

रेलदावाअधिकरण, सिकंदराबादपीठ, सिकंदराबाद
RAILWAY CLAIMS TRIBUNAL, SECUNDERABAD BENCH
AT SECUNDERABAD
CORAM:

SRI N.MADHUSUDAN RAO, HON'BLE MEMBER (TECHNICAL)

OAIU (U) No.20 of 2022

Date of filing : 28.02.2022
Date of Decision : 23.02.2024

1. KumbhiJagannadham S/o.Dibbaiah,
Age 76 years, Occupation: Nil
R/o. 04th Ward, Nadikudi,
Mandal Dachepalli, District – Guntur,
Andhra Pradesh – 522414 (AP).

2. Kumba Krishna S/o. Jagannadam,
Age 40 years, Occupation: Labour
R/o. IrikepalliRoad, Boddumida Village,
Nadikudi, Mandal - Dachepalli,
District – Guntur – 522414 (AP)

...Applicants

Versus

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

...Respondents

Present:-

Counsel for Applicants : Sri D.Sudheer
Counsel for Respondent :Sri K.V.V.Vedanthachary

J U D G M E N T

1. This claim application is filed by husband and son of KhumbiChinnamma (hereinafter referred as deceased) under Sec.16 of Railway Claims Tribunal Act 1987, Sec.123(2), 124A and 125 of the Railway Act 1989, claiming compensation of Rs.8,00,000/- with interest @ 9% per annum from the date of untoward incident and till the date of realization for the death of the deceased in an alleged untoward incident that occurred on 22.12.2019.

2. The date of accident in this case was 22.12.2019 and the date of limitation was on 22.12.2020 whereas the claim application has been filed on 28.02.2022 with a delay of 432 days for which applicants have not filed MA/Delay Condonation Petition. However, Hon'ble Supreme Court vide Order in MAs No.21/2022 and 665/2021 had given relaxation of period of limitation and extended limitation from 15.03.2020 till 28.02.2022. The present claim application comes under this relaxation.

3. The case of the applicants is that on 22.12.2019 at about 06.43, the deceased with an intention to celebrate Christmas and to attend marriage of her niece at Shankarpalli, went to Nadikudi railway station, got purchased the ticket bearing No.UPE 16289156, Rs.100/- by her husband for travel from Nadikudi to Shankarpalli boarded Palnadu express train No.12747 and reached Shankarpalli railway station and while deboarding the train at Shankarpalli, due to unexpected jerks and jolts of the train, the deceased accidentally fell down in mid of the train and platform No.2 due to which her left leg foot got amputated and sustained severe head injury, head fractured caused heavy bleeding and she died on the spot.

4) The Respondent Railway filed Written Statement denying various averments made in the application and has put the applicant to strict proof of the same. Respondent denied that the deceased suffered an untoward incident of accidental fall from train when the train was in motion. Respondent denied that the deceased was a bonafide passenger of the train in question. Respondent disputed the veracity of all the documents filed by

applicants. Respondent further denied that the applicants are entitled to claim compensation from the Railway and prayed that the said application is liable to be dismissed.

5. On the strength of the above pleadings, the following issues were framed

- 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 incident falls under any exception of Rule-124A or not ?
- 3) Whether the Applicant(s) is/are dependent(s) of the deceased?
- 4) Whether the applicant(s) are entitled to compensation as claimed and to what relief ?

6. Applicant No.1 husband of the deceased Kumbhi Jagannadham was examined and cross examined before this Tribunal as AW1. Further applicant No.1 filed his affidavit as AW1 and the documents filed by him are marked as Ext.A1 to Ext.A13 viz., (1) Ext.A1 is the attested copy of FIR. (2) Ext.A2 is the Attested copy of Message dated 22.12.2019. (3) Ext.A3 is the attested copy of inquest report. (4) Ext.A4 is the attested copy of photo of deceased. (5) Ext.A5 is the attested copy of journey ticket. (6) Ext.A6 is the attested copy of PME report. (7) Ext.A7 is the attested copy of Aadhar card of the deceased (8) Ext.A8 is the Copy of Aadhar card of applicant No.1. (9) Ext.A9 is the Copy of Aadhar card of applicant No.2. (10) Ext.A10 is the Dead body handover certificate. (11) Ext.A11 is the copy of Family Members Certificate. (12) Ext.A12 is the final report. (13). Ext.A13 is the death certificate of the deceased. On behalf of the Tribunal Sri M.KrishnaKanth, SM/Gullaguda was examined as CW1. In response to summon, dt.05.12.2023 issued by this Tribunal to Inspector, Railway Police, GRP,

Kacheguda RS, A.Venkat Reddy, SI/GRP/VKB attended this Tribunal and filed original CD file along with 3 sets of xerox copies in FIR/Crime No.147/2019, dt.22.12.2019. On behalf of the respondent railway, K.Suresh, Pointsman/Sanathnagar, his filed affidavit and examined as RW1 before this Tribunal and the DRM report is filed as Ext.R1.

7. Heard the arguments of learned Counsel's for the Applicants and Respondent. On considering the material documents available on record and the contentions of the learned counsel for both the parties the findings on the issues are recorded as follows: -

FINDINGS

ISSUE NO.1 & 2:

8. The case of the applicants is that the deceased wanted to celebrate Christmas and to attend one marriage of her niece at Shankarpally. On 22.12.2019 morning at about 06.43 obtained the railway ticket from Nadikudi to Shankarpalli vide ticket No.UPE 16289156 for Rs.100/- and she boarded Train No.12747 PalnaduExpress at Nadikudirailway station. The station where she has to alight i.e., Shankarpalli, due to unexpected jerk, the deceased accidentally fell down in mid of the train and platform No.2 due to which her left leg foot amputated and sustained severe head injury, head fractured that caused heavy bleeding and she died on the spot.

9. In support of their case applicants have filed Ext.A1, FIR bearing No.147/2019 dated 22.12.2019 under Cr.PC174, lodged on the basis of complaint given by Sri J.Vijay Kumar, Dy.SS/VKB. Ext.A2 is the message of SM/VKB to GRP& RPF/VKB on 22.12.2019 at 15.30 hours, stating that

“one unknown lady, aged around 50 years, was got injured and in unconscious state on platform No.2 at Shankarpalli railway station. Ext.A3 is the inquest report. Inquest was attended by J.Vijay Kumar, Dy.SS/VKB, Patolla Srinivas, R/o.Shankarpalli and Deepak Panchal, PC No.1631/RPF/VKB. At the time of inquest, the deceased was mentioned as an unknown lady who died at Shankarpalli railway station. As per para 7 of the inquest report, injuries sustained by the deceased were blood wound to head, right leg and fracture near the knee. As per para 9, 15 and 22 of the inquest report on date 22.12.2019 morning, the deceased holding a valid train journey ticket for her travel from Nadikudi to Shankarpalli, boarded train No.12747 Palnadu express. At Shankarpalli, she accidentally fell down from the moving train between the train and platform due to which leftleg foot amputated, sustained severe head injury, head fracture caused heavy bleeding and died on the spot. Ext.A4 is the set of photographs of the deceased. Ext.A5 is the PME report. Cause of death as per PME is Head Injury. Ext.A10 is the Dead body handover certificate, issued by SHO/RPS/VKB. Ext.A12 is the Final report, concluded the death of the deceased as Accidental death. Ext.A13 is the death certificate of the deceased.

10. On behalf of the applicants Sri KumbhiJagannadham, husband of the deceased filed affidavit reiterating the facts stated in the claim application with regard to the death of the deceased. He was examined as AW1 before this Tribunal on 24.03.2023. During the cross examination he deposed that on the date of accident i.e., 22.12.2019, he accompanied his deceased wife to Nadikudi railway station, around 07.00 AM he reached Nadikudi railway

station along with his wife, purchased the ticket for his deceased wife, handedover to her, cost of which was Rs.100/- for the travel from Nadikudi to Shankarpalli and he was present with her till she boarded the train. He further stated that his wife alone travelled from Nadikudi to Shankarpalli. He also stated that his wife did not carry phone, luggage or any other article with her. On 22.12.2019 evening hours he called his relatives at Shankarpalli to know the whereabouts of his wife. The relatives went to Shankarpalli railway station and enquired, where the authorities informed that one lady has fallen down and she has been shifted to Vikarabad hospital. They have confirmed that his deceased wife was involved in the accident during de-boarding from the train and she is no more.

11. On behalf of the Tribunal Sri M.Krishna Murthy, SM/Gullaguda, was examined as CW1, who stated that on 22.12.2019 he was on duty from 07.00 hours to 19.00 hours and has not recorded any untoward incident in the station diary due to his negligence, but stated that he has given control message to GRP and RPF/Vikarabad at 15.30 hours. He further stated that Mr.Srinivas Reddy who informed him, approximately, at about 12.15 PM about a lady lying in injured condition has land adjacent to the Station. Immediately he informed to 108 Ambulance, which arrived around 01.15 PM and declared the lady as dead. He admitted that he did not call any local doctor to attend the deceased, despite the list of doctors and hospitals available with him. He also deposed that there are only two platforms at Shankarpally railway station and the SM building is on PF No.1. On the date of accident, Palnadu express arrived at 11.51 AM and departed at 11.52 AM. Around 5-6 trains have passed Shankarpalli railway station after

Palnadu express. Two Safaiwala ladies saw the deceased and lifted her on to the platform. He further stated that he has not gone to the accident spot and has not seen the body in the entire episode. He also admitted that though the first aid box and stretcher are available in the station he did not use them and denied that the deceased died due to his negligence.

12. In response to the summons dated 05.12.2023 issued by this Tribunal to Inspector, Railway Police, GRP, Kacheguda, Sri A.Venkat Reddy, SI/GRP/VKB, attended this Tribunal and submitted the original CD file in the case, which concluded the death of the deceased as Accidental Death.

13(a). On behalf of the respondent railway, the DRM report is filed and marked as Ext.R1. The staff whose statements were obtained in the DRM report is as under:

- i) Sri P.Srinivas Reddy, resident of Shankarpally, who was the informant.
- ii) Sri M.Krishnakanth, Dy.SS/SKP
- iii) Sri J.Vijay Kumar, Dy.SS/VKB
- iv) Sri Deepak Panchal, Con-1631/VKB
- v) Sri N.J.Cresswel, Guard of the train
- vi) Md.Ameenuddin, Loco Pilot of train no.12747
- vii) Sri KumbiJagannadham, deceased husband

13(b). As per the investigation caused, vide para 9& 10, it is stated that "As per **JOR**/Inquest the deceased was found with one railway journey ticket bearing No.UPE 16289156, date of journey 22.12.2019, Ex.NDKD-SKP, AD-01, Rs.100/- issued at 06.43 hours on 22.12.2019.

13(c). Further Para 3(b) mentions that as per their investigation, “one unknown lady aged about 50 years was got injured and in unconscious state on platform No.02 at Shankarpally railway station.” However, in conclusion of the report it is averred that that there is no eye witness to say that it is an untoward incident. Further, Guard/Loco Pilot of train No.12747 express did not notice any untoward incident and there was no detention of train. No jerks/jolts were experienced by them during run. SSE/P.Way/LPI also certified that the track was fit for smooth running of trains between LPI-SKP railway stations. In view of the above fact, report concluded that the death of the deceased appears to be suspicious in nature and that the death in this case can be due to reasons other than an accidental fall from train.

14. On behalf of the respondent railway one Sri K.Suresh, Pointsman/Sanathnagardeposited before this Tribunal on 05.12.2023 as RW1, saying that on 22.12.2019 he was on duty from 08.00 hours to 20.00 hours. At the time of incident, he was present on Platform No.2 which is uploop line. After Palnadu express left, he was told by some passengers that one unknown lady fell from Palnadu express train while getting down from the moving train, which halts for only one minute. He further stated that he was in the middle of the platform and not seen her fall from the train, but said that the deceased fell in between the platform and the track. Immediately the deceased was lifted onto the platform No.2 and her condition was bad with injuries all over the body. He also said that he informed the Station Master about the incident and 108 ambulance was

called but the Ambulance arrived one and half an hour late and the staff of 108 Ambulance checked the deceased and declared her dead.

15. I have gone through all the documentary and oral evidence placed on record and have come to the following conclusions as under:

a) As far as the bonafide of the deceased is concerned, as per Part II, Para 1(b) of the claim application the deceased was in possession of train journey ticket bearing No.UPE 16289156, dt.22.12.2019, issued at 06.43 AM for travel from Nadikudi to Shankarpalli. Attested copy of the same was filed by applicants and marked as Ext.A5. DRM report admits that the deceased possessed a valid ticket whose details are same as that mentioned in the claim application. Thus, it is established that the deceased was a bonafide passenger.

b) As far as the untoward incident is concerned, there is no dispute that to attend a marriage of her niece and to celebrate Christmas at Shankarpalli, on the morning of 22.12.2019 the deceased boarded Palnadu express train No.12747 at Nadikudi station to go to Shankarpalli. At Shankarpalli railway station when the deceased was deboarding from the train, due to sudden jerks and jolts accidentally she fell down in mid of the train and platform No.2 due to which her left leg foot got amputated, sustained severe head injuryand head fractured that caused heavy bleeding and she died on the spot. All this was admitted in the documents filed by the applicants such as FIR, inquest report, PME, final report and by the depositions of the AW1, CW1 and RW1, Respondent railway through examination of its officials, its investigation and the documents filed

admitted the bonafide of the deceased, travel of the deceased, and accidental fall of the deceased, but in conclusion of its DRM report the respondent averred that the death of the deceased appears to be suspicious and the reason for the death can be due to other than an accidental fall from train.

c) Except a vague averment that the death of the deceased was due to some other reason, respondent railway has not adduced any evidence to prove that the deceased died due to any other reason like hit by train, run over by train while trespassing etc. It is also not the case of the respondent that the deceased belong to the area where she died and could have been trespassing. Having gone through all the documents filed by the applicants and respondent railways and also admission of officials of respondent railways it is established that the death of the deceased was only an accidental fall from train, i.e., Palnadu express, and not due to any other reasons as alleged. The photos filed by the applicants also prove that the injuries sustained by the deceased are due to accidental fall from the train.

16. In view of the above discussion, I hold that the deceased was a bonafide passenger and died on account of an accidental fall from train No.12741 Palnadu express at Shankarpalli railway station while travelling from Nadikudi to Shankarpalli amounting to an untoward incident within the meaning of Section 123(c)(2) read with Sec.124A of Railways Act. Accordingly issue No.1 and 2 are decided in favour of the applicants.

ISSUE NO.3 & 4:

17. As per Part III, Para 7 of the claim application, applicants are husband and a son of the deceased. To prove the relationship of applicants with the deceased, they have filed Ext.A7 which is copy of Aadhar card of deceased. Ext.A8 is the copy of Aadhar card of Applicant No.1 (husband of the deceased). Ext.A9 is the copy of Aadhar card of applicant No.2 (son of the deceased). They have also filed Ext.A11 Family Members Certificate dated 02.02.2023 issued by Tahsildar, Dachepalli, wherein the applicant No.1 and 2 have been shown as husband and son of the deceased. Applicant No.1 husband of the deceased filed affidavit reiterating the relationship of applicants with the deceased. This issue has not been contested seriously by the respondent. Hence it is held that applicants No.1 & 2 are husband and son of the deceased and held to be dependents of the deceased. Accordingly, this issue is decided in favour of the applicants, as per Section 123(b)(i) of Railways Act 1989.

18. One very disturbing fact that emerged in this case was the extremely poor response shown by the then SM/SKP Sri M.KrishnaKanth, when he received the news of fall of a passenger from the train at his station he did not even enter the incident in the Untoward Incident Register. The 108 Ambulance arrived 01.30 hours (one and half hour) late but he did not make any effort to call for a local doctor, list of whom is available at the station. He was not even aware that his staff had lifted the injured passenger on to the platform. He did not give any first aid to the injured. This attitude borders on the outright callousness. However, he admitted that it was his

first year of duty and the first untoward incident that occurred on his watch and he would be more careful in future.

19. In order to ensure that the response of the railway staff to the injured passengers is immediate and better it is suggested that General Manager, South Central Railway may review the training aspects of the station staff more thoroughly and make changes, so that type of response shown by CW1 is not repeated in future by others. Feedback on steps taken be advised to this Tribunal within 6 weeks from the date of issue of this order.

20. In view of the findings on issue Nos.1, 2, 3 & 4 it is concluded that the deceased in the subject case was a bonafide passenger and died on account of an accidental fall from train No.12747Palnadu express at Shankarpalli railway station while travelling from Nadikudi to Shankarpalli amounting to an untoward incident within the meaning of Section 123(c)(2) read with Sec.124A of Railways Act. Hence as the dependents of the deceased, applicants No.1 and 2 are held entitled to prescribed compensation of Rs.8.00 lakhs (Rupees: Eight lakhs only) under Part I of Schedule annexed to the Rules Known as Railway Accident and Untoward Incidents (Compensation) Rules 1990 as amended in 2016 with interest @ 9% per annum from the date of accident till the date of payment.

21. In the result, it is, therefore,

Ordered

that the claim application of Applicants No.1 & 2 is hereby allowed, on contest, but without costs.

22. The Respondent Railway is directed to deposit a sum of Rs.8,00,000/- with interest @ 9% p.a. from the date of accident to the date of deposit, with the Additional Registrar of this Bench within a period of 30 days from the date of receipt of copy of this order, failing which respondent shall be liable to pay interest @ 10% p.a. thereafter till the date of deposit.

23. The amount of Rs.8,00,000/- shall be given in the following manner.

- (i) A sum of Rs.7,00,000/- (Rupees Seven lakhs only) alongwith accrued interest in the same proportion as the compensation is awarded to Applicant No.1, husband of the deceased. Out of the above amount, a sum of Rs.70,000/- (Rupees Seventy thousand only) and the entire share of the accrued interest shall be released in hisfavour through Electronic Clearing System (ECS). The remaining amount Rs.6,30,000/- (Rupees Six lakhs thirty thousand only) shall be kept in 63 fixed deposits of Rs.10000/- each for the period of one month to 63 months respectively with cumulative interest. The maturity amounts of the FDR(s) be credited by ECS in the savings bank account of the applicant near to the place of her residence.
- (ii) A sum of Rs.1,00,000/- (Rupees: One lakh only) alongwith accrued interest in the same proportion as the compensation is awarded to applicants No.2, son of the deceased. Out of said amount a sum of Rs.10000/- (Rupees: Ten thousand only) and the entire share of the accrued interest shall be released in hisfavour through Electronic Clearing System (ECS). The remaining amount of Rs.90,000/- (Rupees: Ninety thousand only) shall be kept in fixed

deposit in the savings bank account of the applicant No.2 in a bank near to the place of his residence for a period of one year. On completion of tenure, the term deposit proceeds alongwith interest accrued, if any, may be paid by the bank directly to the applicant No.2 without reference to the Tribunal.

- (iii) The bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimant(s) i.e., the savings bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).
- (iv) The applicants shall furnish details and documents relating to Aadhar Card, PAN Card, any other appropriate ID card, two sets of photographs and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder.
- (v) The concerned Bank is also directed to accept form No.15G/15H, as the case may be, to ensure that whatever amount is taxable, appropriate steps has to be taken by the concerned bank before releasing the amount through ECS.
- (vi) The original fixed deposit shall be retained by the concerned 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 applicants.

- (vii) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Applicant(s) near the place of their residence.
- (viii) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (ix) The concerned bank shall not issue any cheque book and/or debit card to applicants. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of award amount. The bank shall freeze the account of the applicant(s) so that no debit card be issued in respect of the account of the applicant(s) from any other branch of the bank.
- (x) The bank shall make an endorsement on the passbook of the Applicant(s) 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 Applicant(s) shall produce the passbook with the necessary endorsement before the RCT.
- (xi) It is clarified that the endorsement made by the bank along with duly signed and stamped by the bank official on the passbook(s) of the Applicant(s) is sufficient compliance of above clause.
- (xii) Bank shall not create any charge, mortgage, or hypothecation on said amount.

- (xiii) Railways as well as Applicant(s) are required to submit compliance report on the action taken in terms of above noted directions as early as possible and not beyond 90 days from the date of receipt of this order.

24. In the facts and circumstances of the case, there is no order as to costs.

(N.MADHUSUDAN RAO)
Member Technical

A P P E N D I X

Witnesses for the Applicants:

1. AW1 - KumbhiJagannadham, husband of the deceased

Documents marked for the Applicants:

- | | | | |
|-----|---------|---|---|
| 1. | Ext.A1 | - | Attested copy of FIR. |
| 2. | Ext.A2 | - | Attested copy of Message dated 22.12.2019 |
| 3. | Ext.A3 | - | Attested copy of inquest report. |
| 4. | Ext.A4 | - | Attested copy of Photo of deceased |
| 5. | Ext.A5 | - | Attested copy of the journey ticket |
| 6. | Ext.A6 | - | Attested copy of PME report. |
| 7. | Ext.A7 | - | attested copy of Aadhar card of the deceased |
| 8. | Ext.A8 | - | Attested copy of Aadhar card of applicant No.1. |
| 9. | Ext.A9 | - | Attested copy of Aadhar card of applicant No.2. |
| 10. | Ext.A10 | - | Attested copy of Dead body handover certificate |
| 11. | Ext.A11 | - | Original Family Members Certificate. |
| 12. | Ext.A12 | - | Final report |
| 13. | Ext.A13 | - | Death Certificate of the deceased |

Witnesses for the Tribunal:

1. CW1 - M.KrishnaKanth, SM/Gollaguda

Documents marked for the Tribunal:

- NIL -

Witnesses examined for the Respondent:

1. RW1 - K.Suresh, Pointsman/LPI

Documents marked for the Tribunal:

1. Ext.R1 - DRM report

(N.MADHUSUDAN RAO)
Member Technical

bhr/-