

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)

OA II (U) NO. 33 OF 2022

Date of Filing : 24.03.2022

Date of Decision : 09.10.2023

Between:

1. Smt. Tharote Sanga Bai, W/o. Late T.Hanmantha,
Aged about 54 years, Occ: Labourer.
2. Tharote Suryakanth, S/o. Late T.Hanmantha,
Aged about 27 years, Occ: Labourer
3. Smt.Tharote Jana Bai, W/o. Tharote Rama,
Aged 79 years, Occ: Nil

Applicant Nos.1 to 3 are r/o. H.No.2-7,
Pedda Takli, Madnoor Mandal,
Limbur, Nizamabad District, Telangana State 503 309

4. Smt. Misala Anjani Bayi W/o. Abbaiah,
Aged about 35 years, Occ: Housewife.
R/o. 2-5/1, Madhan Hipparga, Madnoor Mandal,
Nizamabad District, Telangana State.
5. Smt. Neeradi Panchasila, W/o. Neeradi Ashok,
Aged 25 yrs, Occ: Housewife,
R/o. 5-77, Birkur Mandal,
Bommandevpalle, Nizamabad Dist,
Telangana State 503 301.

...Applicants

And

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

...Respondent

Counsel for Applicants : Sri. A.Lakshma Reddy
 Counsel for Respondent : Sri.T.Jashwanth Kumar

J U D G M E N T

1. The Applicants have filed this application under Sec.16 of the Railway Claims Tribunal Act, 1987 seeking compensation of Rs.8,00,000/- with interest for the death of Tharote Hanmantha S/o. Rama, aged 62 years, (hereinafter referred to as the deceased), in an alleged untoward incident that occurred on 19.10.2021 while travelling from Nagpur to Secunderabad by train No.02722 Dakshin Express holding journey ticket bearing PNR No.222-8435006 dt. 18.1.2021, at KM No.342/22-23 in the Uppal Yard. Applicant No.1 is the wife, Applicant No.2 is the son, Applicant No.3 is mother, and Applicant Nos.4 and 5 are married daughters of the deceased.

2. The Respondent railway filed Written Statement denying various averments made in the claim application and stated that claim application is neither maintainable in law nor on facts and that there is no cause of action for the applicant to file the present case as the claim does not fall within the ambit of Sec123(c) or Sec.124-A of the Railways Act, 1989. The Respondent has put the applicants to strict proof that they are dependents of the deceased by causing production of valid documentary evidence. Respondent has denied that deceased was a bonafide passenger of Train No.02722 Dakshin Express of 18.10.2021 and suffered an untoward incident of accidental fall from train. The Respondent contended that during the

inquest, a railway journey ticket bearing PNR no.222-8435005 Ex.Nagpur to Secunderabad was found with the deceased, which was verified with CRI, Secunderabad and found that the said ticket was in waiting list and not confirmed and therefore the said ticket was not valid for journey. In view of the above, the respondent prayed to dismiss the claim application.

3. On the basis of pleadings of the parties, following issues were framed:-

1. Whether the deceased was a bona fide passenger of the train in question and died as a result of an untoward incident?
2. Whether the incident falls under any of the exceptions to Sec.124-A of the Railway Act?
3. Whether the Applicants are dependants of the deceased?
4. Whether the applicants are entitled to the compensation as claimed? And to what relief?

4. Applicant No.2 Tharote Suryakanth, son of the deceased, filed his affidavit of examination in chief as AW-1 and got marked the documents as Ex.A1 to A8. Respondent did not examine any witness, however, filed the Divisional Railway Manager's enquiry report as Ex.R1. The Tribunal has examined Shri V.Vijaya Kumar, Chief Ticket Examiner as CW.1. The CW.1 has filed the instructions issued by the Railway Board governing the journey during the Covid Period and same has been marked as Ex.C1.

5. Heard the counsels appearing on behalf of the parties and also perused the entire evidence placed on record and record my findings on the issues framed as under:-

ISSUE NO.1 & 2:

6. The case of the applicants is that while the deceased was travelling from Nagpur to Secunderabad by train No.02722 Dakshin Express holding journey ticket bearing PNR No.222-8435006 dt. 18.1.2021 had an accidental fall from said train on 19.1.2021 at KM No.342/22-23 in the Uppal Yard and died.

7. In support of the case, the applicants have filed (i) original train journey ticket (Ex.A1) (ii) attested copies of FIR (Ex.A2), (iii) Inquest Report (Ex.A3), (iv) Postmortem report (Ex.A4), (v) Death Certificate (Ex.A5) (vi) Attested copy of Final Report (Ex.A6) (vii) Copies of Aadhar Cards of applicants (Ex.A7) and (viii) Copy of Aadhar Card of deceased (Ex.A8).

8. Ex.A1 is the Second Class original train journey ticket bearing PNR No.222-8435005 issued at 08.58 hrs on 18.10.2021 for travel from Nagpur to Secunderabad on 18.10.2021 for one male aged 60 years, waitlisted 34.

9. Ex.A2 is the FIR No.61/2021 registered by the GRPS Kazipet on 19.10.2021 basing on the message of Dy.Station Manager, Kazipet dt. 19.10.2021 issued at 01.15 hrs stating that as per the information given by Pointsman Shri L.Mahendra, one unknown male dead body aged about 55 years wearing white shirt and white lungi was found at KM No.342/22-23 at Uppal Yard between Up and Down main lines and it was suspected that he fell from Train No.02722 Express.

10. Ex.A3 is the Inquest Report conducted on 19.10.2021 between 07.00 and 09.00 hrs at the place of accident. The deceased was identified as Tharote Hanmanth by his son Tharote Srikanth on Whatsapp. Shr L.Mahendar, Pointsman is shown as eye witness to the fall of the deceased from Train No.02722 Express on 19.10.2021 midnight at 00.30 hrs near LC Gate No.13T at KM No.343/24-26 at Uppal railway station yard between Up and Down lines. The son the deceased Tharote Srikanth is shown as the last person to see the deceased leaving for Nagpur on 13.10.2021 in the afternoon to attend a meeting at Ambedkar Samadhi. Para 7 of the Inquest Report shows that the deceased had suffered crush injury to head and brain lying outside, right elbow broken, injuries on knee and feet, left hand finger cut. One ITEL mobile phone, railway journey ticket bearing PNR No.222-8435005 dt. 18.10.2021 from Nagpur to Secunderabad for Train No.0722 soaked with blood and Jaibhim Badge were seized from the deceased. No cash, valuables, ornaments etc., were found with the deceased. Basing on the injuries, scene of offence, statement of witnesses, blood relatives, and eye witness, it was concluded by the panchas that the deceased went to Nagpur to attend Ambedkar meeting on 13.10.2021 and while returning back home, the deceased informed his family on 18.10.2021 accordingly and while travelling by train No.02722 Dakshin Express, the deceased fell from the train on ballast stones near LC Gate No.13T at KM No.343/24-26 on Up and Down lines in the night of 19.10.2021 at 00.30 hrs.

11. Ex.A4 is the Post-mortem report conducted on 19.10.2021 between 16.10 and 17.10 hrs. As per the report, the approximate time of death was 12 to 18 hours prior to the Post-mortem examination and death was caused due to multiple injuries. Ex.A5 is the Death Certificate of the deceased, which records the date of death as 19.10.2021 at Kazipet railway station.

12. Ex.A6 is the Final Report submitted by RPS, Kazipet stating that deceased used to regularly visit Nagpur to attend the meeting of Dr.B.R.Ambedkar. On 13.10.2021 the deceased started from his native place for Nagpur to attend the meeting and reached Nagpur. After completion of meeting, on 18.10.2021 the deceased booked a ticket to Secunderabad for return journey and same was informed to his son over phone. He boarded Train No.02722 Dakshin Express holding a journey ticket No.222-8435005 for journey from Nagpur to Secunderabad and during the journey, on 19.10.2021 at about 00.30 hrs he accidentally fell down from running train at KM No.343/24-26 on down line at Uppal railway station yard near LC Gate No.13T and died.

13. Ex.A7 is the copies of Aadhar Cards of the applicant Nos.1 and 2 and Ex.A8 is the copy of Aadhar card of the deceased.

14. The Respondent filed the Divisional Railway Manager's enquiry report conducted under provisions of Railway Passenger (Manner of Investigation of Untoward Incidents) Rules 2003, as Ex.R1. As per the said report, on

enquiry it was revealed on 19.10.2021 at about 00.12 hrs on-duty Gateman of LC 13T Shri L.Mahendra while exchanging signal to Guard/Loco Pilot of Train No.02722 Express, heard sound of something fallen down from running train. After passing the train he rushed to the spot and noticed one unknown male person aged about 55 years wearing white shirt and white lungi suffering with severe injuries and died at KM No.342/22-23 in Uppal Yard between Up and Down lines and he informed the same to the Dy. Station Supdt., Uppal. Shri K.Ashok Kumar, SI, Govt. Railway Police, Kazipet and Shri V.Ragotham, Constable-048, RPF, Kazipet attended the spot and noticed the dead body. During the inquest, the deceased was identified as Tharote Hanmantha S/o.Tharote Rama, aged 61 years, R/o. Limbur, Nizamabad. The deceased was found with one railway journey ticket bearing PNR No.222-8435005 Ex.Nagpur to Secunderabad for Train No.02722 Express, WL/34 dt. 18.10.2021. The Report concluded that as per the Guard and Loco Pilot of Train No.02722 Express they did not notice any untoward incident and there was no detention to the train. During the Inquest/Joint Observation, the deceased was found with the above journey ticket, which was verified with CRI, Secunderabad and found that said ticket was in waiting-list and was not valid for journey. It was further concluded that the death could be due to reasons other than accidental fall from train and hence they are not liable to pay compensation.

15. Shir V.Vijaya Kumar, Chief Ticket Examiner to whom the Tribunal has examined as CW.1 has deposed that he had issued a letter to the Inspector, RPF, Kazipet on 29.6.2022 stating that PNR no.222-8435005 Ex.Nagpur to Secunderabad issued for train No.02722 Express was wait listed and hence not valid for journey by said train. He further stated that in normal course, a wait listed passenger can travel in the general coach and that the period in which the ticket was issued was during Covid and restrictions were imposed by Railway Board. When the witness was asked as to whether the said ticket was cancelled in the system or not and what was the status of the ticket at the time of charting, he said that he did not check whether the said ticket was cancelled in the system or not and that he is not aware of the status of the ticket whether it was wait listed or confirmed at the time of charting at Nagpur.

16. We have gone through all the documentary and oral evidence on record and have come to the following conclusion as under:-

16.1 As far as the bonafide of the deceased as a passenger is concerned, the original journey ticket with PNR No. 222-8435005 issued on 18.10.2021 for travel by Train No.02722, Dakshin Express, from Nagpur to Secunderabad, has been filed by the applicants as Ex. A1. According to the PNR Enquiry Report submitted by the respondent, the aforementioned ticket was issued in the name of H.Rama for travel on 18.10.2021, from Nagpur to Secunderabad (possibly because the name of the deceased Hanmantha S/o.

Rama was mentioned when booking the ticket). The deceased was identified as Tharote Hanmantha S/o. Rama, according to the Government Railway Police and the Railway Protection Force's Joint Observation Report. The recovery of said ticket from the deceased is also confirmed in the Inquest Report, Ex.A3. However, the Respondent Railway argued that given the restrictions put in place by the Railway Board during Covid-19, the wait listed ticket was not valid for travel. On the other hand, the Counsel for Applicants argued that Respondent has not come out with full facts and that there are no restrictions on travel as on date, so it is obvious that said letter would have been withdrawn or cancelled. Non submission of any document to this effect by the Respondent would imply that there must have been verbal communication withdrawing the restrictions. We do agree with the contention of the Learned Counsel for the Applicants that the Respondent has suppressed the material facts. It is a matter of common knowledge that by October 2021 the rail travel had become normal and so the CW.1 appears to be ignorant of the Rules in force. Therefore, we do not agree with the Respondent's contention that the deceased was not allowed to travel on the train in a general coach. In view of the above evidence, the deceased is held to be a bonafide passenger.

16.2 As far as the untoward incident is concerned, the message sent to the Government Railway Police and Railway Protection Force by the Dy. Station Manager, Kazipet, dated 19.10.2021, states that the dead was believed to

have fallen from Train No.02722 Express. Sri L.Mahendra, an on-duty gateman at LC Gate No. 13, claims that at about 00:12 on 19.10.2021, he heard the sound of something falling from the running train. When he rushed to the spot, he saw a man, about 55 years old, suffering from severe injuries. He then immediately reported this to the on-duty Dy.Station Superintendent, Uppal, for further action. The deceased was identified as Tharote Hanmantha during the Joint Observation Report prepared immediately after the accident on 19.10.2021 at 03.00 hrs. The Final Report, another piece of documentary evidence, also proves that the deceased fell from the 02722 Dakshin Express. Although the Gateman had not personally witnessed the deceased's fall from the train, he was the one who first noticed the deceased in injured state after 02722 Express had passed. There is nothing to indicate that deceased suffered injuries while trespassing the tracks or due to some other reason. Therefore, in view of above discussion, we hold that the death of the deceased was on account of an untoward incident of accidental fall from 02722 Dakshin Express as claimed by the applicants.

16.3 These issues are accordingly answered in favour of the applicants.

ISSUE NO.3

17. As per the claim application, the applicant No.1 is the wife, Applicant nos. 2, 4 and 5 are children and Applicant No.3 is the mother of the deceased. The applicant No.1 and 2 have filed the copies of their Aadhar

Cards as Ex.A7 wherein the deceased is shown as husband of Applicant No.1 and father of Applicant No.2. The Aadhar Card of applicant No.3 shows her husband as Tharote Rama, who is the father of the deceased. The Applicant No.2 while filing his affidavit on oath in IA 108/2023 has stated that Applicant Nos.4 and 5 are his married sisters and also filed copies of their Aadhar Cards, which bears their husband's names. There is no dispute from the respondent railway on this issue. In view of the above, the applicants being wife, children and mother of the deceased are held to be dependants as defined under Sec.123(b) of the Railways Act.

ISSUE NO.4

18. In view of the findings on issue Nos.1 to 3, the Applicants are held entitled to receive the compensation of Rs.8,00,000/- as prescribed under Part I of the Schedule appended to Rule 3 of Railway Accidents and Untoward Incidents (Compensation) Amended Rules, 2016 along with interest @ 9% p.a. from the date of accident to the date of payment.

19. In the result, it is, therefore,

Ordered

that the claim application of Applicants is hereby allowed, on contest, but without costs.

20. The Respondent is hereby directed to pay to the Applicants a sum of Rs.8,00,000/- (Rupees eight lakhs only) with interest @ 9% p.a. from the date of accident to the date of payment in the following manner.

- (i) A sum of Rs.6,00,000/- (Rupees six lakhs only) is awarded to Applicant No.1. Out of said amount, a sum of Rs.60,000/- (Rupees sixty thousand only) along with accrued interest, in the same proportion as the compensation, shall be released in her favour through Electronic Clearing System (ECS) and remaining amount Rs.5,40,000/- (Rupees five lakhs forty thousand only) shall be kept in 72 fixed deposits of Rs.7500/- each for the period of one month to 72 months respectively with cumulative interest. The maturity amounts of the FDR(s) be credited by ECS in the savings bank account of the Applicant No.1 near to the place of her residence.
- (ii) A sum of Rs.50,000/- (Rupees fifty thousand only) each is awarded to Applicant Nos.2 to 5. Out of said amount, a sum of Rs.10,000/- (Rupees ten thousand only) each along with accrued interest, in the same proportion as the compensation, shall be released in their favour through Electronic Clearing System (ECS) and remaining amount Rs.40,000/- (Rupees forty thousand only) each shall be kept in Term Deposit Scheme in any of the Nationalized Banks near to the place of their 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 Nos.2 to 5 without reference to the Tribunal.
- (iii) Respondent is directed to pay the amount to the Applicants within 90 days from the date of this order, failing which they shall be entitled to interest @ 10% p.a. thereafter till the date of payment.

- (iv) 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).
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Applicants near the place of their residence.
- (ix) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Tribunal.
- (x) 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 Applicants so that no debit card be issued in respect of the account of the Applicants from any other branch of the bank.

- (xi) The bank shall make an endorsement on the passbook of the Applicants 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 Applicants shall produce the passbook with the necessary endorsement before the RCT.
- (xii) 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 Applicants is sufficient compliance of above clause.
- (xiii) Bank shall not create any charge, mortgage, or hypothecation on said amount.
- (xiv) Railways as well as Applicants 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.

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

(N.MADHUSUDAN RAO)
Member (Technical)

(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)

APPENDIX

Witnesses for the Applicants:

- 1) AW.1 - Sri Tharote Suryakant

Exhibits for the Applicants:

- 1) Ex.A.1 - Original journey ticket
- 2) Ex.A.2 - Attested copy of FIR
- 3) Ex.A.3 - Attested copy of Inquest Report
- 4) Ex.A.4 - Attested copy of Postmortem report
- 5) Ex.A.5 - Death Certificate of the deceased
- 6) Ex.A.6 - Attested copy of Final Report
- 7) Ex.A.7 - Copy of Aadhar Card of Applicant Nos.1 and 2
- 8) Ex.A.8 - Copy of Aadhar Card of deceased

Witnesses for the Respondent : Nil

Exhibits for the Respondent :

- 1) Ext.R.1 - Divisional Railway Manager's Report.

Witnesses Examined by Tribunal :

- 1) CW.1 - Sri V.Vijaya Kumar, Chief Ticket Examiner

Exhibits marked by Tribunal :

- 1) Ext.C.1 - Letter issued by Sr.Divl.Commercial Manager, Secunderabad dt.28.5.2020

(N.MADHUSUDAN RAO)
Member (Technical)

(JUSTICE ANANT KUMAR)
Vice Chairman (Judicial)