



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

FIRST APPEAL NO.736 OF 2024

1. Soniya Wd/o Vishal Joshi
Age 44 years, Occ: Housewife,
2. Mayank S/o Late Vishal Joshi
Age 15 years, Occ: Student
Applicant No.2 is under the guardian
of her mother i.e. applicant no.1.
Both R/o 859, Ashirwad Nagar,
Hudkeshwar Road, Nagpur-440024

...APPELLANTS
(Orig. Applicants on RA)

...V E R S U S...

The Union of India,
through General Manager,
Central Railway, C.S.M.T.
Mumbai.

...RESPONDENT
(Ori. Respondent on RA)

Shri D.S. Lambat, Advocate for appellants.
Ms N.G. Chaubey, Advocate for respondent.

CORAM:- M.W. CHANDWANI, J.
DATED :- 07.10.2025

ORAL JUDGMENT:

1. The appeal questions dismissal of the Claim Application No.OA/(Ilu)/NGP/61/2022 by the Railway Claims Tribunal, Nagpur Bench, Nagpur (for short “**Tribunal**”) filed by the appellants for compensation on account of the death of deceased Vishal Joshi, who died in a railway accident on 07.07.2016.

2. The appellants filed a claim application before the Railway Tribunal claiming that on 06.07.2016, the deceased went to Mumbai for his official work and on 07.07.2016, the deceased alongwith his friend Jerome were returning to Nagpur by Train No.12289 (Duronto Express) on a valid reserved e-ticket. When the train reached at Nagpur, his friend was unable to find the deceased in the train and after a long search, he came to know that the deceased was found lying between Khadavali and Titwala station at Km No.66/31 as a result of falling from the running train. The respondent as usual, took a defence that the deceased was not a bonafide passenger and the accident has not occurred as a result of falling from the running train. The Tribunal rejected the claim of the appellants by relying on minor contradictions in the version of AW2-Jerome Jeyakumar, who accompanied the deceased during the journey.

3. Having heard the learned counsels for the respective parties and having gone through the record as well as the impugned order, it transpires that the motorman of Train No.AN-04 (504) on 08.07.2016, at about 07:12 am noticed the dead body of deceased Vishal lying in between Titwala – Khadavali station line Km No.66/31. It is also an undisputed fact that Train

No.12289 by which the deceased and his friend were alleged to be traveling passed through Khadavali Station at 21.37 hours on 07.07.2016. The e-tickets of the journey filed by the appellants alongwith the claim application reveals that the deceased travelled from Nagpur to Mumbai on 06.07.2016. Another e-ticket produced by the appellants reveals the name of the deceased as a passenger alongwith AW2-Jerome Jeyakumar and their status with regard to the seat number is shown as 'Reservation Against Cancellation' (RAC).

4. Needless to mention that, a passenger having the status of RAC is allowed to board the train, provided that he will get to occupy the entire berth only after any cancellation is reported to the Travelling Ticket Examiner (TTE).

5. In background of these facts, if the dead body of deceased Vishal was found at the place from where Train No.12289 passed through, in which the deceased and his companion Jerome Jeyakumar have been allotted an e-ticket having the status of RAC; coupled with the evidence of Jerome that he boarded the train alongwith the deceased, the only inference that can be drawn is that the deceased fell from the running train at the place where his dead body was found.

6. The Tribunal was impressed with the fact that between the time that train passed the spot of incident at 21:37 hours on 07.07.2016 and the time when the body was found, about 60 trains passed from the upward as well as the downward line, but the dead body was not noticed. However, the Tribunal failed to appreciate the fact that the dead body was found in the mid section of Titwala and Khadavali Station and train in which deceased was travelling passed beyond 21:30 hours in the night. One can naturally imagine the darkness on the track, more particularly in the mid section. Perhaps due to the darkness, none of the guards or loco-pilots of the other trains noticed the dead body of the deceased and there is no reason for them to do so because it is not necessary for the loco-pilots and the guards to look for dead bodies on the tracks. Soon after sunrise, the dead body of Vishal was noticed by the motorman of Train No.AN-04 (504) on 08.07.2016, at about 07:12 am. Thus, it is due to the darkness in the night that no accident was reported by any of the loco pilots or guards of any other trains. In teeth of the facts discussed above, the Tribunal erroneously dismissed the claim merely on the basis of some contradictions between the version of AW2-Jerome Jeyakumar regarding the time when he came to know about his companion being missing from the train. The

findings of the Tribunal are not based on sound reasoning and therefore, the impugned order is required to set aside.

7. Since, the deceased was holding a valid ticket and travelling in Train No.12289 from Mumbai to Nagpur, he was a *bonafide* passenger and died as a result of falling from the running train in an untoward incident. The appellants are entitled to compensation under Section 124-A of the Railways Act. Accordingly, appeal succeeds.

8. The appeal is allowed.

9. The respondent is directed to make the payment of ₹4,00,000/- alongwith interest at the rate of 6 per cent per annum from the date of application or ₹8,00,000/- whichever amount is higher. The respondent is directed to credit 60 per cent of the amount so arrived to appellant no.1 and the remaining amount of 40 per cent falling in the share of appellant no.2 shall be invested in any nationalized bank in the form of Fixed Deposit in his name for a period one year, within three months.

With this, the appeal stands disposed of.

JUDGE

Wagh