



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

FIRST APPEAL NO. 364 OF 2024

1. Smt. Laxmibai wd/o Gangadhar Narvade
Aged : 48 years, Occ. Household

2. Ashirwad s/o Gangadhar Narvade
Age 20 years, Occ. Household

3. Chirinjiv S/o Gangadhar Narvade
Age 18 years, Occ. Labour

All R/o. Pournima Nagar, Gokunda,
Tq. Kinwat, Dist. Nanded.

4. Jyoti w/o Dugadas Koturwar
Age 30 years, Occ. Household

R/o. Chikhali Bk., Tq. Kinwat,
Dist. Nanded - 431811

5. Pooja w/o Trisharan Muneshwar
Age 26 years, Occ. Household

R/o. Narayannagar, Gokunda
Tq. Kinwat, Dist. Nanded – 431804.

... Appellants

6. Komal w/o Lakhan Ingole
Age 24 years, Occ. Household
R/o. Ghoti, Tq. & Dist. Yavatmal 445301

Versus

1. Union of India
Through General Manager,
South Central Railway,
Secunderabad (A.P)

...Respondent

Mr. D.S. Lambat, Advocate for appellants.

Ms. Neerja G. Chaubey, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.
DATE : 03.02.2025.

ORAL JUDGMENT: (PER: Rohit W. Joshi, J)

Heard finally by consent of both the learned counsel for the parties.

(2) The present appeal is filed under Section 23 of the Railway Claims Tribunal Act, 1987 challenging the judgment and order dated 01.01.2024 passed by the learned Railway Claims Tribunal, Nagpur in Case No.OA(llu)/NGP/25/2020 whereby the claim of the appellants seeking compensation on account of death of Gangadhar Narvade in a railway accident came to be rejected. The appellant No.1 is widow, appellant Nos.2 and 3 are sons and appellant Nos.4 to 6 are married daughters of the deceased. The case of the appellants is that on 12.06.2019 the deceased was travelling by train No.17409 Adilabad – Manglore Express from Adilabad to Kinwat. During the said journey, he fell down in an untoward incident, as a consequence of which, he died. The incident has occurred near village Ghoti which is in between Ambari and Kinwat Stations.

(3) The respondent opposed the claim on the ground that the body of the deceased was found at the spot at around

3.30p.m. although the train has passed the said spot between 08.36 to 8.45 a.m. The respondents contend that after his demise, the body of the deceased was planted near railway track and railway ticket which was found on his person during inquest and spot panchanama is also a planted ticket. The defence set-up by the respondents is accepted by the learned Tribunal and accordingly, the learned Tribunal has dismissed the claim holding that mere presence of the dead body of the deceased near the railway track cannot give rise an inference that the deceased had died in train accident. The Tribunal has also held that the officials and employees of railways could not find the body of the deceased lying besides the railway track after the accident is also unbelievable.

(4) Mr. Lambat, learned counsel appearing for the appellants contends that the body of the deceased was found near railway track he was holding a valid ticket which was recovered from his body immediately where the body was found and the initial report i.e. Accident Death Case recorded under Section 174 of Cr.P.C. as also the postmortem report confirmed the fact that the deceased had fallen from a running train and succumbed to the injuries suffered during the

accident. He, therefore, contends that the railway Tribunal has erred in rejecting the claim.

(5) As against this, Ms. Neerja Choubey, learned counsel appearing for the respondent supported the findings recorded by the learned Tribunal pointing out that it is inconsiderable that while a body was lying just besides the railway track none of the railway officials had noticed the body and reported about the same to higher authorities. She contends that after the passage of the subject train from the spot several trains had passed, the said location and yet no loco pilot or guard had reported about the presence of dead body near railway track to the railway authorities, which is inconceivable.

(6) Having heard the rival submissions, the following points arise for my consideration in the present appeal : -

- (i) Has Gangadhar Narvade died on 12.06.2019 in an untoward incident while travelling in a train carrying passengers ?
- (ii) Are the appellants entitled to receive compensation under Section 124-A on account of demise of Gangadhar Narvade in railway accident ?

(iii) What should be the quantum of compensation, if point Nos.(i) & (ii) are answered in affirmative ?

(7) Perusal of the record, it indicates that the body of the deceased was found near railway track. It is admitted position to record that a railway ticket was found on his person during the course of spot panchnama and inquest panchnama. The ticket is a genuine ticket. The family members have deposed that he used to travel by the said train routinely for doing labour work. With this evidence, when we consider the case of the respondent, it is found that the defence is based on the assumption such as the dead body would have been found by some railway employees inspecting the tracks or loco pilot, guard of some other train. This defence which is based merely on assumption has been accepted by the learned Tribunal while rejecting the claim. I am of the considered opinion that, proven facts on record are sufficient to established that the deceased had fallen down from a running train and had suffered injuries due to the said accident and has ultimately died on account of such injuries. The respondent has not been able to bring any concrete evidence on record to deny the evidence brought on record by the appellants.

(8) For the above reasons, I am of the opinion that the appellants have established that the deceased Gangadhar Narwade had died in railway accident on 12.06.2019 while travelling from Adilabad to Kinwat.

(9) The appellant No.1 is widow, appellant Nos.2 and 3 are sons, and appellant Nos. 4 to 6 are married daughters of the deceased. The occupation of the respondent No.1 who is widow is mentioned as household. The appellant Nos.2 and 3 the sons are doing labour work. The appellant Nos.4 to 6 are married daughters, who were not residing with the deceased. The principal dependent of the deceased is his widow Laxmibai. Section 124-A of the Act, uses the term 'dependent' and not 'legal heir' or 'legal representative'. Apart from the appellant No.1, the appellant Nos.2 and 3 are the sons of the deceased, who were around 19 and 17 years old, at the time of accident. As against this, the appellant Nos.4 to 6 are married daughters and their marriages were already solemnized earlier from the date of filing of the application.

(10) In such circumstances, in my considered opinion,

the ends of justice will be served by awarding compensation of Rs.40,000/- each to the appellant Nos.4 to 6, Rs.1,00,000/- each to the appellant Nos.2 and 3 and Rs.5,80,000/- along with accrued interest to appellant No.1 Laxmibai - widow. It is clarified that the appellant Nos. 2 to 6 will not get any amount of interest and the entire accrued interest on compensation of Rs.8,00,000/- should be paid to appellant No.1 Laxmibai - widow.

(11) In the facts of the case, it will be appropriate that interest is awarded @ 6.00% p.a. from the date of accident till the date of realization of the amount. In the result, the appeal is allowed in the following terms :-

1. The appellants are entitled to receive compensation amount of Rs.8,00,000/- along with interest @ 6% p.a. from 12.06.2019 till the date of realization of the said amount.
2. The appellant No.1 will be entitled to receive sum of Rs.5,80,000/- along with entire accrued interest on the total amount of compensation of Rs.8,00,000/-.
3. The appellant Nos.2 & 3 will be entitled to receive sum of Rs.1,00,000/- each without any interest.
4. The appellant Nos.4 to 6 will be entitled to receive sum of Rs.40,000/- each without any interest.

5. The appellants are directed to provide bank account details to the respondents as also the learned counsel for respondent appearing in the matter within a period of 15 days from today.

6. The respondent shall disburse the amount of compensation directly in the bank account of respective appellants within a period of four months from today.

[ROHIT W. JOSHI, J.]

Prity