

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

**FIRST APPEAL NO.3173 OF 2016**

1. Sunita Wd/o Dnyaneshwar Sonawane,  
Age: 22 years, Occu.: Household,
2. Hemand S/o Dnyaneshwar Sonawane,  
Age: 2 years, Occu.: Nil,  
(Applicant No.2 is minor and as such,  
under guardian of his mother i.e.  
applicant No.1),
3. Ratilal S/o Ramkrushna Sonawane,  
Age: 45 years, Occu.: Agriculture,
4. Chayabai W/o. Ratilal Sonawane,  
Age:42 years, Occu.: Household,  
All R/o. Sujade, Tq. and Dist.  
Jalgaon (M.S.)

**...APPELLANTS  
(Original Appellants)**

**VERSUS**

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

**...RESPONDENT  
(Original Respondent)**

...  
Mr. Vishnu B. Madan, Advocate for Appellants;  
Mr. Navandar Manish N., Advocate for Respondent  
/sole.

...

**CORAM: P.R.BORA, J.**

**DATE : 23rd November, 2016**

**ORAL JUDGMENT:**

1. With consent of the learned counsel appearing for the parties the appeal is heard finally at the admission stage. The present appeal is filed against the judgment and order passed by the Railway Claims Tribunal at Nagpur in Case No. OA/(IIu)/NGP/2012/0339.

2. The aforesaid Claim Application was filed by the present appellants / applicants seeking compensation on account of death of deceased Dnyaneshwar, which was alleged to have been caused while deceased Dnyaneshwar was travelling as a bona fide passenger and fell down from the train from which he was travelling. It was the contention of the applicants / appellants that deceased Dnyaneshwar boarded the train at Jalgaon Railway Station and was proceeding towards Surat. It was the further contention of the appellants that because of heavy rush in the compartment by which deceased was travelling, he fell down from the running train in between Railway Station Paldi and Railway Station Chawalkheda.

3. Per contra, it was the contention of the Railway Administration that deceased committed suicide by throwing himself before the running train and, as such, was run over by the train and his body was cut in two

pieces. Before the Tribunal, the wife of deceased Dnyaneshwar deposed, and the father of deceased Dnyaneshwar also adduced his oral evidence whereas, from the Railway Administration, the Station Master of Paldhi and Loco Pilot of the train testified.

4. I have carefully gone through the evidence recorded in the matter and in the light of the evidence when I read the impugned judgment, I do not find any infirmity in the impugned judgment. The appellants have utterly failed in bringing on record any evidence showing that deceased was travelling as a bona fide passenger and that he died because of an untoward incident so as to make them entitled to receive the compensation under Section 124(A) of the Railways Act.

5. The material on record shows that the Railway ticket was not recovered from the person of the deceased or from the spot of the occurrence. Though it is the contention of the father of deceased Dnyaneshwar that he had purchased the ticket of deceased Dnyaneshwar and had handed it over to him, the said evidence is not corroborated by any other independent evidence. Admittedly the railway ticket has not been recovered from the person of the deceased or from the spot of occurrence.

As against it, RW No.2 namely, Nilesh Kumar Rameshchandra Rathod, in his testimony before the Court

has specifically deposed that he was the Loco Pilot of Tapti Ganga Express on the date of accident and he saw one person throwing himself before his train in between Paldhi Station and Chawalkheda. The said witness has further deposed that the said person was run over by his train and after occurrence of such incident he had immediately informed to the Station Master as about the incident and has also taken note of the said incident in his diary. All these documents which are placed on record are exhibited. Nothing has been brought on record in the cross examination of RW No.2 so as to disbelieve his testimony. Considering all this evidence, it does not appear to me that the Tribunal has committed an error in dismissing the Claim Application filed by the present appellants.

6. The Appeal being devoid of substance deserves to be dismissed and is accordingly dismissed.

**(P.R.BORA)**  
**JUDGE**

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agp