hours, during his first round at 09.40 AM he noticed, one male dead body aged about 30 years lying between Up and Down line track between Chittapur-Sulhalli railway stations. Immediately he informed the same to Sri E.Emmanuel, Station Superintendent, Sulhalli. He further stated that *on 04.12.2019 he performed his duty in the section i.e., Chittapur-Sulhalli from 06.00 hours to 17.00 hours and he has not noticed any dead body during his duty hours.*

14. In view of the above discussion, our observation is as under:

(a) As far as the bonafide of the deceased is concerned, it is to be observed by the Court that as to whether the deceased had fallen down from the train while he was travelling from Falaknuma to Kalburgi or in return direction from a train which was coming from Kalburgi to Falaknuma and on this basis it will be

assessed as to whether the deceased was a bonafide passenger at the relevant time or not.

(b) As far as the travel and untoward incident regarding the deceased is concerned the applicants in their claim application have not mentioned any train number by which the deceased had commenced his journey from Falaknuma to Kalburgi and they have specifically pleaded that the deceased had commenced his journey by some unknown train and had planned to go to Kalburgi Khaja Bande Nawaz Darga at Gulbarga. It has also come in evidence as discussed above that the deceased had reached Kalburgi at 12.00 PM and after attending Khaja Bande Nawaz Darga at 02.00 PM he again called his mother and informed that he attended prayer at Khaja Bande Nawaz Darga and after that on the same day "i.e., on 04.12.2019" at about 16,00 hours he informed his mother that he was returning back by train from Kalburgi. It is also evident that his body was not found on 04.12.2019, but was found on 05.12.2019 and no railway journey ticket from Kalburgi to Falaknuma was recovered from his possession. The Railways examined the then Keyman Mr.Mahender Kumar Meena, who had patrolled the incident spot on 04.12.2019 and did not found any body but found the body on the next day i.e. 05.12.2019. This gives an indication that the deceased had fallen from the train while returning from Kalburgi to Falaknuma. In view of the facts, it is our observation that on 05.12.2019 he was not a bonafide passenger in any unknown train and was travelling without any ticket and had resulted in an untoward incident. So, it is our observation that he had met with an untoward incident but was not a bonafide passenger of any train on 05.12.2019. No doubt the body of the deceased was found on the tracks, which is only possible, if the incident occurred while he was travelling in return

direction trains without having a valid journey ticket or due to any other reason. The journey ticket found on the body of the deceased was of a journey he had undertaken on 04.12.2019 and completely safely and this is not relevant anymore. Thus, applicants have utterly failed to prove that the deceased was a bonafide passenger in the trains of return journey and the accidental fall of the deceased from the trains. In view of the above discussion, this issue is decided against the applicants.

ISSUE No.2

15. As per para 6(g) of the claim application the applicants are father and mother of the deceased. In order to prove the same applicants have filed Ext.A8 to Ext.A10 copy of Aadhar cards of applicants No.1, 2 and deceased, which proves the relationship of applicants with the deceased as father and mother. Further they have filed Ext.A7 copy of ration card, issued in favour of applicant No.2 containing the name of her husband, 1st applicant and also the name of the deceased. Further applicant No.1 filed affidavit reiterating their relationship with the deceased as father and mother. Respondent has not contested this issue seriously nor adduced any rebuttal evidence to disprove the same. Hence, it is established that applicants No.1 & 2 are father and mother of the deceased and held to be dependents within the meaning Sec.123(b)(2) of Railways Act. Hence this issue is found in favour of the applicants.

ISSUE No.3 & 4

16. In view of the findings on the above issues No.1 goes against the applicants, as the dependents of the deceased applicants are held not entitled for any compensation.

17. In the result, it is, therefore,

Ordered

That the claim application of the applicants is hereby dismissed and, in the circumstance, there shall be no order as to costs.

(N.MADHUSUDAN RAO)
Member Technical

(Justice Anant Kumar)
Vice Chairman (Judicial)

APPENDIX

Witnesses for the Applicants:

1) AW1 - Mohammed Nayeem

Documents marked for the Applicants:

- 1) Ext.A1 - Attested copy of FIR.
- 2) Ext.A2 - Attested copy of inquest report
- 3) Ext.A3 - Attested copy of PME report
- 4) Ext.A4 - Attested copy of train journey ticket
- 5) Ext.A5 - Death Certificate of the deceased
- 6) Ext.A6 - Copy of final report
- 7) Ext.A7 - Copy of ration card
- 8) Ext.A8 - Copy of Aadhar card of Mohammed Nayeem
- 9) Ext.A9 - Copy of Aadhar card of Aneezunissa
- 10) Ext.A10 - Copy of Aadhar card of deceased

Witnesses for the Respondent

1) RW1 - Mahender Kumar Meena, Keyman

Documents marked for the Respondent:

- 1) Ext.R1 - DRM report
- 2) Ext.R2 - Attendance register of RW1

(N.MADHUSUDAN RAO)
Member Technical

(Justice Anant Kumar)
Vice Chairman(Judicial)

bhr/-