



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**FIRST APPEAL NO.156 OF 2018**

1. Smt. Satyabhamabai wd/o Rajesh Rathod,  
Age: 28 Years, Occu: Household,  
R/o Marwali Tanda, Tq. Naigaon (Kh),  
District: Nanded
2. Supriya D/o Rajesh Rathod,  
Age: 07 Years, Occu: Education,  
R/o As above.
3. Samiksha D/o Rajesh Rathod,  
Age: 4 yrs, Occu: Education,  
R/o As above.
4. Govind s/o Laxman Rathod  
(Died on 14.05.2017)
5. Smt. Shevantabai w/o Govind Rathod,  
Age: 55 Years, Occu: Household,  
As above.

... Appellants  
(Orig. Claimants)

Versus

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

... Respondent

...  
Mr. P. S. Agrawal, Advocate for Appellants  
Mr. Manish N. Navandar, Advocate for Respondent  
...

**CORAM : NITIN B. SURYAWANSHI, J.**

**RESERVED ON : 16<sup>th</sup> JULY, 2024  
PRONOUNCED ON : 26<sup>th</sup> JULY, 2024**

**ORDER :**

1. This appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, takes exception to the judgment and order dated 13/07/2017, passed by the Railway Claims Tribunal, Nagpur, in case No.OA(Ilu)/NGP/2013/0302, filed by appellants/claimants.

2. Claimants filed claim application before the Tribunal contending that on 04/05/2013 deceased Rajesh Govind Rathod after purchasing valid journey ticket boarded in Mumbai-Nagpur Nandigram Express Train No.11401 from Kalyan in order to go to Nanded. When train reached near Potul railway station between KM No.91/4-3, deceased stood near the door of compartment of train. At that time, due to sudden jerk to the train, deceased fell down from running train and came under the wheels of the train and died on the spot in the midnight of 04/05/2013 and 05/05/2013. Reference was also made in claim application regarding loss of journey ticket. Claimants, therefore, claimed compensation of Rs.4,00,000/- for death of Rajesh in railway accident.

3. Respondent/Railways opposed the claim by filing written statement contending that no such incident as alleged by claimants causing death of deceased within the meaning of Section 123(c) read with Section 124-A of the Railways Act, has taken place. Deceased was not a bonafide passenger of any train. As such, claim application is not maintainable. Railways denied all claims made in claim application and prayed for dismissal of the same. Tribunal after recording evidence and hearing the parties dismissed the claim application.

4. Heard learned advocate for appellants and learned advocate for respondent.

5. Learned advocate for appellants assailed the judgment

and order of Tribunal contending that Tribunal has erred in recording finding that deceased has not died in an untoward incident and that he was not bonafide passenger. He submits that there is sufficient material on record to show that deceased had fallen from running train. Tribunal failed to appreciate the material on record in proper perspective. Dismissal of claim by Tribunal is contrary to the letter and spirit of beneficial legislation. In support of his submissions, he relied on ***Union of India Vs. Rina Devi [(2019) 3 SCC 5721]***.

6. Per contra, learned advocate for respondent/Railways supported the impugned judgment and order, he submits that Tribunal has properly appreciated the evidence on record and has rightly come to conclusion that deceased had not died in an untoward incident within the meaning of Section 123(c). Since no valid ticket was found with the dead body, deceased cannot be said to be a bonafide passenger. In support of his submissions he relied on the decision of learned Single Judge of this Court in ***First Appeal No.2744/2018 (Govind s/o Dattatraya Joshi and Another Vs. Union of India)***.

7. Heard learned advocate for appellants and learned advocate for respondent at length. Perused the record.

8. In support of the claim, claimant Govind s/o Laxman Rathod, father of deceased, has filed evidence affidavit. He reiterated the contentions raised in claim application. It is specifically averred in his affidavit that on 04/05/2013 Rajesh along

with his colleague Sudhir Somsingh Rathod, went to Kalyan railway station, purchased railway ticket for journey from Kalyan to Nanded in presence of his colleague Sudhir and kept it in his pocket.

9. It is a matter of record that deceased has died in an accident on 05/05/2013. On receipt of the information about accidental death (for short 'A.D.') of deceased, A.D. No.19/2013 is registered and spot panchanama and inquest panchanama were conducted by Railway Police Force (for short 'R.P.F.'). It is recorded in spot panchanama that dead body was found near Potul railway station KM 91/04-03. In the A.D. report it is stated that deceased had fallen from some running train and suffered serious injuries and died on the spot due to said injuries. Relatives of deceased were intimated about accidental death on 05/05/2013. In A.D. inquiry, statement of Sudhir Somsingh Rathod, colleague of deceased, was recorded on 01/06/2013, wherein he has stated that on 04/05/2013, he met Rajesh outside Kalyan railway station. They both drank water, thereafter Rajesh told him that he is going to his village because there is vacation to the school. They both reached at ticket booking counter of Kalyan Railway Station, where Rajesh purchased ticket for travelling from Kalyan to Nanded in his presence and kept the said ticket in his pocket. Thereafter, he received information from his relatives that Rajesh died on 05/05/2013 due to falling from running train.

10. Assistant Police Inspector of R.P.F. Aurangabad Police

Station submitted A.D. summary report to the Taluka Magistrate, Tahsil Office, Aurangabad, stating that deceased was serving as teacher at Z.P. School and as he was having holiday, on 04/05/2013 his relatives obtained his ticket of Nandigram Express for Nanded. In said journey he had fallen down and accidental death is caused. In postmortem report opinion as to the cause of death is mentioned as *'shock and haemorrhage due to multiple injuries'*.

Report dated 13/02/2015 in respect of claim on account of death of deceased, was forwarded by the Divisional Security Commissioner, Nanded. In the said report, under the caption *'Conclusion'* it is stated that, *"From investigation it is clear that R.P.F. Aurangabad has expressed possibility of deceased dying due to falling from some running train. Claimants have informed that deceased has died by falling from Train No.11401. Driver and Guard of Train No.11401 have stated in their statements that during their duty hours there was neither any jerk in the train because of which anyone could fall from the train nor there was pulling of chain at anywhere in the train. Therefore, it is doubtful that deceased died due to falling from Train No.11401. Hence, the deceased himself is responsible for his own death and under Section 124 (A) and (C) of Railway Rules, Railway Administration is not liable to pay any claim amount"*.

11. All the aforestated documents clearly indicate that on 05/05/2013 deceased Rajesh died due to falling from a running

train, which is an untoward incident. Tribunal has misread and misconstrued the documents on record and has erroneously recorded a finding that deceased has not died in an untoward incident.

12. Finding of the Tribunal that deceased was not bonafide passenger as no valid railway ticket was found with him, is also unsustainable in the facts of the present case. After the accident, statement of Sudhir Somsingh Rathod, colleague of deceased, is recorded wherein he has categorically stated that he met Rajesh outside Kalyan Railway Station and in his presence Rajesh purchased ticket for travelling from Kalyan to Nanded and kept the said ticket in his pocket. This aspect is also stated on affidavit by claimants. There is no reason to disbelieve the statement of Sudhir. Hence, claimants have discharged their initial burden to prove that deceased was a bonafide passenger.

13. In ***Union of India Vs. Bimala wd/o Pintho Tudu and Others, (2012(3) Mh.L.J. 883)***, it is held,

*“Fact that deceased was not detected as passenger travelling without ticket, would give rise to an inference that he was travelling with valid ticket. Unless the negative is proved or there is evidence, may be, circumstantial in nature, that the deceased was not holding valid ticket, it would be desirable, to presume that deceased was authorised passenger.”*

14. In ***Union of India Vs. Nandabai w/o. Sheshrao Dangat and Others, (2015(6) Mh.L.J. 295)***, this Court at Nagpur

Bench has observed,

*“Merely because railway ticket was not recovered from dead body, it cannot be said that deceased was traveling without ticket. Possibility that ticket may have been lost during course of untoward incident cannot be ruled out and, therefore, presumption need to be drawn that the deceased was a bona fide passenger.”*

15. In present case, circumstantial evidence and material on record is sufficient to show that deceased had fallen from running train and died in an accident. The adverse findings recorded by the Tribunal, therefore, are unsustainable in law and facts of present case.

16. While dismissing the claim, Tribunal has lost sight of authoritative pronouncement of the Apex Court in ***Union of India Vs. Prabhakaran Vijaya Kumar and Others [MANU/SC/7608/2008]***, wherein it is held,

*“11. .... Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Hence in our opinion the latter of the above mentioned two interpretations i.e. the one which advances the object of the statute and serves its purpose should be preferred....*

*12. It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of the person for whom the Act was made should be preferred. In other words, beneficial or welfare statutes should be given a liberal and not literal or strict interpretation....”*

17. In the case in hand, interpretation that deceased was a bonafide passenger and he died in an untoward incident, would be the one which advances the object of the statute. In the light of above ruling, adverse finding recorded by the Tribunal cannot be sustained.

18. Learned advocate for Railways has relied on decision of learned Single Judge in **Govind s/o Dattatraya Joshi** (supra), wherein it is held,

*“13. Considering the facts of this case in the background mentioned above, this Court finds that the applicants could not prove untoward incident or accident. The applicants could have examined any of the friends travelling along with the deceased, when it is specific case that one of the friends took the deceased to the hospital. No any other passenger is examined by the claimants. From the DRM’s enquiry, it is seen that no any untoward incident or accident was reported by the Loco-Pilot or any other passenger. Mr. Jaganmohan who was examined by the Railway is not even cross-examined by the applicants. This clearly shows that the story of accidental fall is a cooked up story. Though it is tried to be submitted that in spot panchanama, it is shown that the body was found near Railway track that itself would not be sufficient to establish that the deceased died in an accident or in untoward incident, as given in Section 123 of the Railways Act to seek compensation. It was imperative for the applicant to show that any accident or untoward incident had taken place. The applicants have miserably failed to prove this basic fact. The learned Member of the Tribunal has rightly considered the application by appreciating the evidence. No fault can be found with the reasoning given*

*or findings recorded by the learned Member. There is no merit in the appeal and the same deserves to be dismissed. Thus, the appeal is dismissed with no order as to costs."*

19. In the case in hand, there is sufficient material on record showing that deceased was a bonafide passenger and he died in an untoward incident occurred on 05/05/2013, by falling from a running train. Therefore, the above ruling is of no help to respondent/ Railways.

20. In the result, following order:-

**O R D E R**

- (I) First appeal is allowed.
- (II) Impugned order dated 13/07/2017, passed by the Railway Claims Tribunal, Nagpur, in case No.OA(IIu)/NGP/2013/0302, is hereby quashed and set aside.
- (III) Claim application No.OA(IIu)/NGP/2013/0302, filed by claimants is allowed.
- (IV) Railways/respondent to pay the interest on the compensation amount at the rate of 6.5 % per annum from the date of filing of claim application till it's realisation.

**(NITIN B. SURYAWANSHI, J.)**