



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

FIRST APPEAL NO. 585 OF 2021

- 1) Shalubai wd/o Ashok Shinde,
Age about 44 years, Occ. - Labour
- 2) Vikram s/o Ashok Shinde,
Age about 16 years, Occ. - Student,
- (Appellant No.2 being a minor through
his mother, appellant No.1)
- Both R/o Ukkadgaon (Makta),
Tahsil – Sonpeth, District – Parbhani.

.... **APPELLANTS**

VERSUS

Union of India,
through General Manager,
South Central Railway, Secunderabad.

.... **RESPONDENT**

Mr. R.G. Bagul, Advocate for the appellants,
Ms. Neerja Chaubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : 26-06-2025

ORAL JUDGMENT :

The original claimants have preferred this appeal against the judgment and order dated 25-10-2019 passed by the Railway Claims Tribunal, Member (Judicial), Delhi, Circuit Bench, Nagpur Bench, Nagpur (hereinafter referred to as the “*Tribunal*”) in Application No.

OA(IIu)/NGP/0146/2017, whereby the claim filed by them was dismissed.

2. For the sake of convenience, I would like to refer to the parties as per their denomination in the Tribunal.

3. The claimants' case is that on 11-04-2016, the deceased Ashok Shankar Shinde was travelling in a general coach/compartment from Parbhani to Nanded in Train No. 17619 by purchasing a valid railway journey ticket. When the train reached near Limbagaon Railway Station, the deceased received a strong jerk, due to which he fell from the train, sustained injuries, and was admitted to the Medical College and Hospital, Nanded, where the primary treatment was given to him. On the same day, he was referred and admitted to Dr. Shankarrao Chavan Government Medical College and Hospital, Nanded. Then, on 12-04-2016, he was referred to the S.R.T.R. Medical College and Hospital, Ambejogai, where he was admitted till 20-04-2016 and discharged on his request. Thereafter, on 17-06-2006, he succumbed to the said injuries at home.

4. Claimant No. 1 is the widow, and Claimant No. 2 is the son of the deceased. Due to the death of the deceased, they suffered a loss and, therefore, they had filed the claim application before the Tribunal,

alleging that due to the occurrence of the untoward incident, the deceased died and, thus, the respondent-railway is liable to pay the compensation to them.

5. The respondent-railway resisted the claim on the ground that the deceased was not a *bona fide* passenger of the train. It denied that he was travelling by the said train from Parbhani to Nanded and fell from the train due to the strong jerk he sustained. Therefore, it is contended that the deceased was neither a *bona fide* passenger nor was having any authority to travel from Parbhani to Nanded. The deceased had violated the safety rules framed by the railway authorities; therefore, the claimants are not entitled to the relief as claimed.

6. It is further averred that as per the statement of the eyewitness, i.e., the Guard of the said train, on the day of the incident, one person fell from the train while he was boarding the train at Limbagaon Railway Station, and the Loco Pilot of the station confirmed the same. The deceased died two months after the alleged incident. Hence, it is contended that the claimants are not entitled to compensation, and therefore, it is urged that the claim be rejected.

7. Having considered the rival pleadings of the parties, the Tribunal had framed issues. Pursuant to the issues, the claimants examined claimant No. 1 and reiterated their case. On the other hand, the railway authorities examined two witnesses. Both parties have produced documents on record. After considering the evidence on record, the Tribunal has dismissed the claim application, holding that the claimants failed to prove that the deceased was a *bona fide* passenger of the train. Being aggrieved by the same, the claimants have preferred this appeal.

8. Heard Mr. R.G. Bagul, learned Advocate for the claimants and Ms. Neerja Chaubey, learned Advocate for the respondents. Perused the record, impugned judgment, and the decisions in the cases of *Doli Rani Saha v. Union of India*, (2024) 9 SCC 656 and *Union of India v. Rina Devi*, AIR 2018 SC 2362. Having considered the submissions and record, the following points arise for determination.

- (i) Whether the claimants prove that the deceased was a *bona fide* passenger of Train No.17619 on the relevant date with a valid railway journey ticket?
- (ii) 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 read with Section 123(c) of the Railways Act ?

(iii) Whether the impugned judgment is just and proper ?

(iv) Whether any interference is required in the impugned judgment ?

Point No.(i) :

9. Mr. R.G. Bagul, learned Advocate for the original claimants, contended that claimant No. 1 in her evidence categorically deposed that the deceased was a *bona fide* passenger of the train and while boarding the train near Limbagaon, he fell from the train and sustained injuries. Claimant No.1, by filing the affidavit, has discharged the burden that lies on her to show that the deceased was a *bona fide* passenger. However, the Tribunal erred in holding that claimants failed to prove that the deceased was a *bona fide* passenger. He further canvassed that the respondent did not dispute that the deceased sustained injuries in the said accident. He submitted that the claimants are entitled to compensation.

10. To buttress his submissions, he has relied on the judgment of the Hon'ble Supreme Court in *Doli Rani Saha* (supra) and argued that the claimants' case is covered by the mandate laid down in the above case, hence urged for allowing the appeal.

11. On the other hand, Ms. Neerja Chaubey, learned Advocate for the respondent, has strenuously argued that the deceased was not holding a valid railway journey ticket; therefore, it cannot be said that he was a *bona fide* passenger of the train. Secondly, the deceased was at fault as, while boarding the train, he fell from the train and sustained the injuries. Therefore, due to the fault of the deceased, the claimants are not entitled to compensation. Lastly, she canvassed that no evidence or material was brought on record to demonstrate that the deceased succumbed to the said injuries and, therefore, she urged for dismissal of the appeal.

12. It is pertinent to note that the railway authorities are not disputing the occurrence of the incident at Limbagaon. Only their defence is that the deceased did not have a valid railway journey ticket, and the second point is that no document is produced on record to show that the deceased died due to said injuries.

13. While determining the controversy in the matter, I would like to reproduce para Nos. 12 to 12.3, 15, 16, 19 and 20 of the decision in *Doli Rani Saha* (supra).

“12. On appeal, the High Court dismissed the appeal against the decision of the Tribunal. By its judgment dated 07-01-2024, the High Court held that :

12.1 *From the material available on record, it appeared that the body of the deceased was found lying near the railway track. However, nothing on record indicated that the deceased was travelling as a passenger on the train;*

12.2 *The post-mortem report indicated that the death took place between forty-eight and seventy-two hours before the conduct of the post-mortem, which was on 9 September 2003 at 1:30 pm. From this, it cannot conclusively be held that the deceased died on 5 September 2003; and*

12.3 *The report filed by the IO is not supported by substantive material. Since he had no personal knowledge regarding the cause of death, his report cannot be accepted as evidence of the fact that the deceased was travelling as a passenger on the train in question.*

13 & 14

15. *From the recapitulation of the various judicial pronouncements leading to the present appeal, it can be seen that the primary issue is whether the deceased was travelling on the train in question. In Rina Devi, a two-Judge Bench of this Court considered the question of the party on which the burden of proof will lie in cases where the body of the deceased is found on railway premises. This Court held that the initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways. Significantly, it also held that the mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger. The relevant extract from the ruling of the Court is reproduced below:*

“29. We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, 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. The legal position in this regard will stand explained accordingly.”
(emphasis supplied)

16. *In the present case, the appellant had duly filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted*

to the Railways, which has not discharged its burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted.

17 and 18

19. *Seventy-two hours prior to the conduct of the post-mortem would be about 1:30 pm on 6-12-2003. This would be about thirteen to fourteen hours after the deceased fell off the train. Conclusions in post-mortem reports as to the time of death are approximations. This is also indicated by the fact that they usually provide a window of time in which the deceased may have died. A margin of error of about half a day in cases where compensation is at issue is not disproportionate, where the evidence is otherwise corroborated by the material on record. In this case, the estimation as to the time of death in the post-mortem report differs from the time at which the IO stated that the deceased fell off the train by about half a day. **The report of the IO otherwise corroborated that the deceased fell from the train.** Further, the post-mortem report also stated that the deceased sustained ante-mortem injuries due to blunt force. **Hence, from the material on record, it can be concluded that the deceased was a bona fide passenger on the train in question and that he sustained grave injuries leading to his death, due to his fall from the train.** Compensation is therefore due to the appellant.*

D. *Compensation and interest*

20. *The decision in [Rina Devi](#) holds as follows on the aspect of compensation:*

*“19. 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* and *Kalandi Charan Sahoo* stand explained accordingly. The four-Judge Bench judgment in [Pratap Narain Singh Deo](#) 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.”*

14. A bare perusal of the above judgment indicates that on filing of the affidavit by the claimants stating the relevant facts of the case, the initial burden on them could be discharged. Then, the burden will shift to the railways to prove that he was not a *bona fide* passenger on the train, if not discharged. Then, the presumption that the deceased was a bona fide passenger on the train in question remains unrebutted. It was further observed that in *Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289*, the Hon'ble Apex Court had categorically observed that the Railways Act was enacted to give the effect of the mandate of beneficial legislation i.e. for the benefits of the *bona fide passengers* who had sustained injuries in the untoward incident.

15. On perusal of the affidavit of claimant No. 1, it reveals that in her testimony, she categorically deposed that on 11-04-2016, the deceased was holding a railway journey ticket and travelling in a general coach/compartment from Parbhani to Nanded. Near Limbagaon, due to a strong jerk, he fell from the railway and sustained severe injuries. Then she further candidly deposed that her husband died at home due to injuries suffered by him in the said untoward incident. Her statement was neither challenged nor denied on the point that her husband died due to the injuries he suffered. Thus, in view of the mandate in *Doli Rani Saha* and *Rina Devi (supra)*, the claimants have

discharged the initial burden that lies on them by filing the affidavit, which states the relevant facts about the deceased's travel in the said train. Therefore, the burden was shifted on the respondent, the railways, to discharge the same; however, the railway authorities failed to adduce any cogent evidence to discharge the said burden. Moreover, as per the dictum laid down in *Rina Devi (supra)*, the mere absence of a ticket with the injured or deceased would not negate the claim that the deceased was a *bona fide* passenger. However, the railway authority failed to adduce any cogent evidence to demonstrate that the deceased was not holding a valid ticket or that he was not a *bona fide* passenger of the train. In such circumstances, the presumption that the deceased was a *bona fide* passenger on the train in question remains unrebutted.

16. As against the witnesses of the respondents, i.e. R.W.1 Bhanupratap Singh and R.W.2-Arvind Kumar Mahato, in their testimonies, deposed that at Limbagaon, when the train departed, at that time, the deceased, while boarding the said train, fell from the train and sustained injuries. Their testimonies themselves reveal that the deceased sustained injuries when he was boarding the train, which means the railway authorities do not dispute the said fact.

17. It also appears that the railway authorities had conducted the enquiry in respect of the untoward incident. During the enquiry, the authorities found that the deceased had suffered severe injuries due to falling from Train No.17619. However, the railway officers only observed that the deceased was not holding a valid railway journey ticket, and therefore, the railway was not responsible for satisfying the claim. The form No.-I (under Rule-4), dated 11.04.2016, along with the report, indicates that the deceased had one ticket and he sustained an injury in the said Untoward incident. The report also shows that the deceased had suffered the injuries while he was boarding the train at Limbagaon. The evidence of R.W. 1 and R.W. 2, along with the report, categorically denotes that on the day of the incident, the deceased had sustained injuries while he was boarding the train. Thus, having considered the evidence of claimant No. 1 and in view of the mandate laid down in *Rina Devi* and *Doli Rani Saha (supra)*, it appears that by filling an affidavit stating the relevant facts of the incident, the deceased was travelling in the train, the claimants discharged the initial burden that lies on them. Hence, I have no hesitation in holding that the deceased was a *bona fide* passenger in the train in question and he sustained the injuries in the said untoward incidents. Hence, I answer point No.1 **in the affirmative.**

Point Nos.(ii) to (iv) :

18. It appears from the record that the untoward incident occurred on 11-04-2016; however, the deceased died on 17-06-2016, and, therefore, the learned Advocate for the respondent vehemently contended that no evidence or material was brought on record to demonstrate that the deceased died due to the injuries sustained to him in the accident. However, on perusal of the affidavit of claimant No. 1, it appears that in paragraph No. 3, the claimant has categorically deposed that the deceased/her husband died on 17-06-2016 at home due to injuries sustained to him in an untoward incident that occurred on 11-04-2016. The said testimony was neither challenged nor denied by the railways, and the same remained unchallenged. Thus, there is no reason to disbelieve the said testimony. Furthermore, it has come on record that the deceased was initially admitted to Dr. Shankarrao Chavan Government Medical College and Hospital, Nanded, on 11-04-2016. A bare perusal of the Discharge Card shows that a history of a railway accident dated 11-04-2016 was mentioned. On local examination, the doctor noticed multiple fractures on the right leg, left femur, thigh and right-hand tibia of the deceased. It was also mentioned that the patient was a resident of Parli and wanted to continue the treatment in Ambajogai or Latur. So he was discharged on 12.04.2016. In the Discharge Card, details are mentioned about the

operation as well as the treatment suggested and provided to the deceased. Thereafter, he was admitted to the S.R.T.R. Medical College and Hospital in Ambejogai, where he remained for nine days, until April 20, 2016. In the discharge card, Injuries sustained by him and treatment given to him were mentioned. He had sustained injuries to his right hand and multiple fractures, including in his right leg.

19. Both the Discharge Cards also demonstrate that in the said incident the deceased had sustained severe injuries on his person and testimony of claimant No. 1 shows that he had succumbed to them and said testimony has remained unchallenged and, therefore, from the material on record it can be inferred that the deceased died due to the injuries sustained to him in the said accident or that injuries leads to his death.

20. It also appears from the claim application that the deceased was a poor labourer; applicant No.1, the widow, is illiterate, and applicant No.2 is their minor son; therefore, they could not afford the medical expenses for treatment of the deceased and at their own risk, deceased was discharged from the hospital.

21. Since the provisions for compensation in the Railways Act are a beneficial piece of legislation, in my opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Therefore, considering the mandate of the beneficial legislation and advancing the object and intent of the statute, in my view, it would be proper to provide compensation to the victim of the untoward incident by giving a liberal approach.

22. The Tribunal has not considered the evidence of the claimant in its proper perspective and erred in holding that the claimants failed to prove that the deceased was a *bona fide* passenger and, therefore, held that the claimants failed to produce documents on record to show that deceased died due to the injuries sustained to him and, thus, dismissed the claim application. However, as observed above, it is evident that claimants have filed an affidavit, thereby discharging the burden that lies on them. However, the railway authorities failed to discharge the said burden. Therefore, it appears that the findings reached by the Tribunal are neither just nor proper; based on the said findings, the judgment cannot be sustained, hence, interference is required in the appellate jurisdiction. Thus, I answer point Nos. 2 and 4 in the affirmative and 3 in the negative.

23. It further appears from the record that claimant No.1 is the widow, more than 50 years old, and claimant No.2 is a son. Therefore, as per the request of the learned Advocate for the claimants, it would be proper to grant 60% compensation amount to the widow and 40% to the son.

24. As a result, I pass the following order :

- (i) The appeal is allowed. No order as to costs.
- (ii) The claimants are entitled to the compensation quantified at Rs. 8,00,000/- (Rupees Eight Lakhs). The said compensation shall be paid by the respondent to the claimants by 31-08-2025, failing which the compensation amount awarded by this Court shall carry interest @ of 8% per annum, until the payment is made.
- (iii) It is made clear that claimant No. 1, being the widow, is entitled to 60% of the compensation amount and claimant No.2, being the son, is entitled to 40% of the compensation amount.
- (iv) The respondent is directed to pay 60% and 40% of the compensation amount to claimant Nos. 1 and 2, respectively, in their bank accounts upon their furnishing their bank account details to the respondent.

(ABHAY J. MANTRI, J.)