

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00529/18**

Date of Order: 27/05/2019

**C O R A M
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Renu Devi, Wife of Late Ashok Kumar Paswan, Ex- Khalasi (Signal), Semaria,
Resident of Village- Hirpur (Jandaha), Post/PS- Jandaha District- Vaishali (Bihae).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, PO- Digghi Kala, PS- Hajipur (Town), District- Vaishali at Hajipur, Pin Code- 841001 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, PO- Digghi Kala, PS- Hajipur (Town), District- Vaishali at Hajipur, Pin Code- 841001 (Bihar).
3. The Chief Signal & Telecom Engineer, East Central Railway, Hajipur, PO- Digghi Kala, PS- Hajipur (Town), District- Vaishali at Hajipur, Pin Code- 841001 (Bihar).
4. The Financial Advisor and Chief Accounts Officer, East Central Railwat, Hajipur, PO- Digghi Kala, PS- Hajipur (Town), District- Vaishali at Hajipur, Pin Code- 841001 (Bihar).
5. The Divisional Railway Manager, East Central Railway, Sonapur, PO- Sonapur, PS- Sonapur, District- Sarabn, Pin Code- 841101 (Bihar).
6. The Sr. Divisional Personnel Officer, East Central Railway, Sonapur, PO- Sonapur, PS- Sonapur, District- Saran, Pin Code- 841101 (Bihar).
7. The Sr. Divisional Signal & Telecom Engineer, East Central Railway, Sonapur, PO- Sonapur, PS- Sonapur (Bihar).
8. The Senior Divisional Financial Manager, East Central Railway, Sonapur, PO- Sonapur, PS- Sonapur, District- Saran, Pin Code- 841101 (Bihar).

.... Respondents.

By Advocate: - Mr. B.K. Choudhary
Mr. Sheojee Prasad

**O R D E R
[ORAL]**

Dinesh Sharma, A.M:- The OA is filed seeking appropriate direction upon
the respondents to release ex-gratia amount of Rs. 10 lakhs in favour of the

applicant on account of death of her husband due to grievous head injury on railway track during course of duty at Junction Cabin, Garhara on 01.03.2012. She alleges that her claim has been rejected merely for the reason that neither the FIR nor any post mortem report is available. According to her, it was the primary duty of the railway administration to lodge FIR and have his body sent for post mortem and the applicant cannot be allowed to suffer for the fault and laches on the part of railway administration. She has annexed the report of the Three Member Committee of the railway officials who had submitted their report on 09.10.2013 (Annexure A/4) with description and cause of accident on 01.03.2012 confirming the death due to accident on railway track while on duty. It is also evident from the death certificate dated 19.03.2012 (Annexures A/2 and A/3) that the death occurred due to head injury while on duty.

2. The respondents have denied the claim of the applicant. While accepting the fact that the husband of the applicant fell down on track and got injuries on back side of his head as a result of which he died on 02.03.2012, they have not paid him the ex-gratia amount because no FIR was lodged or post mortem carried out. These are essential documents as per Railway Board's rules as evidenced by letter dated 17.05.2001 (Annexure R/2).

3. We have gone through the pleadings and heard the arguments of the learned counsels of both the parties. The Id. advocate for the applicant specifically drew our attention to the Joint Inquiry Report at

Annexure A/4 where it is specifically mentioned that the accident happened because of head injury due to falling on the track during work. In such a situation, when the fact of accident is admitted by the railway authorities not sanctioning ex-gratia payment just because post mortem report and FIR not being available is not correct. The learned counsel for the respondents brought to our notice letter dated 08.02.2006 (RBE No. 14/2006), letter dated 05.11.1999 and office memorandum dated 11.09.1998 which deal with payment of ex-gratia in cases of death and disability to civilian employees who die in harness. After going through these communications, the most relevant portions of these are reproduced below: -

Extracts from OM dated 11.09.1998

“ 5. In supersession of all earlier orders issued by Government as well as by individual ministries and departments in so far as these relate to the payment of an ex gratia lumpsum compensation in certain specified circumstances, the President is pleased to decide that families of Central Government Civilian employees who die in harness in the performance of their bonafide official duties under various circumstances shall be paid the following ex-gratia lumpsum compensation:

- (a) Death occurring due to accidents in the course of performance of duties: Rs. 5 lakhs
- (b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists anti-social elements, etc. : Rs. 5 lakhs.
- (c) Death occurring during (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists, etc.: Rs. 7.50 lakhs

Extracts from letter dated 05.11.1999

The question of rationalization and further liberalization of the existing schemes and guidelines regarding Ex- Gratia lumpsum compensation to families of civilian Govt. employees had been engaging the attention of the Government. In supersession of all earlier orders issued by the Govt. in so far as these relate to the payment of ex gratia lumpsum compensation in certain specified circumstances. President is pleased to decide that the families of Central Government Civilian employees, who die in harness in the performance of their bonafide official duties under various circumstances shall be paid ex-gratia lumpsum compensation as per the Department of Pension & Pensioners' Welfare, Ministry of Personnel, Public Grievances & Pensions' letter No. 45/55/97-P&P W(C), dated 11th September, 1998."

Extractra from letter dated 08.02.2006

" 3. Railways were further advised vide letter No. E(W)2000/CP-1/4, dated 06.12.2000 that the documents, viz. (i) FIR; (ii) Death Certificate; (iii) Post mortem Certificate; and (iv) FA & CAO's concurrence are pre-requisite and should form part of Ex. Gratia compensation proposals sent to Board for approval."

4. It will be clear from these aforementioned circulars/communications that the payment of ex-gratia is meant for death occurring due to accidents in the course of performance of duty and the Railways has been insisting on documents such as FIR, death certificate, post mortem certificate and FA & CAO's concurrence as pre-requisites for grant of proposals by the Board for approval. It is not disputed in the current case that the death occurred while in duty and it was by way of an accident since the word used in the joint report is 'Durghatna'. The requirement of

FIR and post mortem reports etc. are matters of evidence to prove whether the death occurred due to an accident or was a natural death. Since the intention of the scheme is to grant immediate relief in case of such accidents, not granting this relief only on ground of absence of FIR/death certificate/Post mortem certificate even when the department is satisfied that the death occurred on duty due to an accident, will be defeating the purpose for which the scheme has been introduced. It is not the case of the respondents that the applicant's husband died due to natural cause or it was a self-inflicted injury which would make the dependents ineligible for such ex-gratia payment. It is also not alleged by the respondents that the applicant's husband was suffering from any disease which made him prone to fall and even if it was so the death was caused due to falling on the railway track which made such fall fatal and cannot be termed as anything other than an accident. The Railways insistence on producing FIR, death certificate and post mortem report may be justified in cases where the death, while on duty, due to an accident, is in doubt. In the absence of any such doubt even alleged by the respondents, rejecting the claim only on ground of lack of these documents cannot be found correct. The instructions of the Railways quoted by the learned counsel for the respondents cannot be treated as legal dictum to be followed in each and every case even when it goes against the purpose for which the original scheme was framed. In the OM dated 11.09.1998, by which this scheme was introduced, it is expressly mentioned that it is intended to take care of the deprivation that families of government servant experience on the demise of the bread winner in

different circumstances and to provide additional insurance and security to the employees who are required to function under trying circumstances and are exposed to different kinds of risks in the performance of their duties, Hence, denying such benefit on technical grounds even when there is no doubt about the occurrence of the eventuality entitling the grant of such lump sum compensation, is against the very letter and spirit of the scheme. I, therefore, direct the respondent authorities to release to the applicant the ex-gratia payment payable in case of death of an employee occurring due to accident in course of performance of duty, within three months from the date of issue of this order. The OA is disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member

Srk.