
(2025) 11 OHC CK 1944
In the Orissa High Court
Case No : First Appeal Order No. 370 Of 2018

Alpana Roy & Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 29-11-2025

Acts Referred:

Railways Act, 1989 — Section 123, 123(c), 123(c)92, 124A

Citation : (2025) 11 OHC CK 1944

Hon'ble Judges : Dr Sanjeeb K Panigrahi, J

Bench : Single Bench

Advocate : Gajendra Nath Rout, Biswajit Moharana

Final Decision : Allowed

Judgement

Dr. Sanjeeb K Panigrahi, J

1. In this appeal, the Appellants assail the judgment and order dated 15.11.2017 passed by the Railway Claims Tribunal, Bhubaneswar (hereinafter referred to as "the Tribunal") in O.A. (IIU) No. 77 of 2012.

I. FACTUAL MATRIX OF THE CASE:

2. The brief facts of the case are as follows:

(i) On 28.01.2012, the deceased, Shyamal Roy, was travelling from Solapur to Bhubaneswar by the Konark Express. Due to the push and pull of co-passengers, he allegedly lost balance and accidentally fell from the running train between Gopalapatnam and Duvvada Railway Stations, sustaining fatal injuries and dying on the spot. It is stated that he was a bona fide passenger and that the journey ticket was lost in the course of the accident. The GRPS, Visakhapatnam registered UD Case No. 16/2012 and investigated into the matter. The Police during the inquest recorded cause of death of the deceased to be fall down from running train, confirmed by final report, post-mortem report and other papers.

(ii) Upon considering the pleadings and the oral arguments of the parties, the

Tribunal held that the Appellants had failed to establish the occurrence of an untoward incident, noting the absence of any eyewitness to the alleged fall. Nonetheless, relying on the documentary evidence available on record, the Tribunal proceeded to allow the Original Application.

(iii) Aggrieved by the judgment and order dated 15.11.2017 passed in O.A. No. 77 of 2012 by the Railway Claims Tribunal, Bhubaneswar Bench, the Appellants have preferred the present appeal.

II. SUBMISSIONS ON BEHALF OF THE APPELLANTS:

3. Learned counsel for the Appellants earnestly made the following submissions in support of his contentions:

(i) The Appellants submit that the Tribunal erred in allowing the Original Application, as the alleged untoward incident resulting in the death of the deceased is neither supported by the evidence on record nor correctly appreciated. They contend that the findings suffer from misappreciation of material facts and are contrary to the weight of evidence, rendering the impugned judgment and order unsustainable in law and liable to be set aside.

(ii) The Appellants further contend that the Inquest Report, Post-mortem Report, and Final Report unanimously conclude that the death of the deceased occurred due to a fall from the train. No cogent or contrary evidence has been produced by the Railways to rebut these findings.

(iii) It is further urged that mere reliance on the DRM's report, which is unsupported by any substantive proof, cannot displace the consistent documentary evidence on record. The Learned Tribunal, while adjudicating the claim application, categorically held that the deceased had died due to an untoward incident and the Railway Administration was liable to pay compensation to the Applicants. Accordingly, in view of the revised Schedule, the Learned Tribunal awarded a sum of Rs.8,00,000/- as compensation. However, it did not consider the interest on the awarded amount from the date of the presentation of the claim application.

(iv) It is further urged that the Learned Tribunal committed a gross illegality in awarding interest on the compensation amount only from the date on which the revised Schedule came into operation, instead of granting interest from the date of filing of the Original Application.

(v) It is further submitted that the Learned Tribunal has committed a gross illegality in awarding interest on the compensation amount only from the date on which the revised Schedule came into operation, instead of granting interest from the date of filing of the Original Application.

(vi) In view of the above, it is contended that the judgment dated 15.11.2017 passed in O.A. No. 77 of 2012 rendered by the Learned Railway Claims Tribunal, Bhubaneswar Bench is unsustainable in law and, accordingly, liable to be set

aside.

III. SUBMISSIONS ON BEHALF OF THE RESPONDENT:

4. On the contrary the Learned Counsel from the Respondent made the following submissions:

(i) It is submitted that the deceased was a bona fide passenger, as a journey ticket was recovered from his possession during the inquest. Consequently, the alleged occurrence falls squarely within the definition of an "untoward incident" under Section 123(c) of the Railways Act, 1989.

(ii) It is further contended that although the deceased was travelling in an unspecified train from Solapur to Bhubaneswar, the DRM's report itself records that a railway journey ticket was found with the deceased and that he may have been a bona fide passenger, thereby supporting the claim of lawful travel. The Learned Tribunal observed that the inquest report marked as Ext. A/2, it was opined that the deceased was travelling in an unknown train from Solapur to Bhubaneswar and had accidentally fallen in between Duvvada-Gopalpatnam Railway Stations at KM No. 764/6-8, resulting in his death on the spot. In the final report marked as Ext-A/5, the Investigating Officer has also concluded that the death was accidental. The Medical Officer, in the post mortem report marked as ExtA/3, opined that the death ws due to head injury.

(iii) The Appellants' claim for interest for the pendente lite period was neither considered nor granted, the Tribunal having held that since the amount claimed in the Original Application was Rs. 4,00,000/-, but the compensation awarded stood enhanced to Rs. 8,00,000/- in terms of the revised Schedule, the plea for grant of such interest was not acceptable.

IV. FINDINGS OF THE TRIBUNAL:

5. Upon considering the materials placed on record, the learned Tribunal framed five issues for adjudication and proceeded to decide the same upon appreciation of the oral and documentary evidence adduced by both parties.

6. The Tribunal allowed the claim primarily on the ground that the deceased was established to be bona fide passenger. It found that the journey ticket was recovered. Consequently, the Tribunal held that the claim could be sustained in the absence of proof of lawful travel by the deceased.

7. The Tribunal observed that various contemporaneous documentary evidence uniformly indicated that the deceased died due to the accidental fall from a running train. The Inquest Report, Police Report and Post-Mortem Report all consistently pointed towards an accidental fall of the deceased from the moving train.

8. The Tribunal has also held that such circumstances on record clearly indicate or substantiate that the deceased had accidentally fallen from the train. Consequently, the occurrence can be construed as an "untoward incident". Since

the establishment of an incident is sine qua non for entitlement to statutory compensation under Section 124A of the Act, the failure to satisfy this foundational requirement would disentitle the claimants to relief. Accordingly, the claim has been examined within the framework of Section 124A of the Act.

9. Consequently, the Tribunal found that the incident could be brought within the ambit of an "untoward incident" under Section 123(c)(2) of the Railways Act, 1989, and the appellant is entitled to compensation under Section 124-A thereof.

10. In view of the above findings, the learned Tribunal allowed the claim application, holding that the Railway Administration was liable to pay compensation for the death of the deceased.

V. COURT'S REASONING AND ANALYSIS:

11. Heard Learned Counsel for parties and perused the materials on record.

12. Before delving into the factual matrix, it is apposite to recapitulate the legal framework governing claims under Sections 123 and 124-A of the Railways Act, 1989. The Railways Act, 1989, contemplates a regime of strict liability cast upon the Railway Administration in cases of death or injury resulting from an "untoward incident". Upon the establishment of such an occurrence, the Railway is statutorily obligated to disburse compensation, irrespective of negligence or fault on its part, save and except where it is able to bring the case within the ambit of the exceptions delineated under the proviso to Section 124-A, namely, suicide, self-inflicted injury, criminal act, intoxication or insanity, or natural cause.

13. It is now a well settled proposition of law that mere absence of a journey ticket or pass, by itself, does not warrant inference that the deceased was not a bona fide passenger.

14. The Supreme Court in *Union of India v. Rina Devi*[(2019) 3 SCC 572.], has authoritatively laid down that upon the claimant producing an affidavit asserting that the deceased was a passenger who met with death in the course of railway travel, the burden proof shifts to the Railway Administration to rebut such assertion or establish that the case falls within any of the statutory exceptions. It was observed:

"29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."

15. It is further pertinent to observe that departmental inquiry reports such as

the DRM report must possess contemporaneity and credibility to command evidentiary weight. A belated or perfunctory report prepared after an undue lapse of time, without due examination of primary evidence, bears little probative value and cannot prevail over contemporaneous records such as those maintained by the police or medical authorities.

16. This Court observed that Section 124A of the Railways Act, 1989 creates a no-fault liability on the part of the Railway Administration in cases where death and injury occurs due to an "untoward incident".

Unless the case falls within one of the enumerated exceptions. The Supreme Court in *Union of India v. Prabhakaran Vijaya Kumar*[(2008) 9 SCC 527],

".....11. it is possible that two interpretations can be given to the expression "accidental falling of a passenger from a train carrying passengers", the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board the train and falls down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence, in our opinion the latter of the abovementioned two interpretation and not a narrow and technical one".

17. Applying the settled legal principles to the facts of the present case, it is evident from the inquest report, post-mortem report and the final report consistently record that the deceased died due to fall from a running train.

18. It is observed that the police investigation and GRPS records indicate that the deceased fell down from the running train in between Gopalapatnam and Duvvada Railway Station. No evidence was led by the Railways to rebut this version or to show that the deceased was trespasser. Thus, in absence of contrary evidence, and keeping in mind the principles laid down in *Rina Devi* (Supra), the deceased is entitled to be treated as a bona fide passenger.

19. In the present case, the recovery of the journey ticket, admittedly produced by the Appellants, when considered cumulatively with other evidentiary material on record, unequivocally substantiates the plea of bona fide passengership as well as the occurrence of an untoward incident. The evidence adduced by the Appellants sufficiently discharges the initial burden of proof and establishes a strong presumption that the deceased was a bona fide passenger.

20. The Tribunal has rightly placed emphasis on the contemporaneous documentary evidence, which uniformly indicates that the deceased died due to the accidental fall from a running train. The Inquest Report, Police Report and Post-Mortem Report all consistently pointed towards an accidental fall of the deceased from the moving train.

21. The Learned Tribunal has not committed any illegality in declining to award

pendent lite interest on the compensation. The Tribunal has rightly awarded a sum of Rs.8,00,000/- in accordance with the revised Schedule, which came into effect from 01/01/2017. Applying the aforesaid legal principles to the facts of the present case, it is evident that the Respondents have duly discharged their statutory duty.

VI. CONCLUSION:

22. In view of the forgoing analysis and the reasons recorded hereinabove, this Court is of the considered opinion that the judgment dated 15.11.2017 passed by the Railway Claims Tribunal, Bhubaneswar in O.A. No.77 of 2012 is legally sustained and does not warrant interference. It is, accordingly, declared that the deceased, Shyamal Roy, met his death in an "untoward incident" within the meaning and contemplation of Section 124A of the Railways Act, and that he was a bona fide passenger entitled to the statutory protection and benefits envisaged thereunder, which have already been duly extended by the Learned Tribunal.

23. The appeal is, therefore, allowed.

24. The Tribunal is directed to release 50% of the awarded amount to the Appellants proportionately by way of account transfer or cheque and the rest of the amount to be kept in an interest bearing fixed deposit account for a period of five years or subject to the order of the Tribunal.

25. Interim order, if any, passed earlier stands vacated.