



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

FIRST APPEAL NO.835 OF 2024

1. Mrs. Anjanabai Ganpat Chavhan
Age about 53 years, Occu : Household,

2. Mr. Sanjay S/o Ganpat Chavhan
Age about 35 years, Occu. : Labour,

All R/o – Chabhara Tanda, Tah. Hadgaon,
Dist. Nanded.

3. Mr. Rajesh S/o Ganpat Chavhan
Age about 30 years, Occu. : Labour

Permanent R/o chabhara Tanda,
Tah. Hadgaon, Dist. Nanded.

Present Address-3 R No.75, Meghraj
Building, Raykar Mala, Dhayri, Pune.

4. Mrs. Kamal W/o Dharma Rathod
Age about 32 years, Occu : Household,
R/o Chikala Tanda, Tah. Mudkhed,
Dist. Nanded.

..... **APPELLANTS**

...VERSUS...

. Union of India
Through the General Manager,
South Central Railway, Secunderabad.

..... **RESPONDENTS**

Mr.Ravindra G. Bagul, Advocate for Appellants.
Ms.Neerja G. Chaubey, Advocate for Respondent.

CORAM: **ROHIT W. JOSHI, J.**
DATE : **05.02.2025**

JUDGMENT:

1. The present appeal is preferred under Section 23 of the Railway Claims Tribunal Act, 1987, challenging the judgment and order dated 08.09.2023 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No.OA(Ilu)/NGP/18/2021, whereby the claim filed by the appellants seeking compensation on account of death of late Ganpat Chavhan in a railway accident came to be rejected. Appellant No.1 is the widow, Appellant Nos.2 and 3 are sons and Appellant No.4 is married daughter of late Ganpat Chavhan.

2. It is the case of appellants that on 12.12.2019, deceased Ganpat and his wife – appellant no.1 had been to Mudkhed Railway Station for travelling from Mudkhed to Secunderabad. They had purchased the ticket for two passengers. They were to board train no.57564 for travel to Secunderabad from Mudkhed. On 13.12.2019 at around 00.40 hours, said train arrived at platform no.2 at Mudkhed Railway Station and while trying to board the train, deceased Ganpat Chavhan slipped, as a consequence of which he fell down and came under the running train. He suffered serious injuries in the accident on his head, waist, legs and hands and died at the hospital on the same day.

3. The respondent opposed the claim contending that while train no.57564 arrived at Mudkhed Railway Station, the deceased was trying to cross railway track from platform no.1 to platform no.2 and he was hit by the running train while trying to cross the platform. It is, therefore, contended that while he met with a fateful accident, he did not fall from running train, rather he invited injuries unto himself by crossing the railway track although railway over bridge is provided at the station for coming to one platform to another. It is also contended that valid railway ticket was not found on the body of the deceased, and therefore, he cannot be termed to be a bonafide railway passenger.

4. The learned Tribunal accepted the defence set up by the respondent and was accordingly pleased to dismiss the claim application filed by the appellants vide impugned judgment and order dated 08.09.2023. The present appeal is preferred challenging the said judgment and order.

5. Shri Bagul, learned Advocate for the appellants contends that railway ticket was recovered from appellant no.1, widow of the deceased, who was to travel along with the deceased. He points out that the ticket was for journey from

Mudkhed to Secunderabad for two passengers. He points out that undiputedly appellant no.1 wife was accompanying the deceased while he met with a fateful accident. His further contention is that initial burden stands discharged on account of recovery of railway ticket and evidence of appellant no.1, who has witnessed the accident.

6. Per-contra, Miss. Chaubey, learned advocate for the respondent argues that the ticket recovered from appellant no.1 was purchased at around 18.35 hours on 12.12.2019 and the alleged attempt to board the train was at 00.40 hours on 13.12.2019. She argues that an unreserved railway ticket of general class is valid only upto three hours and as such, the deceased was not carrying a valid railway ticket. She also refers to evidence of loco-pilot to contend that deceased met with a fateful accident while he was trying to come to platform no.2 from platform no.1 by crossing the railway track, rather than using the bridge. Such act according to her would disentitle the dependents of the deceased from claiming compensation.

7. On hearing rival submissions, the following points arise for my consideration :-

[i] Has deceased Ganpat Chavhan died in untoward incident within the meaning of section 123(c) of the Railways Act, 1989 ?

[ii] Does the case of appellants fall within exceptions provided in Section 124A of the Railways Act, 1989 ?

8. It is not in dispute that the deceased died at railway platform in an accident involving train. The contention of the appellants is that the deceased met with an accident while he was trying to board the train whereas the contention of the respondent is that he died when he was crossing the railway track to come to platform no.2 from platform no.1. It is also not in dispute that the subject train had reached platform no.2 of railway station Mudkhed, announcement was made regarding arrival of the trains, the deceased who was accompanied with his wife wanted to board the train. Either he met with an accident while actually boarding the train or he met with an accident while coming to platform no.2 for the purpose of boarding the train. If the version of the appellants is accepted then there cannot be any dispute that the case of the appellants is covered under Section 123(c), and therefore, they are entitled to compensation. Assuming the case of

respondent to be true, in my considered opinion, the case will nonetheless be covered by Section 123(c), since the intention of the deceased was to reach platform no.2 for the purpose of boarding the train. The deceased had a railway ticket for travelling from Mudkhed to Secunderabad. He was trying to reach platform no.2 at the time when his train had come at the railway station, obviously for the purpose of boarding the train. Such contingency will also be covered within the meaning of Section 123(c) of the Act. The intention to travel is apparent on the face of record since the deceased had a railway ticket for two passengers i.e. himself and his wife and he was either boarding the train or crossing the track to reach platform no.2 for boarding the subject train. The learned Single Judge of Madras High Court has held in CMN No.4371/2019 decided on 08.03.2021 that when a person meets with an accident while crossing railway track in order to board a train, his case will be covered by section 123(c). It is held that such a case is also an untoward incident within the meaning of said section. It is held that such a case will not be covered by exceptions incorporated under Section 124A of the Act.

9. It is now well settled that dependents of a deceased or a person, who suffer injury in railway accident are/is not

entitled to seek compensation from railway, if unfortunate incident is a outcome of attempt to commit suicide or self inflicted injuries. In order to attract both these contingencies, an intention to harm himself must exist. The facts of the case do not remotely indicate any such intention on the part of the deceased to cause physical harm to himself, even if the version of the respondent with respect to the manner in which the accident had occurred is accepted. Therefore, in either case, the dependents of the deceased will be entitled to receive compensation as provided under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. It may also be mentioned that concept of contributory negligence is not attracted in railway accident, and therefore, by his action of trying to switch over platform for the purpose of boarding a train, if a person meets with an accident, even then the railway establishment will be liable to pay compensation. The liability of railway is a strick liability.

10. Another contention raised by the respondent is that the ticket possessed by appellant no.1, wife of the deceased was purchased on 12.12.2019 at around 18.35 hours and accident had occurred on 13.12.2019 at around 00.40 hours. It is contended

that an unreserved general compartment ticket is valid only for three hours, and therefore, at the time when the accident occurred the deceased can not be said to be a bonafide railway passenger since validity of ticket had lapsed. In this regard, it needs to be mentioned that the deceased and his widow are illiterate gullible people. While they purchased the ticket from railway counter, they should have been informed that the validity of ticket shall expire before the scheduled time of the train. It is not the case of the respondent that any other train was available on 12.12.2019 for travelling from Mudkhed to Secunderabad. The objection raised by the respondent is hyper technical, and therefore, rejected.

11. In view of the finding above, the following order is passed :-

ORDER

- (i) The appeal is allowed.
- (ii) The Respondent is liable to pay sum of Rs.8,00,000/- to the appellants along with interest at the rate of 6% p.a. from 13.12.2019 i.e. the date of accident till the date of realization of entire amount.
- (iii) The amount be apportioned between the appellants as under :-

- (a) Appellant No.1 – widow : Rs.5,00,000/- with accrued interest.
- (b) Appellant Nos.2 to 4 – sons and daughter : Rs.1,00,000/- each with accrued interest.
- (iv) Parties to bear their own costs.

(ROHIT W. JOSHI, J.)

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