

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

FIRST APPEAL NO.3377 OF 2016

SMT PRAYAGBAI W/O KONDIBA CHINCHBANKAR AND
OTHERS
VERSUS
UNION OF INDIA, THROUGH GENERAL MANAGER,
SOUTH CENTRAL RAILWAYS, SECUNDERABAD
(ANDHRA PRADESH).

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Advocate for Appellants : Mr P S Agrawal
Advocate for Respondent 1 : Mr D G Nagode

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CORAM : V.K. JADHAV, J.

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Reserved on : May 02, 2017
Pronounced on : July 18, 2017.

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COURT'S ORDER :-

1. Being aggrieved by the judgment and order passed by the Railways Claim Tribunal dated 26.4.2016 in claim application no.OA (IIU)/NGP/2012/0292, the original claimants preferred this appeal.

2. Brief facts, giving rise to the present appeal are as follows :-

a] As per the case of the appellants-claimants, on 5.6.2012 deceased Kondiba had purchased one Railway ticket in presence of his relative Marotirao for travelling

from Umri to Dharmabad by Pune Nizamabad passenger Train No.51421. Deceased Kondiba had boarded the said train from Umri Railway Station at about 11.30 am for travelling upto Dharmabad. Due to heavy rush in the said train, he was standing near the door of the compartment of the said train and due to sudden jerk of the said train, deceased fell down from the said train and came under the wheels. He had sustained severe serious injuries and died at Umri Railway Station itself.

b] Respondents-railways has strongly resisted the claim petition by filing written statement. It has been contended that, no such incident causing death of the deceased within the meaning of section 123 (c) read with section 124-A of the Railways Act has taken place and a such, the claim application is not maintainable.

c] The appellant-claimants have adduced oral and documentary evidence in support of their contentions. Respondent-Railways has placed reliance on the documents prepared during the course of the inquiry.

The Railway Tribunal by its impugned judgment and order dated 26.04.2016 dismissed the claim petition. Hence, this appeal.

3. The learned counsel for the appellant-claimant submits that, during the course of the inquest proceedings, personal search of the deceased was conducted by GRP officials and alongwith the currency note one Railway Ticket of Umri-Mudkhed and also one ST ticket from Dugaon-Umari was found. Said personal search of the deceased was conducted in presence of one PHC official. Learned counsel submits that deceased was having a valid journey ticket in his possession which was purchased in presence of his relative Marotirao Gambhir. Deceased Kondiba was a bonafide passenger travelling with valid ticket and his death occurred as a result of an untoward incident.

4. Learned counsel for respondent-railways submits that the appellants-claimants have not examined said Marotirao to substantiate their contentions that

deceased Kondiba had purchased the ticket in presence of said Marotirao Gambhir. Deceased Kondiba actually boarded said train from Umri Railway Station and fell down at Umri Railway Station. However, on perusal of the police statement of said Marotirao, he has not stated about accidental death of deceased Kondiba on the platform of Umri Railway Station itself. Learned counsel submits that, the appellant-claimants are failed to prove that, deceased was travelling in the said train and his death occurred as a result of an untoward incident.

5. On perusal of the record and proceeding, it appears that, the appellants-claimants have suppressed the material facts and they have not approached the Tribunal with clean hands. Though, said train stopped at Umri Railway station only for one minute, it is difficult to accept that the accidental fall of deceased Kondiba from the said Train at Umri Railway station itself was not noticed by his relative Marotirao Gambhir. If, deceased had mistakenly taken the ticket of said Marotirao Gambhir with him, however, the appellant-

claimant no.3 stated in his affidavit of evidence that original ticket lost during the process of accident. It is difficult to believe that said ticket was found during the search, however, original ticket of journey purchased by Kondiba was not found in his personal search. It further appears from the contents of the inquest panchnama that, relevant sentence about '*ticket found during the search*' inserted below in the contents of the inquest panchnama. The appellant-claimants have not examined said Marotirao Gambhir to substantiate their contentions. There is no satisfactory evidence on record to show that deceased Kondiba was travelling as a passenger in the said train and his death occurred as a result of an untoward incident, as alleged in the claim petition. In the given set of facts and considering said tampering of important documents, such as, inquest panchnama etc, the Tribunal has taken correct view and dismissed the claim petition. No interference is required. There is no merit in the appeal and the appeal is thus liable to be dismissed. Hence, following order.

ORDER

1. Appeal is hereby dismissed. No costs.
2. Appeal is accordingly disposed of.

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(V.K. JADHAV, J.)

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