



रेल दावा अधिकरण, इलाहाबाद न्यायपीठ

RAILWAY CLAIMS TRIBUNAL, ALLAHABAD BENCH

Corum:

SHRI MUKESH NIGAM, VICE CHAIRMAN (TECHNICAL)
SHRI AJAY KUMAR GARG, MEMBER (JUDICIAL)

Case No:TAU/ALD/268/2020 (OA/IIu/LKO/997/2015)

Date of filing:03/09/2015

Date of order:19/04/2024

1. Babulal aged about 52 year son of Sri Dulare (father of deceased)
2. Rukhminiya aged about 50 year wife of Babulal (mother of deceased)

All applicant residents of Village Rechhatia, P.S.-Karvi and District- Chitrakut.

-Applicants

Versus

Union of India represented through

General Manager, North Central Railway, Allahabad

-Respondent

Application under Section 16 of Railway Claims Tribunal Act,1987 in respect of claim for compensation for the death in an untoward incident

Value of claim: 10,00,000/- with interest

Present:

For the applicant: Shri C. P. Singh, Learned Counsel

For the respondent: Shri U.K. Pandey, Learned Counsel

J U D G E M E N T

By Shri Mukesh Nigam, Vice-Chairman(Technical)

1. The basic details relating to the accident as contained in the application are listed as under:

a.	Date of accident	16/02/2015
b	Person Died (hereinafter referred to as “deceased”)	Late Mantu Devi
c	Relationship of the claimant with the deceased	Father and Mother
d	Train involved	Train name and number not mentioned
e	Place of occurrence of untoward incident	Between Khoh and Karvi railway station
f	Untoward incident narrated :(in verbatim): <i>Para 6 (B): “The deceased accidentally fell down from the train on 16-02-2015 between Khoh and Karvi railway station due to received grievous injuries, he died.”</i> <i>Para 7: “Second class railway ticket from Chitrakut Dham Karvi to Manikpur Railway Station has lost.”</i>	

g	Written Statement and DRM's Report	W.S. filed on 01/06/2016 & DRM's Report filed on 27/11/2020
h	Averments in reply in Written Statement: (Para 2, 3, 13, 16&17 in verbatim) <i>Para 2: "That the contents of Para 6 & 6 A, 6B of the Claim Application are not admitted as alleged therein, hence denied. As per inquiry of the respondent, driver of ACCG Spl. has informed to the Station manager Chitrakoot Dham Karvi on 16/02/15 that one dead body is lying at Km. no. 1390/8-7 and memo in this regard was also issued to Civil Police."</i> <i>Para 3: "That the contents of Para 7 of the claim application are not admitted, hence denied. The deceased was neither the passenger of the Train nor she boarded & traveled on the train as alleged by the applicants. The applicants are required to prove that the ticket was purchased by the deceased and recovered from the possession of the deceased."</i> <i>Para 13: "That the deceased was neither a passenger nor accidentally fell down from the train on the alleged date of incident. As per inquiry of the respondent, driver of ACCG Spl. has informed to the Station manager Chitrakoot Dham Karvi on 16/02/15 that one dead body is lying at Km. no. 1390/8-7 and memo in this regard was also issued to Civil Police."</i> <i>Para 16: "That the particulars furnished by the applicants in para-6 of the claim application are wrong. The case does not fall under section 123 (C)(2) of Railways Act, 1989 read with Section-124A of Railways Act, 1989."</i> <i>Para 17: "That the respondent / Railway Administration is fully protected under exception to Section-124A of Railways Act, 1989. As</i>	

	<i>such, the case does not fall under untoward incident. Therefore, the case of the applicants is not covered in the definition of “Untoward Incident” as provided in law.”</i>
i	Averments in reply in DRM’s Report: (in verbatim) “धारा 124(ए) के अन्तर्गत प्रदत्त शक्तियों के तहत निरीक्षक रे0सु0ब0 मानिकपुर के द्वारा जाँच की गई। मामले में संलग्न प्रवावली का अवलोकन, एवं पुलिस रिकॉर्ड से स्पष्ट होता है कि मृतिका मंटू पुत्री बाबूलाल ने मानसिक रूप से परेसान होकर दिनांक 16.02.15 को किसी ट्रेन से कटकर आत्महत्या की है। बिना अधिकार रेल परिसर में प्रवेश रेल अधिनियम की धारा 147 के अन्तर्गत दंडनीय अपराध है। मृतिका अपनी मृत्यु के लिये स्वम जिम्मेदार है रेल प्रशासन की कोई जबाबदारी नहीं है। दावाकर्ता का दावा गलत है।”

2. Upon pleadings of the parties, four issues were framed on 01/06/2016: -

- 1) Whether the Deceased was a bonafide passenger of the train in question?
- 2) Whether incident of death of the deceased falls under the ambit of an untoward incident as defined U/S 123(c) (2) read with Section 124-A of Rlys. Act, 1989?
- 3) Whether the applicants are the dependants of the deceased?
- 4) To what Relief?

3. The applicant no. 1 Shri Babulal tendered an affidavit as AW/1 and presented Shri Shankar Lal as AW/2. Both were cross examined and discharged. The Applicant had furnished certain documents which are marked Exhibits as under:

1	Copy of Aadhar Card of Babulal	Exhibit A/1
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2	Copy of Panchnama	Exhibit A/2
3	Copy of Post-Mortem Report	Exhibit A/3
4	Copy of Aadhar Card of Shankar Lal (AW/2)	Exhibit A/4
5	Copy of Aadhar Card of deceased (Mantu Devi)	Exhibit A/5

4. The Respondent had not adduced any oral evidence and had filed its certified DRM's Report Exh. R/01 along with annexure. The Respondent Railway had filed along with its DRM's Report, the Investigation Report of Shri Jatashankar Pandey, SI/RPF/Post- Chitrakoot Dham Karvi, North Central Railway along with Annexure.
5. Considered the pleadings of both sides, perused all the documents and evidence available on record and heard the submissions made by Ld. Counsels on both sides. The decision on the issues are as under: -

Decision with Reasons

Issues No 1&2

6. Issue no 1&2 are being taken up together as they are interconnected. It is seen from the records that it is mentioned in the Station Diary of Dy. Station Superintendent /Chitrakoot station that at 1615 hrs of 16/02/2015 driver of freight train ACCZ/Spl. Shri P. C. Pandey had informed that

between Chitrakoot and Khoh stations between Km. No. 1390/8-9, a dead body was lying on the basis of which a memo was sent by Dy.SS/Chitrakoot to GRP/Karvi for taking necessary action.

7. The proceedings of the Panchnama on the body of the deceased were conducted from 2025 hrs of 16/02/2015 to 1230 hrs of 17/02/2015. It was mentioned in the Panchnama that as per the first information about the cause and form of death, it was mentioned that the death of the deceased was due to the body of the deceased being cut by train. It was also mentioned in the Panchnama that the body of the deceased was lying on the railway lines behind Kalyan Bhartiya School. In the Panchnama, there was no mention of any rail journey ticket found from the body of the deceased. In the opinion of the Panchas, the cause of death of the deceased was due to the body of the deceased being cut by train.
8. The Post-Mortem of the body of the deceased was done between 1400 hrs to 1500 hrs of 17/02/2015. In the Post-mortem Report, it was mentioned that the age of the deceased was 15 years and the deceased had suffered crush injury to head, her left hand was found missing from shoulder joint, her left leg was missing from the level of left spine bone with crushing of left side, there was a crush injury to right arm at level from shoulder joint up to elbow joint with multiple fractures, crush injury to right leg below right knee joint and the crush injury to right heel. As per the Post-mortem

Report, the cause of the death of the deceased was due to shock and hemorrhage as result of above mentioned ante mortem crush injuries.

9. The applicant had filed an affidavit as AW/1 in which he had stated that on 16/02/2015, the deceased had died between Khoh and Karvi due to fall from train while she was undertaking a journey from Chitrakoot Dham Karvi to Manikpur railway station.
10. During the cross examination of AW/1, he had stated that the deceased was studying in class 11 and her age was about 15 to 16 years and he had received the information on the day of the incident of the incident between 1200 hrs to 1300 hrs. As per available records, the information given by AW/1 during the cross-examination was incorrect in face of available railway records as the incident was first reported by the driver of ACCZ Spl freight train at 1615 hrs of 16/02/2015.
11. In the RPF Inquiry, the applicant had stated that the deceased was mentally disturbed and he was informed by cousin of the deceased, Gudiya that the deceased had committed suicide. In the RPF Inquiry, Gudiya had also given a statement that the school master was not allowing admission to the deceased due to which she was very disturbed and which resulted in her committing suicide.
12. However, during the cross-examination, AW/1 had stated that he did not know any one by the name of Gudiya. He further stated that the deceased

had gone along with her brother-in-law Shankar to the house of her Aunt and her brother-in-law Shankar had left her at the station. He had stated that on the day of the incident between 1100 hrs and 1200 hrs , brother-in-law Shanker had left the deceased at station. When he was confronted with the statement that it had been stated by him earlier that he was informed about the incident by the Police between 1100 hrs and 1200 hrs, he had stated that he was illiterate and does not remember the time correctly.

13. During the cross-examination, AW/1 had stated that his house was only six kilometer away from the site of the incident and the railway station was very close to his house in terms of kilometer. He had also stated that he did not know whether the deceased had committed suicide or not. He also stated that he does not remember what type of transport was taken by her brother-in-law Shankar Lal to drop her to station. He further stated that he does not remember in the FIR lodged by him that he had stated that the deceased had committed suicide. He also stated that he does not remember that the cousin of the deceased, Gudiya had mentioned about suicide to him. He also stated that the deceased had not told him that she was going to her aunt's house. The evidence of AW/1 was contradictory when seen with facts available in railway records and the witness

appeared unsure of facts which does not inspire confidence in his testimony.

14. The applicant had presented Shri Shankar Lal as AW/2 who had stated that on 16/02/2015 he had made the deceased board Kanpur Manikpur Passenger from Chitrakoot Dham Karvi railway station for journey to Manikpur railway station for which she had bought a railway ticket. It was noted that the applicant had not disclosed in the original application that there was any eye-witness to the train travel by the deceased.
15. During the cross examination, AW/2 had stated that he had taken the deceased on his motorcycle at 1130 hrs to railway station and that the deceased were going to his Aunt's house to Manikpur but he did not know the reason why she was going. He further stated that the deceased was going to Manikpur by passenger train around 1230 hrs.
16. AW/2 had further stated that he knew Gudiya very well and that Gudiya was the cousin of the deceased and she was daughter of her father's brother and her mother's sister. The statement of AW/2 was totally contradictory to the statement of AW/1 as AW/1 had stated during the cross examination that he did not know anyone by the name of Gudiya. The relationship of Gudiya with AW/1 was stated by AW/2 to be his brother's and his sister-in-law's daughter which is too close for AW/1 to forget which he did during his cross-examination.

17. AW/2 had further stated that Gudiya used to stay in the same house as the deceased and that Gudiya had since expired. He had further stated that his father-in-law had three brothers whose names are Ram Krishn, BabuLal and Ramu respectively and all three brothers are alive and he does not remember Gudiya was the daughter of which of the brothers of AW/1. The fact that Gudiya was staying in the same house as that of the deceased and was her cousin as stated by AW/2 when seen along the statement of AW/1 during the cross examination that he did not know anyone by the name of Gudiya shows that the applicants had tried to hide the fact of Gudiya's presence in the case. In RPF enquiry, Gudiya had given written statement that the deceased committed suicide as she was disturbed that the school master was not allowing admission to the deceased. The testimonies of AW/1 and AW/2 were contradicting each other and did not inspire confidence in the narrative put forward by them. The Respondent counsel had raised the point of the age of the deceased and had argued that it was unlikely that the parents would send a young girl of 15 years age travel alone from Chitrakoot Dham to Manikpur, as stated by the applicants.

18. In the Panchnama, there was no mention of any rail journey ticket found from the body of the deceased. In the opinion of the Panchas, the cause of death of the deceased was due to the body of the deceased being cut by

train. As per the Post-mortem Report, the cause of the death of the deceased was due to shock and hemorrhage as result of above-mentioned ante mortem crush injuries.

19. In view of the facts and attending circumstances of the present case, it is proved on record that at the time of the accident, the deceased was neither a bonafide passenger nor had died in the incident by falling from a passenger carrying train which is an untoward incident as defined in Section 123(C)(2) read with Section 124-A of the Railway Act 1989. Hence, the issues no. (1) and (2) are decided in favor of the respondent and against the applicants.

Issues No 3 & 4

20. Having decided the issues of bonafide and untoward incident against the applicants they are not eligible to receive any compensation. Secondly, the issue of dependency loses its relevance and is not adjudicated.

O R D E R

21. The present claim application being devoid of merits is dismissed with no order as to cost.

22. The Registry is directed to send a free certified copy of this judgment directly to the applicants at their address mentioned in the claim

application by Speed Post in compliance of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

Date:19/04/2024

(Ajay Kumar Garg)
Member (Judicial)

(Mukesh Nigam)
Vice-Chairman (Technical)