



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

FIRST APPEAL NO. 949 OF 2025

1. Prakash S/o. Amrutrao Zade,
Aged 53 years, Occ. Service
 2. Sau. Pallavi W/o. Sureshrao Chavhan,
Aged about 29 years, Occ. Household
 3. Ku. Ashwini D/o. Prakash Zade,
Aged about 22 years, Occ. Student
 4. Ku. Mayuri D/o. Prakash Zade,
Aged about 20 years, Occ. Student
- All R/o. Quater No 18, Near Jail Police
Headquarter, Wardha, Dist. Wardha.
5. Sau. Vaishali W/o. Atul Wankhede,
Aged about 23 years, Occ. Household
R/o. Mehar Nagar, Arvi, Dist. Wardha.

. . . APPELLANTS

// VERSUS //

Union of India through its
General Manager, Central Railways,
CST, Mumbai (M.S.).

. . . RESPONDENT

Shri S. B. Dhande, Advocate for appellants.
Ms. Neerja Choubey, Advocate for respondent.

CORAM :- M. W. CHANDWANI, J.

DATED :- 19.09.2025

ORAL JUDGMENT :-

Heard.

2. The appeal challenges the judgment and award dated 21.10.2022 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur (for short, “the Tribunal”) in Claim Application No. OA(llu)/NGP/240/2019 thereby rejecting the claim of the appellants for compensation under Section 124-A of the Railways Act, 1989 on account of death of Pratibha Zade, the wife of appellant no. 1 and the mother of appellant nos. 2 to 5 on the count that she was not a bonafide passenger and did not die in an untoward incident on 18.03.2019.

3. The Tribunal dismissed the claim of the appellants on the ground that deceased- Pratibha was holding a railway ticket for travelling from Wardha to Murtijapur, whereas Train No. 22827- Surat Weekly Superfast Express by which deceased- Pratibha was claimed to be travelling was not having a scheduled halt at Murtizapur. Therefore, it was held by the Tribunal that deceased- Pratibha was not a bonafide passenger of the said Train. On the point of untoward incident, the Tribunal relied on the version of witnesses Sunil Dhole (RW1) and Ganesh Sarode (RW2) and held that deceased- Pratibha died while she was crossing the railway track at Dipori Railway Station and at that time, she was hit by the staircase of the engine of Train No. 12895 (Down) Gitanjali Express.

4. Having heard the learned counsel for the parties and having gone through the impugned judgment and award, evidence and the documents on record, it transpires that deceased- Pratibha was holding railway ticket no. 14620829, dated 18.03.2019 from Wardha to Murtizapur and was travelling in Train No. 22827 which was not having a scheduled halt at Murtizapur. Thus, it is established that deceased- Pratibha was travelling by the said Train. Just because the Train was not having a scheduled stop at Murtizapur, it cannot be said that she was not a bonafide passenger. Even if she would have travelled beyond Murtizapur to the next scheduled stop of the said Train, she would have been liable for the extra fare of the journey beyond Murtizapur. However, the fact remains that she died in an accident at Dipori Station which falls before Murtizapur Station and therefore, there is no question of deceased- Pratibha not travelling to Murtizapur Station. The Tribunal did not consider this aspect and erroneously held that she was not a bonafide passenger.

5. This takes me to the main controversy wherein the appellants claimed that deceased- Pratibha died as a result of falling from Train No. 22827 whereas, the respondent claimed that she was crossing the railway track of Train No. 12859 (Down) Gitanjali Express and was run over by the said Train. As held above, deceased- Pratibha was travelling by Train No. 22827 for proceeding to Murtijapur and

there was no reason for her to alight at Dipori Railway Station and cross-over the railway track of Train No. 12859 (Down) Gitanjali Express. That apart, there appears to be contradiction in the evidence of the respondent's witnesses *inter se*. Sunil Dhole (RW1), loco-pilot of Gitanjali Express Train who deposed that he saw one lady crossing the railway track, blew horn of the Train and the lady moved away from the railway track, sat on the ballast of the railway track and got hit by staircase of a Generator coach. Whereas, Ganesh Sarode (RW2), pointsman at Dipori Station has deposed that the lady did not move from the railway track and was hit by the engine of the Train and sustained injuries. It is also to be noted here that Ganesh Sarode's (RW2) statement was recorded by the Police immediately after the incident wherein, he stated to the Police that he saw that one lady sustained injuries by falling from the Train and he accordingly informed the Station Master. Thereafter, he took the said lady to Government Hospital, Chandur Railway in a Goods Train. The statement which was made by the Ganesh Sarode (RW2) immediately after the incident to the Police has probative value, coupled with the fact that even after the accident, this very witness had witnessed the telephonic talks between deceased- Pratibha and the appellants. In the telephonic talk, deceased- Pratibha stated to her husband (appellant no. 1) that she sustained injuries as a result of falling from the Train.

6. In view of the above material and on the touchstone of preponderance of probabilities, it can be said that deceased- Pratibha fell down from Train No 22827 on the railway track of another Train No. 12859 (Down) Gitanjali Express Train and was consequently hit by the staircase of the generator coach of Train No. 12859 and succumbed to injuries sustained by her in the said accident. In view of these peculiar facts, it can be said that she did die in an untoward incident. The Tribunal has not considered these aspects and therefore, the findings recorded by the Tribunal are required to be set aside. The appellants are entitled for compensation under Section 124-A of the Railways Act, 1989. Hence, I proceed to pass the following order:-

- i) The appeal is allowed.
- ii) The appellants are entitled for compensation of Rs.8 lakhs (Rs. Eight Lakhs) under Section 124-A of the Railways Act, 1989 along with interest @ 6% p.a. from the date of the application.
- iii) Out of the compensation amount of Rs.8 lakhs, Rs. 1 lakhs each is to be given to appellants nos. 2 to 5 and Rs.4 lakhs is to be given to appellant no. 1 with proportionate interest thereon.

- iv) The respondent to credit the amount of compensation directly in the account of respective appellants within three months from today.
- v) The decree be drawn up accordingly.

(M. W. CHANDWANI, J.)

RR Jaiswal