

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO.1589 OF 2019

APPELLANT : Smt. Kanchan Yadav wd/o
(Org.Applicant) Late Shri Kishan Lal Yadav,
Aged about : 67 years,
Occupation – Nil,
Resident of Talab Tola, Ward No.8,
Post & Tahsil – Nainpur
Nainpur, Distt. Mandla
(M.P.) 481776.

V E R S U S

RESPONDENT : Union of India,
(org.Respondent) Through it's General Manager,
S.E.C. Ralway Bilaspur (C.G.) 495004.

Shri C. L. Deharia, Advocate for appellant.
Shri Nitin Lambat, Advocate for respondent-sole.

CORAM:- MANISH PITALE, J.
DATED : 14/10/2019.

ORAL JUDGMENT :

1. By this appeal, the appellant (original claimant) has challenged the Judgment and order dated 12/01/2018 passed by the Railway Claims Tribunal, Nagpur, whereby the claim application filed by the appellant under the provisions of the Railways Act, 1989, has been dismissed.

2. In the present case, the incident in question took on 02/10/2014. As per the facts narrated in the claim application itself, the victim alighted from a train at Gondia Railway Station and while he was walking on the foot over-bridge at the Railway Station, he fell and became unconscious and later died. It was claimed that during the course of incident the journey ticket was lost, but the victim was travelling as a bonafide passenger and therefore, the application for grant of compensation was maintainable.

3. The Tribunal in the impugned Judgment and order found that the appellant could not produce the railway ticket to indicate that the victim had undertaken railway travel. Apart from this, it was found that even as per the facts stated in the claim application and the evidence given by the appellant, the death of the victim could not be attributed to untoward incident in question, as defined under the provisions of the Railways Act, 1989. The respondent sought to prove before the Tribunal, in fact, the death of the victim was due to natural death. On the basis of above, the Tribunal dismissed the claim application filed by the appellant.

4. The learned counsel for the appellant, while challenging the impugned Judgment and order passed by the Tribunal, submitted that the death of the victim in the present case was covered under the definition of “untoward incident” as defined under Section 123(c) of the aforesaid Act. A perusal of the said provision would show that “untoward incident” under Section 123(c)(2) includes accidental fall of the passenger from a train. In the present case, admittedly, the victim did not fall from a train and therefore, the case would not be covered under Section 123(c) (2) of the Act.

5. The learned counsel for the appellant sought to contend that the incident is covered under Section 123(c)(1)(iii) of the Act, pertaining to an incident involving, rioting, shoot out or arson. In order to support the said contention, the learned counsel for the appellant could not show any oral or documentary evidence or pleadings to that effect before the Tribunal.

6. In view of above, it becomes clear that the death of the victim in the present case was not covered under the definition of “untoward incident” as defined under the aforesaid Act and therefore, no error can be attributed to the Tribunal in

dismissing the claim application filed by the appellant. Hence, the appeal is dismissed.

JUDGE

Choulwar