

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**M.A. No. 92 of 2024**

1. Rita Devi, Aged about 47 years, Wife of Late  
Vinay Kumar Mahto.

2. Ravi Kumar Mahto, aged about 26 years, son of  
Late Vinay Kumar Mahto.

3. Arbind Kumar Mahto, aged about 22 years, son of  
Late Vinay Kumar Mahto.

4. Sanjiv Kumar Mahto, aged about 19 years, son of  
Late Vinay Kumar Mahto.

All are residents of Village and Post-Pathra,  
P.S.-Godda (Town), District-Godda.

..... Appellants

Versus

Union of India through the General Manager,  
Western Railway, Mumbai, Old Building 1<sup>st</sup> Floor,  
Church Gate, P.O. and P.S.-Church Gate, District-  
Mumbai, PIN-400020.

..... Respondent

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**CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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For the Appellants : Mr. Vijay Shanker Jha, Advocate.  
For Sole Resp. Railway : Mrs. Nitu Sinha, CGC.  
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**04/ 23.04.2025** Heard Mr. Vijay Shanker Jha, learned counsel appearing for  
the appellants and Mrs. Nitu Sinha, learned CGC appearing for the sole  
respondent-Railway.

2. This appeal is preferred against the judgment/order dated  
06.11.2023, passed in Case No. OA(IIU)/RNC/88/2017, by the learned  
Railway Claims Tribunal, Ranchi, whereby, the claim application filed  
by the appellants herein has been rejected by the learned tribunal.

3. Mr. Jha, learned counsel appearing for the appellants  
submits that the aforesaid O.A. case was filed by the wife of deceased  
Vinay Kumar Mahto stating that he left his native village: Pathra,  
District- Godda on 04.9.2016 for going to Palghar, Thane Mumbai. The  
deceased boarded Asansol-Mumbai Express in a general class with a

valid ticket from Jasidih to Kalyan. The deceased reached Kalyan on 06.9.2016 and thereafter from Kalyan the deceased boarded the local train for Thane with a valid ticket and thereafter he caught some local train to travel from Thane to Palghar via Diva. The deceased during the said journey accidentally fell down near Kalba railway station on 06.9.2016 and died on the spot. After 14 days of the incident, the police officials of Thane Police Station informed the applicants on 20.9.2016 about the incident and thereafter Ravi Kumar Mahto proceeded for Kalba station and reached there on 23.9.2016. After identification of the deceased, family received the dead body for last rites.

4. It was disclosed that the tickets and other belongings were lost in the said incident. He submits that the appellants herein examined four witnesses and A.W.-3 has stated that in his presence, the deceased had purchased a ticket and that was proved as question No.-15. He further submits that in Form-II under Rule-7 of The Railway (Notices of and Inquiries Into Accidents) Rules, 1998 with regard to 2-D, which relates to how the injured or dead person was dashed with, it has been disclosed that due to dash by the local train. On these backgrounds, he submits that the learned tribunal has wrongly dismissed the claim case on the ground that Asansol Mumbai Express Train No. 12361 originated from Asansol at about 02.18 hrs. reached Kalyan at 04.52 am on 06.9.2016 whereas the deceased was found on the track about 02.00 hrs. He submits that on this ground and upon relying the timing of the said train, the learned tribunal has been pleased to reject the claim case. He further submits that the said judgment is not in accordance with law.

5. Mrs. Nitu Sinha, learned counsel appearing for the sole respondent-Railway has opposed the prayer and submits that the learned tribunal has rightly considered the timing of the train in paras-15 and 16 of the said judgment and considering that events of timing was mismatched and it was not proved that how the deceased reached

the destination about 4-5 hours before the schedule time of the train namely Asansol-Mumbai Express, finding is not perverse. On this ground, she submits that the learned tribunal has rightly passed the said judgment.

6. From the judgment of the learned tribunal, it transpires from para-12 that the learned tribunal has found that in light of all the witnesses, the identity of the deceased and the recovery of the deceased in an injured condition near the railway track between Kalba and Thane is not under dispute. Thus, the learned tribunal has also found that the deceased was found in the injured condition between Kalba and Thane and only on the ground of timing of Asansol-Mumbai Express, the learned tribunal has found that the claim case was not proved.

7. From the Records, it transpires that the deceased was the resident of District-Godda (Jharkhand) and he has gone from Godda to Palghar, for that it has been said that he has purchased the valid ticket from Jasidih and that fact has been accepted by A.W.-3, thus, purchase of the ticket is proved and it is beyond the imagination that a person travelling from Godda in the State of Jharkhand will travel to the State of Maharashtra in absence of any valid ticket, the fact is also proved that he has reached up to Kalayan (Maharashtra) and thereafter he has travelled in a local train towards his destination and in between travel, the said accident took place.

8. Form-II under Rule-7 of The Railway (Notices of and Inquiries Into Accidents) Rules, 1998, wherein Rule-7 speaks of Railway Administration to report serious accident, in view of that Form-II has been created, wherein in form-2D how the injured or dead person was dashed with has been disclosed due to dash by the local train, which further suggests that he has taken the local train to travel to untoward journey.

9. Section 123(c)(2) of the Railway Act, 1989 talks about

accidental falling of any passenger from a train carrying passengers, the actual falling need not be outside the train. There can be cases where the passenger can be accidentally hit say by a stone pelted by a miscreant from outside, who falls within the train. The wording of section 123(c)(2) does not require that he should necessarily fall outside the train. Emphasis of the said definition is on an untoward incident caused in an accident and once the accident has occurred not much importance can be given as to whether body of the passenger falls inside or outside the train. The respondents are liable to pay compensation for the death of the deceased.

10. Untoward incidents, people in city of Mumbai travel by overcrowded suburban trains, judicial notice can be taken of the fact that for want of space inside the compartment, commuters have to stand at the door. In view of that by no stretch of imagination any negligence can be attributed to the deceased. It does not lie in the mouth of the railway administration to say that as the deceased passenger was standing on the foot board near the door of the compartment, he was negligent. It is an accepted fact that in the city of Mumbai, the passengers are forced to stand near the door due to perpetual overcrowding of the suburban trains and Form-II in light of Rule-7 of The Railway (Notices of and Inquiries Into Accidents) Rules, 1998 clearly speaks that accident took place due to dashing of the local train.

11. In view of the above, a restricted and narrow meaning should not be given to Section 123(c) of the Railways Act, as that would deprive large number of victims in train accidents from getting compensation under the Act. There can be cases, where the passengers can be accidentally hit say by a stone pelted by a miscreant from outside, who falls within the train. How the learned tribunal has interlinked the timing of Asansol-Mumbai Express train and the dead body of the deceased is not clear, wherein Form-II under Rule-7 of The Railway

(Notices of and Inquiries Into Accidents) Rules, 1998 speaks otherwise.

12. In view of the above facts and further loosing of the ticket and the belongings of the deceased, in such an accident cannot be ruled out. For the aforesaid reasons, this appeal succeeds. As such, the judgment/order dated 06.11.2023, passed in Case No. OA(IIU)/RNC/88/2017, by the learned Railway Claims Tribunal, Ranchi, whereby, the claim application filed by the appellants herein has been rejected by the learned tribunal, is hereby, set aside.

13. The claimants shall be entitled to be paid for the compensation of Rs. 8,00,000/- along with interest @ 7.5% per annum from the date of filing of the claim case i.e. from 04.07.2017 till the actual payment. As such, the sole-respondent Railway is directed to comply this order within eight weeks from today.

14. This appeal is allowed in above terms.

15. Let the Trial Court Records be sent back to the learned court forthwith.

**(Sanjay Kumar Dwivedi, J.)**

*Amitesh/-*

**[A.F.R.]**