



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

FIRST APPEAL NO. 203 OF 2025

- 1) Mr. Vinod s/o Narayan Suryavanshi,
Age 55 years, Occupation – Driver,
 - 2) Ku. Ashvini d/o Vinod Suryavanshi,
Age 26 years, Occupation – Education,
 - 3) Abhishek s/o Vinod Suryavanshi,
Age 22 years, Occupation – Education,
- All R/o Chhota Ashok Nagar,
Gudhiyari, Raipur, C.G.

.... **APPELLANTS**

VERSUS

Union of India,
through its General Manager,
South East Central Railway, Bilaspur C.G.

.... **RESPONDENT**

Ms. S.G. Barbate, Advocate for the appellants,
Ms. N.G. Chaubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : 22-07-2025

ORAL JUDGMENT :

Heard. **Admit.** With the consent of the learned Counsel for the parties, the appeal is taken up for final hearing forthwith.

2. The appellants are challenging the judgment and order dated 28-10-2020 passed by the Member (Technical), Railway Claims Tribunal, Nagpur Bench, Nagpur (for short, the '*Tribunal*') in Claim Application No. OA (llu)/NGP/0055/2019, whereby the claim application filed by the appellants was dismissed.

3. The case of the appellants/applicants is that on 11-11-2018, deceased Surekha Vinod Suryavanshi was travelling from Raipur to Tumsar in Train No.12152, Samarsata Express as a *bona fide* passenger, had a valid Ticket No. 09499016. She was standing in the General Compartment/Bogie near the door of the said bogie. There was a heavy crowd. When the train was passing through Tumsar Road, due to a heavy rush and a sudden jerk, she fell from the moving train on platform No. 3 and died due to the untoward incident. Therefore, the applicants had filed a claim application before the learned Tribunal for compensation.

4. The respondent, the railway authorities, had filed a written statement and denied the contents of the application. It is categorically denied that the deceased was travelling by Samarsata Express as a *bona fide* passenger with a valid journey ticket, and the rest of the contents in the application are denied. However, it is averred that the railway authorities had conducted the investigation and collected the

relevant documents from the General Reserve Police Force (GRPF). During the investigation, it was revealed that the deceased Surekha boarded the superfast express train, which did not have a scheduled halt at Tumsar and as a result, she jumped from the train at Tumsar and, therefore, she died due to the injuries she sustained. As such, as per exception to Section 124-A of the Railways Act (for short, the “*Act*”), the applicants are not entitled to claim compensation for such self-inflicted injury and, thus, prayed for dismissal of the application.

5. Considering the rival pleadings of the parties, the learned Tribunal has framed the issues. Pursuant to the issues, both parties have led their evidence, produced and proved the documents. After considering the material and evidence before the learned Tribunal, the learned Tribunal dismissed the claim, holding that the deceased does not come within the purview of ‘*untoward incident*’ as defined in Section 123(c)(2) of the Act. Aggrieved by the same, the applicants have preferred this appeal.

6. Heard Ms. S.G. Barbate, learned Advocate for the appellants and Ms. N.G. Chaubey, learned Advocate for the respondent. Perused the original record and proceedings, as well as the grounds raised in the appeal memo.

7. The following points arise for my determination.

- (i) *Whether the applicants prove that on 11-11-2018, the deceased was a bona fide passenger of the Train No. 12152, had a valid ticket and was travelling from Raipur to Tumsar and fell from the moving Train on Platform No.3 of Tumsar Railway Station?*
- (ii) *Whether the respondent has proved that the deceased was negligent and, due to that, she sustained self-inflicted injuries?*
- (iii) *Whether the impugned judgment and order is just and proper?*
- (iv) *Whether any interference is required in it in the appellate jurisdiction?*

Point Nos. (i) & (ii) :

8. Ms. S.G. Barbate, learned Advocate for the appellants, vehemently contended that the deceased had a valid train ticket and due to the crowd and a sudden jerk, she fell from the train and succumbed to the injuries sustained. The respondent does not dispute the said fact, but only contended that the deceased boarded in superfast express train, which did not have a scheduled halt at Tumsar and as a result, she jumped from the train at Tumsar therefore, self-inflicted injuries were sustained to her consequently, as per the

exception to Section 123(c)(2) of the Act, the deceased does not come within the purview of the '*untoward incident*'.

a) She has taken me through the record and submitted that no date of recording of the statement of the alleged eyewitness Tarachand Kumawat, who was working as a Constable, is mentioned. Similarly, she has drawn my attention to the Marg report and spot panchanama wherein it was reported that one unknown female passenger fell from the Train No.12152 on the Platform No.3. The respondent has not challenged those documents, and, therefore, there is no reason to discard those police papers. She further argued that if Tarachand Kumawat, Constable, had witnessed the incident, he should have immediately informed the police about the incident, but he failed to do so, nor did the police record his statement during the enquiry of the Marg.

b) She further canvassed that the learned Tribunal has given undue importance to the evidence of the alleged eyewitness Tarachand Kumawat. Having considered his evidence alone, the learned Tribunal has erred in discarding the other documentary evidence on record, nor appreciated it in its proper perspective. She emphasised that the police papers indicate that the deceased fell from the train and, therefore, it cannot be said that the accident was a self-inflicted injury. Hence, the

impugned judgment and order require interference in the appeal and urged to allow the application filed by the applicants.

9. On the other hand, Ms. N.G. Chaubey, learned Advocate for the respondent, vehemently argued that the deceased boarded the wrong train, which had no scheduled halt at Tumsar. When she came to know the fact, she jumped from the train, and, therefore, the incident occurred. In view of the same, the deceased does not come within the purview of '*untoward incident*' as per Section 123(c)(2) of the Act. On the contrary, she suffered self-inflicted injuries as provided u/s 124-A of the Act, and on this ground alone, the appeal is liable to be dismissed.

a) She has further canvassed that Tarachand Kumawat, Constable, is the eyewitness to the incident, and after having considered the said evidence, the learned Tribunal has rightly dismissed the application filed by the applicants, and, therefore, no interference is required in it in the appeal. However, she submitted that the ticket was recovered from the possession of the deceased. Consequently, she does not dispute that the deceased was a *bona fide* passenger of the train, though she had boarded the wrong train.

10. Having heard the learned Advocate for the respondent, at the outset, it appears that the respondent is not disputing that the deceased

was a *bona fide* passenger of the train on the relevant date, as the ticket was found in her possession. However, they contend that the deceased boarded the wrong train, which had no scheduled halt at Tumsar, and as the deceased wanted to go to Tumsar, she jumped from the train, and the incident occurred. The respondent is mainly relying on the evidence of the eyewitness Constable Tarachand Kumawat. Therefore, the only fact that remains to be ascertained is whether the deceased jumped from the train or fell from the train, and for that purpose, it would be proper to scrutinise the evidence on record.

11. The appellants in support of their case have examined applicant No. 1-Vinod, husband of the deceased, who in his testimony deposed that on 11-11-2018, the deceased was travelling by Samarsata Express as a *bona fide* passenger from Raipur to Tumsar Road, and had a valid railway ticket. The train was overcrowded, and she was standing in the General Compartment near the door of the bogie. Due to the sudden jerk, she fell from the moving train and succumbed to the injuries sustained. He has produced and proved the police papers, i.e., memo of GRP, Gondia, railway ticket, Marg khabri, spot panchanama, inquest panchanama, and post-mortem report, and relied on them. During his cross-examination, he categorically denied that his wife jumped from the train at Tumsar Road Railway Station; it is to be

noted that his testimony that, due to overcrowding and a sudden jerk, the deceased fell from the train, is not explicitly denied. Therefore, his testimony in that regard remained intact, and there is no reason to disbelieve the said testimony. Thus, it appears that the testimony of A.W. 1 remained unshaken on the point that, due to the overcrowding and a sudden jerk, the deceased fell from the train.

12. On the other hand, the respondent-railway authority examined RPF Constable Tarachand Kumawat, who deposed that on that day he was on duty from 16-00 hours to 24-00 hours. At about 17-30 hours, the train Samarsata Express was passing through Platform No.3, and he was on the same platform. He noticed that a lady had jumped from the train. Therefore, he immediately informed the Deputy Station Superintendent, Tumsar, of the said fact. During his evidence, he has proved the Rojnamcha entry dated 11-11-2018, which the Sub-Inspector, RPF Outpost, Tumsar, maintained. A bare perusal of the said entry No.155 recorded on 11-11-2018 at 19-05 hours (Exhibit No. **R-2**) indicates that Tarachand Kumawat gave information to the Sub-Inspector Bhalekar that *“At about 17.30 hours, he received information from witness Kumawat that one lady fell from the Train No. 12152, so he went there and noticed that one lady was lying on platform No.3”*. The said information was given by Tarachand Kumawat himself to the

Sub-Inspector, RPF Outpost, Tumsar. Based on the said information, he had taken the entry No. 155 in Rojnamcha. This information was reported immediately after the incident. If the deceased had jumped from the train, he would have informed Sub-Inspector Bhalekar accordingly. Failing to do so would have led to drawing an adverse inference that the deceased might have fallen from the train, and accordingly, he informed the Sub-Inspector of the real facts.

13. During his cross-examination, he denied the suggestion put to him by the Advocate for the applicants that he had deposed falsely that the deceased jumped from the train. However, admitted that during the statutory investigation, after recording his statement, he signed the same, but he had not mentioned the date in the said statement. During his examination-in-chief, he has not deposed that when the police or the enquiry officer recorded his statement. Apart from this, on perusal of the ADRM report, it does not appear on which date the concerned enquiry officer recorded the statement of Tarachand Kumawat, nor does his statement indicate the date on which it was recorded. In the report, it was also not mentioned when the concerned enquiry officer recorded the statement of the eyewitness Tarachand Kumawat. The respondent railway failed to give an explanation about the same, which

creates a doubt when the enquiry officer recorded the statement of Tarachand Kumawat.

14. Furthermore, the police papers on record clearly indicate that Marg's report (Exh. A-3), i.e. AD No. 59/18, was registered immediately after the occurrence of the incident, wherein it was reported that one unknown female passenger fell from the train No.12152. Accordingly, the AD report (Exh. A-3), spot panchanama (Exh. A-4), and inquest panchanama (Exh. A-5) have referred to the same facts. Both the documents, i.e., the rojnamcha entry and the AD report, were recorded immediately after the occurrence, wherein it was mentioned that the lady fell from the train. The police, as well as the Sub-Inspector, RPF Outpost, Tumsar, have no reason to record the incorrect information. On the contrary, the rojnamcha entry indicates that Tarachand Kumawat gave the information to Sub-Inspector Bhalekar, and accordingly, entry No.155 was taken. Therefore, there is no reason to disbelieve the said entry No.155 in the rojnamcha or the Marg report No. 59/18.

15. On perusal of the ADRM report, it is apparent that the Investigating Officer recorded the statement of Station Master Dehariya (Part of R-1, Page No. A-28) wherein he stated that, on that day, he was on duty. At about 17.42 hours, he received the oral information from

the passenger that “*one lady fell from the Samarsata Express on Platform No.3*”. Accordingly, he gave his statement. Similarly, the police recorded the statement of Station Master Dehariya on 07-03-2019, wherein he categorically stated that “*one passenger informed him that one lady fell from the train and suffered injuries*”. Therefore, he immediately informed the RPF staff on duty. It is worth noting that the Station Master, who is in charge of the Tumsar Road Station, has stated that he received the information from the passenger that one lady fell from the train. Had it been the fact that the Constable Tarachand Kumawat had witnessed the said incident, then why had he not informed the same to the Station Master, who was in charge of the station. It was the duty of the constable to inform the Station Master of the said fact immediately. Not giving the information to the Station Master leads to drawing an adverse inference against him about witnessing the said incident, and therefore, not informing the station master immediately.

16. Moreover, on perusal of the memo dated 11-11-2018 issued by the Station Superintendent of Railway, Gondia, to the GRP, Gondia, at about 18-20 hours, wherein he intimated that one unknown female passenger fell from the train No. 12152 and died. The Station Superintendent forwarded the report to the GRP, Gondia, and the information was given immediately after the incident, i.e., about 18-20

hours. If Tarachand Kumawat witnessed the said incident, then certainly he would have informed the Station Superintendent or Sub-Inspector, RPF Outpost, Tumsar or Station Master. Not informing the said fact to all three head authorities leads to drawing an adverse inference against the respondent. But it seems that to defend itself, it brought up witness Tarachand Kumawat in support of their defence and, therefore, in my opinion, the evidence of Tarachand Kumawat without stating when his statement was recorded and why he had not informed the said incident to the Station Superintendent or Sub-Inspector, RPF Outpost, Tumsar or Station Master. Therefore, the evidence of R.W. 1 Tarachand Kumawat is not found to be reliable. On the contrary, the evidence adduced by A.W. 1-Vinod Suryawanshi, supported by the police papers, found substance.

17. The learned Tribunal, while appreciating the evidence on record, failed to consider the evidence adduced by the applicants and gave undue importance to the evidence of the alleged eyewitness Tarachand Kumawat. The learned Tribunal has not taken into consideration the evidence of applicant No. 1, which was not explicitly denied by the respondent about the fact that “*due to heavy rush and a jerk, the deceased fell from the train*”, which is corroborated by the police papers and other documents as well as the statement of the

Station Master. Therefore, it appears that the learned Tribunal erred in holding that the applicants failed to prove that the deceased fell from the train. The said finding is contrary to the evidence on record as discussed above, as against the undisputed documents on record, which were prepared immediately after the occurrence of the incident, indicate that the deceased fell from the train and, therefore, accordingly same was reported while registering the Marg, statement of the Station Master, Station Superintendent and other documents.

18. The learned Tribunal has erred in holding that the ticket recovered from the possession of the deceased was not valid. The deceased was not a *bona fide* passenger; this finding is contrary to the evidence on record, as the ticket was verified by the authority and mentioned in Clause No.6 of the investigation report, wherein it was observed that the train ticket was issued from Raipur station. Same was certified by the concerned authority. Therefore, it cannot be said that the ticket was not valid. However, the learned Tribunal has not considered the said fact and erred in holding that the deceased was not a *bona fide* passenger of the train at the time of the occurrence of the incident. In view of the above discussion and Clause No.6 of the DRM report, the said finding appears contrary and, therefore, the same is liable to be set aside in the appellate jurisdiction.

19. Besides, the learned Tribunal, while dealing with the fact whether the incident can be termed as an untoward incident within the meaning of Section 124-A read with Section 123(c)(2) of the Act, has erred in relying on the evidence of the eyewitness only and given undue importance to his testimony. The learned Tribunal has not considered the evidence of applicant No. 1 as well as the police papers and other documents on record in its proper perspective and erred in holding that the deceased suffered self-inflicted injuries and, therefore, in accordance with the exceptions listed under Section 124-A and (b) of the Act, does not come within the ambit of the “untoward incident” and, therefore, rejected the claim of the applicants. Therefore, based on the said finding, the impugned judgment and order cannot be sustained in the eyes of the law, and as such, the said findings are required to be set aside in appeal. Hence, I answer point Nos. (i) in the affirmative and (ii) in the negative.

Point Nos. (iii) and (iv) :

20. As discussed above, I have already held that the applicants proved that the deceased was a *bona fide* passenger and due to the heavy rush and a jerk, she fell from the train, and the untoward incident had occurred, wherein she had sustained the injuries and succumbed to them. It also appears that the learned Tribunal while considering the evidence on record has erred in discarding the evidence

of the applicants and given undue importance to the evidence of the R.W.1, who was alleged to the eyewitness/brought up witness, who doesn't know about the actual incident and, therefore, the finding arrived at by the Tribunal based on the hearsay evidence is contrary to the cogent evidence of the applicants on record, hence the said finding cannot be sustained in the eyes of law and is liable to be set aside in the appeal. As such, in my view, the judgment and order passed by the learned Tribunal is unjust and improper and, therefore, interference is required in it in the appellate jurisdiction.

21. Since the provisions for compensation in the Railways Act are a beneficial piece of legislation, in my opinion, it should receive a liberal and wider interpretation and not a narrow and technical one. Therefore, considering the mandate of the beneficial legislation and advancing the substantial justice and to achieve the object and intent of the statute, in my view, it would be proper to provide compensation to the victim of the untoward incident by giving a liberal approach. Hence, I answer point Nos. (iii) in the negative and (iv) in the affirmative.

22. As a result, the appeal is allowed. The impugned judgment and order dated 28-10-2020 passed by the learned Tribunal in Claim Application No. 0A (IIu)/NGP/0055/2019 is hereby quashed and set

aside. The application filed by the applicants is allowed in terms of 'Clause 1 of Part I' of the Schedule of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 and the applicants are entitled to compensation of Rs. 8,00,000/-.

23. It also appears that the untoward incident had occurred after the amendment of the Act on 01-01-2017. Therefore, as per the mandate laid down in *Union of India v. Radha Yadav, AIR 2019 SC 1410*, the applicants are entitled to the interest at 6% per annum over the compensation amount from the date of application.

24. The respondent is directed to pay the said amount along with interest @ 6% per annum from the date of the application till its realisation, to the applicants by 31-10-2025, subject to the applicants furnishing their bank account details to the respondent within one month.

(ABHAY J. MANTRI, J.)