

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

FIRST APPEAL NO. 282 OF 2021

1. Kasturabai wd/o. Baburao Padame,
Age about 54 years, Occ. Housewife
 2. Sudhakar s/o Baburao Padame,
Age about 33 Years, Occ. Labour
 3. Tejrao s/o Baburao Padame,
Age about 35 Years, Occ. Labour
 4. Badua s/o Baburao Padame,
Age about 39 Years, Occ. Labour
All R/o. H.No. 252, Ward No.12,
Bodarli, Burhanpur, Dist. Burhanpur. (M.P.)
- **APPELLANTS**
(Orig. Claimants on R.A.)

// **VERSUS** //

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

.... **RESPONDENT**
(Orig. Respondent on R.A.)

Shri R.G. Bagul, Advocate for Appellants.
Shri N.P. Lambat, Advocate for Respondent.

CORAM : SMT.ANUJA PRABHUDESSAI, J.
DATED : JANUARY 21, 2022.

ORAL JUDGMENT :

1. Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.
2. Heard.

3. **ADMIT.** Since the appeal involves a narrow controversy, the appeal is heard finally with consent of the parties.

4. By this appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as “the Act of 1987”), the appellants, who are the original claimants, have challenged the judgment and order dated 03/08/2017, whereby the Railway Claims Tribunal has dismissed Claim Application No. OA(IIu)/NGP/2015/0284.

5. I have perused the record and considered the submissions made by the learned counsel for the respective parties.

6. The claimants have filed claim application in view of the death of one Baburao Devchand Padame in an untoward incident on 03/09/2015. It is stated that on the relevant date the deceased was travelling from Burhanpur to Nimbhora by Bhusawal-Itarsi Passenger (Train No.51158). He had a valid railway ticket bearing No.AA48329911, dated 03/09/2015. The claimants alleged that the deceased fell down from the running train at Waghoda Railway Station and sustained severe injuries. He was taken to the Civil Hospital at Jalgaon by Train No.18609 Up. He expired on the next day due to the injuries sustained in the said untoward incident.

7. The claim was resisted by the respondent mainly on the ground that the deceased was not a bonafide passenger and that his death was not caused in an untoward incident.

8. The Railway Claims Tribunal, after considering the evidence adduced by the claimants as well as by the respondent, dismissed the claim application mainly on the ground that the deceased was not a bonafide passenger. Being aggrieved by this judgment, the appellants/original claimants have filed this appeal.

9. It is not in dispute that on 04/09/2015 at about 02:30 hrs. the Petrolman on duty had seen said Baburao Padame in an injured condition lying on the platform near Waghoda Railway Station. He was then taken to the Civil Hospital, Jalgaon by Train No. 18609 Up. The said Baburao expired on the next day while undergoing treatment in Civil Hospital, Jalgaon. The Inquest Panchnama at Exh.A-6 indicates that one ticket from Burhanpur to Nimbhora dated 03/09/2015 was found on the body of the deceased.

10. A.W. No.1 Kasturabai, the widow of the deceased has filed her affidavit in evidence, wherein she has deposed that on the relevant day, her husband was travelling from Burhanpur to Nimbhora. He fell down from the train at Waghoda, and expired due to injuries sustained in the said incident.

11. The Tribunal has rejected the claim mainly on the ground that timing of the Train No. 51158 does not tally with the time mentioned on the ticket. It may be mentioned here that often the family members of the deceased are not eye-witnesses and do not have personal knowledge about the travel details of the deceased. Hence, discrepancy in travel details is no reason to discard their evidence particularly when the documents collected by the Railway Authorities during investigation and other information received in this regard prove that the deceased was a bonafide passenger. In the instant case, as noted above, the deceased was seen lying in an injured condition on the platform of Waghoda Railway Station and succumbed to the injuries on the next day while undergoing treatment in the said hospital. The Inquest Panchnama (Exh.A-6) amply proves that train ticket for journey from Burhanpur to Nimbhora dated 03/09/2015 was found on his person when the Inquest Panchnama was drawn. This fact supports the claim of the claimants that the deceased was a bonafide passenger and that he had sustained injuries due to a fall from the running train. The Tribunal was therefore, not justified in dismissing the claim and depriving the claimants from the compensation under the provisions of the Act, which is a beneficial piece of legislation.

12. Considering the above facts and circumstances, the impugned judgment cannot be sustained. Hence, the following order:

- i) The appeal is **allowed**.
- ii) The impugned judgment and order is quashed and set aside.
- iii) The claim petition is allowed.
- iv) The appellants/claimants are entitled for the statutory compensation of Rs.Eight Lakhs.
- v) The claimants shall furnish to the Railway Authorities account details within two weeks from the date of this order.
- vi) The respondent shall deposit 50% of the compensation amount in the account of appellant/Claimant No.1 and balance 50% in equal shares in the account of appellant/claimant Nos. 2, 3 and 4, within six weeks thereafter.

The appeal stands **disposed of** in the above terms. No order as to costs.

(SMT. ANUJA PRABHUDESSAI, J)

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