

GAHC010009702017



2026:GAU-AS:2880

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

MFA/7/2017

Moriām Ivsa,
D/o Late Sania Lakra,
R/o- No. 1 Amgori,
P.O. and P.S. Songhajan,
Dist. Golaghat, Assam.

.....Appellant

-Versus-

Union of India,
Represented By the General Manager,
N.F.Railway,
Maligaon, Guwahati-11.

.....Respondent

For Appellant	:	Mr. G. Uddin, Advocate
For Respondent	:	Mr. B. Sarma, Advocate

Date of Hearing	:	04.11.2025
Date of Judgment	:	25.02.2026

BEFORE

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT AND ORDER

- [1]** Heard Mr. G. Uddin, the learned counsel for the appellant. Also heard Mr. B. Sarma, the learned Standing Counsel, N.F. Railway, representing the respondent.
- [2]** This appeal, under section 23 of the Railway Claims Tribunal Act, 1987, has been preferred by the appellant, namely, Moriam Ivsa, impugning the judgment and order dated 19.07.2016, passed in Original Application No.IIu/78/2012 by the Railway Claims Tribunal, Guwahati Bench, whereby the claim filed by the present appellant was dismissed.
- [3]** The facts relevant for consideration of the instant appeal, in brief, are that the present appellant had approached the Railway Claims Tribunal, Guwahati Bench, by filing an original application under Section 16 of the Railway Claims Tribunal Act, 1987, claiming compensation on account of death of her father, Sania Lakra, in railway accident while travelling with valid journey tickets.
- [4]** The claimant has stated in her original application that her father was a petty businessman who had to move from place to place for his business purpose. It is further stated that, on 13.09.2011, in between Nalbari and Ghagrapar Railway Station, when her father was performing the train journey, an accident occurred due to heavy jerk and rush of the passengers in the train, as a result of which her father sustained severe injuries and died on the spot.

- [5]** In this connection, a UD case bearing Rangia GRPS Case No. 16/2011 was registered. The In-charge of NalbariGRPS issued certificate dated 21.10.2007 stating therein the details of accident and also mentioning that the accident is suspected where the victim has fallen down from train and sustained severe injuries on his whole body and ultimately died on spot. It is also stated that the dead body of the victim was taken to Swahid Mukunda Kakati Civil Hospital, Nalbari on 01.10.2011 and thereafter, post-mortem was conducted.
- [6]** The respondent contested the claim by filing written statement and denied the fact that it is a case of accidental fall of the victim from a running train. It was stated that as per the information received, an unknown male person aged above 50 years was found lying between line Nos. 1 and 2 at kilometer No. 344/2-3 between Nalbari to Ghagraparrailway stations and run over by some unknown train. The body of the victim was cut into several pieces and therefore, it was stated that the victim was neither a *bona fide* passenger nor died due to untoward incident involving a railway accident.
- [7]** On the basis of pleadings of the parties following issues were framed by the Railway Claims Tribunal, Guwahati bench in the aforesaid original application:-

- i. "Whether the death of the deceased had occurred as a result of an untoward incident as defined under section 123(c) (2) of the railways act"?*
- ii. "Whether the deceased was a bona fide passenger on the date of the incident?"*
- iii. "Whether the applicant is a sole dependent"?*
- iv. "Whether the applicant is entitled to any compensation"? "if so, to whatsum?"*
- v. "Relief and costs"?*

[8] In support of her claim, the present appellant had adduced her own evidence and exhibited certain documents. On the other hand, the respondent has produced the DRM report Rangia, which was marked as R-1. Ultimately, after considering the materials on record, the Railway Claims Tribunal decided all the issues against the applicant and dismissed her claim. Being aggrieved with the aforesaid judgment of the Railway Claims Tribunal, the instant appeal has been preferred by the appellant.

[9] Mr. G. Uddin, the learned counsel for the appellant, has submitted that the Railway Claims Tribunal, Guwahati Bench, had erred in rejecting the claim petition filed by the appellant without going through the materials on records. He submits that the claimant was able to discharge her initial burden, that her father was a *bona fide* passenger of a train by exhibiting

the railway ticket bearing No. 59456778 from Raigarh to Dimapur as Exhibit-A2.

[10] He submits that when the dead body of the father of the claimant was found on a railway track and he was possessing a railway ticket at that time, which only indicates that he was a *bona fide* passenger. He submits that the circumstances in which the dead body of the father of the appellant was found, it only indicates that he died in an untoward incident in the course of his train journey, as such, the appellant being the daughter of the deceased is entitled to claim compensation under Section 124 A of the Railways Act, 1989.

[11] He submits that once the materials on record indicates that the death of the father of the appellant occurred due to an untoward incident while performing journey in a train as a *bona fide* passenger, the onus of proof shifts to the railway to prove to the contrary, however, in the instant case, the Railways have failed to produce any contrary evidence to disclose the claim of the appellant.

[12] He submits that the provision of Section 124 A of the Railways Act, 1989 is a beneficial provision and is governed by the principles of preponderance of probabilities. Once the foundational facts of (a) Possession or issuance of a valid ticket, and (b) Occurrence of an accidental fall from a train is

established, the statutory presumption of *bona fide* travel must operate in favour of the claimant. The Railways, as an instrumentality of State, cannot defeat such claim by pointing to procedural imperfections in investigation or non-examination of formal witnesses. He submits that to hold otherwise would erode the beneficial character of the legislation and convert social justice remedy to a forensic obstacle race. In support of his submission, he has cited a ruling of the Apex Court in the case of "**Rajini and Ananda Vs. Union of India and Andhra Pradesh**" reported in "**2025 SCC OnLine SC-218.**"

[13] The learned counsel for the appellant has also submitted that the discrepancies between the age of the claimant and that of her father is also due to the fact that the claimant is a rustic villager and may not be made liable for mistakes committed by her due to her ignorance. He submits that no document has been produced by the Railway Authority to confirm or contradict the age of the deceased, as such the unintentional discrepancy in stating the age of the deceased may be ignored.

[14] The learned counsel for the appellant submits that for any lapse or minor contradiction in the oral testimony of claimant/appellant, her genuine claim may not be discarded. He further submits that the lapse of the Railway Authorities or Police Authorities in abiding by the procedural requirement of

preparing a seizure list and complying with other procedural mandate, may, in itself, not defeat the legitimate claim of the appellant when in the totality of circumstances, the claimant's version is supported.

[15] The learned counsel for the appellant submits that the certificate issued by the Gaonbura of No.1 Amgori Gaon, under Chungajan Police Station in the District of Golaghat from where the appellant belongs clearly shows that the appellant is the daughter of the deceased late Sania Lakra. He further submits that the Railway Claims Tribunal had erred in not relying on the said document.

[16] He also submits that the DRM report which is available on record also clearly shows that the father of the appellant might have run over by any of the three trains namely, 15959UP, 15904UP and 15903DN at NLD Station Yard. He submits that the respondent, i.e., the Railway Authorities failed to adduce any counter evidence to demolish the claim case of the appellant, therefore, the Railway Claims Tribunal was wrong in dismissing the claim of the present appellant.

[17] On the other hand, Mr. B. Sarma, the learned Standing Counsel, Railways, had submitted that the Railway Claims Tribunal had rightly rejected the claim of the appellant as the appellant failed to prove her *locus standi* to file the claim case under Section 16 of the Railway Claims Tribunal Act, 1987

before the Railway Claims Tribunal. He further submits that the appellant also failed to prove that her father was a *bona fide* passenger of a train and his death occurred due to untoward accident within the meaning of Section 123 (c)(2) of the Railway Act, 1989.

[18] He submits that the Railway Claims Tribunal rightly rejected the claim of the present appellant as her relationship between the deceased was not confirmed. He submits that the age of the appellant has been mentioned in her affidavit as 43 years, whereas the age of her father has been mentioned as 50 years and this difference of seven years of age between a father and daughter is impossible and unbelievable, therefore, the Railway Claims Tribunal was correct in rejecting the claim of the appellant.

[19] He further submits that the appellant was also unable to produce the original railway ticket which is claimed to have been possessed by the deceased at the time of his death. He submits that the claim that the photocopy of the railway ticket was handed over to the claimant by GRP personnel without preparing a seizure list by police is also not believable. He also submits that the appellant also failed to adduce any evidence to prove as to in which train the deceased was travelling at the time when he met with the accident.

[20] The learned Standing Counsel for the Railways has also submitted that the body of the deceased was found in

between two railway lines. He submits that had the victim had fallen from a train, it is unlikely that the body would be found in between the railway tracks of the same railway line on which the train, in which he was travelling, was moving. Hence, he submits that it is not a case of accidental falling of the deceased from a train while he was performing railway journey. He submits that the Railway Claims Tribunal rightly held that it is not a case of death arising out of an "untoward incident" within the meaning of Section 123 (C) of the Railways Act, 1989. In support of his submission, learned Standing Counsel for the Railways has cited following rulings:-

- i. **"Kaliram Konwar Vs. Union of India"** (MFA 11/2018);
- ii. **"Smt. Saraswati Haloi and Ors. Vs. Union of India"** (MFANo. 119/2018).
- iii. **"Union of India Vs. Rina Devi"** reported in **"(2019)3 SCC 572."**

[21] I have considered the submissions made by learned counsel for both sides and have gone through the materials available on records carefully. I have also gone through the rulings cited by learned counsel for both sides in support of their respective submissions.

[22] The Apex Court of India, in the case of **"Union of India Vs. Rina Devi" (supra)**, has clarified the law that in respect of the liability of the Railway Administration to pay compensation to

a *bona fide* passenger, who had suffered injury or has died due to an untoward incident in the course of working of railways is based on the principles of strict liability and the proof of negligence on the part of railways is not required for maintaining such a claim. The only requirement is that the case of the claimant should not come within the exceptions as provided in clause (a) to clause (e) of Section 124 A of the Railways Act, 1989.

[23] In the instant case, the report of DRM as well as the inquest report conducted after the death of the father of the appellant clearly shows that the dead body of the father of the appellant was first spotted by patrolmen Sri B.C. Boro and Sri Nagen Das in between line No. 1 and 2 at kilometer No. 344 / 2 - 3 at NLB station yard at about 11.50 PM on 30.09.2011.

[24] The body was found cut into several pieces with severed head and was suspected to be run over by an unknown train. Though, inquest was performed over the dead body, however, same was done on 1.10.2011 and the exact time of conducting inquest has not been properly mentioned in the inquest report. Neither the place where the inquest was done has been properly mentioned. The inquest report of the deceased was identified as Sania Lakra, son of Munna Lakra, resident of No. 1, Amgori, district of Golaghat. The age of the deceased was mentioned as 50 years approximately.

[25] It also appears that according to the inquiry report of the inquiry conducted in connection with the unforeseen incident in connection with death of Sania Lakra in between Nalbari and Ghagrapar Railway Station, it was found that the accident happened on 15.09.2011 and as per records, a journey ticket bearing No. 59456778EX Raigarh to Dimapur dated 29.09.2011 was found from the deceased person. However, no seizure list was available on record.

[26] The point to be determined in this appeal, is that as to whether the Railway Claims Tribunal, Guwahati Bench, was right in discarding the claim of the appellant, that she is entitled to get compensation under Section 16 of the Railway Claims Tribunal Act, read with Section 124A of the Railways Act, for the death of her father due to an untoward incident, as defined in Section 123 (c) of the Railways Act, 1989, in performing a railway journey with a valid railway ticket.

[27] Though, the materials on record shows that the appellant gave contradictory evidence, as regards the age of her deceased father vis-à-vis her own age, on a combined reading of which, it would appear that her father was aged 7 years old only, when the appellant was born, which is quite an impossibility.

[28] However, this court is not in agreement with the learned Railway Claims Tribunal, Guwahati Bench, in rejecting the

certificate given to the claimant by the Gaonbura, which has been exhibited as Exhibit-A-4, merely because of the fact of non-availability of English translation of the said certificate. Such reasoning cannot be accepted, and is not justice-oriented. However, even if we condone the discrepancy, with regard to the age of the deceased vis-a-vis the age of the appellant and treat the appellant as the daughter of the deceased on the basis of the certificate issued by the Gaonbura of Amgori village, the appellant must produce some materials on record before the Tribunal so that the Tribunal may come to the conclusion regarding two basic essential facts necessary for grant of any compensation under Section 124A of the Railways Act, 1989, that is the deceased was possessing a valid railway ticket on the date of the accident No. 2, and the accident occurred due to an "untoward incident".

[29] Though, no original railway ticket could be produced before the Railway Claims Tribunal and only a photocopy of Rail Journey Ticket was produced by the appellant, however, even if we accept that the deceased was possessing the ticket of which photocopy has been produced by the appellant before the Railway Claims Tribunal, it transpires that the said Journey Ticket bearing No. 59456778 was dated 29.09.2011. However, during the enquiry conducted by Railway Authorities under Railway Passengers (Manner of Investigation of Untoward Incident) Rules 2003, it was found that no accident had

occurred on 29.09.2011 and that the dead body of the deceased was recovered on 30.09.2011 at 11:50 PM. It is very unlikely that had the accident had occurred on 29.09.2011, the dead body would have remained unnoticeable till the night of the next day, i.e., 30.09.2011. Thus, the materials on record only indicates that the father of the appellant had expired and died in an accident which occurred on 30.09.2011, on which date he was not possessing any valid Railway Journey Ticket, as the ticket which was stated to have been found from his possession was of the previous day, i.e., 29.09.2011.

[30] From the discussion made in the foregoing paragraphs, it transpires that even if a liberal approach is taken, one of the essential foundational facts regarding possession of a valid Journey Ticket on the date of accident could not be proved by the appellant. A mere possession of a Railway Ticket is not enough to claim compensation under Section 124A of the Railways Act, the Journey Ticket has to be a valid ticket for travelling and in the instant case, as the materials on record shows that the ticket claimed to have been recovered from the dead body of the deceased was of 29.09.2011, whereas, the materials on record indicates that the accident which caused the death of the deceased occurred on 30.09.2011, that too at night. Hence, one of the essential requirements i.e., possessing a valid Journey Ticket by the deceased at the time of the untoward incident could not be satisfied by the claimant

in the instant case, therefore, the respondent is not liable to pay any compensation to the claimant under Section 124A of the Railways Act, 1989.

[31] Thus, in view of the discussions made and reasons stated in the foregoing paragraph, this court agrees with the conclusion arrived at by the Railway Claims Tribunal, Guwahati Bench, though, for different reasons as stated hereinabove, that the claimant is not entitled to get compensation under Section 124A of the Railways Act, 1989.

[32] The appeal is accordingly dismissed.

[33] Send back the records requisitioned from the Railway Claims Tribunal, along with a copy of this judgment.

JUDGE

Comparing Assistant

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