



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

**FIRST APPEAL NO. 815 OF 2024**

- |                                                                                                         |   |  |
|---------------------------------------------------------------------------------------------------------|---|--|
| 1. Shri Subhash S/o Baburao Dhoke<br>Aged 64 years, Occ. Labour                                         | } |  |
| 2. Smt. Kiran w/o Subhash Dhoke<br>Aged 32 years, Occ. Housewife,<br>Both R/o. Patilpura, Timki, Nagpur | } |  |

... Appellants

**Versus**

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

...Respondent

Mr. S.P. Behar, Advocate for appellants.

Mr. C.J. Dhumane, Advocate for respondent.

**CORAM : ROHIT W. JOSHI, J.**  
**DATE : 17.02.2025.**

**ORAL JUDGMENT:**

Heard finally at the stage of admission, with the consent  
of the learned counsel appearing for the parties.

(2) The appellants are aggrieved by judgment and order dated 21.08.2014 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No.OA(llu)/NGP/2011/0431, whereby claim for compensation on account of death of deceased Nikhil, son of the appellant came to be rejected by the learned Tribunal. The case of the appellants is

that their son Nikhil was travelling from Nagpur to Katol on 03.05.2011 and for the purpose of his journey, he had purchased a general compartment ticket from Nagpur Railway station and has boarded the train for his travel to Katol. While he was travelling in the train, he accidentally fell down from the running train near Kalmeshwar railway station, as a consequence of which, he suffered injuries and ultimately succumbed to the said injuries. They had filed claim Petition under Section 16 of the Railway Claims Tribunal Act, 1987, seeking compensation on account of death of their son in an untoward incident while traveling from a train carrying passengers.

(3) The respondent has opposed the claim on the ground that railway ticket was not traced from the body of the deceased at the time of the panchnama and therefore, he was not a bonafide railway passenger. The claim is also opposed on the ground that, no such untoward incident was reported by the guard.

(4) Shri Behar, learned counsel for the appellants contends that the fact that a railway ticket was not found on the person of the deceased may not be accepted as a conclusive circumstance to hold that he was not a bonafide railway passenger. He points out to the affidavit of Swapnil, who has stated on oath that he had dropped the deceased at Nagpur railway station from where he had purchased the ticket for

travelling to Katol. He contends that the initial burden thus stands discharged by virtue of the said affidavit. He places reliance on the judgment of the Hon'ble Supreme Court in the matter of *Union of India Vs. Rina Devi, reported in 2018(4) ABR 217* particularly paragraph No.17.4 thereof to contend that the initial burden was discharged by filing an affidavit and thereafter, the burden to prove that the deceased was not a bonafide railway passenger shifted on the railways which is not discharged by the railways.

(5) As regards the affidavit, he points out that the dead body was found besides railway track and the injuries reflected in the postmortem report establish that the deceased has died in a railway accident.

(6) Per contra, Mr. Dhumane, learned counsel for the respondent opposes the appeal contending that the findings recorded by the learned Tribunal are just and proper and do not call for any interference. He contends that if an untoward incident had occurred, the guard would have alerted the concerned area officer.

(7) Having heard the rival submissions following points arise for my consideration :

(i) Was the deceased is a bonafide railway passenger and died in an untoward incident during the course of his journey from Nagpur to Katol on 03.05.2011 ?

(ii) Are the appellants entitled to compensation on account of death of their son Nikhil ?

(8) As to point No. (i) - The brother of the deceased has filed evidence stating that he had dropped the deceased at Nagpur Railway Station on 03.05.2011, since, he was to travel to Katol. He states that the deceased had purchased a railway ticket and had boarded the train namely, G.T. Express at Nagpur Railway station. The dead body of the deceased is found near railway track, near Kalmeshwar railway station. The train had passed Kalmeshwar railway station at around 12:50 p.m. and the body was found within a short span of time at around 3:00 p.m. It is true that railway ticket was not found on the body at the time of spot panchnama and inquest panchnama. However, that by itself would not be sufficient to infer that the deceased was not a bonafide railway passenger. It is held in the number of decisions that after a person meets an accident, the railway ticket can be lost. It even be misplaced during his journey. The learned counsel for the appellant is right in placing reliance upon paragraph No.17.4 of the judgment in the matter of *Rina Devi (supra)*. The contention that the burden is rightly discharged is worthy and deserves acceptance. The

contention by the respondent that no untoward incident has occurred near Kalmeshwar is also not proved by the respondent. The burden of proving, the same is on the respondent. The circumstances of the case disclosed that the deceased has boarded G.T. Express at Nagpur and has fallen from the train near Kalmeshwar railway station.

(9) In view of the aforesaid, I arrive at the conclusion that the deceased has died in an untoward incident within a meaning of Section 123(c) of the Railways Act, 1989 and the appellants being his parents are entitled to compensation under Section 124-A of the Railways Act.

(10) The accident had occurred on 03.05.2011. The schedule appended to the Railway Accidents And Untoward Incidents (Compensation) Rules, 1990, is amended on 01.01.2017. It is now well settled that even if the accident occurred prior to 01.01.2017, dependents of the deceased will be entitled to receive compensation as per the amended schedule however, without interest.

(11) In view of the aforesaid, the appellants are entitled to receive compensation of Rs.8,00,000/- without interest as provided under Part-I of the Schedule appended to the Railway Accidents And Untoward Incidents (Compensation) Rules, 1990.

(12) In view of the findings above, the appeal is allowed in the following terms :

**ORDER**

1. The judgment and order dated 21.08.2014 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No.OA(llu)/NGP/2011/0431 is hereby quashed and set aside.
2. Case No.OA(llu)/NGP/2011/0431 filed by the appellants before the Railway Claims Tribunal, Nagpur Bench, Nagpur is allowed holding that the appellants are entitled to receive compensation of Rs.8,00,000/- without interest.
3. The amount of compensation will be distributed equally amongst the appellants. The appellants are directed to provide the bank account details to the Chief Claims Officer, Central Railway, Nagpur within a period of two weeks from today i.e. on or before 03.03.2025.
4. The respondent is directed to remit the amount of Rs. 4,00,000/- each in the account of appellant No.1 and appellant No.2 or sum of Rs.8,00,000/- if the account is joined account of the appellants, on or before 03.05.2025.
5. Parties to bear their own costs.

(13) Pending application(s), if any, stands disposed of.

**[ROHIT W. JOSHI, J.]**

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