



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3310 OF 2017

1. Prakash s/o Ghanshyam Pimparkar
Aged 54 years, Occu.: Nil

2. Bharti w/o Prakash Pimparkar
Aged 50 years, Occu.: Maid
R/o : 143-Shani Peth, Kumbharwada,
Tal & Dist. Jalgaon.

... Appellants

VERSUS

Union of India,
Through General Manager,
Western Railway, Churchgate,
Mumbai.

... Respondent

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- * *Mr. Madake Datta A., Advocate for the Appellants.*
- * *Mr. M. N. Navandar, Advocate for the Respondent.*
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CORAM : ROHIT W. JOSHI, J.

DATE : 6th OCTOBER, 2026

ORAL JUDGMENT :

1. The present appeal is preferred under Section 23 of the Railway Claims Tribunal Act, 1987, in order to challenge judgment and order dated 01.02.2017 passed by the Railway Claims Tribunal, Nagpur Bench, in Claim Application No. OA(IIU)/NGP/2012/0322. The Appellants are the parents of late Darshan, who died in a railway

accident on 06.08.2012. It is the case of the Appellants that Darshan was travelling from Bhusawal to Nashik by Saket Express (Train No. 11068) on 06.08.2012. At about 15:20 hours, when the train reached Jalgaon Railway Station, he accidentally fell from the train due to a sudden jerk and died as a result of the injuries sustained in the accident.

2. The Respondent opposed the claim, contending that, having regard to the nature of the injuries sustained by the deceased, the possibility of his having fallen from the train is completely ruled out. It was contended that the body of the deceased was severed into two parts, which, according to the Respondent, indicates that he had not fallen from the train. The Respondent further contended that it is virtually impossible for a person who falls from a running train to come under its wheels. The learned Railway Claims Tribunal accepted the case of the Respondent and, accordingly, dismissed the application filed by the Appellants seeking compensation on account of the death of their son, Darshan, in the railway accident. The present appeal is preferred challenging the said judgment and order.

3. Mr. Madake, learned Counsel for the Appellants, contends that liability of Railway Establishment to pay compensation under Section 124-A of the Railways Act is a strict liability and that, unless the Railway Administration establishes that the case falls within any of the statutory exceptions, a claim for compensation arising out of a railway accident cannot be rejected. The learned Advocate places strong reliance upon the judgment of the Hon'ble Supreme Court in **Union of India v. Rina Devi**, reported in AIR 2018 SC 2362, and contends that unless the evidence on record suggests an intention on the part of the deceased or the injured to cause physical injury to himself or herself is established, a claim for compensation cannot be rejected. As regards the finding recorded by the learned Tribunal that, since the body of the deceased was severed into two parts, the possibility of sustaining such injuries due to a fall from a running train stood ruled out, the learned Counsel places reliance upon the judgment of this Court in **Nirmala Nagorao Gadling v. Union of India**, reported in AIR Online 2023 Bom 1204.

4. Per contra, Mr. Navandar, the learned Advocate

for Respondent justifies the findings recorded by the learned Tribunal and seeks to justify the rejection of the claim application. It is vehemently contended that, having regard to the nature of the injuries sustained by the deceased, the possibility of his having fallen from a running train is completely ruled out. In support of this contention, reliance is placed on the judgment of the Hon'ble Supreme Court in **Kamrunnissa v. Union of India**, reported in AIR 2017 SC 1436, as well as on the judgment of this Court in **Nazembegum wd/o Mir Azhar Ali and Others v. Union of India**, reported in 2024 BHC-AUG 14732.

5. It is true that normally if a person falls from a running train, he would not come under its wheels. However, there can be no certainty as regards the manner in which a body may be thrown out of a train or the place where it may ultimately be found. Unlike the cases relied upon by the learned Advocate for the Respondent, the deceased in the present case did not sustain a single injury severing his body into two parts. On the contrary, multiple injuries were found on the head, abdominal region and lower

limbs of the deceased. The judgments relied upon by the learned Advocate for the Respondent are, therefore, clearly distinguishable on facts.

6. In the present case, the Railway Establishment has not led any evidence to show that the deceased was crossing the railway track when the accident occurred. The accident is stated to have occurred at Jalgaon Railway Station, which is a sufficiently large and busy railway station. The train was passing through the platform/station, and railway employees would be present on the platform at that time. A claim under the Railways Act is founded on the principle of strict liability. The Railway Establishment has not led any evidence to establish that the case falls within any of the statutory exceptions or that there was any intention on the part of the deceased to cause injury to himself. It would be appropriate to refer to the following observations of the Hon'ble Supreme Court in *Union of India v. Rina Devi* (supra):

16.6 We are unable to uphold the above view as the concept of 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of

contributory negligence which cannot be done in the case of liability based on 'no fault theory'. We may in this connection refer to judgment of this Court in United India Insurance Co. Ltd. versus Sunil Kumar laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor.

7. In view of the aforesaid, in the considered opinion of this Court, the appeal deserves to be allowed and is accordingly allowed in the following terms :

ORDER

(i) The First Appeal is allowed.

(ii) The judgment and order dated 01.12.2017 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur, in Claim Application No. OA(IIU)/NGP/2012/0322 is quashed and set aside. The said claim application is allowed, and the Respondent is directed to pay compensation of Rs.8,00,000/- to the Appellants.

(iii) Parties to bear their own costs.

8. At this stage, the learned Advocate for the Respondent prays for stay of the operation and implementation of the present judgment and order for a reasonable period so as to enable the Respondent to approach the Hon'ble Supreme Court.

9. Although the request is strongly opposed, in the considered opinion of this Court, some reasonable period can be granted to the Respondent for approaching the Hon'ble Supreme Court. Accordingly, the operation and execution of the present judgment and order shall remain stayed till 31.12.2026. The judgment and order shall become enforceable with effect from 01.01.2027.

[ROHIT W. JOSHI]
JUDGE

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