

IN THE HIGH COURT OF JHARKHAND, RANCHI

M.A. No. 104 of 2024

1.Parasnath Munda, aged about 45 years, son of late Bhuneshwar Munda

2.Lilawati Devi, aged about 44 years, wife of Sri Parasnath Munda

Both resident of Village Deoria, Barkagaon, Post Bhurkunda Bazar,
PS Patratu, District-Ramgarh Applicants/Appellants

-- Versus --

1.Union of India represented through the General Manager, East Central
Railway, Hajipur, PO and PS Hazipur, District -Hazipur, Bihar

..... .. Respondents/Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants(s) : Mr. Manish Kumar, Advocate

For the Resp/Railways : Mr. Abhijeet Kumar Singh, C.G.C.
Mr. Shashank Kumar, Advocate

2/11.06.2025 Heard the learned counsel appearing on behalf of the applicants/
appellants as well as the learned counsel appearing on behalf of the respondent
Railways.

2. This appeal has been preferred against the judgment dated 31.01.2024
passed by the learned Railway Claims Tribunal, Ranchi Bench, Ranchi in the
case being Case No.OA(IIU)/40/2023.

3. Learned counsel for the applicants/ appellants submits that the learned
Railway Claims Tribunal has wrongly rejected the claim of the appellants herein.
He submits that the deceased namely Aryan Munda started his journey from
Khalari Railway Station to Bhurkunda Railway Station by Train No.18614
Chopan-Ranchi Express Train. He submits that the deceased obtained railway
journey ticket from Khalari Railway Station booking counter, bearing no.URG
36996170 dated 06.11.2022. He further submits that in course of journey there
was a heavy rush of passengers in the whole general bogie of the said train and
anyhow he entered in the said train and when the train reached near

Bhurkunda Station, in the meantime, deceased Aryan Munda tried to get down but fallen down accidentally due to rush of passengers and jostling and got serious injuries and died on the spot near Bhurkunda Railway Station and in view of that, a UD Case was also registered by the father and mother of the deceased and have filed the claim which has been rejected by the learned Railway Claims Tribunal. He submits that valid ticket was found from the body of the deceased, however, on a wrong premise, the learned Tribunal has rejected the same. He further submits that the documents such as the Fardbeyan, Inquest Report and the Police Report clearly suggest that the accident took place due to fall from the train and inspite of that, the learned Tribunal has rejected the claim on the wrong premise. On this ground, he submits that the said order may kindly be set aside.

4. Per contra, learned counsel for the respondent Railways opposes the prayer and submits that the learned Tribunal has appreciated the case in its right direction and has rightly passed the order. He submits that the learned Tribunal has rightly held that the accident occurred and there is no eye-witness to the said incident. According to him, the learned Tribunal's finding is correct that at the time of accident there has no scheduled stoppage at Bhurkunda Railway Station and on the date of incident on 06.11.2022 said train through-passed Bhurkunda Railway Station at 15.25 hours. He submits in view of that the learned Tribunal has rightly passed the order. He submits that the home village of the deceased was near Bhurkunda Railway Station and the stoppage of that train was not there and in view of that the story of purchasing the railway ticket is also not correct.

5. From the records, which has been received by this Court, it transpires that the deceased Aryan Munda started his journey from Khalari Railway Station to Bhurkunda Railway Station by Train No.18614 Chopan-Ranchi Express Train. The deceased has obtained railway journey ticket from Khalari Railway Station

booking counter, bearing No.URG 36996170 dated 06.11.2022 and due to heavy rush and jostling the deceased fell down from the train and due to that the accident took place. Fourteen exhibits have been brought on record. Exhibit-R/1 is inquiry report of the railway authority. The train signal report book is on the record and in the report of the Operation Department the reason of occurrence is said to be death due to fall from the train no.18614 Down Express. Inquiry report of the Railway Police is also on the record wherein it is stated that the death occurred due to fall from the train. In the brief facts particulars of untoward incident in Form-II in light of Rule 6 of Railway Passenger (Manner of Investigation of Untoward Incident) Rules 2020, particularly at sl.22, it is admitted that the ticket was found. In the post-mortem report, the death is said to have occurred due to fall from the train and in the Fardbeyan also this fact has been depicted. Thus, death due to fall from the train is proved in light of the documents and further the ticket has been also recovered.

6. Sub-Section 29 of Section 2 of the Act defines "passenger" to mean a person travelling with a valid pass or ticket. Section 123 (C) of the Act defines "untoward incident to include the accidental falling of any passenger from a train carrying passengers and Section 124-A of the Act speaks of compensation on account of untoward incident. Section 124-A of the said Act speaks as under:-

"124A. Compensation on account of untoward incident.- When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or

suffers injury due to –

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident. Explanation - For the purposes of this section, "passenger" includes –

(i) a railway servant on duty; and

(ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident."

7. It is apparent that accident, in which, the deceased Aryan Munda died is clearly not covered by the proviso to Section 124-A. The accident did not occur because of any of the reasons mentioned in clauses (a) to (e) of the proviso to Section 124-A. This is very much clear that the case in hand is covered by the main body of Section 124-A of the Act and in light of Section 124-A of the Act, it lays down strict liability or no fault liability in case of railway accidents. If a case falls in main body of that Section, it is wholly irrelevant as to who was at fault.

8. The Hon'ble Supreme Court in the case of ***Jameela Versus Union of India***, reported in **2010(12) SCC 443** at para 12, held as under:-

"12. The manner in which the accident is sought to be reconstructed by the Railways, that the deceased was standing at the open door of the train compartment from where he fell down, is called by the Railways itself as negligence. Now negligence of this kind which is not very uncommon on Indian Trains is not the same thing as a criminal act mentioned in clause (c) to the proviso to Section 124-A. A criminal act envisaged under clause (c) must have an element of malicious intent or mens rea. Standing at the open doors of the compartment of a running train may be a negligent act, even a rash act but, without anything else, it is certainly not a criminal act. Thus, the case of the Railways must fail even after assuming everything in its favour."

9 In light of the above and further considering the balance of

probabilities, as per which, civil cases have to be decided, the deceased, in fact quite clearly had died on account of a fall from a train in view of the documents of the respondents which have been marked as Exhibits, particularly, the Fardbeyan, Inquest Report and the Railway Report.

10. Further, the credence is very much there of the factum of death on account of fall from a train, because the place of death is neither near the residence nor the work place of the deceased for the accident to be of any form of criminal negligence/self-inflicted injury of wrongly standing on the railway tracks or crossing of the railway tracks.

11. In light of the above, this Court finds that the impugned order dated 31.01.2024 passed by the learned Railway Claims Tribunal, Ranchi Bench, Ranchi in the case being Case No.OA(IIU)/40/2023 is not sustainable in the eye of law, and accordingly, the said impugned judgment is, hereby, set-aside.

12. The appellants/applicants herein shall be entitled to receive a sum of Rs.8 Lacs (Rupees Eight Lacs) in terms of the Rules of the Railways along with interest @ 9% from the date of the accident. The aforesaid amount shall be released by the Railways in favour of the claimants within six weeks from the date of receipt/ production of a copy of this order.

13. This appeal is disposed of accordingly. Pending petition, if any, also stands disposed of.

14. Let the trial court records be sent to the learned court concerned forthwith.

(Sanjay Kumar Dwivedi, J.)

SI/

A.F.R.