

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

FIRST APPEAL NO.3165 OF 2015

Sunita Vijay Waghmare and others

.. Appellants

Versus

Union of India through
General Manager, Central Railway,
CST, Mumbai

.. Respondents

Mr.Vishnu B. Madan, Advocate for the appellants
Mr.M.N.Navandar, Advocate for respondent Sole

**CORAM : A.V.NIRGUDE, J
DATED : 01.09.2016**

P.C. :-

1. This is claimant's appeal challenging the Judgment and Award dated 03.09.2015 passed by the learned Members of the Railway Claims Tribunal, Nagpur rejecting the appellant's claim.

2. The appellant No.1 claims that her husband Vijay was working at Paras as a 'Welder'. She and her children stayed at village Pimpalkheda. Vijay had come to meet his family. On 22.09.2010 he left Pimpalkheda to go to Paras. For going to Paras, Vijay was required to undertake a railway journey from Chalisgaon station to Paras station. Vijay's dead body was found in two pieces near a railway

track. The spot where his dead body was found was close to Chalisgaon town. Soon after the discovery of Vijay's dead body the railway officials rushed to the spot and initiated enquiry. Panchanama was drawn. Dead body was sent for postmortem. The Medical Officer opined that Vijay died due to railway accident.

3. Railway Administration took up a defence that Vijay died while crossing railway line. On the other hand the appellants claimed that Vijay fell down from a running train. The appellants/claimants were under obligation to prove that Vijay boarded a train to go to Paras. But they did not prove this fact. Appellant No.1 did not examine any witness who could have stated that in his presence Vijay boarded a train from Chalisgaon station and thereafter his dead body was found at some distance from the railway station to indicate that Vijay probably fell down from the running train.

4. There is one more difficulty in the appellants' case. No railway ticket was found with the Vijay's dead body. Entire case thus was based on a guess that Vijay probably boarded a train & fell down from running train. In absence of evidence, other circumstances indicated that Vijay probably died due to his collision with running railway. He was trying to cross railway line and

he died. The appeal should, therefore, fail.

5. In view of above the first appeal stands dismissed.

[A.V.NIRGUDE,J.]