



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

FIRST APPEAL NO. 1458 OF 2019

Ramprasad S/o. Laxman Raikwar,
Aged about 34 years, Occ.– Nil,
R/o. 133 Baheriya Kalan,
Tah. Dori, Dist. Sagar (M.P).

.... **APPELLANT**

// VERSUS //

Union of India,
Through the General Manager,
Central Railway, (CST) Mumbai.

.... **RESPONDENT**

Mr. Kunal P. Mirache, Advocate for Appellant.
Ms. Neerja Chaubey, Advocate for Respondent.

CORAM : SANJAY A. DESHMUKH, J.
DATE : 13th DECEMBER, 2024.

ORAL JUDGMENT.

1. **Admit.** Heard finally with the consent of the learned Advocates for the parties.
2. This appeal is preferred against the Judgment dated 08.01.2019 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No. OA (IIu)/NGP/245/2017, thereby claim of the applicant/appellant filed under Section 16 of the Railway Claims Tribunal Act, 1987 for grant of compensation was dismissed.

3. Brief facts of the applicant's case are as under :

(i) The applicant was 30 years old and working as a labourer at Mahalaxmi Clothes Mills, Vadodara (Gujrat). On 29.09.2015, the applicant was travelling from Itarsi to Nagpur by the unknown train. When the train reached near the Metapanjra Railway Station, Electric Pole No.989/27, the applicant was coming from general coach towards toilet, at that time, he fell down from the running train due to jerk and the crowd of the passengers. He sustained injuries to his right leg, which had to be amputated below the knee. It is contended that he had a valid journey ticket of the train No.6847851. He was admitted in the hospital, medically examined and team of the doctors has assessed his disability at 60%. Therefore, he prayed for compensation for injury sustained to him.

(ii) The respondent strongly opposed the claim and denied the material contentions raised in the claim. It is contended that the applicant has filed a false case. He was not holding a valid journey ticket for any train. The journey ticket, which he submitted, was false and bogus. The said journey ticket of the train produced too late which creates doubt as to its truthfulness. The respondent further denies that the applicant was a *bona fide* passenger and that no untoward incident occurred within the premises of the Railway. The respondent prayed to dismiss the application.

4. The learned Railway Tribunal cast following issues :

- (1) *Whether the applicant was a bonafide passenger of the alleged train on the relevant day, with valid journey ticket?*
- (2) *Whether the applicant proves that on the relevant day he sustained injuries in the train, in an untoward incident in terms of Section 123(c) of the Railways Act, 1989?*

5. The learned Railway Tribunal held that the applicant failed to prove that he sustained permanent disability, as a result of an untoward incident that occurred within the premises of Railway. It was further found that he did not possess a valid journey ticket for the train and, therefore, he was not a *bona fide* passenger. Lastly, it was held that the applicant is not entitled for compensation.

6. Perused the impugned judgment along with record and proceedings.

7. Following points emerged for consideration as follows :

- (i) *Was it proved by the appellant that he sustained permanent disability in an untoward incident which took place in the premises of Railway?*
- (ii) *Was it proved by the appellant that he was a bona fide passenger holding a valid journey ticket of the train?*
- (iii) *Is the impugned judgment illegal and requires interference?*

8. The learned Advocate Mr. K. P. Mirache, for the appellant submitted that a valid journey ticket of the train was found with the appellant, who was found in an injured condition, within the Railway premises. An untoward incident, along with a valid journey ticket of the train, has been proved and, therefore, as per Schedule-III Sub-clause (20) for amputation below the knee, the appellant is entitled for Rs.4,00,000/- as compensation. He pointed out the journey ticket of the train at Exhibit A-1, the DRM Report at Exhibit A-2, the Spot Panchnama at Exhibit A-3, the Discharge Card at Exhibit A-5 and the Disability Certificate at Exhibit A-6 and submitted that the learned Railway Tribunal failed to appreciate the evidence presented by appellant in its proper perspective. The impugned judgment of the learned Railway Tribunal is illegal and incorrect and interference is warranted in it. He relied upon the precedential law of ***Smt. Rekha Dilip Sapkale Vs. Union of India***, reported in ***2021(3) AIR BomR. 327***, wherein it was held that, “merely because no ticket was recovered from spot of incident nor from person of deceased during inquest panchnama and it does not *ipso facto* mean that he was ticket-less”. The learned Advocate for the appellant lastly prayed to allow the appeal by setting aside the impugned judgment and to grant application for compensation.

9. The learned Advocate Ms. Neerja Chaubey for the respondent, strongly opposed the appeal and submitted that the applicant did not state the name of the train by which, he was travelling. The applicant produced the journey ticket of the train, after one month. The applicant was not a *bona fide* passenger, as rightly held by the learned Railway Tribunal, after perusal of the evidence. The evidence of Raju Ingale, Deputy Station Manager (Commercial), Nagpur (RW-1) is natural, probable and acceptable. On the contrary, the evidence of applicant is not reliable. The learned Railway Tribunal has rightly dismissed the application for compensation and no interference is warranted in the impugned judgment. Therefore, the learned Advocate for the respondent, lastly prayed to dismiss the appeal.

10. The learned Advocate for the respondent pointed out two important facts of the case. She emphasizes the journey ticket at Exhibit A-1, which was not of the appellant. The learned Advocate for the respondent further pointed out para 11 of the impugned judgment, in which, the learned Railway Tribunal rightly observed that the journey ticket was produced too late.

11. In the cross examination of appellant, he admitted that he did not know the number and name of the train, by which he was

travelling. Similarly, the applicant's application does not specify, which train he was travelling on the relevant time.

12. The learned Advocate for the respondent also pointed out the journey ticket Exhibit A-1. As per ticket, in the third row before the letters JCO, it is mentioned that AD-1 and CH-1 i.e. one adult and one child. However, the appellant has not stated in his application that he was travelling with a child. The learned Advocate for the respondent further pointed out that the said journey ticket was issued at about 05.00 hours. At the bottom of said journey ticket, it is mentioned that it was issued on 29/09/2015 at 05.00 hours. The alleged incident was recorded by the Railway Authority in its premises, at around 14.40 hours i.e. 2.40 pm. If such person had been lying injured in the premises of Railway, for such a long period, it should have been noticed by the passengers of train, loco-pilot or any other person. However, it was not noted. There is a ticket verification report at page A-42. As per the verification report of the journey ticket, in which it is also stated that one adult and one child travelled by that ticket and it was issued at 05.00 am on 29.09.2015. This also disproved that alleged journey ticket of the train was belonging to the claimant/appellant.

13. Thus, there are three doubtful, serious and basic facts regarding holding of a valid journey ticket by the appellant, as discussed above. Therefore, it was rightly held by the learned Railway Tribunal that the applicant was not a *bona fide* passenger holding a valid journey ticket of the train. Merely because the appellant sustained 60% disability, his claim cannot be allowed. As defined in Sub-Section 29 of Section 2 of the Railways Act, 1989, the appellant did not possess a valid journey ticket or pass of the train. It means that he was not a *bona fide* passenger. One of the legal requisites for granting compensation that claimant must be a *bona fide* passenger, which is not proved by the applicant. The reasons and findings of the learned Railway Tribunal, are legal and correct. No any interference is warranted in judgment. For the reasons discussed above, the argument of the learned Advocate for the appellant is not acceptable. The appeal deserves to be dismissed. The appeal is **dismissed**. No costs.

(SANJAY A. DESHMUKH, J.)