



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1917 OF 2018

1. Nazembegum Wd/o Mir Azar Ali
Age- 41 years, Occu- Nil,
R/o Near Dyaneshwar Nagar, Lokmanya
Nagar, Parbhani, Tq & Dist. Parbhani.
2. Syed Mir Atherali S/o Mir Azar Ali
Age- 25 years, Oc- Nil,
R/o as above.
3. Syed Mir Anwarali S/o Mir Azar Ali
Age- 24 years, Occ- Nil
R/o as above.
4. Syed Mir Arshadali S/o Mir Azar Ali
Age- 23 years, Occ- Nil
R/o As Above
5. Syed Mir Asadali S/o Mir Azhar Ali
Age- 19 years, Occ- Nil
R/o. As Above
6. Mir Ekbalaali S/o Mir Talabali
Age- 75 years, Occ- Nil
R/o. As Above

...APPELLANTS

VERSUS

Union of India
Through General Manager
South Central Railways,
Secundrabad (Andhra Pradesh).

...RESPONDENT

Mr. P.S. Agrawal, Advocate for appellants
Mr. M.N. Navandar, Advocate for respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th JULY, 2024

ORAL JUDGMENT:

1. This appeal filed under section 23 of the Railway Claims Tribunal Act, 1987, takes exception to the judgment and order passed by Railway Claims Tribunal, Nagpur in Case No. OA(Ilu)/NGP/2016/0016, thereby dismissing claim filed by the appellants/claimants.

2. Appellants/claimants preferred claim application contending that on 04.05.2015 deceased Mir Azhar Ali son of Mir Ekabalali after purchasing valid ordinary class railway ticket bearing No. 44862262, for two adult person, boarded in unknown train for going Parbhani to Nanded. But while traveling deceased fell down from the running train due to sudden jerk of the train on platform No. 1 of Parbhani railway station and came under the wheels of the train and died instantaneously. Claim of Rs. 4,00,000/- is therefore raised by the claimants.

3. The Tribunal after recording the evidence and going through the material on record has rejected the claim holding that if at all the deceased falls from the train he cannot come

under the wheels and therefore death of the deceased has not occurred in an untoward incident.

4. Heard learned advocate for claimants and learned advocate for respondent at length. Perused the record.

5. Record indicates that deceased was carrying valid railway ticket. Inquest panchnama indicates that body of the deceased was cut into two pieces. Dead body of the deceased was found away from the platform on the railway track. If at all deceased had fallen from the running train, he could not have come under the wheels of the train. He was fallen away from the train and track.

6. Learned advocate for the respondent has rightly relied on the decision of learned Single Judge of this Court in First Appeal No. 1169 of 2017, which is rendered in similar facts.

This Court has observed:

"29. The most material piece of evidence is the postmortem report and inquest panchanama. It shows that skull of the deceased was totally smashed and his brain came out of the skull vault. After a person falls from the train, he may die due to head injury, but he will not come under the train. The bogey is much

broader than the track. The wheels of the train and rail track are much inside the outer edge of bogey. His head may dash on hard pole or hard floor but will not be smashed by mere fall. His head could have been smashed under the same train only if he would have accidental death while boarding the train and he would have gone under the track through the gap between the train and the platform. This is nobody's case. The condition of head and brain of the deceased indicates that he was run over by a train and this is not possible if he has boarded the train at Parbhani Station and after covering some distance, he fell down from running train. Pertinently, the deceased had not sustained injuries on any other part of the body. It indicates only possibility that the deceased died due to running over a train over his head and thereby his head was completely smashed and his brain came out. The claimant has no knowledge about the accident and the story developed by the claimants is improbable in the light of the nature of injury sustained by the deceased. When the deceased was run over by the train, it rules out possibility that he had boarded the said train and he fell down from the said train. Therefore, I find that this strong piece of evidence rules out possibility of deceased being a passenger in the train and he fell from the running train. In the circumstances, he was not bona fide passenger and legal heirs are not entitled for compensation."

These observations are applicable to the facts of the present case and therefore the Tribunal is justified in rejecting the claim filed by claimants.

7. The Tribunal has assigned proper reasons while rejecting claim of claimants. No case is made out by claimants to

interfere in the finding of facts recorded by the Tribunal on the basis of material on record. First Appeal being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]