

IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 243 of 2024

1. Surajmani Hansda wife of Late Babulal Murmu aged about 41 years
2. Parmel Murmu, S/o Late Babulal Murmu aged about 19 years
3. Sahit Murmu, S/o Late Babulal Murmu aged about 16 years
4. Ashok Murmu, S/o Late Babulal Murmu, aged about 13 years
5. Rishika Murmu, D/o Late Babulal Murmu, aged about 8 years
6. Sanjhala Murmu, S/o Manjhiya Murmu, aged about 67 years, father of deceased Late Babulal Murmu
7. Sanjhli Hansda, W/o Sanjhala Murmu, aged about 55 years, mother of deceased Late Babulal Murmu

Appellant Nos.3 to 5 being minor are being represented through their mother, their natural guardian Surajmani Hansda (Appellant No.1)

All appellants are resident of village/mohalla – Shankarpur, PO – Sukhari Meharna PS – Meharna, District – Godda, Jharkhand

.... Appellants

-- Versus --

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

.... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	:-	Ms. Chaitali C. Sinha, Advocate
For Respondent	:-	Mr. Abhijeet Kr. Singh, Advocate

04/25.06.2025 Heard learned counsel appearing for the appellants and learned counsel appearing for the sole respondent, who is railway.

2. This appeal has been preferred against the judgment dated 19.05.2023 passed by Railway Claims Tribunal, Ranchi Bench in

Case No. OA(IIU)/RNC/62/2021 (Checklist No.2909210006) whereby the claim preferred by the appellants under Section 16 of the Railway Claims Tribunal Act, 1987 has been rejected by the learned Court.

3. Learned counsel appearing for the appellants submits that on 27.09.2019 deceased Babulal Murmu after purchasing valid 2nd class ticket bearing No.27147490 for Vasco Di Gama to Sahibganj Railway station had boarded a train at Vasco Di Gama for coming to Sahibganj Railway Station via Kiul during Durga Puja. On 30.09.2019 while the train was moving at the Pirpainti station, the deceased who was coming back from the toilet suddenly slipped near the open gate and accidentally fell down from the moving train between Km/Pole Nos.254/4 and 254/5 as a result of which deceased was severely injured and died on the spot. The family members also reached the place of occurrence on receiving information from the railway police and the brother of the deceased then gave a written application to the Rail P.S. Bhagalpur. She submits that pursuant to that Rail P.S. Bhagalpur U.D. Case No.69/19 was registered on 30.09.2019.

4. She further submits that the learned Tribunal has been pleased to reject the claim of the appellants only on the ground that the body was found on the upline not on the downline when the train was running on the downline. She then submits that if such an accident is occurred the falling of the body within the tracks cannot be ruled out. She submits that falling from the train is further

proved in view of the inquest report marked as Exhibit – A/5 wherein its cause of death is said to be due to falling from the speedy train. She further submits that in the final report also the opinion is given of the death due to falling from the express train. She submits in view of that the accident due to falling from the train is proved and the learned Tribunal in spite of giving the finding that railway ticket has been received from the possession of the deceased in spite of that the claim has been rejected. On this ground, she submits that the order is perverse.

5. Learned counsel appearing for the Railway opposes the prayer and submits that the learned Tribunal has rightly passed the order and it was doubtful as to whether the deceased has fallen from the train or not as the body was found on the side of upline track not on the downline track. He submits in view of that there is no illegality in the impugned judgment.

6. In view of the above submission of learned counsel appearing for the parties and looking into the contents of the fardbeyan, inquest report and final report the accident is proved. The fardbeyan, inquest report and the final report has been marked as exhibits and that is part of the trial court record. Looking into all these documents, the Court finds that the statements are there of death due to falling from the running train. The learned Tribunal only on the ground that the body was found on the side of upline when the train was running on the downline has been pleased to reject the same, however, the finding is there of recovery of the

train ticket from the Vasco Di Gama to Sahibganj. In light of finding of the Tribunal about the ticket travelling is further proved on the train.

7. The question remains whether the respondent - railway claim that the dead body of the deceased were found on the upline track can be a conclusive factor of rejecting the claim/claimants or not that alone would not invite a conclusive presumption that the deceased did not fall out of running train that too in view of the fact that in the postmortem report, the final report it was found that the accident was due to fall from the train. In view of that only because the body was found on the upline side exemption cannot be drawn that the accident has not been taken place due to not falling out from the train and onus lies upon the Railway to prove that the accident has not taken place due to falling from the train. Since the ticket has been received from the body of the deceased and due to force falling of the body on either side cannot be ruled out and in view of that the finding of the learned Tribunal to that effect in absence of any cogent reason of not travelling on the train does not sound good.

8. Once it is proved that the deceased was travelling as a bona fide passenger and he fell from the running train, the railway cannot be allowed to avoid its liability. Nothing has been argued with regard to the negligence on behalf of the railway and that has not been proved and further the place of incident is a railway track and in view of that there is every possibility that the deceased died due

to an untoward accident in light of Section 123 (c) (2) of the Railway Act, 1989.

9. In view of the above facts, reasons and analysis, the impugned judgment dated 19.05.2023 passed by Railway Claims Tribunal, Ranchi Bench in Case No. OA(IIU)/RNC/62/2021 (Checklist No.2909210006) is hereby set aside.

10. Consequently, the appellants herein are entitled to receive the compensation of Rs.8,00,000/- with interest @ 9% per annum from the date of accident *i.e.* 30.09.2019 till its realization.

11. The railway will comply the present order within eight weeks from the date of receipt/production of copy of this order.

12. This appeal is allowed in above terms and disposed of.

13. Let the Trial Court Record be sent back to the learned Tribunal forthwith.

(Sanjay Kumar Dwivedi, J.)

Sangam/

A.F.R.