



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

FIRST APPEAL NO. 1506 OF 2019

- 1) Fulmatbai wd/o Mansingh Jata,
Age about 40 years, Occ. - Housewife,
- 2) Rakesh s/o Mansingh Jata,
Age about 25 years, Occ. - Nil,
- 3) Bhagwati d/o Mansingh Jata,
Age about 17 years, Occ. - Student,
- 4) Bhageshwari d/o Mansingh Jata,
Age about 16 years, Occ. - Student,

Appellant Nos. 3 and 4 through N.G.
Fulmati wd/o Mansingh Jata.

All above are the R/o. At Bihitkhurd,
Tahsil – Korchi, District – Gadchiroli.
(Maharashtra).

.... **APPELLANTS**

VERSUS

Union of India,
through General Manager,
Central Railway, Mumbai (CST).

.... **RESPONDENT**

Mrs. Uma A. Bhattad, Advocate for the appellants,
Ms. N.G. Chaubey, Advocate for the respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : 20-08-2025

ORAL JUDGMENT :

Original applicants/appellants being aggrieved by the
judgment and order dated 02-05-2018 passed by the learned Member

(Technical), Railway Claims Tribunal, Nagpur Bench, Nagpur (hereinafter to be referred to as “*the Tribunal*”) in Claim No. OA (IIu)/NGP/2016/0098, whereby the claim application of the applicants was dismissed, hence they have preferred this appeal.

2. Brief facts of the case are as under :

(a) On 16-10-2015, deceased Mansingh Punaram Jata, along with his friend, had purchased the General Class Ticket for travelling to Gondia from Ahmednagar Railway Station. When Jhelam Express, Train No. 11077, arrived at Ahmednagar Railway Station, the deceased, while boarding the train, fell at Ahmednagar Railway Station and sustained the injuries. He succumbed to them. Therefore, the applicants had preferred a claim application before the learned Tribunal.

(b) The Respondent-Railway filed a written statement and resisted the claim application. They denied the contents made in the claim application. However, it was contended that the statutory authority had conducted the investigation. During the investigation, it was revealed that while boarding the moving train, the deceased slipped and fell from the train, which indicates that the deceased was negligent. Hence, it cannot be termed as an untoward incident or

accident that comes within the meaning of ‘untoward incident’. Accordingly, the respondent urged dismissal of the claim application.

(c) Based on the pleadings of the parties, the learned Tribunal framed the issues. Pursuant to the issues, the applicants examined applicant No. 1-Fulmatbai as A.M.1 and produced and proved the documents and closed their evidence. On the other hand, the learned Tribunal has examined one Jitendra Singne, Guard, and closed its evidence. After appreciating the evidence on record, the learned Tribunal held that the fall of the deceased from the moving train did not amount to an untoward incident within the meaning of Section 123 (c) r/w. Section 124-A of the Railways Act, 1989 (for short, “*the Act*”). As the evidence on record does not demonstrate that the deceased had either fallen from the train or fallen while boarding the train, but his fall was due to his own deliberate and rash and negligent act of making an attempt to board a running train, therefore, the claim application was dismissed.

Being aggrieved by the same, the applicants have preferred this appeal.

3. Having heard Mrs. Uma A. Bhattad, learned Advocate for the appellants and Ms. N.G. Chaubey, learned Advocate for the respondent

and perusal of the impugned judgment, record and proceedings, the following points arise for determination.

- (i) *Whether the applicants/appellants have proved that the death of the deceased had occurred, as a result of the untoward incident within the meaning of Section 123(c) read with Section 124-A of the Act?*
- (ii) *Whether the respondent has proved that the deceased suffered self-inflicted injuries as contemplated under Section 124-A of the Act?*
- (iii) *Whether the impugned judgment and order is just and proper?*
- (iv) *Whether any interference is required in the impugned judgment and order in the appellate jurisdiction?*

Point Nos. (i) and (ii) :

4. After having gone through the pleadings as well as the evidence on record, at the outset, it appears that the respondent, in their written statement, has categorically stated that during the investigation, it was revealed to them that the deceased tried to board the moving train; at that time, he slipped and the incident occurred. The averment in the written statement indicates that the deceased died while boarding the moving train, and due to his negligence, got slipped and fell from the train. That being so, I would like to refer to paragraph No. 16.6. of the judgment in *Union of India v. Rina Devi*, AIR 2018 SC 2362, 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 a ‘no-fault theory’. We may, in this connection, refer to the judgment of this Court in [United India Insurance Co. Ltd. v. Sunil Kumar](#), laying down that the plea of negligence of the victim cannot be allowed in a 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.”

5. It appears that the Hon’ble Apex Court has categorically held that a concept of the ‘self-inflicted injury’ would require intention to inflict such injury and not mere negligence of a particular degree. In the case at hand, also, a bare perusal of the pleadings and evidence on record would demonstrate that the deceased was boarding the moving train negligently and fell from the train, which does not come within the purview of ‘self-inflicted injury’ as no intention was brought on record by the respondent to show that the deceased had having intention to inflict self-inflicted injury. As such, in view of the law laid down in the case of **Rina Devi** and considering the defence of the railway authority, it is apparent that the incident can be termed as an untoward incident.

6. Apart from that, it is evident that a friend of the deceased had handed over the railway ticket to applicant No. 1-widow, who had produced it to the police, and a copy of it was placed on record at A-38. It further appears that the Chief Booking Supervisor made a communication (A-29) to the In-charge Inspector on 15-07-2016 and informed that, after verification of their record, they found that *the ticket bearing No. A81994421 dated 16-10-2015* was issued from Ahmednagar Railway Station at about 19:48 hours from Ahmednagar Railway Station to Gondia Railway Station. The said fact itself indicates that the deceased was holding a valid journey ticket. The Divisional Security Commissioner, Railway Protection Force, Solapur, made a communication to the Deputy Chief Commissioner, Manager (Claims) and PO, Central Railway, CST, Mumbai, and informed them to conduct the statutory enquiry report about the incident. Pursuant to that, he had conducted the enquiry, and the Deputy Chief Manager submitted the report to the Divisional Security Commissioner. After considering the said report, the Divisional Security Commissioner Railway observed that based on the investigation papers of GRP/ANG, the facts came to light that on 16-10-2015, a person by the name Mansingh Punaram Jata grievously injured while boarding the moving train, but failed to board the train, and the incident occurred, and same is reflected from the enclosed panchanama conducted by the GRP. No eyewitness was

found to them. Therefore, observed that it cannot be termed as an untoward incident.

7. Perusal of the evidence of A.W. 1-Fulmatbai emerges that in her testimony, she categorically deposed that on 16-10-2015, her husband, with his friend, had purchased the General Class Railway Ticket for a journey toward Gondia and the deceased boarded Jhelum Express and fell accidentally from the moving train. During her cross-examination, she categorically deposed that she had not witnessed the occurrence of the incident, nor also purchase of the ticket. However, she admitted that the deceased, while trying to board the moving train, fell and came under the wheel of the train. It is pertinent to note that claimant No. 1 was not accompanied with the deceased and she categorically deposed that she had not witnessed the happening of the incident, therefore, it appears that she could not understand the suggestion put by the learned Advocate for the respondent railway and, therefore, she admitted that the deceased while trying to board the moving train fell from it.

8. On the other hand, the respondent-railways examined the Guard of the '*Jhelum*' Express, who deposed that he did not receive any information from anyone about falling of the passenger. He has not

deposed anything as per the defence of the railway authorities that while boarding the train, the deceased fell from the moving train. Therefore, his testimony is not helpful for the respondent in support of their defence. Having considered the evidence of the parties, it is only evident that the deceased, while boarding the moving train, fell from it. It does not appear that the deceased had the intention to inflict any injury on himself. Therefore, in my view, as per the dictum laid down in *Rina Devi's* case (supra), it cannot be termed as a self-inflicted injury, but it would come within the ambit of an '*untoward incident*'.

9. The learned Tribunal while dealing with these issues has relied on the admission given by A.W.1-Fulmatbai and held that cause of the death of the deceased in the case at hand cannot be considered as to be accidental fall within the meaning of Act but it can be termed as a deliberate conduct of the deceased to cause injury to himself i.e. self-inflicted injury and, therefore, it cannot come within the ambit of Section 123(c) r/w. Section 124-A of the Act and, therefore, exonerated the railway from the liability to pay compensation. It was also held that the applicants had failed to prove that falling of the deceased from the train was an untoward incident. However, I have already observed that A.W. 1 was not the eyewitness and she was not aware of the occurrence of the incident, who, in her cross-examination, categorically admitted

that she had not witnessed the incident. Therefore, it appears that the Tribunal has erred in relying on the evidence of the person who had not witnessed the incident. Therefore, the findings arrived at the conclusion by the learned Tribunal are contrary to the evidence on record.

10. Thus, considering the evidence on record as well as the defence of the railway, it is evident that the applicants have proved that the death of the deceased had occurred, as a result of an untoward incident within the meaning of Section 123(c) r/w. Section 124-A of the Act. On the contrary, the respondent-railway failed to prove that the deceased had suffered injury, which can be termed as a self-inflicted injury as contemplated under section 124-A of the Act. Hence, *I answer point No. (i) in the affirmative and point No. (ii) in the negative.*

Point Nos. (iii) & (iv) :

11. As discussed above, the learned Tribunal have already held that the applicants proved that the deceased was a *bona fide* passenger and while boarding the train, fell from the train, cannot be termed as a self-inflicted injury within the meaning of Section 124-A of the Act, but at the most, it can be said that he was negligent. However, in view of the dictum laid down in *Rina Devi*, mere negligence of the passenger cannot be termed as a self-inflicted injury, since the deceased did not have the intention to inflict such injury. However, the learned Tribunal

has not considered the mandate laid down in *Rina Devi* and erred in relying on the admission of A.W.1-Fulmatbai and therefore, the finding recorded by the learned Tribunal that the deceased died while he was boarding the moving train does not come within the meaning of ‘*untoward incident*’. As a consequence, it emerges that the finding recorded by the learned Tribunal is based on the hearsay evidence of A.W.1-Fulmatbai, which is inconsistent with the defence of the railway authorities. Therefore, the said finding cannot be sustained in the eyes of the 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 as a result, interference is required in the impugned judgment and order in the appellate jurisdiction.

12. Apart from this, 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. Consequently, *I answer point No. (iii) in the negative and point No. (iv) in the affirmative.*

13. As a result, the appeal is allowed. The impugned judgment and order dated 02-05-2018, passed by the learned Member (Technical), Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim No. OA(IIu)/NGP/2016/0098 is hereby quashed and set aside. The application filed by the applicants is allowed in terms of Part I of Schedule under Rule 3 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, and the applicants are entitled to compensation of Rs. 8,00,000/-. It further appears that the accident occurred before 01-01-2017. Therefore, the applicants are not entitled to get interest on the amount of compensation. In my view, it would be appropriate to apportion the said compensation as under :

Claimant No.1, being the widow, is entitled to Rs. 5,00,000/-.

Claimant Nos. 2, 3 and 4, being the major children, are entitled to get Rs. 1,00,000/- each.

14. The respondent-railway authority is directed to transmit the said amount of compensation as apportioned, in the bank accounts of the applicants/appellants by 31-10-2025, failing which the said amount shall carry interest at the rate of 6% per annum from the date of filing of the application till its realisation.

(ABHAY J. MANTRI, J.)