

(2025) 04 OHC CK 1342
In the Orissa High Court
Case No : F.A.O. No. 74 Of 2025

Ramesh Behera & Anr

APPELLANT

Vs

Union Of India Vs

RESPONDENT

Date of Decision : 25-04-2025

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23
Railways Act, 1989 - Section 2(29), 123(b), 123(c), 123(c)(2), 124A, 148
Railway Accidents and Untoward Incidents (Compensation) Rules 1990 — Rule 5(3)

Citation : (2025) 04 OHC CK 1342

Hon'ble Judges : Dr. S.K. Panigrahi, J

Bench : Single Bench

Advocate : Suven Kumar Pani, Milan Kumar

Final Decision : Dismissed

Judgement

Dr. S.K. Panigrahi, J

1. The present appeal has been preferred by the Appellants assailing the judgment dated 24.06.2024, passed by the learned Railway Claims Tribunal, Bhubaneswar Bench, in OA No.39 of 2022.

I. FACTUAL MATRIX OF THE CASE:

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

(i) The deceased, Santosh Behera, was employed as a labourer in Surat.

(ii) On 30.08.2019, he commenced a journey by train from Surat Railway Station to Bhubaneswar Railway Station.

(iii) During the course of the journey, on 01.09.2019, the deceased accidentally fell from the train at KM No. 82/5-6, between Rairakhoi and Bamur Railway Stations, near the railway track falling within the jurisdiction of Kishore Nagar Police Station, Angul, and sustained grievous injuries.

(iv) Following the incident, the deceased was immediately transported to the nearest hospital by the 108 Ambulance Service. However, despite receiving medical treatment, he succumbed to his injuries.

(v) Subsequently, the parents and the wife of the deceased filed two separate claim petitions before the Railway Claims Tribunal. In their petition, the parents stated that the deceased was travelling on the Ahmedabad–Puri train, whereas the wife, in her separate petition, asserted that he was travelling on the Ajmer–Puri train.

(vi) The matter was heard on 24.06.2024 in the presence of both parties. Upon consideration of the evidence on record, the Tribunal concluded that the deceased was a bona fide passenger who died in an untoward incident.

(vii) Consequently, the Tribunal directed the respondent to deposit the awarded compensation amount of ₹ 8,00,000/- along with simple interest at the rate of 9% per annum, calculated from the date of condonation of delay until the date of payment, with the Registry of the Bench, within 30 days.

(viii) The Tribunal apportioned the awarded compensation among the applicants as follows: Smt. Laxmi Behera, the wife of the deceased, was awarded ₹ 5,00,000/-; Smt. Khusi Behera, the daughter of the deceased, was awarded ₹ 1,00,000/-; Sri Ramesh Behera, the father of the deceased, was awarded ₹ 1,00,000/-; and Smt. Kumari Behera, the mother of the deceased, was awarded ₹ 1,00,000/-.

(ix) Aggrieved by the Tribunal's decision to grant the major portion of the compensation to Smt. Laxmi Behera, the appellants have preferred the present appeal. It is their contention that Smt. Laxmi Behera filed a false affidavit and submitted incorrect information concerning the circumstances of the incident. Accordingly, the appellants seek the intervention of this Hon'ble Court to set aside or suitably modify the impugned judgment, ensuring a just and equitable distribution of the compensation amount.

II. SUBMISSIONS ON BEHALF OF THE APPELLANTS:

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

(i) Smt. Laxmi Behera, wife of the deceased, stated in her Original Application, Affidavit Evidence, as well as during her cross-examination on 27.06.2023 by the respondent, that the deceased was travelling on the Ajmer–Puri train. This statement is demonstrably false and stands in stark contrast to the consistent version put forth by the deceased's parents, who correctly maintained that he was travelling on the Ahmedabad–Puri Express.

(ii) It is relevant to note that the DRM Report submitted by the respondent Railway has categorically refuted the claim pertaining to the Ajmer–Puri train. The report asserts that, at the time of the incident, the Ajmer–Puri train was

stationed at Surat, whereas the incident occurred near Rairakhol, Odisha. This contradiction establishes that it is physically impossible for the same train to be present at two distinct locations simultaneously, thereby lending credence to the appellants' version.

(iii) In light of Section 148 of the Railways Act, 1989 which prescribes penalties for making false statements in applications for compensation, it is submitted that Smt. Laxmi Behera ought to be proceeded against under the said provision for having willfully furnished false information regarding the train involved in the incident.

(iv) In her Examination-in-Chief, Smt. Laxmi Behera alleged that her father-in-law and mother-in-law have failed to take care of her and her child. This claim is false, as she has never resided with her in-laws since the inception of her marriage.

(v) The parents of the deceased presently reside alone, are financially destitute, and suffer from ill health. Further, their dependent son is an asthmatic and incapable of undertaking gainful employment. Despite these compelling considerations, the learned Tribunal overlooked their circumstances and awarded the major portion of the compensation to the wife of the deceased, who is in comparatively better condition.

(vi) It is, therefore, prayed that this Court may be pleased to set aside the judgment dated 24.06.2024 passed by the learned Railway Claims Tribunal, Bhubaneswar Bench, in OA (HU) No. 39/2022.

(vii) It is further prayed that the matter be remitted to the learned Tribunal for fresh adjudication, particularly to determine whether the train involved was the Ajmer–Puri or Ahmedabad–Puri Express.

(viii) Additionally, it is prayed that the awarded compensation be distributed equitably among all legal heirs of the deceased, keeping in view their financial conditions, dependency, and overall well-being.

III. SUBMISSIONS OF BEHALF OF THE RESPONDENTS:

4. Per contra, the learned counsel for the Respondent Mr. Milan Kumar earnestly made the following submissions in support of his contentions:

(i) The submissions made by the appellants are not tenable. The Tribunal, upon a comprehensive review of the pleadings, evidence, and statutory reports, arrived at a well-reasoned and just conclusion. Hence, no interference by this Court is warranted.

(ii) The allegation that Smt. Laxmi Behera filed a false affidavit is strongly denied. The appeal appears to be a veiled attempt by the appellants to advance personal motives. The appellants had sufficient opportunity to raise such objections during the pendency of proceedings before the Tribunal. Their failure to do so at the relevant time indicates that these allegations are mere

afterthoughts and lack bona fides.

(iii) There exist no statutory guidelines prescribing a fixed formula for the apportionment of compensation among claimants. Rule 44 of the Railway Claims Tribunal (Procedure) Rules, 1989 vests the Tribunal with inherent powers to pass such orders as may be necessary to secure the ends of justice and prevent the abuse of process. Exercising such discretion judiciously, the Tribunal rightly awarded the major share of the compensation to the wife of the deceased, considering the overall circumstances of the parties. This decision is both legally sound and equitable.

(iv) The appellants' prayer for a retrial is devoid of any cogent justification and is therefore not maintainable. The East Coast Railway has already complied with the Tribunal's directions by depositing the awarded compensation amount along with accrued interest, totalling ₹ 9,37,721/-, before the Tribunal. The present appeal is evidently rooted in an intra-family dispute, with no contributory fault or procedural lapse attributable to the respondent.

(v) The Tribunal has rightly granted compensation in accordance with the Railway Accidents and Untoward Incidents (Compensation) Rules, as amended in 2016, which enhanced the amount payable in case of death to ₹ 8,00,000/-. The addition of simple interest at the rate of 9% per annum, from the date of condonation of delay till the date of actual payment, is within the bounds of law and judicial precedents.

(vi) The appellants' contention challenging the identity of the train involved in the incident is without merit. The deceased was recovered from within the railway premises, and the core facts of the case being that he died due to an untoward incident while travelling as a bona fide passenger remain unaltered.

(vii) Furthermore, under the statutory scheme, the compensation for death is fixed, irrespective of the specific train, provided the criteria under Section 123(c) (2) of the Railways Act, 1989 are met. Therefore, the prayer for reconsideration on this ground is legally unsustainable.

IV. FINDINGS OF THE RAILWAY CLAIMS TRIBUNAL, BHUBANESWAR:

5. The Railway Claims Tribunal, Bhubaneswar, after reviewing the pleadings, evidence, and hearing arguments from both parties, made the following findings:

(i) The Tribunal held that, based on the circumstantial and documentary evidence on record, along with the express admission made by the Respondent, the deceased was a bona fide passenger at the time of the incident.

(ii) It further found that the deceased died as a result of an accidental fall from a running train, and such an occurrence qualifies as an untoward incident within the meaning of Section 123 clause (c) sub-clause (2) of the Railways Act 1989. Accordingly, the Railway Administration was held liable to pay compensation to the applicants under Section 124A of the said Act.

(iii) The Tribunal also concluded that the applicants, being the wife, minor daughter, and parents of the deceased, fall within the definition of dependents under Section 123 clause (b) of the Railways Act 1989. As such, they were held entitled to receive compensation of rupees eight lakh in accordance with Part I of the Schedule appended to Rule 3 sub-rule (3) of the Railway Accidents and Untoward Incidents (Compensation) Rules 1990, along with simple interest at the rate of nine percent per annum from the date of condonation of delay, namely 10 August 2022, until the date of actual payment.

(iv) The Tribunal directed that the awarded amount be distributed in the following manner: Rupees five lakh to Smt. Laxmi Behera, the wife of the deceased; Rupees one lakh to Khusi Behera, the minor daughter of the deceased; Rupees one lakh to Sri Ramesh Behera, the father of the deceased; and Rupees one lakh to Smt. Kumari Behera, the mother of the deceased, making a total of Rupees eight lakh. The disbursement was to be carried out in accordance with the broad principles laid down by the Delhi High Court in the case of Geeta Devi v. Union of India FAO 22/2015 & CM APPLN. 4501/2015.

V. COURT'S REASONING AND ANALYSIS:

6. Heard the Learned Counsels for the parties and perused the documents placed before this Court.

7. The legal position concerning untoward incidents in railway premises is well settled.

8. Section 124A of the Railways Act, 1989 encapsulates the doctrine of strict or no-fault liability, whereby the Railway Administration is statutorily obligated to compensate victims of certain specified incidents irrespective of any contributory negligence or fault attributable to the injured or deceased passenger.

9. Notably, the provision operates independent of fault, and liability attaches upon mere proof of the occurrence of an "untoward incident" as defined under Section 123(c) of the Railways Act, 1989.

10. The word "passenger" under Section 2(29) of the Railways Act, 1989, refers to a person travelling with a valid pass or ticket. Furthermore, the Explanation to Section 124A expands this definition to include railway servants on duty and individuals who possess a valid platform ticket and become victims of untoward incidents.

11. The Supreme Court, in Union of India v. Prabhakaran Vijaya Kumar (2008) 9 SCC 527, has clarified the scope of Section 124A Railways Act, 1989, observing that the provision is strict and does not depend on the fault or negligence of the passenger. The relevant portion of the judgment is reproduced hereunder: -

"11. No doubt, 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 interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred vide *Kunal Singh v. Union of India* [(2003) 4 SCC 524 : 2003 SCC (L&S) 482] (SCC para 9), *B.D. Shetty v. Ceat Ltd.* [(2002) 1 SCC 193 : 2002 SCC (L&S) 131] (SCC para 12) and *Transport Corpn. of India v. ESI Corpn.* [(2000) 1 SCC 332 : 2000 SCC (L&S) 121]”

12. In the same vein, in *Jameela v. Union of India* (2010) 12 SCC 443, the Supreme Court reiterated that where the principle of strict liability applies, as under Section 124A of the Railways Act, proof of negligence is not a prerequisite for entitlement to compensation.

13. In the present case, the findings of the Tribunal have established that the deceased was a bona fide passenger who fell from a running train and succumbed to injuries, an event squarely falling within the definition of an "untoward incident" under the Act. There is no material to suggest criminal negligence or any of the statutory exceptions that would absolve the Railways of liability.

14. The grievance of the appellants, however, pertains not to the awarding of compensation per se, but to the apportionment thereof. They contend that the major share awarded to the deceased's wife is unjust, particularly in view of alleged contradictions in her testimony and the appellants' own financial vulnerability.

15. At this juncture, it is pertinent to note that there exists no codified statutory framework prescribing the precise manner in which compensation is to be apportioned among multiple dependents. However, Rule 44 of the Railway Claims Tribunal (Procedure) Rules, 1989, vests the Tribunal with broad discretionary powers to make such orders as may be necessary to secure the ends of justice or to prevent abuse of its process.

16. In the exercise of such discretion, the Tribunal appears to have duly taken into account the respective financial and personal circumstances of the claimants while determining the apportionment of compensation.

17. In her deposition, the wife of the deceased deposed that the deceased's parents reside with their other sons, who are financially capable of supporting them. She further asserted that following her husband's demise, she has been left to fend for herself and their minor daughter without any assistance from her in-laws, and continues to live in a state of financial and emotional hardship. The appellants, for their part, have refuted these claims, alleging that she never resided with them and that she misrepresented material facts pertaining to the

incident. However, these conflicting narratives fall squarely within the domain of intra-family discord. Significantly, no cogent material has been brought on record to establish that the Tribunal's findings suffer from perversity or legal infirmity so as to warrant interference by this Court.

18. In the absence of any compelling or substantiated ground for interference, this Court is of the considered view that the discretion exercised by the Tribunal in the apportionment of compensation does not warrant judicial review under Section 23 of the Railway Claims Tribunal Act, 1987.

19. It is also noted that the directions issued by the Tribunal have already been duly complied with, and the compensation amount stands deposited before the appropriate forum.

VI. CONCLUSION:

20. In light of the foregoing discussion, this Court finds no merit in the present appeal.

21. The judgment dated 24.06.2024 passed by the learned Railway Claims Tribunal, Bhubaneswar Bench, in O.A. No. 39 of 2022 does not suffer from any legal infirmity or perversity warranting interference under Section 23 of the Railway Claims Tribunal Act, 1987.

22. Accordingly, the present appeal stands dismissed.

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

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