

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 462 of 2023

1. Bandhna Minj @Leda Oraon, aged abot 53 years,
father of deceased Ajit Minj

2. Bhudli Orain, aged about 56 years, mother of
deceased Ajit Minj

Residents of Village/Mohalla: Diuri, P.O/ P.S:
Karra, District-Khunti - 835209 (Jharkhand).

..... ... Appellants

Versus

Union of India, through the General Manager,
South Eastern Railway, 3, Koilaghat Street,
P.O./P.S.- Garden Reach, Kolkata (West Bengal).

..... ... Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants : Mr. Rajesh Kumar Jha, Advocate.
For the UOI (Railway) : Mr. Ravi Prakash, CGC.

10/ 19.02.2025 Heard Mr. Rajesh Kumar Jha, learned counsel appearing for the appellants and Mr. Ravi Prakash, learned CGC appearing for the sole respondent-Union of India-Railway.

2. This appeal is preferred being aggrieved and dissatisfied with the judgment / order dated 27.09.2023, passed by the learned Member (Technical)/RCT/Ranchi, in Case No. OA(IIU)/RNC/23/2022, whereby, the learned Tribunal has dismissed the appellants claim of Rs.8,00,000/- along with interest @ 9% from the date of incident/filing of the application on account of death of their son Ajit Minj.

3. Mr. Jha, learned counsel appearing for the appellants submits that pursuant to the order of the co-ordinate Bench dated 16.07.2024, the Trial Court Records have been received. He submits that the appellants herein instituted the compensation case before the learned Railway Claims Tribunal, Ranchi Bench, which was registered as Case No. OA(IIU)/RNC/23/2022, stating that the deceased Ajit Minj travelling with Subhani Tirkey and Sanjay by Train No. 12811 Hatia Express from Lokmanya Tilak to Hatia with a valid railway ticket. The ticket of Ajit Minj was lost. Subhani Tirkey and Sanjay were travelling

with a valid reserved ticket in Coach No. S-6 Berth No. 15 and 12. On 19.7.2022 when the train was about to reach Karra station, Ajit Minj who was standing near the gate of the train, fell down due to sudden jerk and died on the spot. He submits that on these backgrounds, the case was registered, however, the learned tribunal has rejected the claim of the claimants on the ground that the deceased was not the bona fide passenger and the death was not coming within the meaning of untoward accident. He further submits that the deceased was standing near the gate and due to sudden jerk, the accident took place, in view of that the accident comes within the definition of untoward accident in view of Section 124(A) of the Railways Act, 1989 [hereinafter referred to as the Act]. He submits that this issue has set at rest in view of the judgment of the Hon'ble Supreme Court in the case of ***Union of India Versus Rina Devi***, reported in **(2019) 3 SCC 572**. He then submits that the falling down from the moving train and in that regard the issue has been framed in para-8.3 in the said judgment, which has been answered in para-25 of the said judgment. Both paras i.e. 8.3 and 25 are quoted hereinbelow:-

“8.3. The concept of self-inflicted injury.— Whether attempt of getting into or getting down a moving train resulting in an accident was a case of “self-inflicted injury” so as not to entitle to any compensation or no such concept could not apply under the scheme of law which casts strict liability to pay compensation by the Railways under Sections 124 and 124-A. In this regard, views of the High Courts of Kerala in Joseph P.T. v. Union of India [Joseph P.T. v. Union of India, 2013 SCC On Line Ker 24151 : AIR 2014 Ker 12] , Bombay in Pushpa v. Union of India [Pushpa v. Union of India, 2017 SCC OnLine Bom 8117 : (2017) 3 ACC 799] and Delhi in Shyam Narayan v. Union of India [Shyam Narayan v. Union of India, 2017 SCC OnLine Del 8734 : 2018 ACJ 702] may appear to be

against the decisions of this Court in Union of India v. Prabhakaran Vijaya Kumar [Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] and Jameela v. Union of India [Jameela v. Union of India, (2010) 12 SCC 443 : (2010) 4 SCC (Civ) 644] .

25. We are unable to uphold the above view as the concept of “self-inflicted injury” would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on “no fault theory”. We may in this connection refer to the judgment of this Court in United India Insurance Co. Ltd. v. Sunil Kumar [United India Insurance Co. Ltd. v. Sunil Kumar, (2019) 12 SCC 398 : 2017 SCC OnLine SC 1443 : (2017) 13 Scale 652] laying down that plea of negligence of the victim cannot be allowed in claim based on “no fault theory” under Section 163-A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an “untoward incident” entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor.

4. Relying on the above judgment, learned counsel appearing for the appellants submits that the case of the appellants are fully covered.

5. Mr. Ravi Prakash, learned CGC appearing for the sole respondent-Union of India (Railway) submits that the learned Tribunal has rightly passed the order and the accident took place while the deceased standing near the gate, that will not come within the meaning of untoward accident. He submits that the latches are said to be there

against the deceased, as he was trying to jump at the railway station and he was not the bona fide passenger.

6. From the judgment of the learned tribunal, it transpires that the father of the deceased has stated that when his son was returning from Mumbai and when the train slowed down, his son tried to de-board from the train, his leg slipped and he fell down from the train and his body was cut into two pieces, resulting in his death. The Inquest Report has also mentioned that the body of the deceased was cut into two parts. The station memo also suggests that one unknown person, aged about 25 years, jumped from the running train No.12811 at Karra Yard Line No. 3 (KM-454/31) at 08.18 Hrs. on 19.7.2022 and died on the spot. Thus, boarding on the train is proved in light of the nature of injury, inquest report as well as the station memo. It is also an admitted position that along with the deceased Ajit Minj, two persons were also travelling namely Subhani Tirkey and Sanjay with a valid reserved ticket, however, the finding to that effect is not there in the judgment of the learned Tribunal.

7. The Hon'ble Supreme Court in the case of ***Union of India Versus Prabhakaran Vijaya Kumar & Ors.***, reported in **(2008) 9 SCC 527** held that since the provision for compensation in the Railway Act is a beneficial piece of legislation, it should receive a liberal and wider interpretation and not a narrow and technical one.

8. 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. Section 124-A of the Act stipulates 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."

9. From the above provision made under Section 124-A of the Act, it is apparent that the deceased is 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. Thus, it is crystal clear that Section 124-A lays down strict liability or no fault liability in case of railway accidents. If a case falls in main body of Section, it is wholly irrelevant as to who was at fault.

10. 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 and this has been considered by the Hon'ble Supreme Court in the case of *Jameela Versus Union of India*, reported in **2010(12) SCC 443**, where in para-12, it has been 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.”

11. 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 respondent, which has been taken note hereinabove.

12. 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.

13. In view of the above discussions, this Court finds that the finding of the learned Tribunal is, therefore, not correct, as such, the judgment / order dated 27.09.2023, passed by the learned Member (Technical)/RCT/Ranchi, in Case No. OA(IIU)/RNC/23/2022, is hereby, set aside.

14. In view of the observations of the Hon'ble Supreme Court in the case of Rina Devi (Supra), the appellants are entitled for a

compensation of Rs.8,00,000/- along with interest @ 9% from the date of incident till the date of actual payment is made.

15. This appeal is allowed in the above terms and disposed of.

16. Let the Trial Court Records be sent back to the learned tribunal forthwith.

(Sanjay Kumar Dwivedi, J.)

Amitesh/-

[A.F.R.]