



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

FIRST APPEAL NO.1245 OF 2023

Appellant : Baby wd/o Mahadeorao Ingle,
 Age 68 years, Occ. Household,
 R/o Ward No.4, Shivaji Chowk, Khel Choudhar,
 Karajgaon, Tq. Chandur Bazar, Dist. Amravati.

– Versus –

Respondent : Union of India,
 Through its General Manager,
 Central Railway, C.S.T. Mumbai.

 Mr. D.S. Khushalani, Advocate for the Appellant.
 Ms. Neerja Choubey, Advocate for the Respondent.

CORAM : **M.W. CHANDWANI, J.**

DATE : **17th MARCH, 2025.**

ORAL JUDGMENT :

Heard the learned Counsel appearing for the parties.

02. **Admit.**

03. The appeal challenges the judgment and order dated 25/10/2023 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur (*hereinafter referred to as the “Tribunal” for short*) thereby rejecting the claim application of the appellant on account of unfortunate

death of her son-Sandeep Mahadeorao Ingle who died in a train accident on 10/09/2018.

04. The facts giving rise to the case in a nutshell are as under:

- (i) Deceased-Sandeep originally belonged to Karajgaon, Tahsil Chandur Bazar, District Amravati. He was residing in Mumbai on account of his service. On the fateful day i.e. 10/09/2018, while he was travelling from Ghatkopar to Badlapur via Kalyan, he accidentally fell down from a running train between Kalyan Railway Station and Shahad Railway Station and died. Therefore, an application for compensation under Section 123(c) read with Section 124-A of the Railways Act, 1989 (*hereinafter referred to as the "Act" for short*) was filed.
- (ii) The application was opposed by the Railway Administration on the ground that the deceased is not a *bona fide* passenger and the alleged accident has not occurred as a result of the deceased falling from the train. The authority came up with a case that the deceased, while crossing the railway track, got hit by a train and died. The Tribunal dismissed the claim on the ground that the spot-panchnama does not speak anything about the fact that the deceased possessed a railway ticket,

which is the first document in time. The Tribunal also held that the dead body of the deceased was found at about 23:20 hours, whereas the ticket was purchased at 18:52 hours. As per the details mentioned in the ticket, the journey did not start until 19:52 hours and therefore, the ticket is not valid as the same was valid for only an hour. Apart from raising questions, whether the deceased was a *bona fide* passenger, the Tribunal has also opined that the deceased as a result of getting hit by the train while crossing the railway track, since his dead-body was found on the track.

05. Mr. Khushalani, learned Counsel appearing on behalf of the appellant vehemently submits that though the spot-panchnama does not depict about the ticket which was possessed by deceased-Sandeep but inquest-panchnama and the area report of the department, which was prepared by the Railway Administration itself goes to show that the deceased had a ticket to travel from Ghatkopar to Badlapur. It is also contended that though the dead-body was found between Kalyan and Shahad Station but the turning point of the train towards Badlapur is also between Kalyan and Shahad Station. Therefore, the finding of the Tribunal is erroneous.

06. *Per contra*, the learned Counsel appearing on behalf of the respondent objected the appeal on the ground that the judgment of the Tribunal is very well reasoned and the inquiry conducted by the R.PF and by the railway administration shows that the deceased died as a result of getting hit by by a train while crossing the track. She supported the judgment of the Tribunal and sought rejection of the appeal.

07. Having heard the learned Counsel for the respective parties and having gone through the impugned judgment, spot-panchnama, A.D.R. and inquest-panchnama, it transpires that at 23:20 hours, the dead-body of deceased-Sandeep was found on the railway track between Kalyan and Shahad. Accordingly, the R.PF reached on the spot and spot-panchnama was prepared in presence of two panchas.

08. No doubt, the spot-panchnama does not mention about the deceased possessing a ticket but the fact remains that the inquest-panchnama and the A.D.R. prepared by the R.PF, Kalyan Railway Police Station mention that the ticket possessed by deceased-Sandeep was for travelling from Ghatkopar to Badlapur. It appears that the spot-panchnama is prepared in a printed form and the columns have been filled up with a pen. There is no column in the panchnama for mentioning regarding possession of a ticket by the passenger.

09. Ms. Choubey, learned Counsel for the respondent relied upon the statement in the printed form of spot-panchnama that nothing suspicious was found. This argument is to be discarded firstly on the ground that this is a printed form, which has been used by filling the blank spaces and secondly, it says that nothing suspicious was found. It does speak anything about the question whether the deceased possessed a ticket or not. More so, the family of the deceased is from Chandur Bazar which is more than 600 kms away from the spot of incident. Therefore, there is no chance of manipulation by placing the ticket between the time of preparation of spot-panchnama and inquest-panchnama or filing of A.D.R. Therefore, the finding recorded by the Tribunal that the deceased was not a *bona fide* traveller is erroneous.

10. This takes me to the submission of the learned Counsel for the respondent that the deceased died due to a dash given by an unknown train while crossing the railway track, I have gone through the inquest-panchnama, wherein it has been mentioned that the panchas disclosed that the deceased died while crossing the railway track. Firstly, it is not the case that those panchas have seen the accident. Secondly, when the deceased was possessing a ticket for travelling from Ghatkopar to Badlapur, there was no reason for the deceased to alight from the train between Kalyan and Shahad. Therefore, I do not find any force in the argument of the

learned Counsel for the respondent.

11. Needless to mention that the track between Kalyan and Badlapur is different than the track from Kalyan to Shahad. Albeit, there is a turning point for the train to proceed on Badlapur track which is between Kalyan and Shahad and the dead-body was found on the railway track between Kalyan and Shahad. Since, the deceased was possessing a ticket from Ghatkopar to Badlapur, a reasonable reference can be drawn that the deceased might have fallen down from the train at the turning point of the train itself and therefore, this aspect has not been considered by the Tribunal. Thus, this finding is also required to be set aside.

12. Since, the deceased was holding the ticket from Ghatkopar to Badlapur and the dead-body was found on the railway track between Kalyan and Shahad, the deceased is entitled for lump-sum compensation of Rs.8.00 Lakhs along with interest. Since the accident occurred on 10/09/2018 and entitlement of interest on compensation came into force from 01/01/2017 i.e. after the amendment in the Act, in the result, the following order is passed:

ORDER

I. The appeal is allowed.

II. The respondent is directed to pay an amount of Rs.8.00 lakhs

(Rupees Eight Lakhs Only) towards compensation along with interest at the rate of 6% per annum from the date of application to the appellant, within four months from today.

III. There shall be no order as to costs.

(M.W. Chandwani, J.)

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