



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

FIRST APPEAL NO. 991 OF 2024

Abhishek s/o Dilip Wasnik,
Age about 25 years, Occupation – Nil,
R/o. 317/3, Nanda Nagar, Indore,
District Indore, State – Madhya Pradesh.

.... **APPELLANT**
(Original applicant)

VERSUS

Union of India,
General Manager, Central Railway,
CSMT, Mumbai.

.... **RESPONDENT**
(Original Respondent)

Ms. S.M. Chaudhari, Advocate for the appellant,
Ms. N.G. Chaubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : 11-07-2025

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 appellant/applicant, dissatisfied with the judgment and order dated 27-03-2018 passed by the learned Member (Technical) Railway Claims Tribunal, Nagpur Bench (herein after referred to as the

‘*Tribunal*’) in Claim Application NO. 0A (Iiu)/NGP/2015/0056 has preferred this appeal.

3. The case of the applicant is that on 18-07-2014, he was travelling from Akola to Murtizapur by Train No. 12765 Tirupati-Amravati Express. While travelling in the train, he came to know that the train was not scheduled to halt at Murtizapur Station, and as his uncle suggested to him on the phone, he decided to go to Amravati. He was travelling in the General Compartment/Coach, which was very crowded, and there was no space to sit in the compartment. He was standing near the wash basin of the coach. Suddenly, due to the heavy jerk of the crowd, he fell from the train onto the platform at Murtizapur Railway Station, and both his legs came under the wheel of the train, resulting in severe injuries and amputation. Due to the injuries sustained, he was unconscious. Police authorities took him to the General Hospital, Murtizapur. Then he was shifted to the Icon Hospital, Akola, for further treatment, where one of his legs was operated on. Then he was shifted to Patil’s Hospital, Akola, where his other leg was operated on. He was admitted for twenty-five days, and his further treatment continued until the application was filed. It is further contended that both his legs were severely crushed under the wheel of the train and, hence, both legs have been amputated below

the knee, and, therefore, he became permanently disabled. Thus, he had filed the claim before the Tribunal.

4. The respondent filed a written statement and denied the contents of the application. It is categorically denied that he was a *bona fide* passenger of the train. It is further specifically denied that the Train bogie/coach was very crowded and there was no space to sit in the compartment, and the injured person was standing near the wash basin in the coach when he sustained a heavy jerk from the crowd and fell from the train. However, it was contended that the applicant had tried to alight from the moving train. As a result, he suffered the injuries.

5. The claimant failed to show that any untoward incident had occurred and, therefore, was not entitled to invoke provisions of Section 124-A of the Railways Act (for short, the “**Act**”). Since the claimant himself was responsible for the said incident, the question of paying compensation to the applicant does not arise at all. The alleged incident does not come within the ambit of Section 124-A of the Act. Hence, the applicant cannot be termed a *bona fide* passenger. As per the proviso to Section 124-A of the Act, the act of the applicant comes within the purview of self-inflicted injury and, therefore, the applicant

is not entitled to any relief as prayed. Hence, he urges the dismissal of the claim.

6. 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 Tribunal, the Tribunal dismissed the claim of the applicant, holding that the applicant does not come under the purview of '*untoward incident*' as defined in Section 123(c)(2) of the Act and, therefore, dismissed the claim. Aggrieved by the same, the applicant has preferred this appeal.

7. Heard Ms. S.M. Chaudhari, learned Advocate for the appellant and Ms. N.G. Chaubey, learned Advocate for the respondent. Perused the original record and grounds raised in the appeal memo as well as the judgment relied on by the learned Advocate for the applicant in *Union of India v. Smt. Anuradha w/o Narendra Deshmukh in F. A. No. 1270/2010*.

8. The following points arise for determination.

- (i) *Whether the applicant proves that on 18-07-2014, he was travelling from Akola to Murtizapur by Train No. 12765*

and was a bona fide passenger of the train and fell from the Train on Platform No.2 of Murtizapur Railway Station?

(ii) Whether the respondent has proved that the applicant was negligent and due to his negligence, self-inflicted injuries were sustained by him?

(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) :

9. Both points are interconnected; therefore, they have been taken into consideration simultaneously.

a) The learned Advocate for the applicant vehemently contended that the applicant was holding a valid Train ticket and due to the crowd and heavy jerk, he fell from the train and sustained severe injuries, due to which both his legs were amputated below the knee. The respondent does not dispute the fact, but only contends that the applicant, while alighting from the moving train, lost his balance and fell from the train, sustaining the injuries. She argued that the respondent failed to adduce any cogent and reliable evidence. She has taken me through the evidence of *Ajay Joshi* (R.W.1), who, during his cross-examination, admitted that he had not personally seen the injured trying to alight

from the moving train; he was also unable to tell the name of the passenger who informed him about the incident. Therefore, she submitted that his testimony is not reliable to hold that the applicant was at fault while alighting from the train. On the contrary, the applicant himself has deposed that due to the crowd, he fell from the train, and his testimony remained unchallenged; therefore, there is no reason to disbelieve his testimony in that regard. Thus, the applicant has proved his case. On the contrary, the respondent failed to prove that the applicant was at fault.

b) She further submitted that the Tribunal has not considered the evidence of applicant in its proper perspective and erred in giving undue weightage to the testimony of R.W. 1 Ajay Joshi and erred in holding that the applicant does not come within the purview of ‘*untoward incident*’ as defined in Section 123(c)(2) of the Act; the said finding recorded by the Tribunal are contrary to the said provisions and are liable to be set aside. Hence, she urges that the appeal be allowed.

10. *Per contra*, the learned Advocate for the respondent contended that the applicant boarded the wrong train, which had no scheduled halt at Murtizapur, and when he came to know the said fact, he tried to alight from the said running train at Murtizapur, and he lost his balance; therefore, the incident occurred. In view of the same, the

applicant does not come within the purview of the definition of ‘*untoward incident*’ as per Section 123(c)(2) of the Act. On the contrary, he suffered self-injury. On this ground alone, the applicant is not entitled to the relief as claimed. The Tribunal has rightly discussed the same and relied on the evidence of R.W. 1, and therefore, she submitted that no interference is required in the impugned judgment and order. However, she does not dispute that the applicant was a *bona fide* passenger on the train, though he had boarded the wrong train.

11. Having heard the learned Advocates for the respondent at the outset, the respondent is not disputing that the applicant was a *bona fide* passenger on the train at the relevant date. However, they contend that the applicant was at fault. While alighting from the train, he lost his balance and fell, resulting in the untoward incident.

12. On the other hand, the applicant has deposed that on the day of the incident, he was travelling from Akola to Murtizapur. The train was very crowded, and there was no space available to sit in the compartment; therefore, he was standing near the wash basin. Due to the heavy jerk of the crowd, he fell from the train and sustained injuries. During his cross-examination, he said that his testimony had not been denied. Nor anything that has been brought on record to

discard his testimony in that regard. He categorically denied the suggestion of the learned Advocate for the respondent that when he was trying to alight from a moving train, at that time, he fell. Therefore, his testimony remains unshaken, and there is no reason to disbelieve it.

13. On the other hand, the respondent has examined Guard ‘Ajay Joshi’ (R.W.1) of Tirupati-Amravati Express, who deposed that the train had no schedule halt at Murtizapur Railway Station and while the train was passing through Murtizapur Railway Station, down loop line lying from platform No.2, there was Alarm Chain Pulley (ACP) and he went to check the same at bogie No. SCR 01257/S6, at that time, one passenger told him that the person, while trying to alight from the running train, had fallen. During his cross-examination, he categorically admitted that ‘*he had not seen the incident personally, i.e. the applicant was trying to alight from the moving train.*’ Apart from this, he was unable to recall the name of the passenger who informed him about the incident. Upon careful perusal of his testimony, it is apparent that he has no personal knowledge of the incident or how it occurred; instead, he learnt about the incident from a passenger. However, he was unable to recall the name of the passenger.

14. *Moreover*, the respondent has not examined any eyewitness to the incident nor the said passenger in support of their defence to demonstrate that at the relevant time, the applicant was alighting from the train and due to loss of balance, he sustained the injuries. Therefore, his testimony is not helpful to the respondent in proving that the applicant was trying to alight from a moving train and suffered the injuries. The applicant himself was the victim of the incident, and his testimony remained unshaken and intact; hence, there is no reason to disbelieve his testimony on this aspect.

15. In addition to that, during cross-examination of the applicant, the respondent tried to confront the contents of his police statement, which the applicant has flatly denied. However, the respondent failed to examine the Investigating Officer who recorded the applicant's statement to support their defence, demonstrating that the applicant had given the statement to the police. Thus, the respondent failed to prove the said statement, and hence, the said statement is hardly of any assistance to the respondent in support of their defence. On the contrary, the document at ***Exhibit A-2*** (page No. A-34) produced on record, i.e. intimation given by the Deputy Station Superintendent, Murtizapur, to the S.O., G.R.P., Murtizapur vide memo dated 20-07-2014 at 14:05, which was immediately after the occurrence of the incident wherein it was informed that when the train was passing

through the down loop line, at that time, *one person fell from the said train and got injured and both his legs were amputated.* The memo *Exhibit A-2* (page A-34) in question supports the applicant's case rather than the respondent's defence. Similarly, the document at *Exhibit A-3* (on page No. A-35), i.e. an intimation given to the Medical Officer by P.S.O., Murtizapur, wherein it was contended that “*the applicant fell from the train and got injured and both his legs were amputated.* Both documents support the applicant's case rather than the respondent's defence. Therefore, in the absence of cogent evidence from the respondent, it would not be appropriate to hold that the applicant was trying to alight from the train and that, due to his fault, the accident occurred. On the contrary, the testimony of the applicant is found to be reliable.

16. Perused the report of the Divisional Manager dated 18-03-2015, wherein they have considered the statement of the applicant and police papers and observed that when the train was passing through Murtizapur, down the loop line of Platform No.2, it was moving at a slow speed. At that time, the applicant was attempting to alight from the train, but due to his negligence, he sustained injuries. Thereby infringing the directions and rules given by the railway authorities. Except for the statement of the applicant to the police and police papers, no statement of the Guard or any other passenger was recorded. As observed above, the respondent failed to prove the

applicant's statement to the police by examining the investigation officer. Therefore, the applicant's statement to the police is inadmissible as evidence. Consequently, I do not find any substance in the observations made in the said report, based on the applicant's statement to the police and other police papers, as the applicant categorically denied the above facts.

17. On perusal of the Disability Certificate ***Exhibit A-12*** (at page No.A-48) issued by the District Medical Board, Indore indicates that the applicant's both legs were amputated below the knee and certified that he has sustained 80% permanent disability. The photograph produced on record at ***Exhibit A-10*** (at page No. A-46) shows that both legs of the injured have been amputated below the knee.

18. The Tribunal, based on conjecture and surmises, erred in scrutinising the evidence on record and observed *that "though the fall of the applicant from the train is admitted, the same cannot be construed to be fall from the train amounting to an untoward incident within the meaning of Section 123 (c) r/w Sec.124-A of the Act"*. So also, the evidence on record shows that *"applicant had neither fallen from the train nor fallen while alighting the train but his fall was due to his own deliberate and rash and negligent act of making attempt to alight a moving train which has no scheduled stoppage at Murtizapur*

Railway station, which is not expected him, rather he himself has admitted that he sustained injuries while alighting from the moving train, hence the fall of the applicant cannot be considered to be an accidental fall within the meaning of the Act, but appears an intentional act on the part of the injured having taken risk and invited self-inflicted injury and, therefore, the said injury would fall in the exceptions listed under Section 124-A and (b) of the Act under the self-inflicted injury and in view of the same the respondent is not liable to pay the compensation.” It is apparent that, nowhere in evidence, the applicant has admitted ‘*that he sustained injuries while alighting from the moving train*’; however, the learned Tribunal erred in holding the above facts. On the contrary, he categorically deposed that “*due to the heavy jerk of the crowd, he fell from the train and sustained injuries. During his cross-examination, he said that his testimony had not been denied. Nor anything that has been brought on record to discard his testimony in that regard,*” so the finding in this regard appears incorrect. Thus, discarding the testimony of the claimant himself and relying on the testimony of Ajay Joshi (R.W.1), who was not an eyewitness to the said incident, is contrary to the evidence on record.

19. Similarly, it appears that both the legs of the applicant came under the wheel of the train and got amputated. Had it been the fact that if the injured tried to alight or jump from the moving train, then

certainly his legs would not come under the wheel of the train. Therefore, the possibility of the incident occurring due to a sudden jerk, loss of balance and a fall from the train cannot be ruled out. In that eventuality, I do not find any substance in the respondent's contention that the incident occurred while the applicant was alighting from the train.

20. Consequently, the finding recorded by the Tribunal is that “the applicant was not involved in an untoward incident as defined in Section 123(c)(2) of the Act”, cannot be sustained in the eyes of the law. Based on the finding above, it would not be just and proper to refuse the applicant's claim; therefore, it is liable to be quashed and set aside on appeal.

21. The Tribunal in paragraph No.13 of the judgment has considered the judgment in First Appeal No.1270/2010 and distinguished the same on the facts and held that the same is not applicable. It is pertinent to note that here the respondent has not disputed the occurrence of the incident, nor that he was a *bona fide* passenger of the train. Only their defence was that due to his negligence and fault, he had sustained the injuries and, therefore, was not liable to pay compensation, for which the respondent has not adduced any cogent and reliable evidence in support of their defence. Thus, as observed in the said judgment, an

accidental falling from a train is covered within the meaning of ‘*untoward incident*’. To that extent, the observations made in the said judgment are applicable in the said judgment.

22. Thus, having considered the evidence of the applicant and in view of the mandate laid down in *Doli Rani Saha v. Union of India, (2024) 9 SCC 656* and *Union of India v. Rina Devi, AIR 2018 SC 2362*, it appears that by filling an affidavit stating the relevant facts of the incident, the applicant was travelling in the train, the applicant discharged the initial burden that lies on him. Hence, I have no hesitation in holding that the applicant was a *bona fide* passenger in the train in question and he sustained the injuries in the said untoward incidents.

23. Having considered the above discussion and evidence on record, it is evident that the applicant was a *bona fide* passenger on the train on the relevant day and while travelling in the said train, due to the heavy jerk, he fell from the train and sustained injuries. That means he sustained the injuries due to the “*untoward incident*” that occurred. Thus, the applicant has proved that on 18-07-2014, he was travelling from Akola to Murtizapur by Train No. 12765 and was a bona fide passenger of the train, and fell from the Train on Platform No.2 of Murtizapur Railway Station. As against this, the respondents failed to prove that the applicant was negligent and that due to his negligence,

he sustained self-inflicted injuries. Hence, I answer point No. (i) in the affirmative and (ii) in the negative.

Point Nos.(iii) and (iv) :

24. As discussed above, I have already held that the applicant proved that he was a *bona fide* passenger and due to the jerk of the crowd, he fell from the train, and the untoward incident had occurred, wherein he had sustained the injuries and both his legs were amputated below the knee. It also appears that the Tribunal while considering the evidence on record has erred in discarding the evidence of the applicant and given undue importance to the evidence of the R.W.1 Ajay, who was not the eyewitness nor knowing about the incident and, therefore, the finding arrived at by the Tribunal based on the hearsay evidence is contrary to the cogent evidence of the applicant 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 Tribunal is unjust and improper and, therefore, interference is required in it in the appellate jurisdiction.

25. 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 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) and (iv) in the affirmative.

26. As a result, the appeal is allowed. The impugned judgment and order dated 27-03-2018 passed by the learned Member (Technical) Railway Claims Tribunal, Nagpur Bench in Claim Application No. OA (Iiu)/NGP/2015/0056 is hereby quashed and set aside. The application filed by the applicant is allowed in terms of '*Clause 3 of Part II*' of the Schedule of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 and the applicant is entitled to compensation of Rs. 8,00,000/-.

27. The respondent is directed to pay the said amount to the applicant by 31-10-2025, subject to the applicant furnishing the bank account details to the respondent within one month. Failing to pay the said amount to the applicant within the stipulated period, the said amount will carry interest at the rate of 6% per annum from the date of filing of the application. No costs will be incurred.

(ABHAY J. MANTRI, J.)