

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

FIRST APPEAL NO. 497 OF 2021

1. Tai wd/o Arjun Tibole,
Age about 40 years, Occ. Labour
2. Nikesh s/o Arjun Tibole,
Age about 25 Years, Occ. Labour
3. Kalawatibai wd/o Marotrao Tibole (Died)
Both Presently R/o Ajani, Post.
Khangaon, Tah. Saoner, Dist. Nagpur.

.... **APPELLANT**
(Orig. Claimants on R.A.)

// VERSUS //

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

.... **RESPONDENT**
(Orig. Res.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 narrow controversy is involved, the matter is heard finally by 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 (hereinafter referred to as “claimants”) have challenged the judgment and order dated 07/01/2021, whereby the Railway Claims Tribunal has dismissed Claim Application No. OA(IIu)/NGP/230/2015.

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

6. Claimant No.1 is the widow and claimant No.2 is the son of deceased-Arjun Marotrao Tibole. The appellants claimed that on 19/05/2015 the deceased-Arjun Tibole was travelling from Nagpur to Saoner in Train No. 58834 after purchasing journey ticket. It was stated that he fell down from the running train at Patansavangi. The claimants alleged that said Arjun Tibole was a bonafide passenger and that he died in an untoward incident. The claimants therefore, filed claim application under Section 16(1) of the Railway Claims Tribunal Act, 1989 before the Railway Claims Tribunal, praying for compensation.

7. The respondent-Railways opposed the application on the ground that the deceased was not a bonafide passenger and further denied that the death was caused in an untoward incident. The respondent claimed that it was a self inflicted injury and hence, the claim was not covered under the provisions of Section 123(1)(2) of the Railway Claims Tribunal Act, 1989.

8. During the pendency of the Claim Application the claimants had filed an application for amendment to change the train number from 58834 to 58833. The Railway Claims Tribunal dismissed the said application on 23/03/2018. The said order was challenged in Writ Petition No.7710 of 2018 (WP St.No.17845/2018). It is stated that the said petition is still pending. Since there was no stay order, the Claims Tribunal proceeded with the matter and dismissed the claim application holding that there is discrepancy in the time mentioned in the ticket and the train timing of Train No.58834. The Tribunal therefore, held that the deceased was not a bonafide passenger and accordingly dismissed the claim application for compensation.

9. The short point for consideration is, whether the deceased was a boanfide passenger and had died in an untoward incident?

10. It is not in dispute that the body of the deceased was found at Patansavangi Railway Station which is one of the stations between Nagpur and Saoner. The material on record also reveals that the Guard of the train No. 58834 has stated in his statement that on 19/05/2015 Train No.58834 Chhindwara-Nagpur Passenger Train had arrived at Patansawangi Railway Station at 20:19 hrs. and departed at 20:21 hrs. He had heard one of the passengers shouting and asking to stop the train. He also told Loco-pilot to stop the train. When he alighted from the train and inquired about the incident, he learnt that one person had fallen from the train while trying to board the running train. The said person expired on the spot due to the injuries sustained.

11. It is pertinent to note that the appellants had stated the number of the train as 58834. They had tried to rectify the error by stating that the deceased was in fact travelling by train No. 58833. The Tribunal has rejected the amendment application making cursory observations that the amendment application has no merits. It has to be borne in mind that usually the family members of the deceased do not have personal knowledge of the incident. Very often, they base their claim on the information received from other sources and the investigation report of the Railway Authorities. In the instant case, the report of the Railway Authority indicates that the deceased had fallen from the train No. 58833 while trying to board the train. Hence, the mere mentioning of the wrong number of the train would not be

a ground to reject the claim, when the evidence on record also proves that a ticket of Train No. 58833 was recovered from the body of the deceased. The evidence on record proves that the deceased was a bonafide passenger and he fell down from train No.58833. In the light of the principles laid down by the Apex Court in *Union of India..vs..Rinadevi*, reported in **(2019)3 SCC 572** , the injuries sustained while boarding the train is an ‘untoward incident’ and not a ‘self inflicted injury’.

12. In light of the aforestated facts and also considering the object of the Act, I am of the considered view that the Tribunal was not justified in dismissing the claim application on the ground that the timing of the train did not tally with the time mentioned on the train ticket and thus depriving the claimants from the compensation under the provisions of the Act, which is a beneficial piece of legislation.

13. 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 application 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 the compensation amount in account of the appellant/Claimant Nos.1 and 2 in equal shares, within six weeks.

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

(SMT. ANUJA PRABHUDESSAI, J)

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