



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

FIRST APPEAL NO.1564 OF 2019

Saraswati wd/o Narad Kumbhare, aged about
71 years, Occ. Household, r/o Subhash Ward,
Mohadi, Th. Dist. Bhandar.

... APPELLANT

VERSUS

1. Union of India, through the General
Manager, South East Central Railway,
Bilaspur.

... RESPONDENT

Shri K.P. Mirache, Advocate for the appellant.
Ms. Neerja Choubey, Advocate for respondent.

CORAM : PRAVIN S. PATIL, J.

CLOSED ON : 24.09.2025.

PRONOUNCED ON : 07.10.2025.

JUDGMENT :

1. Heard. **ADMIT.**
2. The appellant herein has challenge the order passed by the
Railway Claims Tribunal, Nagpur ("Tribunal") in Claim Application
no.OA(IIu)/NGP/106/2018 Dated 12.03.2019, whereby the claim application
was dismissed.

3. It is the case of the present appellant, that the appellant being a widow of the deceased, filed the application claiming compensation before the Tribunal, due to death of the her husband in an untoward incident occurred at Warthi Railway Station, District Bhandara. According to the appellant, on 02.08.2017, the deceased had purchased railway ticket no.UXA-50863012 for the journey from Itwari to Bhandara. After purchasing the railway ticket, while he was proceedings towards the train No.68744, the deceased fell down from the running train due to the jerk of the train and sustained serious injuries. He was then admitted to the Sub-district Hospital, Bhandara, and thereafter, shifted to Medical Hospital, Nagpur for further treatment, but unfortunately he died during the treatment on 12.08.2017. Therefore, considering death due to untoward incident, the claim petition has been filed before the Tribunal.

4. According to her, after the accident, the Police case was registered in the matter, and accordingly, spot panchanama was also prepared in the matter. As per the spot panchanama, it is clear that dead body of the deceased was lying within the premises of the Warthi railway station, Bhandara.

5. The appellant also stated that it has been established on record that deceased was having valid railway ticket, which is a part of the record as document A-45. Hence, on the basis of this submission, it is stated that as the accident was occurred within the premises of railway administration, the

appellant is entitled for the compensation as claimed in the matter.

6. The respondent has strongly opposed the application before the Tribunal. It is their case that in view of evidence brought on record by the railway administration by examining one Bhupendra Vithoba Vahile working as Station Superintend, Koka railway station and another witness namely Ravindra Gajbhiye Loco Pilot of train no.12879, it is clear from the record that it is not a case of an untoward accident. It is the submission of the respondent that Loco pilot was the eye-witness and it is came on record that when his train was crossing Bhandara railway station and proceeding towards Koka railway station at about 15.16 hours, deceased got dash by side engine of train in between Bhandara and Koka station and fell down beside railway track. Hence, it is stated that it is not a case of untoward incident but it comes under the category of self inflicted injury, and therefore, under the provisions of Railway Act, 1989, the appellant is not entitled for any compensation.

7. It is pertinent to note that Hon'ble Supreme Court in the case of *Union of India vs. Prabhakaran Vijaya Kumar and ors. (2008) 9 SCC 527* has specifically observed that even in the case the passenger was not actually inside the train and the accident occurred due to other reason then considering the fact that the provisions for compensation in the Railway Act is a beneficial piece of legislation, the liberal/purposive interpretation should be adopted. Accordingly, it is observed in paragraph 14 reads as under :

“14. In our opinion, if we adopt a restrictive meaning to the expression 'accidental falling of a passenger from a train carrying passengers' in Section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger traveling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression.”

8. Likewise in the case of ***Union of India vs. Rina Devi AIR 2018 SC 2362***, the Hon'ble Supreme Court has dealt with the issues which are normally applied in such cases and in respect of 'self inflicted injury', held that any act which is not intentional, but because of negligence the accident occurred then it will not come under the purview of 'self inflicted injury'. Accordingly, it is observed in paragraph 16.6 reads as under :

*“16.6. We are unable to uphold the above view as the concept of 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on 'no fault theory'. We may in this connection refer to judgment of this Court in *United India Insurance Co. Ltd. v. Sunil Kumar 2017 (13) SCALE 652* laying down that plea of negligence of the victim cannot be allowed in claim based on 'no fault theory' under Section 163A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an 'untoward incident' entitling a victim to the*

compensation and will not fall under the proviso to Section 124A merely on the plea of negligence of the victim as a contributing factor.”

9. In the present appeal, applying the law laid down by the Hon’ble Supreme Court and by relying the statement of witness produced by the respondent that death was caused due to dash given by the railway engine near signal at Bhandara, the appellant is entitled for compensation amount.

10. According to me, the case of the deceased does not come under the purview of self inflicted injury, and therefore, the findings recorded by the Tribunal that dash given by the engine to the deceased after completing his journey while he was going towards his residence, amounts to self inflicted injury, is contrary to the law laid down by the Hon’ble Supreme Court.

11. Accordingly, I proceed to pass the following order :

- (a) The appeal is allowed.
- (b) Impugned judgment and order dated 12.03.2019 passed by the Railway Claims Tribunal, Nagpur in Claim Application No.OA(IIu)/NGP/106/2018 is hereby quashed and set aside.
- (c) The respondent is directed to pay the compensation of Rs.8 lakhs to the appellant from the date of filing of application before the Railway Claims Tribunal along with the 6% interest per annum accrued thereon, and deposit the same within a period of three months either before this Court or before the Railway Claims Tribunal with due intimation to appellant.

- (d) After depositing the amount of compensation, the appellant is at liberty to withdraw the same after due verification and satisfaction of registry of the Court.

12. The Appeal stands disposed of accordingly.

(PRAVIN S. PATIL, J.)

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