

[Download Pdf \(Source\)](#)

More Cases

[Smt. Seema Tripathi Vs.Gm](#)[Mr Jaypalsingh Mohansigh Girase Vs.Gm Wr](#)[Satyaprakash Nihilal Nayee Vs.Gm Er](#)[Mr Santlal Gupta Vs.Gm Cr](#)

Related Searches

[Sunil Ashok Thakare](#)[Gm Cr](#)

SUNIL ASHOK THAKARE Vs.GM CR

Judgement, Dated: 04 Jun 2010, Railway Claims Tribunals

RAILWAY CLAIMS TRIBUNAL,MUMBAI BENCH
180/P, DEMELLO ROAD, 19/T WIG-WAM
MUMBAI-400001
Case No: OA (II u)/MCC/2009/0087Date of Judgment:
04/Jun/2010

SUNIL ASHOK THAKARE.....Applicant
Versus
Union of India GM CR/CENTRALRespondent

BEFORE THE RAILWAY CLAIMS TRIBUNAL, MUMBAI BENCH,
MUMBAI

CORAM: DR. S. Y. PADHYE, Hon'ble Vice Chairman (Judl.)

CASE NO. OA (IIu) 2009 087

Date of Institution: 16.02.09

1. SMT.SALAMA SUNIL THAKARE
: APPLICANTS

2. MASTER AMAN SUNIL THAKARE
3. MISS SONI SUNIL THAKARE

R/o. Kolegaon, Pandhari Patil Chawl, Dombivali (East),
Tal. Kalyan, Dist. Thane

VERSUS

UNION OF INDIA THROUGH GENERAL MANAGER
Respondents CENTRAL RAILWAY, MUMBAI.

Appearances: Mr. V.N.More, Counsel for the Applicants

Ms. Nanda Kamble, Counsel
for the Respondents

VALUE OF CLAIM Rs.4,00,000.00

JUDGEMENT

(Pronounced on this 04th day of June, 2010 at Mumbai).

DR.S. Y. PADHYE, V.C. (J):

1. This is an Application filed by the applicants purported to be under section 16 of the RCT Act, against the respondent railway administration for payment of compensation for the death of one SUNIL ASHOK THAKARE on the ground that they are the dependents of the deceased, who died as a result of injuries alleged to have been sustained by him in an untoward incident.

2. It is alleged in the application that on 26.11.08 SUNIL ASHOK THAKARE had been to CST

and was waiting to board a local train for going back to home at Dombivali. In the mean time there was terrorist attack and in the said attack the deceased sustained bullet injuries and succumbed to the injuries. According to the applicants the deceased was a bonafide passenger as he was holding 2nd class MST for journey between Dombivali and CST Mumbai.

3. The Respondent Railway administration has filed written statement and it is clearly admitted that there was terrorist attack at CST, Mumbai on 26.11.2008 and the said incident amounts to an untoward incident. It is also an admitted fact that the name of the deceased appears in the list of persons died in the Terrorist attack

-01-

at Mumbai CST. According to the Respondent it is for the applicant to prove that the deceased was a bonafide passenger at the time of the incident.

4. On the basis of the pleadings of the parties, following issues were framed and I have noted my findings against each for the following reasons:-

ISSUES:

1. Whether the deceased was traveling as a bonafide passenger on 26.11.08? Not established

2. Whether the deceased became a victim of terrorist attack as alleged and whether that the incident can be described as an untoward incident u/s 23 (c) of the Railways Act? It is not an untoward incident

3. Whether the applicants are the dependents of the deceased? Yes.

4. Relief? Claim application is dismissed

5. During the course of enquiry or trial, the applicants have examined Applicant No.1 Smt. Salama Sunil Thakare as AW-1, and placed on record documents as per Exhibits A-1 to Exh.A-7. As against this, the respondent railway administration did not choose to adduce any evidence on its behalf either oral or documentary.

6. Heard the arguments of the learned counsel appearing on behalf of the Respondents and carefully perused the entire material placed on record by the applicants.

7. I shall now proceed to consider the claim of the applicant, on its merits, with reference to the issues raised in the case.

Regarding Issues No.1 & 2:

8. These two issues are taken up for consideration simultaneously for the sake of convenience and also as they are inter-related.

9. At the out-set, I must make it clear that there is no serious challenge about the death of one SUNIL ASHOK THAKARE in the terrorist attack at CST on 26.11.08. AW-1, Smt.Salama Sunil Thakare has admitted in her cross examination that at the time of the incident she was at home and she was informed about the incident by her neighbor. She has also stated in her cross examination that her husband used to sell Omlet Pav on hand cart, outside the main gate of CST. In

-02-

the initial DRM's Report filed by the Respondent s along with the WS, it has been stated that the deceased was hit by terrorist's gun shots near Main Gate of Railway Station, CSTM. Now the Respondents have filed the corrected copy of the DRM's Report, which is Exh.R-1. In this Report, it has been clearly stated that on 26.11.08, the deceased was selling Omlet-Pav outside the CSTM Railway Station Main Gate and he was attacked by terrorist gun shot and died at outside the CSTM Railway Station, Main Gate. Neither the victim neither was a railway passenger nor found dead in Railway premises. Even though, the applicant was given ex-gratia of Rs.15,000.00 by the railway administration, but in view of the fact that he was killed outside railway premises, the applicants can not be compensated.

10. In-so-far-as bonafide passenger is concerned, applicant No.1 has stated in her evidence that the deceased was in possession of valid railway pass and the same was lost during the course of the untoward incident.

11. In view of the Investigation Report clearly stating that the deceased succumbed to the Terrorist's bullet outside the railway premises, i.e. outside the main gate of CSTM Railway Station where the victim was settling Omlet Pav, and no railway ticket/pass was recovered from the possession of the deceased, it can not be held that the deceased met with an untoward incident within the meaning of Section 123 (c) of the Railways Act. Therefore, Issues No. 1 & 2 are decided against the applicants.

Regarding Issue No.3:

12. Applicant No.1, Smt. Salama Sunil Thakare claims to be the wife of the deceased, Applicants No.2 & 3 are the minor son and daughter of the deceased. Applicant No.1 has stated in her evidence that she does not know the address of her in-laws. Respondents have not produced any evidence to show that they are not the dependents of the deceased. Hence the present Applicants along with the parents of the deceased are the dependents of the deceased within the meaning of Section 123 (b) of the Railways Act.

-03-

Regarding Issue No.4:

13. In-so-far-as Issues No. 1 & 2 have been ruled against the applicants, the Respondent railway administration can not be directed to pay compensation to the applicants by the Tribunal. Therefore, I record my findings on Issue No.4 to the effect that the applicants are not entitled to any relief at the hands of this Tribunal.

14. In the result, therefore, the application filed by the applicants u/s 16 of the RCT Act, is hereby dismissed but in the circumstances of the case, there is, however, no order as to costs.

(Dr.S.Y. PADHYE)

Vice Chairman (Judl.)

Place : Mumbai

Date 04.06.10

KK

-04-