



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

FIRST APPEAL NO.294 OF 2025

1. Nagarbai W/o Digamber Gandhakwad
Age 50 years, Occ: Household,
2. Digamber S/o Guruppa Gandhakwad
Age 38 years, Occ: Labour
3. Mangesh S/o Digamber Gandhakwad
Age 25 years, Occ: Education

All R/o Mugaon, Tq. Naigaon Kh.,
Distt. Nanded (Maharashtra State)

...APPELLANTS
(Orig. Applicants on RA)

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

The Union of India, Through its
General Manager,
Western Railway, Churchgate
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 :- 03.10.2025

ORAL JUDGMENT:

1. The appeal questions dismissal of the Claim Application No.OA/(IIu)/NGP/2015/0067 by the Railway Claims Tribunal, Nagpur Bench, Nagpur (for short "Tribunal") filed by the appellants for compensation on account of the death of deceased Maroti, who died in a railway accident.

2. The appellants filed a claim application before the Railway Tribunal claiming that on 26.05.2014, the deceased was travelling from Marine Lines to Churchgate by local train No.91129. Due to a sudden and violent jerk, he lost his balance and fell from the running train at KM No.0/20 on the Main Line Track, thereby sustaining injuries which resulted into his death. It was also claimed in the application that the journey ticket of the deceased was lost. The Tribunal, after considering the written statement of the Railways who took a defence that the deceased was not a bonafide passenger and died due to his negligent act, rejected the claim of the appellants by holding that no ticket was found on the person of the deceased. The Tribunal further opined that, AW1–father of the deceased (appellant no.2) was not an eye-witness and no witness has been examined; therefore, the appellants failed to prove that Maroti died in an untoward incident.

3. Before proceeding to deal with the controversy raised in this appeal, it will be appropriate to mention here, the law with regard to possession of ticket by the deceased and the presumption thereto. In the case of *Union of India Vs. Rina Devi*¹ while dealing

1 AIR 2018 SC 2362

with a claim with respect to an untoward incident, the Supreme Court in para 17.4 has opined as under:

“17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly.”

4. In the background of the aforesaid legal position, it has to be seen whether there are foundational facts regarding the question whether deceased was travelling in a passenger train to draw the presumption as held in the case of **Rina Devi** (*supra*).

5. Perusal of the Note dated 08.06.2015 (Page No.A-18) prepared by the Railway Officers regarding the investigation with respect to the untoward incident shows that it has been summarized by the authority on the basis of inquest panchanama that the deceased had fallen down from an unknown local train and sustained injury on his head. It was further opined that the deceased was leaning outside the door which resulted into him falling from the local train. Once it has been found that the

deceased was travelling in a local train which is a passenger train, the presumption as held in the case of **Rina Devi** (supra) come into play. Therefore, the finding recorded by the Tribunal that the deceased was not a *bonafide* passenger does not sustain.

6. This takes me to the findings recorded by the Tribunal as well as the submissions put forth by the learned counsel appearing on behalf of the Railways that the deceased is himself responsible for the accident as he acted negligently when he was leaning out of the door, which resulted into him falling from the train and therefore, the appellants are not entitled for the compensation.

7. Compensation on account of untoward incident has been codified in Section 124-A of the Railways Act, which is reproduced here:

“Section 124-A:- When in the course of working of railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the department of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only of loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to-

- (a) suicide or attempted suicide by him;*
- (b) self-inflicted injury;*
- (c) his own criminal act;*
- (d) any act omitted by him in a state of intoxication or insanity;*
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.*

Explanation.- For the purpose of this section, "passenger" includes-

- (i) a railway servant on duty; and*
- (ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident."*

8. Thus, if the death of a passenger in an untoward incident occurred due to the reasons mentioned in provisos (a) to (e) of Section 124-A, the dependents of the deceased will not be entitled for the compensation under Section 124-A. Nowhere, has it been mentioned in the exclusion clause that if a passenger dies due to his own negligence, the compensation shall not be payable under Section 124-A. That apart, Section 124-A lays down strict liability or no fault liability in case of a railway accident. Hence, if a case comes within the purview of Section 124-A it is completely irrelevant as to who was at fault (See: ***Union of India Vs. Prabhakaran Vijaya Kumar & Ors***¹, ***United India Insurance Co.***

¹ (2008) 9 SCC 527

*Ltd. Vs. Sunil Kumar*¹ and *Rina Devi (supra)*). The Tribunal did not consider these aspects and erroneously rejected the claim of the appellants. Therefore, the findings recorded by the Tribunal *dehors* of investigation report and legal position do not sustain and are required to be set aside. Accordingly, the appeal succeeds.

9. The appeal is allowed.

10. The appellants shall be entitled to compensation payable under Section 124-A. The respondent is liable to pay the compensation of ₹8,00,000/-. Since, the incident occurred prior to 01.01.2017, prior to amendment to Schedule-I to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, the appellants are not entitled to interest on the compensation amount of ₹8,00,000/- as held in the case of *Union of India Vs. Radha Yadav*². The respondent is directed to credit the amount of ₹3,00,000/- and ₹4,00,000/- in account of appellant nos.1 and 2 respectively and remaining ₹1,00,000/- in account of appellant no.3, within three months.

With this, the appeal stands disposed of.

JUDGE

Wagh

1 (2019) 12 SCC 398

2 (2019) 3 SCC 410