

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3167 OF 2015

Vijaykumar Ramnaresh Maurya and Anr.	...	Appellants
Vs.		
Union of India through General Manager, Central Railway, CST, Mumbai.	...	Respondent

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

CORAM : A.V. NIRGUDE, J.
DATE : 02-09-2016.

Per Court :

1. This appeal challenges judgment and order dated 09/10/2015 passed by the learned Member of Railway Claims Tribunal, Nagpur in case no. NGP/2014/1018. The appellants were applicants before the tribunal, they have filed an application for compensation under section 124(A) of the Railways Act, 1989 on account of death of their son in an untoward accident.

2. It was their case that deceased Avadesh left his house in Uttar Pradesh and boarded a train to go to Mumbai. His dead body was found in Maharashtra near Mhasavad Railway Station near Jalgaon. When the dead body was found a report was made to Railway Police. An enquiry under section 174 of Cr.Pc was initiated. It was found then that the deceased most probably died due to fall from running train. Curiously at the time of inquest/scene of occurrence of panchnama, the police did not find any railway-ticket on the dead body's or in the belongings. The claim was opposed mainly on the ground that Avadesh was not a passenger and his

next of kins are not entitled to compensation.

3. The question that arises in this appeal is whether Avadesh died in an "untoward accident"? Secondly whether Avadesh was a bonafide railway passenger?

4. There can be no dispute about the cause of death of Avadesh. The postmortem report opined that he died due to accidental fall from a running train. Learned counsel for the respondent on the other hand tried to suggest that, had Avadesh been traveling in a passenger train going towards Mumbai his dead body would not be found at the spot where it was found. He tried to suggest that the spot was near a "loop yard" where, according to him, passenger trains would not travel. I find this objection is rather irrelevant. It was not a part of defence in the written statement. It was clear that the deceased died due to accidental fall from a running train. Besides a possibility that Avadesh would come to the spot where his dead body was found from Uttar Pradesh without boarding a train does not exist. So it is abundantly clear that, Avadesh was traveling in a passenger train going towards Mumbai and had an accidental fall.

5. Once it is proved that Avadesh had fallen down from a running passenger train one cannot always expect to find a railway ticket in his possession. Even if a railway ticket was not found near or in the belongings of the dead body, it does not mean that Avadesh could have traveled without ticket from his native place in Uttar Pradesh till the spot where his dead body was found. One cannot expect, in a case of this nature, that a poor passenger while falling down accidentally from running train would keep his railway-ticket securely either in his hand, or in his wallet, or in his pocket. There is every possibility that during the accident the ticket would be lost

somewhere. So expecting a railway ticket from such a victim is rather cruel. The law on this point is quite settled. The claimants are not under obligation to strictly prove that the victim carried a valid ticket. The other circumstances could probablise that the victim had a valid ticket when he boarded the train. So I have no doubt that the victim was a bonafide passenger and therefore his next of kin are entitled to compensation as provided under section 124(A) of the Railways Act, 1989.

6. Appeal is allowed.

7. Respondent-appellant railway shall pay Rs. 4 Lakh (Rupees Four Lakh) along with interest at the rate of 9% from the date of application till the amount is realised.

(A.V. NIRGUDE)
JUDGE