

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

FIRST APPEAL NO.2081 OF 2016

Smt. Sugarabai W/o Rajaram Dongare

Versus

Union of India, Through the General Manager, Central Railway, CST,
Mumbai.

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Mr. Vishnu B. Madan, Advocate for appellant.

Mr. M.N. Navandar, Advocate for respondent.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 26th September, 2019.

ORDER :

. Present appeal has been filed by the original applicant under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment and order dated 09.03.2016 passed by the respondent - Railway Claims Tribunal, Bench at Nagpur in Case No. OA(IIu)/NGP/2011/0341, whereby her claim for compensation under Section 16 of the said Act came to be dismissed.

2. The appellant had come with the case that her grand son by name Ravi S/o Ambadas Dongare was travelling from Bhusawal to Manmad by an unknown train and fell down from the running train near Km. No.407/2017 on 18.01.2011 near Shirsoli Railway Station, Dist. Jalgaon, as a result of which he sustained injuries and died on the spot. He had purchased a valid second class journey ticket, however, it was misplaced during the said untoward incident. The applicant was dependent on him. The parents of Ravi had expired long back and his sisters, who had filed claim application No.102 of 2011, had withdrawn the same on 18.08.2011. On account of the said untoward incident, Ravi expired and the grand mother has therefore, claimed compensation.

3. The respondent – Railway objected the application on the ground that applicant is not the dependent. The preliminary objection was also taken that no such incident within the meaning of provision of Section 123 (c) read with Section 124-A of the Railways Act had taken place. Deceased was not bonafide passenger in any train and therefore,

the applicant is not entitled to receive compensation.

4. After the evidence was laid by both the parties, applicant had examined herself and filed documents, whereas the respondent only filed documents in the form of DRM report. It was also held that the applicant has failed to prove that she was dependent on the deceased or any way related to the deceased so as to receive compensation. In view of the fact that she had failed to prove her dependency, the other two issues regarding untoward incident and deceased was a bonafide passenger, were not addressed to. The present appeal challenges these findings.

5. Heard learned Advocate Mr. V.B. Madan for appellant and learned Advocate Mr. M.N. Navandar for respondent. Perused the record.

6. It has been vehemently submitted on behalf of the appellant that the tribunal did not consider the documentary evidence which showed that she is the legal heir of the deceased. The ration card and

other evidence were produced. Now, in this appeal, affidavit has been filed by the appellant as well as Aarti Ashok Johare, who is the real sister of deceased Ravi. It has been stated that Rajkumar Rajaram Dongare was the son of appellant and father of Aarti and his nick name was Ambadas. Name of the appellant is also included in the said ration card. Only on the ground that there are some differences in the name in the documents produced by the appellant, the tribunal has wrongly held that she is not the legal heir of deceased.

7. Per contra, learned Advocate appearing for the respondent submitted that the documents which were produced by the applicant before the tribunal have been minutely considered. There was absolutely no document showing that said Rajaram Rajkumar was also known as Ambadas. Each and every time there is change in the stand of the applicant and therefore, the claim of the applicant has been rightly rejected.

8. As it appears from the impugned judgment that for proof of identity, appellant had produced ID-card in which her name has been

mentioned as Sugaranbai Rajaram Dongare, meaning thereby her husband's name is Rajaram. No documentary evidence was produced to show that Ambadas was her son, who can be said to be the son of Rajaram and Sugaranbai. The ration card was also produced before the tribunal. Because of the erasers and interpolations, it created suspicion in the mind of the tribunal. Firstly in the said document, Ravi Ambadas Dongare was mentioned as the name and now he is shown to be the son of Rajkumar Rajaram Dongare. Now as per the affidavits produced at the appellate stage, it is tried to be contended that Rajkumar Rajaram Dongare was also known as Ambadas Rajaram Dongare. All the documents before the tribunal and the police inquiry showed that the name of the deceased is Ravi Ambadas Dongare. Ration card cannot be in the name of nick name. Even at the appellate stage, there is no documentary evidence produced to prove or show that Rajkumar was also known as Ambadas. As per appellant, Ambadas @ Rajkumar expired 12 years ago at Surat and she do not have any documentary evidence on the name of Ambadas Rajaram Dongare. The ration card is of village Savkhed Bhoi, Tq. Deolgaon Raja, Dist. Buldhana. If proper

documents showing proper relationship have not been produced on record, then it cannot be accepted that deceased was related to the appellant and she can be said to be his legal heir. Therefore, the tribunal was justified in rejecting the claim application. So also, it was then justified in not going into the other points as to whether said Ravi died of untoward incident while he was travelling as bonafide passenger.

9. There is no merit in the first appeal, therefore, it deserves to be dismissed. Accordingly it is dismissed. No order as to costs.

(SMT. VIBHA KANKANWADI, J.)

SCM