



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 524 OF 2018

1) Rajkanya Wd/o Devidas Borode
age 50 years, Occ : Household

2) Pravin S/o Devidas Borode
age 28 years, Occ : Labour

.. Appellants

Both R/o Nandipeth, Nagraj Chowk, Akot,
Tq. Akot, Dist. Akola

Versus

The Union of India,
through the General Manager,
Western Railway, Churchgate
Mumbai

.. Respondent

Mr. R.G.Bagul, Advocate for appellants.

Ms Neerja Chaubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATED : AUGUST 19, 2025

ORAL JUDGMENT

(1) Heard. **Admit.** With the consent of the learned Counsel for the parties, the appeal is taken up for final hearing forthwith.

(2) The appellants/claimants, being aggrieved by the judgment and order dated 14/10/2015 passed by learned Members (Technical) and (Judicial) of Railway Claims Tribunal, Nagpur Bench, Nagpur (hereinafter referred to as '**the Tribunal**') in Claim Application No. OA (Ilu)/NGP/2014/0037, whereby they

dismissed the claim application for claiming compensation of Rs. 4,00,000/-, have preferred this appeal.

(3) On 31/01/2013, the deceased Devidas S/o Vishwanath Borode had purchased a general class ticket bearing No. A71886576 from Akot Railway Station to go to Indore and boarded in the general class bogie of Train No.52994 Akola – Mahu passenger. Due to the heavy rush in the bogie, the deceased was standing near the door of the train. After leaving the train from Sanavad Railway Station, due to a sudden jerk, the deceased fell from the train and died on the spot. Therefore, applicants had filed a claim application before the Tribunal.

(4) The respondent railways had filed a Written Statement and denied the averments made in the application. It is further contended that no cause of action arose to the appellants/claimants, as the claim does not fall within the ambit of Section 123(c)(2) and 124A of the Indian Railways Act, 1989 (hereinafter referred to as '**the Act**'). It denied that Devidas boarded the train and had a valid railway journey ticket, and therefore, he was a bona fide passenger. As such, he urged the dismissal of the claim application.

(5) After considering the pleadings, the learned Tribunal framed an issue. Pursuant to the issues appellants examined the wife of the deceased, namely, Rajkanya and produced and proved the documents. On the other hand, the respondent railways examined the loco pilot and closed its evidence. Upon appreciating the evidence on record, the learned Tribunal held that the appellants/claimants failed to prove that the deceased was a bona fide passenger

of the train bearing No.52294, and also failed to prove that the death of the deceased had occurred as a result of an untoward incident as alleged in the claim application and therefore, dismissed the claim application. Being aggrieved by the same appellants have preferred this appeal.

(6) Heard, learned counsel for appellants and respondent. Perused the impugned judgment, evidence, as well as record and proceedings. Having considered the rival submissions of the parties, the following points arise for determination :-

1. *Whether applicants proved that the deceased was a bona fide passenger of the train bearing No.52994 and died as a result of an untoward incident in terms of Section 123(c)(2) r/w 124A of the Indian Railways Act, 1989?*
2. *Whether the impugned judgment and award are just and proper?*
3. *Whether any interference is required in the impugned judgment and award?*

(7) It is pertinent to note that the respondent has not preferred any appeal, nor challenged any finding of the learned Tribunal. This itself shows that the respondent railway authority has no grievance about the findings recorded by the learned Tribunal.

As to point No.1 :-

(8) On perusal of the record, at the outset, it appears that in the application, applicants have categorically stated that the deceased had purchased a general class journey ticket from 'Akot to Indore' and boarded to general bogie

of train No.52994 Akola – Mhow passenger. As there was a heavy crowd in the bogie, so, the deceased was standing near the door of the train. Due to a heavy crowd and a sudden jerk, he fell from the train and died on the spot. The applicant No.1 reiterated the same in her testimony; however, during her cross-examination, her testimony was neither denied nor challenged, nor was any question or suggestion put to her on the above point. Therefore, there is no reason to disbelieve her testimony. It is pertinent to note that no suggestion was put to PW-1 that the deceased did not have a valid journey ticket; therefore, there is no reason to discard her testimony on the said point also. Apart from that, RW-1 Pradip, who was a loco pilot, did not depose that the deceased was not having a valid journey ticket, and he was not aware whether the deceased fell from a moving train near Sanavad Railway Station.

(9) The DRM report indicates that the Sr. Divisional Security Commissioner had conducted an enquiry wherein he had concluded that when the train reached at Sanavad Railway Station, the deceased might have alighted from the moving train or sat near the door and slept there, and therefore, the incident occurred.

(10) The above report itself denotes that the deceased was travelling in the train on the relevant day. It also appears from the final Marg investigation report (Exh.AW-1/4) that a railway ticket from Akot to Indore dated 31/01/2013 was also found in the pocket of the deceased, which was seized by the Police. On perusal of the part of the DMR investigation report (page A-20), it reveals that the PSI cum enquiry officer, Railway Protection Force, informed to Sr. Divisional

Security Commissioner that while searching the dead body, they found a valid journey ticket from the pocket of the deceased from Akot to Indore dated 31/01/2013.

(11) It is to be noted that the respondent railways produced the documents before the learned Tribunal, i.e. verification report of the ticket (A-52), which shows that the said report was submitted by the Chief Booking Superintendent, Akot, to the Chief Claims Officer, Western Railway, on 08/04/2014. Learned counsel for the respondent railways does not dispute the said document. I would like to reproduce the contents of the said letter as under :-

"NO: CBS/AKOT/04/01

Dt.08/04/2014

From :

CBS/AKOT

S.C. Rly Nanded Div.

To,

The CCO CCG W Rly.

Sub :- Accident case ticket particulars Verification for ticket No.71886576 ex AKOT- INDM

Ref :- The CCO CCG letter No.N/S/124A/308/300663/NGP/ ACCID /NEHAS/07/03/2014 Dated 12/03/2014

R/Sir.

As per the Akot Dtc record is the ticket No. 71886576 EX-AKOT - INDM was issued from Akot Station on 31.01.2013. By Shri C.T. Patil, CBS/AKOT under UTS ID- AKOTCT from window No. IC And shift No.2 (timing 19:50 to 23:49 as per UTS DTC) this tkt is II ORD Ad

This is for your kind information or necessary action."

(12) Upon perusal of the above communication, it is evident that as per the record maintained by the respondent railways, "the train ticket bearing

No.71886576 was issued from Akot Railway Station on 31/01/2013 by Shri C.T. Patil, Chief Booking Superintendent, Akot from window No.1C between 19.50 to 23.49," Similarly it emerges that the said ticket was recovered from the pocket of the deceased. The aforesaid communication/verification report of the ticket demonstrates that the deceased had purchased a valid journey ticket on that day and was travelling in the train.

(13) Having considered the above discussion, it is apparent that on the day of the incident, the deceased had purchased a valid journey ticket from Akot and was travelling in the train from Akot to Indore. It also appears from the DRM report that when the train reached at Sanavad station, he might have fallen while alighting from the moving train, or he might have slept near the door of the train and fallen from the train. Thus, it appears that claimants have proved that the deceased was a bona fide passenger and he fell from the train and died in the untoward incident. In such circumstances, the burden was shifted on the respondent railways to demonstrate that the deceased had committed suicide or that he was alighting from the moving train and an accident occurred; however, the respondent railways failed to adduce any cogent evidence in that regard. On the contrary, the evidence adduced by the respondent railways shows that the loco pilot was unaware of the incident, whether the deceased fell from the train near Sanavad Railway Station or not. It is pertinent to note that RW-1 had not deposed as per the defence of the railways. In his testimony, he was silent on the said defence; thereby, the respondent had not adduced any cogent evidence in support of their defence and failed to discharge the burden cast upon them.

(14) In view of the mandate laid down in ***Union of India v. Rina Devi (2019) 3 SCC 572***, I have no hesitation in holding that the claimants have proved that on the date of the incident, the deceased was travelling in the train as a bona fide passenger and fell from the train, thereby discharging the initial burden that lies on them. It also reveals that the deceased sustained injuries in an untoward incident, and he succumbed to the said injuries. ***Hence, I answer issue No.1 in the affirmative.***

As to issues No.2 and 3 :-

(15) On perusal of the impugned judgment and order, it appears that the learned Tribunal in para 9 of the impugned judgment observed that Shri C.T. Patil, Chief Booking Superintendent, Akot, had verified the ticket No.71886576 issued from Akot Railway Station to Indore on 31/01/2013. However, the learned Tribunal has erred in discarding the said evidence, but under its own assumption and presumption, observed that the ticket submitted by the appellants had been obtained by deception. It is pertinent to note that it was not the defence of the railway authorities, nor have they adduced any evidence in that regard or produced any material on record. So, the question does not arise to observe the above findings. It does not appear from the record on which basis the learned Tribunal recorded the above findings/observations. The said findings appear contradictory to the defence of the railway authorities and as well as the evidence on record; therefore, said findings/observation cannot be sustained in the eyes of the law. That being so, I have no hesitation in holding that the learned Tribunal has erred in holding that the appellants/claimants failed to prove that the deceased had possessed a valid journey ticket or that he was a bona fide

passenger of the train. Based on the said findings, the impugned judgment cannot be sustained.

(16) Similarly, the learned Tribunal in para 10 of the judgment observed that the observations in the Marg investigation report are doubtful and unbelievable since it was prepared on 30/04/2013, i.e. after 3 months of the incident; therefore, the opinion has changed in the Marg report to support the applicants. However, on which basis the learned Tribunal has come to the above conclusion has not given any reason for it. In fact, it was neither the defence of the railway authorities nor did they adduce any evidence stating that the seizure of the ticket from the pocket of the deceased was doubtful and unbelievable. Apart from this, neither the railway authorities nor any person challenged or made a grievance about the said Marg investigation report. For that reason, the question of recording of above findings on its own assumption and notions does not arise at all. It does not appear from the record on which basis the learned Tribunal recorded the above findings/observations. The said findings appear contradictory to the defence of the railway authorities and as well as the evidence on record; therefore, said findings/observation cannot be sustained in the eyes of the law and are liable to be set aside. That being so, I have no hesitation in holding that the learned Tribunal has erred in recording that the Marg investigation report is doubtful and unbelievable and discarded the observations therein about seizure of the ticket from the pocket of the deceased, as such said findings are set aside. As against it emerges that "*The railway ticket from Akot to Indore dated 31/01/2013 was found in the pocket of the deceased, which was seized by the police.*"

(17) While dealing with the DRM report, the learned Tribunal in par 13 has observed that as per said report the incident occurred when deceased was alighting from the moving train or he slept near the door of the train and fell from the moving train and therefore, he himself was responsible for the said incident and thereby disbelieved the evidence adduced by the appellant/claimant No.1.

(18) *Moreover*, after considering the post-mortem report, the learned Tribunal in par 14 has observed that the deceased, while crossing the railway tracks, might have been run over by the Train. As such, the claim of the appellants does not fall within the ambit of Sections 123(c)(2) and 124A of the Act but falls under the exception of Section 124A, i.e. Self-inflicted Injury. It is pertinent to note that without any evidence or defence of the respondent railway authorities on record, the learned Tribunal has held that deceased Devidas came to Sanavad by an unknown train, alighted at Sanavad Station, and while crossing the railway tracks to board another train, he was run over by a train, and hence the incident occurred. The findings recorded by the learned Tribunal are beyond imagination, and the basis on which the learned Tribunal came to the said conclusion does not appear from the record. It was not the defence of the railway authorities, nor they have adduced any evidence in that regard, however, imaginary findings recorded by the learned Tribunal, appears perverse to the evidence on record and based on the said findings impugned judgment cannot be sustained, therefore, in my view, learned Tribunal has erred while holding that claimants failed to prove that deceased was a bona fide passenger and died in an untoward incident.

(19) Thus, it is apparent that the learned Tribunal has not considered the pleadings as well as evidence on record in its proper perspective and erred in holding that claimants failed to prove that the deceased was a bona fide passenger and failed to produce documents that the deceased died due to an untoward incident and dismissed the claim application. However, as discussed above, it is evident that claimants have filed an affidavit and thereby discharged the burden that lies on them. It also reveals that the ticket was recovered from the pocket of the deceased. Thus, claimants have categorically proved that the deceased was travelling in the train and had a valid journey ticket. On the contrary, railway authorities failed to discharge the burden that lies on them. That being so, it appears that findings recorded by the learned Tribunal are unreasonable and improper, but appear perverse and imaginary and based on the said findings, the impugned judgment cannot be sustained in the eyes of the law. As such, the interference is required in the impugned judgment in the appellate jurisdiction. Consequently, ***I answer to point No.2 is in the negative and point No.3 is in the affirmative.***

(20) As a result, the appeal is allowed. The impugned judgment and order in Claim Application No.OA (Ilu)/NGP/2014/0037, dated 14/10/2015, passed by learned Members (Technical) and (Judicial) of Railway Claims Tribunal, Nagpur Bench, Nagpur, is hereby quashed and set aside, and the claim application filed by the applicants is allowed.

(21) It appears that the incident had occurred before the commencement of the amendment in the Indian Railways Act, 1989; therefore,

appellants/claimants are not entitled to the interest on the amount of compensation. As a consequence, the claimants are entitled to get compensation of Rs. 8 Lakh as quantified in Part-I of the Schedule of Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990

(22) As a sequel, the respondent is directed to pay an amount of Rs. 6 Lakh to the appellant/claimant No. 1 Rajkanya wd/o Devidas Borode and Rs. 2 Lakh to appellant/claimant No. 2 Pravin S/o Devidas Borode by 31/10/2025; failing which the amount shall carry interest @6.00%p.a. until the payment is made. No order as to costs.

[ABHAY J. MANTRI, J.]

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