

IN THE HIGH COURT OF JHARKHAND, RANCHI

Misc. Appeal No. 72 of 2024

- 1.Smt. Korana Devi, wife of late Dipti Mandal aged about 42 years
- 2.Ms. Ujit Kumari, d/o late Dipti Mandal aged about 16 years
- 3.Mr. Govardhan Kumar, son of late Dipti Mandal aged about 17 years

Appellants 2 and 3 being minor are being represented through their natural guardian, namely, Smt. Korana Devi (appellant no.1)

All residents of Village /Mohalla Holding No.7, Ward No.4, Kumarsal, PO Sahara PS Taljhari, District Dumka, Jharkhand **Appellant(s)**

-- **Versus** --

Union of India, through General Manager, Eastern Railway, Kolkata PO and PS Garden Reach District Kolkata (West Bengal)**Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant(s)	:-	Mr. Chaitali C. Sinha, Advocate
For the Union of India (Eastern Railway)	:-	Mrs. Nitu Sinha, Advocate

9/29.01.2025 The Trial Court Record has been received.

2. Heard the learned counsel appearing on behalf of the appellants as well as the learned counsel appearing on behalf of the Union of India/Eastern Railway.

3. This petition has been preferred against the judgment dated 28.7.2023 passed by the learned Railway Claims Tribunal, Ranchi Bench in Case No.OA(IIU) RNC/103/2019 (Checklist No.2907190016) in an application under Section 16 of the Railway Claims Tribunal Act, 1987, whereby the learned Tribunal has been pleased to dismiss the claim application of the appellants seeking compensation amounting to Rs.8 lakhs along with interest from the date of filing of the application i.e. 12.07.2019 on account of the death of the

deceased.

4. Learned counsel for the appellants submits that the learned Tribunal has erroneously come to the conclusion that in light of the Section 124-A of the Railways (Amendment) Act, 1994 that the appellants herein are not entitled for compensation. She submits that the deceased has left home in the morning of 04.02.2018 to go to his Sasural and was travelling from Jasidih Railway Station to Vidyasagar Railway Station but when he did not reach his Sasural then the family members started searching for him and then they came to know about the said untoward incident and identified the body of the deceased and came to know that he died as a result of accidental fall from the train. In this regard a Fardbeyan was instituted by the brother of the deceased Prabhu Mandal on 04.02.2018 before the Railway Police at Madhupur. Pursuant to that Madhupur GRPS has registered a U.D Case No.05/2018 on 04.02.2018. She submits that the police has investigated the case and prepared the inquest in which on the basis of witnesses held that the deceased died due to accidental fall from the running train. She submits that the deceased was a *bonafide* passenger of Train No.63568 – Jhajha – Asansol Memu Passenger Train and he had purchased valid tickets to travel from Jasidih to Vidyasagar Railway Station. However, the same was lost during the said untoward incident. She submits that accidentally the deceased has fell down from the running train between electric pole k.m. 287/02 to 287/24 near Joramow Halt and succumbed to his injuries. She further submits that this fact has been corroborated in light of the police report in Madhupur P.S. Case No.04/18 dated 04.02.2018. She submits that the case of the deceased and all the appellants will come under Section 16 of the Railway Claims Tribunal Act which defines 'untoward incident'. She then submits that The D.R.M. Report is there in the trial court record wherein without rejecting the police report on presumption it is mentioned that the death of the deceased was not an untoward incident as the brother of the deceased had said that the deceased was suffering from mental illness whereas the Fardbeyan of the said

incident was reported by the brother of the deceased namely Prabhu Mondol. She submits that the learned court without appreciating all these facts, in its incorrect perspective has wrongly held that the memo the time is not legible and despite of that the learned Tribunal has held that the timing was not tallying Jhajha – Asansol Memu Passenger Train. She submits that however in the inquest report the timing is at 3.30 whereas, the said train passes at 2.45. She submits that in view of the finding of the learned court is not correct. On this ground, she submits that the learned court has erroneously rejected the claim application of the appellants.

5. Per contra, Mrs. Nitu Sinha, the learned counsel appearing on behalf of the sole respondent/ Railways submits that there is no illegality in the impugned order and the learned court has discussed the threadbare situation and has passed the said judgment and in view of that the appeal is fit to be dismissed. She draws the attention of the Court to the memo of recovery of body and submits that it is not legible but the timing is there at 10.15 a.m. She submits that if such a situation is there and the said train passes at 2.45 and the memo is of morning and in view of that the learned court has rightly interpreted the same. She submits that nature of the injury is also not of falling and that has been also considered. She submits that in view of that, the learned court has rightly passed the said order.

6. She relied in the case of ***Meenadevi Jaiprakash Gupta and Others v. Union of India*** reported in ***2022(4) AIR Bom.R 730***.

7. In view of the above submission of the learned counsels appearing on behalf of the parties, the Court has gone through the trial court records as well as the judgment /award of the learned Tribunal.

8. It is an admitted position that the deceased namely Dipti Mandal has died on 04.02.2018 and that is supported in view of the police report arising out of Madhupur P.S. Case No.04/18. Thus, death and the accident is proved. The Court has looked into the memo of recovery of body which is at page no.17 of

the trial court records and tried to find out whether the timing is there or not and the Court finds that the timing is not clear in the said document, whereas in the inquest report at page no.16 of the trial court record it is clearly stated that the accident took place due to fall from the train which clearly suggest that in the inquest report it is admitted that the accident took place due to fall from the train.

9. Admittedly, the said Act is a welfare legislation. Thus, for the welfare legislation, a pragmatic approach has to be adopted and liberal interpretation is to be followed. The facts and circumstances as well as suspicion raised with regard to the untoward incident and the probabilities has to be considered in a balanced manner. A total assessment is required in the event of raising any suspicion regarding the fact relating to untoward incident. But a mere suspicion alone cannot be a ground to reject the claim application, more specifically, all other connecting factors mitigating the circumstances, probabilities are to be considered cogently to arrive at a conclusion. The inquest report clearly suggest that the accident took place due to fall from the train. The timing in the memo of recovery of body is not legible. In view of that, it is going in favour of the appellants as the inquest report was said to be prepared at 15.30 hours when the said train used to cross at 2.45 p.m.

10. If Sections 123 and 124-A of the Indian Railway Act are read conjointly for the purpose of interpretation taking into account the intention of the Legislature to protect the passengers sustaining injuries in untoward incident, the term incidental fall from the train and the deceased was travelling in the said train and the death occurred due to fall.

11. In a country where crores of people who travel by railway trains since everybody cannot afford travelling by air or in a private car, by giving a restrictive and narrow meaning to the expression it will amount to deprive a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Thus, travelling in

the train is admitted and the said occurrence has taken place which has been found to be genuine by the police that will come under the 'untoward incident'.

12. In view of above discussion and applying the aforesaid position of law, as well as the documents as appreciated hereinabove, it transpires that the learned Tribunal has taken a hyper-technical view and in that view of the matter and the evidence and the materials on record have not been properly construed while dismissing the claim petition of the appellant. There are sufficient materials on record to show that the deceased was travelling on the said train. The mental condition of the deceased has not been proved before the learned Tribunal by leading any evidence by the O.P./Railways and on that count also, the rejection of the claim is not tenable.

13. So far as the judgment relied by the learned counsel appearing on behalf of the respondent/ Railways in the case of ***Meenadevi Jaiprakash Gupta and Others v. Union of India (supra)*** is concerned, that is on different footing as in that case, the injury is not said to be inflicted by falling from the running train and in that background the said judgment was passed and as such that judgment is not helping the respondent/ Railways.

14. In view of above, this Court comes to the conclusion that the appellants were entitled to compensation under section 124-A of the said Act.

15. In the case of ***"Union of India Vs. Rina Devi"*** reported in ***(2019) 3 SCC 572***, the Railway Act, 1989 has been considered by Hon'ble Supreme Court and that what will be amount of compensation and interest under the said Act was considered and it was held at para 19 and 30 as under:-

"19. Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathí Menon [Rathí Menon v. Union of India, (2001) 3 SCC 714, para 30 : 2001 SCC (Cri) 1311] and Kalandi Charan Sahoo [Kalandi Charan Sahoo v. South-East Central Railways, (2019) 12 SCC 387 : 2017 SCC OnLine SC 1638] stands explained accordingly. The four-Judge Bench judgment in Pratap Narain Singh Deo [Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289 : 1976 SCC (L&S) 52] holds the field on the subject and squarely

applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.

30. *As already observed, though this Court in Thazhathe Purayil Sarabi [Thazhathe Purayil Sarabi v. Union of India, (2009) 7 SCC 372 : (2009) 3 SCC (Civ) 133 : (2009) 3 SCC (Cri) 408 : 2010 TAC 420] held that rate of interest has to be @ 6% from the date of application till the date of the award and 9% thereafter and 9% rate of interest was awarded from the date of application in Mohamadi [Mohamadi v. Union of India, (2019) 12 SCC 389 : 2010 SCC OnLine SC 19], rate of interest has to be reasonable rate on a par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises up to the date of payment, without any difference in the stages. Legal position in this regard is on a par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner."*

16. In light of the above judgment, the compensation as applicable on the date of accident has to be given with reasonable interest.

17. In view of above facts, it is evident that the appeal deserves to succeed for the reasons that they have successfully proved the entitlement to compensation under the provisions of the said Act due to death occurred in an 'untoward incident' and they are entitled to compensation of Rs. 8,00,000/- in view of the judgment rendered in the case of **"Union of India Vs. Rina Devi"**(*supra*) with interest @ 7.5 %.

18. Accordingly, appeal is allowed and impugned judgment dated 28.7.2023 passed by the learned Railway Claims Tribunal, Ranchi Bench in Case No.OA(IIU) RNC/103/2019 (Checklist No.2907190016) is set aside.

19. Let the trial court records be remitted back to the learned concerned court forthwith.

(Sanjay Kumar Dwivedi, J.)

SI/
A.F.R