



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

FIRST APPEAL NO. 332 OF 2024

Union of India,
Through the General Manger,
South East Central Railway,
Bilaspur (Chhattisgarh)

}

... Appellant

Versus

1. Ramesh s/o Yashwantrao Wadegavkar
Aged about 60 years, occ. Labourer

2. Sarswati w/o Ramesh Wadegavkar
Aged about 51 years, Occ. Student

3. Sangeeta d/o Ramesh Wadegavkar
Aged about 17, Occ. Student,
(Minor through R. 2)

}

All the respondents from 1 to 3 are
residents of Ward No.3, Main road
Mengatola near Hanuman Chowk,
Mengatola, Post – Pathari,
Tq. Goregaon,
Dist. Gondia (Mah)441801

... Respondents

M. Neerja G. Chaubey, Advocate for appellant.

Mr. Ritesh R. Dawda, Advocate for respondent Nos.1 to 3.

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 preferred by the Union of India, through the Manager, South East Central Railway, Bilaspur, under Section 23 of the Railway Claims Tribunal Act, 1987, challenging the judgment dated 24.10.2019 passed by the learned Railway Tribunal, Nagpur Bench, Nagpur, in Claim Petition No.OA/IIU/NGP/14/2018, by which the claim of the respondent Nos.1 to 3 in the present appeal seeking compensation on account of death of deceased Kamlesh Yashwantrao Wadekar has been allowed. The original claimants are parents and sister of the deceased.

(3) The case of the claimants-respondents in the present appeal before the learned Tribunal was that in the night intervening 28.10.2016 and 29.10.2016 deceased Kamlesh while he was travelling from Raigarh to Gondia met with a rail accident in the station yard of Jairam Nagar railway station. They contend that he had fallen down from running train due to excessive rush. The respondents accordingly lodged a claim, seeking compensation on account of sad demise of Kamlesh, as provided under Section 124-A of the Railways Act.

(4) The appellant herein opposed the claim on the

ground that no independent witness was examined by the claimants in support of their contention that Kamlesh had died in railway accident as alleged. Apart from this veracity of the ticket is also questioned.

(5) After recording the evidence and hearing of the respective submissions, the learned Tribunal was pleased to hold that the deceased had died in a railway accident and none of the exceptions in the proviso to Section 124-A were attracted in the facts of the case. A positive finding is recorded that he was a bonafide passenger inasmuch as a valid railway ticket was found on his person after the death.

(6) Heard Ms. Chaubey, learned counsel for the appellant and Mr. Dawda, learned counsel for the respondents. They have canvassed submissions in tune with their respective cases before the learned Tribunal. Upon hearing the respective submissions, following point arises for my consideration.

(i) Whether deceased Kamlesh died in a railway accident, entitling his dependents to claim compensation under Section 124-A of the Railways Act ?

(7) I have perused the case papers with able assistance of both the learned counsel. I have also perused the reasons recorded by the learned Tribunal while granting the claim in the impugned order. The learned Tribunal has recorded that the deceased was found to be travelling with a valid ticket, which was found on his person after his demise. It is also recorded that the evidence of a co-passenger was recorded on behalf of claimants to confirm that the deceased had boarded the train at Raigarh railway station for his journey to Gondia. The accident has occurred during the course of journey at Jairam Nagar station yard. The liability under Section 124-A is strict liability, and as regards the exceptions provided under Section 124-A, the burden of bringing the case within the four corners of exceptions is upon the railways. The undisputed facts of the case indicate that deceased 'Kamlesh' was a 'bonafide railway passenger', who died in an untoward incident while travelling in a train carrying passengers.

(8) The findings recorded by the learned Tribunal are just and proper, hence, I do not find any reason for interference in the impugned judgment. In the result, the appeal deserves to be dismissed and is dismissed, as such.

(9) The respondent Nos.1 to 3 are permitted to withdraw the amount deposited by the appellant with this Court along with accrued interest. The appeal is dismissed. No order as to costs.

[ROHIT W. JOSHI, J.]

Prity