

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 365 of 2024

1. Aladi Hembram, Wife of Late Badal Hembram, aged about 48 years
 2. Krishna Hembram, Son of Late Badal Hembram, aged about 30 years
- Both appellants are resident of Village/Mohalla- Bhurkunda Bari,
P.O.- Nirsa, P.S.- Nirsa, District- Dhanbad (Jharkhand)

... Appellants

-Versus-

Union of India through the General Manager, Eastern Railway,
Kolkata, P.O. and P.S. Garden Reach and District- Kolkata (West
Bengal)

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	: Mrs. Chaitali Chatterjee Sinha, Advocate Mrs. Chainika, Advocate
For the Respondent	: Mr. Abhijeet Kumar Singh, C.G.C. Mr. Shashank Kumar, A.C. to C.G.C.

04/03.07.2025 Heard Mrs. Chaitali Chatterjee Sinha, learned counsel for the appellants and Mr. Abhijeet Kumar Singh, learned counsel for the respondent.

2. This appeal has been preferred being aggrieved by the judgment dated 10.08.2021 passed by the Railway Claims Tribunal, Ranchi Bench in Case No. OA(IIU) RNC/198/2018 (Checklist No. 2910180012), whereby, the claim case filed by the appellants herein has been rejected by the learned Tribunal.

3. Mrs. Chaitali Chatterjee Sinha, learned counsel for the appellants submits that the deceased was travelling from Katpadi Junction to Chennai Junction after purchasing a valid 2nd Class ticket bearing Ticket No. 23788388 and after that he boarded a superfast train from Chennai Central Station to Dhanbad Junction on 01.03.2018 after purchasing a valid 2nd Class ticket bearing Ticket No. 18276667. There was a heavy rush on the train. Enroute, while the said train was running between Kumardubi and Mugma Stations on 04.03.2018, the deceased was coming back from the

toilet, suddenly he slipped due to a wet and slippery surface near the opened gate of the bogie due to an overflow of water coming out from the jammed water basin and as a result of which the deceased rolled towards the gate and accidentally, fell down from the running train between K.M. 232/23 and 232/25 of up line on account of wet and slippery surface of the bogie and died on the spot by sustaining serious injuries. The cause of death was almost instantaneous as a result of violent, hard and blunt force injuries as mentioned in the post-mortem report. She further submits that the railway police investigated the case and prepared the inquest report dated 04.03.2018 in Rail P.S. Dhanbad (Kumardubi) U.D. Case No. 13 of 2018 registered on 04.03.2018 and found the factum of occurrence to be true and the deceased died as a result of falling from some unknown train. She then submits that the railway police also prepared a final report dated 04.03.2018 in the aforementioned U.D. case and concluded that the deceased died as a result of falling from a train. She submits that the deceased was a *bona fide* passenger and boarded a superfast train from Chennai Central Station to Dhanbad Junction on 01.03.2018. The tickets of 2nd Class have also been found from the possession of the deceased. She further submits that the inquest report, journey tickets, final report and post-mortem report have been marked as Ext. P-8, Ext. P-5, Ext.P-9 and Ext. P-10 & P-11 respectively of Trial Court record. She submits that however the learned Tribunal has been pleased to reject the claim case only on the ground that the journey of the deceased last at Dhanbad Station, however, the dead body was recovered between Kumardubi and Mugma Stations. She submits that in view of that ground the learned Tribunal has doubted the untoward accident. She submits that when he was travelling in a superfast train with a valid ticket, merely because

finding of the body from some kilometers away from the last station, cannot be a ground to not grant compensation in a legislature, which is welfare in nature. On these grounds, she submits that the judgment passed by the learned Tribunal may kindly be set-aside and direction may kindly be issued for compensation to the claimants in light of the provisions made under the Indian Railways Act, 1989 read with Railways Accident and Compensation Rules, 1990 which has been later on amended w.e.f. 01.01.2017.

4. The said argument is being refuted by Mr. Abhijeet Kumar Singh, learned counsel for the respondent-Railway on the ground that the dead body was recovered on 04.03.2018, whereas, the journey was already ended on 03.03.2018. He submits that the journey ticket was only up to Dhanbad, however, the dead body was recovered between Kumardubi and Mugma Stations and in view of that, the learned Tribunal has rightly not granted compensation to the claimants and in view of that, there is no perversity in the judgment of the learned Tribunal.

5. In view of the above submissions of the learned counsel for the parties, the Court has gone through the materials on record including the Trial Court Record. In view of the inquest report and final report which have been marked as Ext. P-8 and Ext. P-9 respectively, the accident due to fall from train is proved and in all these documents, it has been disclosed that the accident took place due to fall from the train.

6. It is further an admitted position that the deceased started his journey by way of purchasing two tickets of 2nd Class from Katpadi Junction to Chennai Junction and from Chennai Central Station to Dhanbad Junction and those tickets have been recovered from the body of the deceased, however, the body was recovered between Kumardubi and Mugma Stations

on 04.03.2018 and considering that aspect of the matter only, the learned Tribunal has been pleased to reject the claim case of the appellants herein.

7. In the case of ***Union of India v. Rina Devi***, reported in ***(2019) 3 SCC 572***, the Hon'ble Supreme Court has held in clear terms that mere absence of ticket with such injured or deceased will not negative the claim that he was a *bona fide* passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. So far as the case in hand is concerned, it is an admitted position that two tickets have been found from the possession of the deceased and that has also been seized and marked as Ext. P-5.

8. It is well-known that the passenger may not be allowed to enter the platform if he does not possess the platform ticket. It is further in the knowledge of everybody that there will be Train Ticket Examiners for all the trains and number of such TTE's will be more in on superfast train and reserved compartments. It is highly difficult for a person to travel long distance from Katpadi to Chennai and then Chennai Central Station to Dhanbad, however, the accident occurred between Kumardubi to Mugma Stations and the only ticket from Dhanbad to Kumardubi was not found. A person who has travelled for such a long distance cannot avoid such examination/check by the TTE right from Kumardubi to Mugma Stations. The deceased has completed his journey by the time of accident. There is no dispute that the deceased was travelling in 2nd Class compartment.

9. The contention raised by the respondent-Railways which has been accepted by the learned Tribunal was that the dead body was found

between Kumardubi to Mugma Stations and for that reason, the deceased cannot be considered as a *bona fide* passenger, as his journey ought to have been ended at Dhanbad. As there is every possibility that the deceased might have slipped while getting down at the station and that his body might have been dragged to some distance from it, or that he mistakenly might not have got down at the station where he has to get down and after realizing the same could have tried to be get down after crossing the same and as the untoward incident can be happened in several contingencies. In view of that, the contention of the respondent-Railways is not being accepted by this Court. The respondent-Railway has not produced any direct witness to the incident. It is not in dispute that the way in which the dead body was found would disclose that the death of the deceased occurred on account of an accident. The respondent-Railway is not able to prove that the death of the deceased occurred due to any of the factors indicated under the proviso of Section 124-A of the Railways Act, 1989. The railway has not been able to examine the driver of any train to prove that the deceased was hit by a train and fell by the side of the track. In the inquest report, U.D. Case and final report, in clear terms it has been stated at the accident took place due to fall from the train.

10. In view of the aforesaid facts, reasons and analysis, the Court finds that the learned Tribunal has erred in not providing compensation to the claimants. The Court further finds that there is perversity in the judgment of the learned Tribunal and, as such, the judgment dated 10.08.2021 passed by the Railway Claims Tribunal, Ranchi Bench in Case No. OA(IIU) RNC/198/2018 is, hereby, set aside.

11. The appellants shall be entitled to sum of Rs. 8,00,000/- (Rupees Eight Lakhs) along with interest @ 7.5% per annum from the date of the

accident. The respondent-Railways shall release the amount in favour of the claimants within a period of eight weeks from the date of the receipt/production of a copy of this order.

12. The appeal is, accordingly, allowed in above terms and disposed of.

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

(Sanjay Kumar Dwivedi, J.)

Ajay/ Simran/ **A.F.R.**