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CBC INVESTIGATES

Regina CP Rail worker died from 'combination of hazardous conditions': Transport Canada

Widow says she's seeking justice and accountability

By Geoff Leo, [CBC News](#) Posted: Apr 04, 2016 5:00 AM CT Last Updated: Apr 04, 2016 5:00 AM CT



Father of three, Jamie Jijian, was crushed to death while working at Regina's Canadian Pacific rail yard on Jan. 12, 2013. (Tara Jijian)

Canadian Pacific Railway worker Jamie Jijian died as a result of a "combination of hazardous conditions acting together," according to a leaked Transport Canada report.

On Jan. 12, 2013, Jijian was crushed to death between two rail cars while working the nightshift as an assistant conductor at Regina's CP Rail yard.

The Transport Canada report dated February 2014 says workers were following safety rules, but there were several conditions in the yard that caused Jijian to make critical miscalculations, leading to his death.

Transport Canada concluded Canadian Pacific was not negligent and did not contravene the Canada Labour Code. Therefore no charges were laid.

Jijian's wife, Tara, calls the finding outrageous.



Tara Jijian is now a single mother raising Daxton and his two brothers after her husband was killed on the job. (CBC)

"There's no accountability. There's no admission of, 'Maybe we should have done this or could have done that or in the future we're going to do this,'" the widow told CBC's iTeam. "There's nothing."

Based on what she learned in the report, Tara Jijian has filed a lawsuit against Canadian Pacific alleging "CP Rail is liable in negligence and gross negligence for creating and failing to remedy hazards that led to Jamie Jijian's death."

Her lawyer, Tavengwa Runyowa, says he believes Transport Canada reached the wrong conclusion.

"How bad does it have to get for Transport Canada to say they actually found negligence?" he asks. "Does an employer have to actually go on site and shoot someone before they actually start to think that it's something worth taking seriously?"

Death on the night shift

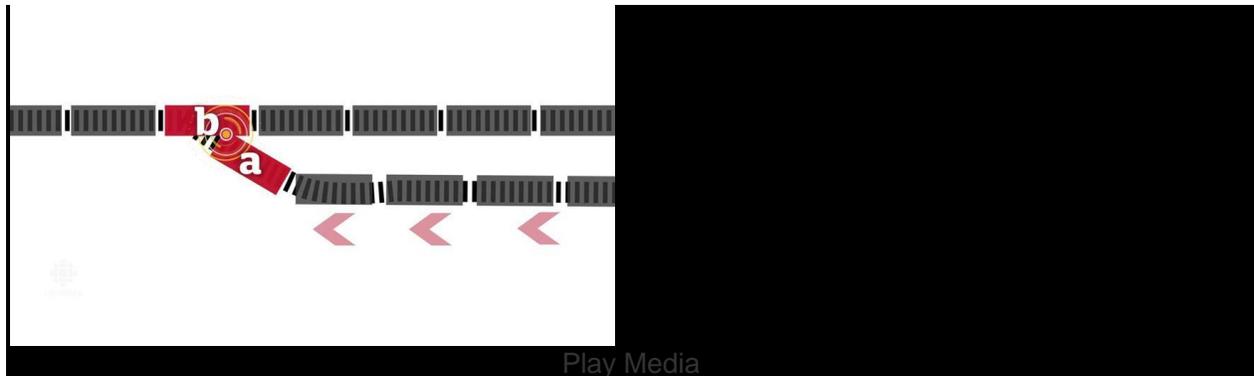
On Jan. 12, 2013, Jijian and his crew were moving 41 cars westward along the tracks in the rail yard at 2:45 a.m. The crew consisted of a locomotive engineer, a conductor and Jijian, who was an assistant conductor.

It was cold that night, with temperatures dipping to -30 C, and snow from a storm the previous evening covered the tracks.

Jijian was riding on the side ladder located on the northwest corner of the lead car. He had to ride on the outside of the car so he could tell the locomotive engineer how much track was left.

Unbeknownst to Jijian, the tracks beneath the snow abruptly veered north into an adjacent track where there was a series of stationary rail cars.

The car Jijian was riding on crashed into one of those other cars, crushing and killing him.



Animation shows path of train in fatal 2013 crash0:24

Crew followed safety rules

Transport Canada's report says that from all appearances, Jijian and his crew were following the safety rules.

"The fact the crew operated at an extremely slow speed and built in a safety buffer distance in the plan indicates extreme care was being taken to prevent overshooting the safe distance to travel."

It says the yard had an "atypical and seldom used" configuration, in which one track veers into another "mid-track."



Following Jamie's death, Transport Canada issued a 'Direction' to CP, requiring the company to make changes in order to ensure the safety of other workers. (CBC)

"What makes the track configuration at this location even more unusual to operating crews is the fact that it is rarely used," which meant the crew was unfamiliar with the area.

Not only was the bend in the tracks unusual, it was also "not visible because it was covered with snow" and in "an unlit portion of the railway yard."

The report also notes that "a building structure located in an atypical space that was in line with the track" gave Jijian "the false impression that the track continued at this location."

The report concluded that these conditions "caused the assistant conductor [Jijian] to perceive that the track extended further than it did."

Because of that, Jijian told his colleagues to keep the cars coming when suddenly his train veered into an adjacent rail car, ending his life.

Crew suggested safer plan

The investigation found that at the beginning of the shift the night of Jijian's death, during the safety briefing, the crew considered some of the risks associated with the job they had been asked to do, and suggested an alternative.

However, the report says the alternative plan was not accepted by the supervisor.

'Had it been agreed to by the supervisor, the shoving of the track to its end, the path in which the accident ensued would likely have been altogether avoided.' - Transport Canada report into Jamie Jijian's death

Transport Canada's investigator observed "the alternative plan that was not accepted not only involved less risk but also appears on the face to be the more productive plan."

He concluded: "Had it been agreed to by the supervisor, the shoving of the track to its end, the path in which the accident ensued would likely have been altogether avoided."

The investigator concluded "this is not to cast blame ... it is a fact though that is not to be hidden."

Jijian launches lawsuit against CP

Runyowa told CBC's iTeam that these hazardous conditions — poor lighting, snow-covered tracks and an unusual track formation in a rarely used part of the yard — were the sorts of problems Canadian Pacific Railway could have and should have foreseen and avoided.



Tara Jijian's lawyer, Tavengwa Runyowa, says the conditions that led to the worker's death could have and should have been avoided by Canadian Pacific. (CBC)

Runyowa filed the lawsuit in Regina at the Court of Queen's Bench on Feb. 12, 2016, although in Canada employees and their families are normally barred from suing their employers over workplace accidents. Instead, they have to seek support from workers compensation boards. Jijian currently receives about \$3,300 a month to support her family, significantly less than the wages her husband earned, and without any benefits. She's not sure how that compensation will be affected when she returns to work.

But Runyowa is arguing that in egregious circumstances, workers and their families should be allowed to sue. And he said if they're not, that's unconstitutional.

None of the allegations in the lawsuit have been tested in court. Canadian Pacific Railway has not yet filed its statement of defence.

What has been done since Jijian's death?

Runyowa said one of the reasons CP may have failed to identify these hazards is — according to the report — the company failed to ensure the Regina yard was inspected monthly, as was required.

The report says CP's Regina health and safety representative "was not aware of the requirement to perform monthly inspections of the workplace respective to which he is appointed for, nor were these inspections actually performed."

Transport Canada brought this matter to CP's attention and in an email a spokesperson said "we received satisfactory corrective action from CP on these two concerns."



Snow and darkness obscured an unusual track configuration on the night of the accident. (CBC)

Transport Canada's health and safety officer notes that despite the fact that other hazards had been identified through its investigation into Jijian's death, CP didn't rectify them in the months that followed.

The officer "concluded that the hazardous circumstances resulting in the accident were again imminent, resulting in employees exposed to them not being protected from them, and that this situation was not likely to change in the near future."

And so Transport Canada's officer stepped in, issuing a "direction" requiring CP to remove the danger from the workplace.

The rail company responded to the direction by putting up a sign at the site where Jijian died indicating "when the track was covered by snow that the track did not continue at this location." In addition, CP installed more lighting in the area.

CBC's iTeam asked CP for an interview about Jijian's death and what further steps it has taken to address the conditions that led to it.

The company provided a brief response.

"The death of Mr. Jijian is tragic and CP sincerely regrets the loss to his family. We have no further comment."