

Bideshi Murmu Vs Union Of India

Court: Jharkhand High Court

Date of Decision: Jan. 22, 2025

Acts Referred: Railways Act, 1989 " Section 124A

Hon'ble Judges: Gautam Kumar Choudhary, J

Bench: Single Bench

Advocate: Chaitali C. Sinha, Chainika, Abhijeet Kr. Singh

Final Decision: Allowed

Judgement

Gautam Kumar Choudhary, J

Heard, learned counsel for the parties.

1. The claimants are the appellants before this Court and they have preferred this appeal against the dismissal of their claim application vide judgment

dated 02.04.2015 passed by Hon'ble Member/ Technical, Railway Claims Tribunal, Ranchi Bench, Ranchi in Case No.OA(IIU)/RNC/2010/0029

whereby the learned Tribunal has dismissed the claim application.

2. Claim of compensation was dismissed on the ground that victim was not a bona-fide passenger as the claimants failed to produce the journey ticket

and thus, considering the unreliable and self-contradictory evidence of both the witnesses.

3. The case of the appellant/ claimants is that they are the legal heirs and descendants of the deceased (Valka Murmu) and he was the father of the

claimants. On 04.11.2008, he was returning from Madhupur to Jagdishpur vide Train No.317 UP Madhupur-Giridih Passenger Train in Second Class

with a valid ticket as a bona-fide passenger. He met with an accident while travelling on the train resulting in his death regarding which, GRPS lodged

a case being U.D. Case No.38 of 2008 on 06.11.2008, The bag in which he had his ticket and belongings got lost.

4. The claim of compensation was contested by the respondent- Railways on the ground that he was not a bona-fide passenger and was travelling

without ticket.

5. Learned counsel for the appellants/claimants submits that the accident claim arising out of a railway accident is in the nature of no fault and once

the claimants discharged their initial burden with regard to bona-fide of the deceased, while travelling in the train, onus shifts upon the Respondent-

Railways to lead evidence that the deceased was not travelling without a valid ticket.

6. In the present case, evidence has been led on behalf of the claimants by way of affidavit wherein it has been stated by the claimant (Bideshi

Murmu) in Para-3 that his father was returning by Train No.317 UP Madhupur-Giridih Passenger Train on on 04.11.2008 on a valid 2nd Class Ticket.

It has also come in evidence that earlier he had a valid Railway Pass which had expired in its due course and, therefore, he was travelling on a ticket.

It was a small bag in which he had kept his ticket and cash which went missing after the incidence.

7. The witness in his cross-examination has reiterated that the cash, pension paper and ticket got lost in the incidence. One Sri Babujan Murmu who

being a co-passenger has been examined as A.W.2, also stated that the deceased was travelling on a bona-fide ticket and he had seen him while

purchasing ticket.

8. Learned counsel for the appellant in support of his submission has placed reliance rendered in the case of Doli Rani Saha vs. Union of India,

reported in [2024] 8 SCR 391 wherein it has been held by Hon'ble the Supreme Court that mere absence of ticket would not negate the claim that

the deceased was a bona-fide passenger.

9. Further the amount of compensation of Rs.4,00,000/- has been enhanced to Rs.8,00,000/- vide Railway Accidents and Untoward Incident

(Compensation) Amendment Rules, 2016 effective from 01.01.2017, which has already been dealt with by the Apex Court in the case of Union of

India vs. Radha Yadav, reported in 2019(3) SCC 410 in para 11 which is quoted hereunder:-

"11. This issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in Rina Devi (supra) is very clear. What this

Court has laid down is that the amount of compensation payable on the date of accident with reasonable rate of interest shall first be calculated. If the amount so

calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. Therefore, if the liability has

arisen before the amendment was brought in, the basic figure would be as per the Schedule as was in existence before the amendment and on such basic figure

reasonable rate of interest would be calculated. If there be any difference between the amount so calculated and the amount prescribed in the measure of

compensation. For instance, in case of a death in an accident which occurred before amendment, the basic figure would be Rs.4,00,000/-. If, after applying reasonable

rate of interest, the final figure were to be less than Rs.8,00,000/-, which was brought in by way of amendment, the claimant would be entitled to Rs.8,00,000/-. If,

however, the amount of original compensation with rate of interest were to exceed the sum of Rs.8,00,000/- the compensation would be in terms of figure in excess of

Rs.8,00,000/-. The idea is to afford the benefit of the amendment, to the extent possible. Thus, according to us, the matter is crystal clear. The issue does not need any

further clarification or elaboration.

10. Learned counsel for the Respondent-Railways has opposed the prayer. It is submitted that issues were framed with regard the question whether

the deceased was travelling without ticket or not and a finding has been recorded by the learned Tribunal that the deceased was not having a valid

ticket and was not a bona-fide passenger.

11. Having considered the submissions advanced on behalf of both the sides and the materials on record, it is apparent that the claimants had laid oral

evidence that the deceased was travelling on a bona-fide ticket. There is no material contradiction in the cross-examination and no contrary evidence

has been laid on behalf of the Railways to rebut the evidence that the deceased was not a bona-fide passenger. It has been held by Hon'ble the

Supreme Court in Doli Rani, Saha, V. Union Of India, (2024) 9 SCC 656 :-

"6.1. It is not necessary to produce a valid ticket to claim compensation under Section 124-A of the Railways Act, 1989, (the Railways Act) in view of the

decision in Union Of India V. Rina Devi [Union Of India V. Rina Devi, (2019) 3 SCC 572 : (2019) 2 SCC (Civ) 198]

12. Accordingly, the impugned order/ judgment is set aside and the instant Miscellaneous Appeal is allowed.

13. Respondent- Railways is directed to pay compensation @ Rs.8,00,000/- or Rs.4,00,000/- with interest @ 6% from the date of filing of the claim

application i.e. till the date of actual payment, whichever is higher in favour of the claimant (s).

LCR be sent down to the court below forthwith.

Respondent -Railways is directed to pay the awarded amount within three months of the order to the claimant(s).