

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

FIRST APPEAL NO.531 OF 2018

APPELLANTS : 1. Sabina wd/o Qadir Ahmed Shaikh,
(Orig. Applicants on R.A.) Aged about 38 years, Occ. : House-Hold,
2. Sohil s/o Qadir Ahmed Shaikh,
Aged about 22 years, Occ. : Education,
3. Aliya d/o Qadir Ahmed Shaikh,
Aged about 16 years, Occ. : Education,
4. Abdul Kareem s/o Zumman Sheikh,
Aged about 66 years, Occ. : House-Hold,
5. Kubara Begum w/o Abdul Kareem
Aged about 63 years, Occ. : House-Hold,

Appellant No.3 is minor through their natural guardian Appellant No.1 mother.

All R/o : 1372, Sindhi Colony, Near Buddha Putla, Buddha Nagar, Nagpur, Tah. & Distt. Nagpur.

//VERSUS//

RESPONDENT : Union of India,
(Orig. Non-Applicant On Through it's General Manager,
R.A.) Central Railway, CST Mumbai.

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

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 2nd FEBRUARY, 2022.

ORAL JUDGMENT

01] This is an appeal under Section 23 of the Railway Claims

Tribunal Act, 1989, assailing the judgment dated 13.06.2017, whereby learned Member, Railway Claims Tribunal, Nagpur Bench, Nagpur (hereinafter referred to as the “Tribunal”) dismissed the Claim Petition No.OA (IIu)/NGP/2014/0103 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 Claimant, had filed a claim petition before the Tribunal alleging that Qadir Ahmed Shaikh, who was travelling from Katol by Train No.12296 fell while boarding the train and died on the spot. The Claimants claimed that the deceased was a *bona fide* passenger and that he had expired as a result of the injuries sustained in an untoward incident. The Claimants, therefore, filed a claim petition claiming total compensation of Rs.4,00,000/-.

03] The Respondent contested the claim mainly on the ground that the deceased was not a *bona fide* passenger and that he had not expired as a result of the injuries sustained in an untoward incident.

04] The Tribunal, after considering the evidence adduced by the parties, held that the deceased was a *bona fide* passenger. The Tribunal dismissed the claim petition mainly on the ground that the deceased had

fallen from the train while making unsuccessful attempt in boarding a running train. The Tribunal held that this is not a case of accidental fall from a train during the course of travel and that the conduct of the deceased in trying to board a running train amounts to an act of criminal negligence.

05] Shri R.G. Bagul, learned counsel for the Appellants has relied upon the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rina Devi reported in AIR 2018 SC 2362, wherein the Hon'ble Supreme Court has held that merely because a person suffered an injury sustained in the course of boarding or deboarding a train cannot be categorised as a self-inflicted injury, unless the facts and circumstances show that his act was totally imprudent, irrational, callous and unmindful of the consequences.

06] In the instant case, it is not in dispute that the deceased fell down while trying to board the train. There is no evidence to indicate that the act of the deceased was imprudent, irrational, callus and unmindful consequences. Under the circumstances, the mere fact that the deceased had fallen from the train while boarding the train cannot be considered as a self-inflicted injury. In the light of the principle laid down by the Hon'ble Supreme Court in the case of Rina Devi (supra), the impugned judgment cannot be sustained. It may be mentioned that during the pendency of the claim petition *vide* Notification dated 22.12.2016, which has come into force

w.e.f 01.01.2017, the compensation has been enhanced to Rs.8,00,000/-. Hence, the Claimants are entitled for compensation as per the Notification dated 22.12.2016.

07] Under the circumstances, the Appeal is allowed. The impugned judgment is set aside. It is held that the Appellants/Claimants are entitled for compensation of Rs.8,00,000/- (Rupees Eight Lakhs). The Appellant No.1, being the widow, would be entitled for 30% of the compensation, the Appellant Nos.2 & 3, being the children, would be entitled for 25% of the compensation each, and the Appellant Nos.4 & 5, being the parents, are entitled for 10% of the compensation each.

08] The Appellants shall furnish their individual bank account details within a period of two weeks. The Respondent thereafter to deposit the amount in their respective bank account, as per the share stated above within a period of eight weeks.

09] The Appeal stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)