



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

FIRST APPEAL NO.437 OF 2017

1. Rukmabai w/o. Ravi Ramchettywar,
Age : 34 years, Occu : Nil,
R/o. H No. 3-2-270, Bhagyanagar,
Adilabad, Tq. & Dist. Adilabad
Telangana
2. Shiwani D/o. Ravi Ramchettywar,
Age : 11 years, occu : Nil,
R/o. As above.
3. Bhawani D/o. Ravi Ramchettywar,
Age : 6 years, Occu : Nil,
R/o. As above.

(Appellant Nos.2 and 3 Minor Under
Guardian of real mother Appellant No.1)

... Appellants
(Orig. Claimants)

Versus

Union of India,
Through General Manager,
South Central Railway,
Secunderabad, (Andra Pradesh)

... Respondent

...
Shri. Pavankumar S. Agrawal, Advocate for the Appellants
Shri. Swapnil S. Rathi, Advocate for the Respondent / Sole.

....

CORAM : NEERAJ P. DHOTE, J.

RESERVED ON : 07/04/2025

PRONOUNCED ON : 22/04/2025

JUDGMENT :-

. This Appeal is filed under Section 23 of the Railway Claims
Tribunal Act, 1987 (for short, 'Act of 1987') by the Original Claimants /

Applicants against dismissal of their Claim Petition / Application bearing O.A. (llu)/ NGP/2014/0053 by the learned Railway Claims Tribunal, Nagpur Bench (hereinafter referred to as the 'Tribunal') by Judgment and Order dated 19.12.2016.

2. The brief facts, giving rise to this Appeal, are as follows :

2.1. The Appellants filed the above referred Claim Petition before the learned Tribunal on 14.02.2024 contending that they were the Wife and Children of one Deceased Ravi s/o. Malayya Ramchettywar (hereinafter referred to as the 'Deceased'). On 01.01.2014, Deceased having Railway Ticket for Kinwat to Adilabad, boarded Nanded-Adilabad Intercity Express Train No.17410 from Kinwat Railway Station and was standing near door of the compartment of the train. When the said train reached at Gate No.12 near Kinwat Railway Station, Deceased fell down due to sudden jerk to the running train and accidentally came under the wheels of the running train and died on the spot. The Authorities came to know about the same. The Police arrived at the spot of accident. The dead body was moved to the hospital for Post-mortem and thereafter handed over to the Brother of Deceased on 02.01.2014. The Appellants claimed the compensation from the railway to the extent of Rs.4,00,000/- (Rs. Four Lakh) with interest @12% from the date of

accident till its realization. The necessary documents were submitted along with the Claim Petition.

2.2. The Claim Petition was resisted by the Railway Administration by filing Written-statement on 09.06.2015. In the Written-statement they denied the case and claim of the Appellants. It was contended that during the statutory enquiry by the Railway Administration, it was revealed from the Gate man on duty at Gate No.12 at the relevant time, that when he went to close the gate for passing of the train, no dead body was seen in the vicinity, however, after passing of the train when the Gate man went to open the gate, he saw dead body of a person cut into two (2) pieces at the distance of 18 (eighteen) to 20 (twenty) meters from the gate. As there was nothing to show that the person had fallen down from the train, neither there was any jerk to the train and considering that, the dead body was cut into two (2) pieces, it was the case of suicide. It was contended that the Appellants were not entitled for compensation and the interest.

2.3. The learned Tribunal framed the issues on 09.06.2015, which reads as under :

“ISSUES

- 1. Whether the Applicants are the dependants of the deceased within the meaning of Section 123 (b) of the Railways Act ?*
- 2. Whether deceased was a bona fide passenger of the train on the relevant day, with valid journey ticket?*

3. *Whether the death of the deceased had occurred as a result of an untoward incident as alleged in the claim application within the meaning of Section 124-A r/w. 123 (c) of Railways Act?*

4. *To what order / relief?"*

2.4. The Widow of Deceased filed her Affidavit dtd.18.05.2016 along with the Original Railway Ticket, Certified copies of the investigation done by the Police in A.D. Report No.03/14, Spot Panchanma, Inquest, Post-mortem Report, Receipt towards the dead body, Railway Memo, Death Certificate, Ration Card and Aadhar Card of the Appellants. She was cross-examined on behalf of the Railway Administration.

2.5. The Railway Administration examined the Gate man / Points man who was on duty at the gate near the spot of accident. He was cross-examined on behalf of the Appellants. The other documents in respect of the investigation and the Report form part of the proceedings of the Claim Petition.

2.6. By the impugned Judgment and Order, the learned Tribunal dismissed the Claim Petition.

2.7. It is submitted by the learned Advocate for the Appellants that the Railway Ticket was found with the Deceased and this establishes that he was the *bona fide* passenger of the said train. The

learned Tribunal dismissed the Claim Petition on two (2) counts i.e. (1) Deceased was boarding the running train, and (2) Body was cut into two (2) pieces. There was nothing in the statutory enquiry that Deceased fell down while boarding the train or committed suicide. The Report of statutory enquiry was contrary to the evidence on record. It was nowhere the case of Railway Administration that the ticket found with Deceased was fake. Without considering the material available on record, the Claim Petition was dismissed. The Appeal be allowed and compensation along with interest be granted to the Appellants. In support of his submissions, he relied on (1) Copy of Railway Passengers (Manner of investigation of Untoward Incidents) Rules, 2003, (2) Notification dated 07.06.1990 issued under the Railway Accidents (Compensation) Rules, 1990 (for short, 'the said Rules'), (3) Notification dated 25.10.1997 issued under the said Rules, (4) Notification dated 22.12.2016 issued under the said Rules, (5) Reported Judgments, which would be considered in the later part of the Judgment.

2.8. It is submitted by the learned Advocate for the Respondent / Railway Administration that, Deceased was trying to board the running train when the train left the platform. It is nobody's case that, someone was on railway track. There is no eye witness to the accident. No other passenger saw the incident of falling down of Deceased from the train and had it been so, someone would have raised

shouts. The Railway enquiry do not support the claim. The distance of place where the body parts were found was material and the learned Tribunal has rightly appreciated the material available on record. The case would fall under clauses (b) and (c) of the proviso to Section 124-A of the Act of 1989. Nothing has come in the cross-examination of the witness examined by the Railway Administration, to discard his evidence. The Enquiry Report of the Railway is accepted by the Tribunal. The Appellants - Claimants failed to prove their case and therefore, no interference is called for in the impugned Judgment and Order.

3. The relevant provisions of Act is the Railways Act, 1989 (for short, 'Act of 1989'), are reproduced below.

“Section 2 (29) “passenger” means a person travelling with a valid pass or ticket.”

“123. Definitions. - In this Chapter, unless the context otherwise requires,—

(a)

(b)

(i)

(ii)

(iii)

(iv)

(c) “untoward incident” means—

(1)(i)

(ii)

(iii)

(2) *the accidental falling of any passenger from a train carrying passengers.”*

“124A. Compensation on account of untoward incidents.—

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 of 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.”

4. Heard both the sides and perused the Record.

5. There is no dispute on the aspect that the Appellants are the dependents, being the widow and children of Deceased. Admittedly, the Widow i.e. Claimant No.1, who examined herself in support of the Claim Petition, was not the eye witness to the incident as is clear from her cross-examination. Even the witness examined by the Railway Administration, in his cross-examination admitted that, he had not seen the incident personally. It is clear that there is no evidence of the eye witness to the incident. Therefore, the case has to be decided on the basis of material available on record. There is no quarrel with respect to the observation made by the learned Tribunal in paragraph

no.17 of the impugned Judgment that, '*A civil case is decided on the balance of probabilities and considering the specific case.*'

6. Both the sides took me through the documents brought on record during the proceedings of Claim Petition before the learned Tribunal. There is Enquiry Report under the signature of Divisional Protection Commissioner, Railway Protection Force, Nanded along with the Report under the signature of Inspector, Railway Protection, Posts-Hujur Sahib, Nanded along with the map of spot of incident and the copies of Statements recorded during the course of enquiry. These papers show that, when the Gate man, named Santosh Raghunath Gule i.e. witness examined by the Railway Administration, was on duty at Gate No.12 on 01.01.2014 and while opening the gate after the train passed, he noticed dead body in two pieces and he informed the Station Master. After some time the Police came on the spot of incident and performed the required Panchanamas. There are Police papers of the Railway Police in respect of the enquiry of Accidental Death Report. The said papers show that the Railway Ticket dated 01.01.2014 from Kinwat to Adilabad was found in the upper pocket of the shirt of Deceased. Admittedly, it is not the case of the Railway Administration that the said ticket was fake. The original Ticket is brought on record with the Claim Petition. This clearly establishes that Deceased was in possession of a valid train ticket.

7. According to the witness examined by the Railway Administration '*when he was closing the railway gate at about 18:27 hrs, no person was seen, however, after the train passed he saw two pieces of man and the people standing near the closed gate, told him that one person brought Deceased on his motorcycle and Deceased was trying to board running train and in that process he fell down*'. However, the Report of enquiry done by the Railway Administration nowhere speak that the said gateman who saw the dead body in two pieces, was informed by the people standing near the gate that, Deceased was brought by a person on motorcycle and he fell down while boarding the running train. The said version of the said witness of the Railway Administration do not find support or corroboration from his previous statement or document of the enquiry done by the Railway Administration. The statement of the Gate man, who was examined by the Railway Administration before the learned Tribunal, recorded during the said enquiry is completely silent in respect of his version in the Affidavit that, the people near the Railway gate told him that Deceased was brought on motorcycle and fell down while boarding the running train.

8. There is communication dated 01.01.2014 which is brought on record in the evidence of the witness examined by the Railway

Administration at Exh. R-1, which is the communication by the witness i.e. Gate man, addressed to the Station Master of Kinwat Railway Station in respect of the said incident. The said communication is also completely silent in respect of the said version of the witness, stated in the evidence before the Tribunal. This communication which is the first in point of time by the Gate man to his Superior speaks that, after the Train No.17410 'UP' Nanded-Adilabai Intercity Express passed from the gate and he opened the gate, the people shouted that a man was cut and he saw that one person was lying at the distance of Ten (10) Meters from the gate. One communication at Exh. R-2 is under the signature and stamp of Station Master addressed to SI/GRP/KNVT asking to check and take the action, speak that '*one unknown person aged about 35 – 40 years old Run over 17410.....*'.

9. In the Written-statement the Railway Administration came up with the case that the body was cut into two (2) pieces and therefore, it appears to be the case of suicide.

10. The above referred material available on record shows that, the Railway Administration came up with different stories or versions at different times. It is clear that the version in respect of the incident put forth by the Railway Administration is inconsistent and varies from time to time. Even if the evidence of the Gate man examined by the Railway

Administration is considered, it finds no corroboration / support with the previous documents or his previous statement, and therefore it is not possible to accept the said version as it is. On the contrary, the police papers of the Railway Police pertaining to the enquiry in the A.D.R. No.03/14, comprising Accidental Death Report addressed to the Taluka Magistrate, Kinwat, Spot Panchanama, Inquest *and dead body receipts shows that, Deceased died of falling down from Nanded - Adilabad Intercity Express Train.* The Accidental Death Report at Exh.A-37 (English Version at A-38) shows that, against Point No.3 in respect of '*Name, age and address of informant, it is mentioned – On duty S. S. Railway Station Kinwat.*' This shows that, information about the said incident, which speak of death of Deceased after falling from the aforesaid train was given by the Railway Administration i.e. by On duty S. S. Railway Station, Kinwat. This goes to show that, the initial version of the Railway Administration in respect of the incident was that, Deceased died of a fall from the aforesaid express train. The conclusion drawn by the Railway Administration from the enquiry as seen from the Report under the signature of Divisional Security Commissioner / Nanded, Railway Protection Force, Nanded is that, it was doubtful that Deceased died of falling from the running train. The conclusion was not certain.

11. Coming to the version of the Claimants, it is that, Deceased died due to a fall from the said train. This version of the Claimants finds corroboration from the Police papers of the A.D. Report, which was soon after the incident. The learned Tribunal accepted the evidence of RW-1 i.e. witness examined by the Railway Administration that the Deceased while trying to board the running train fell down and came under the wheels of the train and held that the Claimants failed to prove that Deceased had fallen down from the train. It is not possible to concur with the said conclusion for the reason that, there are the different versions of the Railway Administration at different stages. The version of Railway Administration was not consistent, whereas the ADR enquiry made by the Railway Police supports and corroborates the case of the Claimants. The material available on record, as discussed above, clearly shows that the cause of death of the said Deceased fall within the provision of Section 123 (c)(2) of the Act of 1989 i.e. accidental falling of any passenger from a train carrying passengers, and do not fall within the proviso to Section 124-A of the Act of 1989 which categorises the cases in which the Railway Administration is not liable to pay the compensation.

12. The learned Advocate for the Appellants relied on the Judgment in **Union of India (UOI) vs. Prabhakaran Vijaya Kumar and Ors, (2008) 9 SCC 527**, wherein it is observed that, '*no doubt, it is*

possible that two interpretations can be given to the expression 'accidental falling of a passenger from a train carrying passengers', the first being that it only applies when a person has actually got inside the train and thereafter falls down from the train, while the second being that it includes a situation where a person is trying to board train and falls down while trying to do so. Since the provision for compensation in the Railways Act is a beneficial piece of legislation, in our opinion, it should receive a liberal and wider interpretation and not a narrow and technical one.'

13. In the light of the above referred discussion based on the material available on record, which clearly establishes that Deceased was the passenger within the definition of the term 'Passenger' and his death was due to accidental falling from the train carrying passengers within the meaning of provisions referred in para no.3 above, the Appeal deserves to be allowed. The incident is of January-2014 and the compensation payable for death under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 at that point of time was Rs.4,00,000/- (Four Lakh) by virtue of Notification dated 25.10.1997. Subsequently, by way of amendment in the Rules in the year 2016, the Notification dated 22.12.2016 came to be issued, by which the amount of compensation payable for death is revised and determined as Rs.8,00,000/- (Rs. Eight Lakh). There is nothing to show that there is

subsequent Notification amending the said amount for compensation of death under the said Rules. Though the Appellants have claimed the compensation of Rs.4,00,000/- (Rs. Four Lakh) with interest thereon, useful reference can be made to the decision of the Hon'ble Supreme Court of India in **Union of India (UOI) vs. Rina Devi, AIR 2018 SC 2362**, cited by the learned Advocate for the Appellants which was the Appeal against the Award of compensation under Section 124-A of the Act of 1989. One of the issue framed and decided therein was - (1) *Whether the quantum of compensation should be as per the prescribed rate of compensation as on the date of Application / incident or on the date of Order awarding compensation.* The Hon'ble Apex Court considered the earlier decisions on the aspect and answered the said issue in para no.15.4 of the said Judgment as under :

“15.4. Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sahoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (supra) holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.”

13.1. Therefore, in view of the above, the Appellants will be entitled to the total compensation of Rs.8,00,000/- (Rs. Eight Lakh) which would be the amount higher than unrevised amount with interest. Hence, the following Order.

ORDER

- (i) The Appeal is allowed with costs.
- (ii) The impugned Judgment and Order dated 19.12.2016 passed by the learned Railway Claims Tribunal, Nagpur in O.A. (llu)/NGP/2014/0053 is quashed and set aside.
- (iii) The Appellants - Claimants shall be entitled for the compensation of Rs.8,00,000/- (Rs. Eight Lakh) as prescribed in the Notification issued by the Ministry of Railways dated 22.12.2016 from the Respondent.
- (iv) The Record and Proceedings be sent back to the learned Tribunal.

(NEERAJ P. DHOTE, J.)

GGP