

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

FIRST APPEAL NO.1299 OF 2018

APPELLANTS : 1. Ravindra S/o Nathhuji Vani (Metkar)
(Orig. Claimants on R.A.) Age about 48 years, Occ. Labour,
2. Lata w/o Ravindra Vani (Metkar),
Aged about 45 years, Occ. Labour
R/o 816, Marathe Galli, Dharangaon,
Dist. Jalgaon (Mah)

//VERSUS//

RESPONDENT : Union of India,
(Orig. Respondent On through the General Manager,
R.A.) Central Railway, C.S.T. Mumbai.

Shri R.G. Bagul, Advocate for the Appellants.
Shri P.S. Khubalkar, Advocate for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 11th FEBRUARY, 2022.

ORAL JUDGMENT

01] This is an appeal under Section 23 of the Railway Claims Tribunal Act, 1987, assailing the judgment dated 01.03.2018, whereby learned Member, Railway Claims Tribunal, Nagpur Bench, Nagpur (hereinafter referred to as the "Tribunal") dismissed the Claim Petition No.OA (Ilu)/NGP/116/2016 filed by the Appellants.

02] The brief facts necessary to decide this appeal are as under:

The Appellants, who shall be hereinafter referred as the Claimants, had filed a claim petition before the Tribunal alleging that deceased Paresh Ravindra Vani had undertaken a train journey from Dharangaon to Jalgaon. He fell down from a running train at K.M. No.277/6-7 Railway Station, Dharangaon. The Claimants stated that the deceased was a *bona fide* passenger and that his death was caused in an untoward incident. The Claimants, therefore, claimed statutory compensation by filing Claim Petition under Section 124-A of the Railways Act, 1989 (for short “the said Act”).

03] In response, the Respondent denied that the deceased was a *bona fide* passenger. The Respondent also denied that the death of the deceased was caused in an untoward incident. The Respondent, therefore, denied its liability to pay any compensation to the Claimants.

04] The Tribunal, after considering the evidence adduced by the parties, held that the deceased was not a *bona fide* passenger. The Tribunal also recorded a finding that the Claimants have failed to prove that the death of the deceased Paresh Ravindra Vani was caused in an untoward incident. The Tribunal, therefore, dismissed the Claim Petition filed by the Claimants.

05] Shri R.G. Bagul, learned counsel for the Claimants submits that the police record clearly indicates that the death of the deceased Paresh

Ravindra Vani was caused due to fall from a running train. He further submits that there was no report of suicidal death or accidental death. He contends that the findings recorded by the Tribunal are not based on the evidence on record, but a product of surmises conjectures. He further submits that the fact that no ticket was recovered is not *per se* a ground for disbelieving the case of the Claimants, moreso, when the Respondent has not adduced any evidence to prove that the deceased was an unauthorized passenger.

06] *Per contra*, Shri P.S. Khubalkar, learned counsel for the Respondent submits that there is absolutely no evidence to prove that the deceased was travelling by train from Dharangaon to Jalgaon. He further submits that the Claimants have failed to prove that the deceased was a *bona fide* passenger and further that he had fallen from a running train. He further submits that the evidence on record reveals that the deceased was residing at a distance of 1 k.m. from the place where the body was traced. This fact gives rise to an inference that the deceased was hit by the train while he was walking along the track or trying to cross the railway track. He, therefore, contends that the findings recorded by the Tribunal are based on evidence on record and cannot be interfered with.

07] I have perused the records and considered the submissions advanced by learned counsel for the respective parties. The short point for

consideration is whether the deceased was a *bona fide* passenger and whether his death was caused in an untoward incident.

08] It may be mentioned that the Claimant No.2, mother of the deceased, had filed her affidavit-in-evidence, wherein she has deposed that on 28.04.2014 her son was travelling from Dharangaon to Jalgaon for his personal work. She has stated that he had purchased a valid ticket for train journey from Dharangaon to Jalgaon. She claims that there was heavy rush in the general bogie and that when the train reached near K.M. No.277/6-7 Railway Station, Dharangaon, her son fell down because of the jerk and that he died on the spot. This witness had admitted in her cross-objection that she had not witnessed the accident.

09] There is no direct evidence to prove that the death of the deceased was caused in an untoward incident. Nevertheless, the evidence of Rajiv Kumar vis-a-vis the spot panchanama indicate that the body of the deceased was found on the railway track K.M. No.277/6-7 Railway Station, Dharangaon. The Railway Police had submitted report to the Magistrate stating that the deceased had fallen from a running train and had died on the spot due to the injuries sustained in the accident. Primary report submitted by the Railway Officer also indicates that the deceased had fallen down from a running train. The inquest panchanama was conducted and the body was referred to post mortem. The doctor had opined that the death of

the deceased was due to massive haemorrhag, crush injuries even right side of skull and even right leg and knee due to impact of hard and blunt object due to railway accident.

10] It is to be noted that RW-1 had admitted in his cross-examination that he had not received any report or information that the deceased had committed suicide or that he was hit by train while he was trying to cross the railway track. In the absence of any such evidence, the Tribunal was not justified in presuming that the deceased was strolling near the railway track and/or that he was hit by train while he was trying to cross the railway track. The fact that the deceased was residing in the close vicinity of the place wherein his body was found is not also a ground to presume that the death was accidental or suicidal.

11] The evidence on record clearly indicates that the deceased was travelling from Dharangaon to Jalgaon. The fact that his body was found on the tracks leads to an inference that he had fallen from the train. This is further supported by the police records. The mother of the deceased has deposed that the deceased was travelling on a valid train ticket. The Respondent has not adduced any rebuttal evidence to prove that the deceased was an unauthorised passenger. Under the circumstances, the finding of the Tribunal that the deceased was not a *bona fide* passenger

cannot be sustained. Consequently, the Claimants, who are the dependants on the deceased, cannot be deprived of the compensation under Section 124-A of the said Act.

12] Under the circumstances and in view of the discussion (supra), the impugned judgment cannot be sustained. Hence, the Appeal is allowed. The impugned judgment is quashed and set aside. It is held that the Claimants are entitled for compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only).

13] The Claimants shall furnish the bank account details to the Respondent within a period of two weeks. The Respondent to deposit the compensation in the bank account of the Claimants in equal proportion within two months thereafter.

14] The Appeal stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

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