



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1688 OF 2024

Pradnya Vijay Pawar & Ors.

...Appellants

Versus

Union of India,
Through General Manager Central
Railway, CSMT, Mumbai

...Respondent

Mr. Balasaheb Deshmukh for the Appellants.

Ms. Leena Patil for the Respondent.

CORAM : JITENDRA JAIN, J.

DATE : 22 DECEMBER 2025

ORDER:

1. This appeal is filed by the original claimants challenging the order of the Railway Claims Tribunal, Mumbai dated 31 December 2019.

2. The claim was rejected on the ground that the deceased was not a *bonafide* passenger and further that the accident by which the deceased passed away was not an “untoward incident”.

3. The issue which arises for my consideration is :-

“Whether the Tribunal was justified in rejecting the claim on above grounds ?”

4. I have heard the learned counsel for the appellants and the respondent.

5. Insofar as the first issue is concerned regarding the *bonafide* passenger, the claimants had led evidence of one Mr. Nileshkumar

Jagtap, constable and friend of the brother of the deceased who met the deceased at CSMT. According to this witness, he saw the deceased purchasing a ticket for Nashik at CSMT. The witness also purchased a ticket for going to Kamothe in Navi Mumbai at CSMT. Thereafter, the witness boarded the train for Kamothe. In the cross-examination of the witness, he has reiterated what is stated in the examination-in-chief. Though there is a slight variation of one day on the date of the incident in the cross-examination, but since the cross-examination is not a test of memory, the minor difference in the date can be brushed aside. The accident occurred at approximately 10:00 p.m. in the night. The witness is also a constable and, therefore, a responsible citizen of the State who would normally not speak a lie. Therefore, following the decision of the Hon'ble Supreme Court in the case of *Union of India vs. Rina Devi*¹ it cannot be said that the claimants had not proved that the deceased was not a *bonafide* passenger.

6. Insofar as the “untoward incident” is concerned, admittedly there is no eyewitness to the incident. The DRM/Inquest panchnama records that the deceased was hit by a moving train, but the author of DRM/Inquest panchnama were also not an eyewitness. The deceased was a resident of Nashik and was travelling from CSMT to Nashik and the accident happened near Vikhroli railway station. Therefore, the contention raised by the respondent that the deceased was crossing the railway line and, therefore, was hit by a moving train cannot be accepted. There is no reason why the deceased would cross the railway line at Vikhroli, when he was a resident of Nashik and had purchased a ticket from CSMT to board the train for Nashik. In general unreserved compartment it is known fact that CSMT-Nashik route is heavily crowded.

1 (2019) 3 SCC 572

7. The nature of injuries as per the panchnama are very serious and are mentioned at page 9 of the impugned order. It is possible that when the deceased fell from the running train, he could have been hit by a train coming from the other side which must have led to the injuries specified in page 9 of the impugned order. It could also be possible that the deceased when fell down, due to the gravitational force must have got entangled in the wheels of the moving train. Merely because, the nature of injuries are so severe, it cannot mean that in all cases a person can be said to have been hit by a moving train while crossing the railway line.

8. In this connection, it is relevant to observe that a similar factual situation arose before the Nagpur Bench of this Court in the case of *Nirmala & Ors. vs Union of India*² and the Court rejected similar contention raised by the respondent. In my view, the ratio of this decision squarely applies to the facts of the present case.

9. In view of above, the impugned order is quashed and set aside. The applicants to give details of their bank accounts to the respondent. The respondent to calculate compensation of Rs.4 Lakhs along with interest @ 6% per annum from the date of accident subject to cap of Rs.8 Lakhs. The amount of compensation so worked out to be remitted within 12 weeks from the date when the applicants/appellants make an application to the respondent. If the amount is not transferred within 12 weeks then it will carry interest @ 9% per annum from the date of accident.

10. The appeal is disposed of in above terms.

[JITENDRA JAIN, J.]

² [2023] 4 MhLJ 272