



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

FIRST APPEAL NO. 1554 OF 2019

1. Narayan s/o Bhaddu Pawar
age about 46 years, Occ : Labour
2. Roshni d/o Narayan Pawar
age 25 years, Occ : Private Job
3. Rahul s/o Narayan Pawar
age 23 years, Occ : Private Job
4. Rajni d/o Narayan Pawar
age 20 years, Occ : Student
All R/o at & Post 103, Nilkanth
Colony, Berasia Road, Bhopal,
Tahsil – Huzur,
Dist. Bhopal – 462001 (M.P.)

} **.. Appellants**

Versus

Union of India
Through the General Manager,
Central Railway, Mumbai CST

} **.. Respondent**

 Ms. Gayatri Dive Advocate h/f Mr. P.R. Agrawal, Advocate for
 appellants (through V.C.)
 Ms. Neeraja Choubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATED : AUGUST 08, 2025

ORAL JUDGMENT

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

(2) The original applicants/appellants, being aggrieved by the judgment and order dated 24/01/2019 passed by the learned Member (Technical), Railway Claims Tribunal, Nagpur Bench, Nagpur (hereinafter referred to as '**the Tribunal**') in Case No. OA (Ilu)/NGP/89/2018, whereby the claim for compensation of the applicants was dismissed, have filed this appeal. For the sake of convenience, I would like to refer the parties as per their denomination before the learned Tribunal.

(3) The applicants' case is that on 12/10/2017, the deceased Saya w/o Narayan Pawar was travelling from Bhopal to Nagpur in General Coach/bogie by Delhi-Hyderabad Telangana Super-fast Express train No.12724 with a valid journey ticket. She was standing near the door. When the train reached near Narkhed Station, the deceased accidentally fell from the moving train and sustained severe injuries. She succumbed to the said injuries. Hence, the applicants have filed a claim petition before the learned Tribunal for grant of compensation.

(4) The respondent/Railways, by filing a written statement, resisted the petition and contended that the deceased did not possess a valid railway journey ticket; therefore, she could not be termed as a *bona fide* passenger, and as such, the incident cannot be termed as an '*untoward incident*'. The deceased was carelessly standing near the

door in the train compartment in a moving train; therefore, the incident cannot be termed as an '*untoward incident*', but it is a case of self-inflicted injury and therefore, the respondent is not responsible for the said incident. Alternatively, it is contended that the act of the deceased to alight from the moving train is a negligent act on her part with an intention to inflict injury on herself and therefore, it does not come within the ambit of Section 123(c)(2) read with Section 124A of the Indian Railways Act, 1989 (hereinafter referred to as '***the Act***'). As such, the application is not maintainable against the respondent.

(5) Having considered the rival pleadings of the parties, the learned Tribunal had framed issues. Pursuant to the said issues, the applicants examined applicant No.1 Narayan and produced and proved the documents. On the other hand, the respondent did not examine any witnesses in support of their defence. After considering the evidence on record, the learned Tribunal dismissed the application, holding that the applicants failed to prove that the deceased died in an untoward incident as contemplated under Section 123(c)(2) of the Act. Being aggrieved by the same, the applicants have preferred this appeal.

(6) Heard learned counsel Ms. Gayatri Dive, for the applicants and learned counsel Ms. Neeraja Choubey, for the

respondent. Perused the original record and proceedings and have gone through the impugned judgment. Having considered the submissions and record, the following points arise for determination :-

1. *Whether the applicants proved that on the relevant day, the deceased was a bona fide passenger with a valid journey ticket of train No.12724 Delhi-Hyderabad Telangana Super-fast Express?*
2. *Whether the death of the deceased had occurred as a result of an "untoward incident" within the meaning of Section 123(c)(2) of the Act?*
3. *Whether the impugned judgment and order are just and proper?*
4. *Whether any interference is required in the impugned judgment and order?*

As to point No.1 :-

(7) To prove that the deceased had possessed a valid railway journey ticket, the applicants examined applicant No.1, Narayan. In evidence, he categorically deposed that he along with deceased (wife) had been to the Bhopal Station to drop her at that time they have purchased a valid journey ticket of second class of Telengana Express by paying an amount of Rs.145/- and also purchased one platform ticket for himself, but during the journey, said ticket was misplaced in an untoward incident. During his cross-examination, no suggestion was put to him that the deceased had not possessed a valid journey ticket; therefore, there is no reason to disbelieve the testimony of the applicant No.1 on the said point. Apart from this, the respondent did not adduce any evidence in support of their defence to show that the

deceased had not possessed a valid railway journey ticket. Consequently, I have no hesitation in holding that the deceased had possessed a valid railway journey ticket. Thus, in my view, the case of the applicants is covered by the mandate laid down in ***Pratap Narain Singh Deo vs. Srinivas Sabata, (1976) 1 SCC 289*** and ***Union of India vs. Rina Devi 2019 (3) SCC 572***, that the deceased was a bona fide passenger in the train; hence, ***I answer point No.1 in the affirmative.***

As to issue No.2 :-

(8) To deal with this question, it is necessary to go through the pleadings and evidence on record. It is the specific case of the applicants that the deceased was travelling in the Delhi-Hyderabad Telangana Express from Bhopal to Nagpur, and on the way at Narkhed Station, the deceased accidentally fell from the open door of General Coach, of a moving train, as a result, she died due to the injuries sustained to her.

(9) Though the respondent raised three different pleas that - (i) the deceased jumped from the moving train at Narkhed Station, (ii) the deceased negligently alighted from a moving train and fell indicates her intention to perpetrate injury on herself, (iii) the deceased was not a *bona fide* passenger, as she did not have a valid railway journey

ticket. However, it is pertinent to note that it did not adduce any evidence in support of their defence in that regard. The respondent further submitted that it can be said that the deceased sustained self-inflicted injury, which does not fall within the ambit and purview of Sections 123(c)(2) and 124A of the Act. It is worth noting that the respondent does not dispute that the deceased fell from the moving train, but the only contention was that she jumped from the train, or while negligently alighting from the moving train, the deceased fell from the train, but did not adduce any evidence in that regard to prove the said fact. On the contrary, the testimony of AW-1 Narayan categorically demonstrates that the deceased was standing near the open door of the General Coach and she accidentally fell, and therefore, she died due to the injuries sustained to her.

(10) On perusal of the DRM reports, it appears that the deceased was travelling in the Telangana Express, during the journey at Narkhed Station, the deceased, while alighting from the moving train, fell from the train and died. During the investigation, it does not appear that the deceased jumped from the train.

(11) On perusal of the A.D. report bearing No. 98/2017 dated 12/10/2017 indicates that the deceased, while alighting from the moving train, fell at platform No.2 at Narkhed Station. In the Post

Mortem Report, the cause of her death is mentioned as due to the head injury, i.e. occipital bone skull was fractured with internal bleeding.

(12) Thus, considering the above evidence, it is apparent that applicant No.1 Narayan, in his testimony, categorically deposed that the deceased accidentally fell from the train; said testimony is not categorically denied nor challenged by the respondent/Railways during his cross-examination, therefore, there is no reason to discard his testimony on the said point. To demonstrate that the deceased jumped from the train or fell from the train while alighting from the moving train at Narkhed Station, the respondent did not adduce any evidence; thus, the respondent failed to prove their defence. As such, I have no hesitation in holding that the applicants proved that the deceased fell from the moving train, which can be termed as an 'untoward incident'; as such, it comes within the ambit and purview of Section 123(c)(2) read with Section 124A of the Act. Accordingly, ***I answer point No.2 in the affirmative.***

As to points No.3 and 4 :-

(13) Perused the impugned judgment and order, it appears that the learned Tribunal had not considered the evidence of the applicant No.1 in its proper perspective and erred in holding that

applicants failed to prove that the incident had occurred on account of an untoward incident within the meaning of Section 123(c)(2) and Section 124A of the Act. As, I already hold that applicant proved that deceased had a valid journey ticket and accidentally fell from the moving train, therefore, in my view, the death of the deceased had occurred on account of an untoward incident, within the ambit of Section 123(c)(2) and Section 124A of the Act; based on the said finding, impugned judgment cannot be sustained in the eyes of law, therefore, interference is required in it in the appellate jurisdiction. Thus, ***I answer point No.3 in the negative and point No.4 in the affirmative.***

(14) It further appears that the accident had occurred on 12/10/2017 and therefore, as per the amendment in Rule 3 of the Schedule of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, the applicants are entitled to get compensation of an amount of Rs. 8,00,000/- along with interest under part I of the said Rules.

(15) As a result, the appeal is allowed. The impugned judgment and Award dated 24/01/2019 passed by the learned Tribunal is hereby quashed and set aside, and the claim application is allowed. As a consequence, the applicants are entitled to get compensation

quantified as Rs. 8,00,000/- along with interest @6.00 p.a. from the date of application, till its realisation.

(16) It is made clear that applicant No.1, being the husband, is entitled to get an amount of Rs. 4,40,000/- along with accrued proportionate interest thereon, and applicants No.2 to 4, who are children entitled to get an amount of Rs. 1,20,000/- each along with accrued proportionate interest thereon.

(17) The respondent/Railway authority is directed to transmit the compensation amount along with proportionate interest accrued thereon in the respective bank accounts of the applicants, on or before 15/11/2025, upon they furnishing their bank account details to the respondent. No order as to costs.

[ABHAY J. MANTRI, J.]

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