

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE DR. JUSTICE G.RADHA RANI

CIVIL MISCELLANEOUS APPEAL NO: 1039 OF 2012

Appeal Under Section 23 of the Railways Claims Tribunal Act against the order dated 20.07.2012 passed in OAA No.137 of 2006 on the file of the Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

Between:

1. N.Kullayamma, W/o.late N.Adinarayana Reddy, Occ Cultivation R/o.Buchipalle, H/o.Katnagallu Post, PTM Mandal, Chittoor District.
2. N.Ashok Reddy, S/o.late N.Adinarayana Reddy, Occ Teacher R/o.Buchipalle, H/o.Katnagallu Post, PTM Mandal, Chittoor District.
3. N.Sivashankar Reddy, D/o.late N.Adinarayana Reddy, Occ Cultivation R/o.Buchipalle, H/o.Katnagallu Post, PTM Mandal, Chittoor District.
4. N.Mopur Reddy, D/o.late N.Adinarayana Reddy, Occ Cultivation R/o.Buchipalle, H/o.Katnagallu Post, PTM Mandal, Chittoor District.

...APPLICANTS/APPELLANTS

AND

Union of India, rep by the General Manager, South Central Railway
O/o.Secunderabad.

...RESPONDENT/RESPONDENT

Counsel for the Appellants : Ms. Geeta Madhuri/Mr.T.L. Krishana Prasad

**Counsel for the Respondent : Sri Sanjeev Gillella
Central Government Counsel (Not Present)**

The Court delivered the following: JUDGMENT

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CIVIL MISCELLANEOUS APPEAL No.1039 of 2012

JUDGMENT:

This Civil Miscellaneous Appeal is filed by the applicants aggrieved by the order of the Railway Claims Tribunal (for short "The Tribunal"), Secunderabad Bench in O.A.A.No.137 of 2006 dated 20.07.2012.

2. The appellants are the wife and children of the deceased N.Adinarayana Reddy, who died in an untoward incident of accidental fall from the train.

3. The case of the applicants as per the claim application filed by them under Section 124-A and 125 of the Railways Act, 1989 was that the deceased with a view to go to the house of his cousin Malreddy at Dharmavaram to collect an amount of Rs.5,000/-, proceeded to Mulakalacheruvu Railway Station accompanied by his second son N.Sivashankar Reddy on the morning of 03.09.2004 at about 11:30 AM. He purchased a journey ticket from Mulakalacheruvu to Dharmavaram and boarded Train No.247 Pakala-Guntakal Passenger in general compartment. While travelling, he slipped and fell down accidentally from the running train near Dharmavaram Railway Station, sustained severe multiple injuries and died on the spot on the evening of 03.09.2004.

4. The respondent Railways filed written statement denying the claim of the applicants contending that the claim would not fall within the ambit of Section 123(c) or Section 124-A of the Railways Act, 1989. As per the inquest report, the deceased was hit by an un-known train and the ticket No.98598 mentioned in the inquest report was not issued from Mulakalacheruvu. As per the final report, the death of the deceased was due to hit by an un-known train and the dead body was found between Dharmavaram and Chigicherla Railway Stations at Kilometer No.181/1-2, which was beyond Dharmavaram Railway Station. As such, the ticket was not a valid ticket.

5. Basing on the said pleadings, the Railway Claims Tribunal framed the following issues:-

- i) Whether the applicants were dependants of the deceased?
- ii) Whether the deceased was a bonafide passenger of train No.247 Pakala-Guntakal Passenger travelling from Mulakalacheruvu to Dharmavaram on 03.09.2004?
- iii) Whether the deceased died as a result of an untoward incident of accidental fall from the said train?
- iv) To what relief?

6. The applicant No.3, the son of the deceased by name N.Sivashankar Reddy was examined as AW.1. They also got examined another witness, who stated that he saw AW.1 purchasing a passenger train journey ticket to travel

from Mulakalacheruvu to Dharmavaram for the deceased, was examined as AW.2. Exs.A1 to A6 were marked on behalf of the applicants. The respondent got examined the Deputy Station Superintendent (for short "DSS"), Dharmavaram at the relevant time of the incident as RW.1 and got marked Exs.R1 and R2. Ex.R1 was the P.N. Exchange Report and Ex.R2 was the Divisional Railway Manager's report. The Case Diary file in Crime No.26 of 2004 of Government Railway Police (for short "GRP") was summoned by the Court and marked as Ex.C1 through CW.1.

7. The Tribunal on considering the oral and documentary evidence on record concluded that the deceased was not a bonafide passenger. The dead body was found beyond the destination station of the deceased. The ticket found in the pocket of the deceased was wet with rain water. The lower part of the ticket was torn. Except the last three digits, no other numbers on the ticket were legible. One layer on the reverse side of the ticket appeared to have been removed intentionally to suppress the date of issue, as such, disbelieved that the deceased accidentally fell from train No.247 Pakala-Guntakal Passenger. The Tribunal observed that on the other hand, as per the Divisional Railway Manager Report (for short "DRM") report, the deceased while crossing the railway bridge was hit by un-known train on the morning of 04.09.2004 prior to 07:30 hours, as such the deceased was not a bonafide passenger and his death was not on account of an untoward incident.

8. Aggrieved by the said order of the RCT passed in O.A.A.No.137 of 2006, the applicants preferred this appeal contending that the order of the Tribunal was perverse. The Tribunal failed to consider the deposition of AW.2, who categorically deposed that he witnessed the son of the deceased purchasing the ticket at booking counter from Mulakalacheruvu to Dharmavaram for his father and stated that he and the deceased boarded the said train. In spite of the respondent not adducing any evidence, the Tribunal taking contrary view that the ticket which was found with the deceased was not genuine was incorrect and relied upon the judgment of the Hon'ble Apex Court in **Union of India v. Rina Devi**¹, of the High Court of Punjab and Haryana in **Suman Sharma v. Union of India**², of the High Court of Andhra Pradesh in **Kandrakota Santha W/o.Late Prabhakar Rao v. Union of India** represented by its General Manager, South Central Railway, Secunderabad³, of the judgment of the High Court of Andhra Pradesh in **Union of India** represented by its General Manager, South Central Railway, Secunderabad⁴, of the High Court of Telangana in **Union of India** represented by its General Manager, South Central Railway, Secunderabad⁵ and in **A.Sreenivasa Rao and Another v. Union of India, Secunderabad**⁶ and in **Monika Gogoi Sonowal v. Union of India** represented

¹ 2018 ACJ 1441

² 2018 ACJ 2849

³ C.M.A.No.849 of 2005 dated 18.06.2010

⁴ C.M.A.No.785 of 2008 dated 22.12.2011

⁵ C.M.A.No.716 of 2010 dated 20.06.2023

⁶ C.M.A.No.862 of 2017 dated 22.04.2022

by its General Manager, South Central Railway, Secunderabad⁷ and prayed to set aside the order of the RCT.

9. Heard Ms.Geeta Madhuri, learned counsel for the appellants - applicants. There was no representation by the Standing Counsel for the Central Government for the respondent Railways. Though several opportunities were given to submit their arguments, they failed to appear before this Court.

10. Now the point for consideration is whether the order passed by the Tribunal is correct, legal and proper?

11. On a perusal of the evidence of applicant No.3, who was examined as AW.1, the second son of the deceased, he stated that they were residents of Buchipalle Village, Hamlet of Katnagallu Post, PTM Mandal, Chittoor District. His father was an agriculturist. Mulakalacheruvu was the nearest railway station to their village, which was at a distance of 7 kilometers, the place of incident was about 68 kilometers from Mulakalacheruvu. His father with a view to go to the house of his cousin Malreddy at Dharmavaram to collect some amount due from him, went to Mulakalacheruvu Railway Station. He dropped him on his motor bike on the morning of 03.09.2004 at about 11:30 AM. He purchased a passenger train journey ticket from Mulakalacheruvu to Dharmavaram for his father. His father boarded Train No.247 Pakala-Guntakal

⁷ C.M.A.No.64 of 2022 dated 28.11..2022

passenger in general compartment and left to Dharmavaram by the said train in his presence. He stated that after the departure of the said train, he returned home. His father did not return home even after four (04) days from Dharmavaram. As such, their family members made enquiries with relatives, friends and well-wishers, but in vain. After a week, on enquiry, his family members approached Railway Police, Kadiri. A constable alone was available in the police station and he informed them that a male dead body aged about 55 years was found on 04.09.2004 in between Dharmavaram and Chigicherla Railway Station and was buried by the Railway Police, Dharmavaram after necessary formalities. He asked them to come back after one week to get all the details of the deceased as all the other railway police including the Sub-Inspector (for short "SI") went on Special Duty to Rajahmundry for Godavari Pushkaram. Again, they went to the Railway Police, Kadiri to get the details of the deceased. They were informed by the railway police, who were available on duty that the relevant record along with photographs was kept under the custody of SI, GRP and asked them to come back after ten (10) days, as the concerned SI did not return from the special duty of Godavari Pushkaram, Rajahmundry. Accordingly they all went to GRP, Kadiri on 05.10.2004. They were shown the photographs, clothes, passenger train journey ticket from Mulakalacheruvu to Dharmavaram pertaining to the deceased for identification and immediately

they identified the deceased as their father basing on the clothes and journey ticket belonging to him.

11.1. He further stated that on observing the panchanama and final report, it was mentioned that his father was hit by an un-known train and succumbed to injuries, which was wrong and baseless. They tried to change the statements through railway police, but they were not allowed to change the statements. He further stated that the train journey ticket of his deceased father as was shown in the FIR was kept in the GRP records, Dharmavaram and it appeared that the said train journey ticket of his deceased father was checked up and punched by the Train Ticket Examiner (for short "TTE") during the course of his journey.

12. In his cross-examination, he stated that 25 days after the incident, they came to know that their father's dead body was found near Dharmavaram. The police informed them that the dead body was buried after taking photographs and preserving his clothes and articles. Only the photographs of his father's clothes and ticket were shown to them for their identification. He stated that they asked for a photo copy of the ticket, but the police did not hand it over to them.

13. A witness who belonged to the same village, a third party was examined as AW.2. He stated that he was a native of Buchipalle Village, Katnagallu Post, but was settled at Hyderabad. He was working as a painter. He used to visit his

native village to see his mother, who was living there. Accordingly, he went to his native place and went to Mulakalacheruvu Railway Station with a view to go to Kadiri on his personal work on the forenoon of 03.09.2004. There he met the deceased and his son at the booking counter and saw AW.1 purchasing a passenger train journey ticket from Mulakalacheruvu to Dharmavaram for his father (deceased) and he also took a passenger ticket from Mukalacheruvu to Kadiri and they both boarded Train No.247 Pakala-Guntakal passenger in general compartment.

13.1. He further stated that he travelled along with the deceased up to Kadiri and got down there. He returned to his village from Kadiri on the same day evening and after two days returned to Hyderabad. One month later, when he went to his village, he came to know about the accident to the deceased through his mother. Immediately, he went to the house of the deceased and learnt that the deceased slipped and fell down accidentally from the running train No.247 Pakala-Guntakal Passenger near Dharmavaram Railway Station and his body was also buried by the railway police after completion of all formalities.

14. Nothing was elicited in his cross-examination to discredit his evidence.

15. Thus, the evidence of AWs.1 and 2 would disclose that AW.1 purchased a train ticket to his father from Mulakalacheruvu to Dharmavaram and boarded him in the train No.247, Pakala-Guntakala Passenger in general compartment,

which was also affirmed by AW.2 and stated that he also travelled in the same train and in the same compartment along with the deceased. But, he got down at Kadiri Station.

16. The FIR issued by the Station House Officer of GRP, Dharmavaram vide FIR No.26 of 2004 dated 04.09.2004, was marked as Ex.A1. As per the FIR, the Deputy Station Superintendent of Dharmavaram gave the message, wherein it was stated that key man, Gang No.II by name Sri P.Narsimhulu reported to CASM/A Sri N.Chandra Sekhar at 07:30 AM on 04.09.2004 that a male dead body was lying on track at Kilometer No.181/1-2, bridge No.III, meter gauge between Dharmavaram and Chigicherla. A photo of the torn ticket was also affixed on the FIR. Only the last three digits of it were visible as "598". The ticket was taken for the journey from Mulakalacheruvu to Dharmavaram. Ex.A2 was the inquest report conducted by the railway police Head Constable No.362, Dharmavaram, RPS on 04.09.2004 at 12:30 hours at kilometer No.181/1-2 at meter gauge, Bridge No.III at the place of accident. It was stated to be in between Dharmavaram and Chigicherla Railway Stations. It was reported in the inquest that the dead body was found at 07:30 hours on 04.09.2004 near Bridge No.III at the end of Railway Bridge by the side of railway track by P.Narsimhulu, S/o.Babaiah, an on duty key man, Gang No. II, ID.No.526. It was stated that the corpse was lying in prone position on the iron sleepers. It was recorded that a journey ticket bearing No.98598 from

Mulakalacheruvu to Dharmavaram was found in the side pocket of drawer of the deceased and the said ticket was wet with rain water. One piece in the lower part of the ticket was torn. Except the above mentioned clothes and ticket, there were no other silver, gold and cash on the corpse. The injuries on the body were noted as: 1) severe blood injury on the forehead of the corpse, 2) right leg was cut above the thigh and hanging, 3) left leg was totally cut and crushed by the wheels of the train and 4) a bleeding injury on the right hand. As per the opinion of the panch witnesses, while the deceased was going on the bridge by foot, he was hit by an un-known meter gauge train, proceeding on Dharmavaram to Chigicherla route, sustained bleeding injuries, due to which the death occurred. As per the inquest panchanama marked under Ex.A2, no blood relatives were present at the time of conducting the inquest and there were no eye-witnesses also. Thus, the opinion given by the panch witnesses was based on their observation of the corpse, on assumptions. Ex.A3 is the Post-Mortem Examination (for short "PME") report, which would disclose that the cause of death of the deceased was due to hemorrhagic shock due to multiple injuries around 36 to 40 hours prior to PME. Ex.A4 is the death certificate of the deceased issued by the MRO, Ex.A5 is the identification certificate issued by the Railway Police Head Constable - 362 of Kadiri, RPS and Ex.A6 is the Family Member Certificate showing that the applicants are the family members of the deceased.

17. The respondent Railways got examined the DSS of Dharmavaram as RW.1. RW.1 stated that as per the application details, the alleged place of incident falls out of the way of the journey travelled by the deceased. Hence, the deceased was not a bonafide passenger. The alleged point where the dead body was found was after 3 kilometers distance from the station. In his cross-examination, he stated that he did not give any message to the GRP and he did not know as to how his name was appearing in the FIR. Thus, this witness denied that he was the person, who gave the message to the GRP, basing on which the FIR was registered. The Tribunal summoned the case diary in Crime No.26 of 2004 of Dharmavaram Railway Police Station and the same was produced by the RPHC - 76, who was examined as CW.1. His evidence is not material for the disposal of the case.

18. The register of exchange of private numbers was marked as Ex.R1 and the DRM report was marked as Ex.R2. It would reveal that the investigation was conducted by the Inspector, RPF, Ananthapur, which was accepted by the DRM.

19. As per the investigation conducted by the Inspector of RPF, Ananthapur, he caused enquiry with the Station Superintendent of Mulakalacheruvu, who revealed that ticket No.61598 was issued in the month of April, 2004 and serial No.98598, which was with the deceased was not issued from Mulakalacheruvu

Railway Station. He stated that the deceased was having an old railway ticket with him of his early journey. The ticket bearing No.98598 was not issued from Mulakalacheruvu Railway Station. If the ticket number is considered as 61598 it was issued in the month of April, 2004. Hence, the ticket which was with the deceased was not genuine one. Further, the ticket was for the journey from Mulakalacheruvu to Dharmavaram, whereas the body of the deceased was found at Kilometer No.181/1-2 in between Dharmavaram and Chigicherla Railway Stations, which would show that the ticket was no way concerned to the death place. In the inquest report, in column No.15, it was mentioned that the deceased while crossing the bridge without observing the train was hit by an un-known train and died. As such, concluded that the deceased was not a bonafide passenger and that the claim of the applicants could be rejected.

20. Basing on the said report filed by the DRM, the Tribunal considered that the oral and documentary evidence produced by the applicants was not satisfactory and dismissed the claim application filed by the applicants. The Tribunal observed that except the last three digits, no other numbers on the ticket were legible. One layer on the reverse side of the ticket appeared to have been removed intentionally to suppress the date of issue.

21. But the Tribunal had not considered that who would be having such intention to remove the layer of the ticket to suppress the date of issue, as the

blood relatives of the deceased were not present at the time when the dead body was found or at the time when the inquest was conducted. As per the evidence of AW.1, they came to know about the death of the deceased 25 days later and the body was buried by the railway police themselves. Hence, the Tribunal had not applied its mind while making such observations.

22. The evidence of A.Ws.1 and 2 would prove that AW.1 had purchased the ticket to the deceased for his travel from Mulakalacheruvu to Dharmavaram and boarded him in the passenger Train No.247 Pakala-Guntakal in general compartment and the evidence of AW.2 would disclose that he travelled in the same train and in the same compartment along with the deceased, but he got down earlier at Kadiri railway station. As per the FIR and the inquest report, the journey ticket of the deceased was found in the side pocket of the drawer of the deceased. It was also recorded that the said ticket was totally wet with rain water and one piece in the lower part of the ticket was torn, due to which except the last three digits of the ticket, the initial digits were not legible. The Inspector of RPF, who conducted investigation verified two numbers 61598 and 9859 and stated that the ticket number 61598 was issued in the month of April, 2004 and the ticket at serial No.98598 was not issued from Mulakalacheruvu Railway Station. But when the first two numbers were not legible or clear, verifying only two ticket numbers with the last three digits as "598" and coming to the conclusion that the deceased was not a bonafide passenger is considered

as improper. In several other cases, even when no ticket was found on the dead body, the Hon'ble Apex Court as well as several other High Courts dealt with the issue, whether the deceased was a bonafide passenger or not and held as follows:

23. The Hon'ble Apex Court in **Union of India v. Rina Devi** in Civil Appeal No.4945 of 2018, held that:

"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."

24. The High Court of Punjab and Haryana at Chandigarh in **Suman Sharma v. Union of India** (cited supra), on this aspect held that:

"Section 124-A of the Railways Act, 1989 is based on principle of no fault liability or strict liability and mere non-recovery of ticket from the possession of the deceased would not be a ground to deny the benefit under Section 124-A. Burden of proof lies on the Railways to prove that deceased was not a bonafide passenger and Railways failed to discharge its burden. No evidence that deceased committed suicide or was intoxicated and the incident falls within the

exceptions provided under Section 124-A of the
Railways Act, 1989.”

25. The High Court of Andhra Pradesh in **Kandrakota Santha W/o.Late Prabhakar Rao v. The Union of India represented by The General Manager, South Central Railway, Secunderabad** (cited *supra*), wherein as per the facts of the said case, police seized the ticket at the time of holding inquest on the dead body of the deceased in the presence of mediators and the said fact was specifically mentioned in the inquest report, held that after sustaining the injuries, the deceased was taken to Government General Hospital, Rajahmundry and thereafter the doctor examined and declared him dead at 12:30 PM. Since no other close relation accompanied the deceased and in view of the fact that the dead body was in the mortuary of the Government Hospital and thereafter the police conducted the inquest, there was no scope for any other person to keep the ticket stealthily in the shirt pocket of the deceased.

26. In **Union of India represented by The General Manager, South Central Railway, Secunderabad v. Smt.P.Manjula and Others** (cited *supra*), this Court held that when the dead body was dragged to 50 yards, there is every possibility of clothes getting torn and losing the ticket in the process and an inference can be drawn to that effect that the deceased is a bonafide passenger having regard to the realities, realistic and pragmatic approach of the question involved.

27. In **The Union of India represented by the General Manager, South Central Railway, Secunderabad v. K.Rangamma and Others** (cited supra), this Court basing upon the facts of the case, held that the claimants had produced sufficient evidence by examining AWs.1 and 2 and also by exhibiting documentary evidence in the form of Exs.A1 to A5 to show that the deceased purchased ticket before travelling in the said train and thereby the deceased was a bonafide passenger.

28. In **A.Sreenivasa Rao and another v. Union of India, Secunderabad** (cited supra), this Court as per the facts of the case, held that there were no eye-witnesses to the incident to support the report of DRM that deceased committed suicide. For the reasons best known to the Railways, none of its officers including the author of the DRM, were examined before the Tribunal. The evidence of AW.2 would clearly disclose that he accompanied the deceased to Railway Station, where the deceased purchased II Class journey ticket and in his presence, the deceased boarded the train, the theory of suicide cannot be accepted. The claimants were held entitled to compensation of Rs.8,00,000/-.

29. In **Monika Gogoi Sonowal v. The Union of India represented by its General Manager, South Central Railway, Secunderabad** (cited supra), this Court held that:

“7. It is a settled law, in view of various Judgments, that a passenger may not be allowed

to enter a platform if he does not possess a platform ticket. It is an admitted fact that there will be Train Ticket Examiner for all the trains and the number of such TTE's will be more in on super fast train and reserved compartments. It is highly difficult for a person to travel long distance from Bangalore to Nidadavolu where the accident occurred without a ticket. He cannot avoid such examination/check by the TTE right from Bangalore to Nidadavolu. He has crossed more than half of the journey by the time of the accident. There is no dispute that the deceased was traveling in second class reserve compartment. Therefore, it shall be deemed that he was having a ticket thereby he was a bonafide passenger."

30. The applicants by examining A.Ws.1 and 2 had discharged the initial burden laid upon them. The journey ticket found on the body of the deceased also would show that he purchased a ticket for his journey from Mulakalacheruvu to Dharmavaram. Just because the initial numbers of the ticket were not visible, it could not be concluded that he was not a bonafide passenger. Learned counsel for the appellants - applicants also filed newspaper reports about a scam of printing false railway tickets with its centre at Mulakalacheruvu and for not accounting tickets of the value of about Rs.19.00 lakhs. Due to this said scam, false tickets might have been issued by the Station Master or the concerned Railway Staff. The passengers who purchased them cannot be deprived of the compensation amount, for no fault of them. As the proviso under Section 124-A of the Railways Act, 1989 was in the nature of 'no fault liability' or 'strict liability' also, unless the respondent Railway Administration could prove that the case of the applicants would fall in any one

of the factors mentioned under the said proviso, the applicants are entitled for compensation.

31. The other contention raised by the respondent Railways which was accepted by the Tribunal was that the dead body was found 3 kilometers after Dharmavaram and for the said reason also, he could not be considered as a bonafide passenger, as his journey ought to have been ended at Dharmavaram. As there is every possibility that the deceased might have slipped while getting down at the station and that his body might have been dragged to some distance from it, or that he mistakenly might not have got down at the station where he has to get down and after realizing the same could have tried to get down after crossing the same and as the untoward incident can be happened in several contingencies, this Court would not accept the contention of the Railways. In the present case, there were no direct witnesses to the incident. It was not in dispute that the way in which the dead body was found would disclose that the death of the deceased occurred on account of an accident. No evidence was adduced by the Railways to show that the death of the deceased occurred due to any of the factors indicated under the proviso of Section 124-A of the Railways Act, 1989. The Railways failed to examine the driver of any meter gauge train to prove that the deceased was hit by a meter gauge train and fell by the side of the track, as stated in the inquest report. Thus, there is no basis for the opinion

expressed by the panchas in the inquest report that the deceased trespassed the railway track at railway bridge No.III and hit by an un-known meter gauge train.

32. Coming to the compensation, in case of death in an accident which occurred before amendment in 2013, the prevailing basic figure in respect of death case was Rs.4.00 lakhs. The Hon'ble Apex Court in **Union of India v. Radha Yadav**⁸, held that:

10. The issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in the case of **Rina Devi** [2018 ACJ 1441 (SC)] 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 had 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 Schedule as on the date of the award, the higher of two figures would be the measure of compensation. For instance, in case of a death in an accident which occurred

⁸ (2004) 2 SCC 1

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.

33. The applicants are entitled for interest @ 7 % per annum on the compensation amount as per the judgment of the Hon'ble Apex Court in **Kamukayi v. Union of India**⁹.

34. From the date of accident i.e. 03.09.2004 to the date of judgment i.e. 28.06.2024, the applicants are entitled for interest for 19 years 9 months 25 days = 237 months 25 days. The interest calculated for 19 years 9 months 25 days at the rate of 7% works out to Rs.5,54,912/-. Therefore, the interest along with the compensation amount, to which the applicants are entitled prevailing at the time of the accident, comes to Rs.9,54,912/- (Rs.4,00,000/- + Rs.5,54,912/-).

⁹ Civil Appeal No.3799 of 2023 dated 16.05.2023

35. As per the judgment of the Hon'ble Apex Court in **Radha Yadav's Case** (cited supra) if, after applying reasonable rate of interest, the final figure was more than Rs.8.00 lakhs, the applicants are entitled for higher of two figures. As such, the applicants are entitled for a compensation of Rs.9,54,912/-

36. In the result, the Civil Miscellaneous Appeal is allowed setting aside the judgment of the Railway Claims Tribunal in O.A.A.No.137 of **2006** dated 20.07.2012. The applicants are entitled to a compensation of Rs.9,54,912/- and the compensation shall be apportioned among the appellants - applicants as follows:

S. No.	Appellants	Amount to be distributed
1.	Appellant No.1 (wife)	Rs.3,54,912/-
2.	Appellant No.2	Rs.2,00,000/-
3.	Appellant No.3	Rs.2,00,000/-
4.	Appellant No.4	Rs.2,00,000/-

37. The respondent Railways is directed to deposit the above awarded compensation before the Tribunal within a period of twelve (12) weeks from the date of receipt of a copy of this judgment and on such deposit, the appellants - claimants are entitled to withdraw the said compensation as apportioned above without furnishing any security.

No order as to costs.

As a sequel, miscellaneous applications pending in this appeal, if any shall stand closed.

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

Note : The Judgment corrected "O.A.A No.137 of 2012" shall substituted with "O.A.A No.137 of 2006" at Second line of Paragraph No.36 and also rectify "Paragraph No.30" after Paragraph No.36 as "Paragraph No.37" As per Court Order dated 24.09.2024 Passed in I.A No.2 of 2024. This judgment is substitutes earlier judgment which was dispatched on 24.09.2024.

Sd/- K.SRINIVASA RAO,
JOINT REGISTRAR.

//TRUE COPY//


SECTION OFFICER

To,

1. The Railway Claims Tribunal, Secunderabad Bench, Secunderabad.(with records if any)
2. One CC to Sri T. L. Krishna Prasad, Advocate [OPUC]
3. One CC to Ms. Geeta Madhuri, Advocate [OPUC]
4. One CC to Sri Sanjeev Gillella, Central Government Counsel [OPUC]
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HIGH COURT

**DATED: 28/06/2024
24/09/2024**

**AMENDED JUDGMENT
CMA.No.1039 of 2012**



**ALLOWING THE APPEAL
WITHOUT COSTS.**

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