



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

FIRST APPEAL NO. 985 OF 2024

1. Smt. Vandana Wd/o. Lalchand Raut,
Aged 46 years, Occ. Housewife,

2. Dhammadip S/o. Lalchand Raut,
Aged 28 years, Occ. Labour,

Both R/o. Village: Sondad, Post Sondad,
Tahsil: Sadak Arjuni, District Gondia.

. . . **APPELLANTS**
(Org. Claimants)

// VERSUS //

Union of India,
Through its General Manager,
South East Central Railway,
Bilaspur (C.G.)

. . . **RESPONDENT**
(Org. Respondent)

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

CORAM :- M. W. CHANDWANI, J.

DATED :- 12.09.2025

ORAL JUDGMENT :-

Heard.

2. **Admit.** By consent of the learned counsels for the parties,
the matter is heard finally.

3. The appeal challenges the judgment and award dated
04.07.2016 passed by the Member, Railway Claims Tribunal, Nagpur

Bench, Nagpur (for short, “the Tribunal”) in Case No. OA(llu)/NGP/2012/0047 thereby rejecting the claim of the appellants filed under Section 124-A of the Railways Act, 1989.

4. The brief facts necessary to dispose of the appeal are as under:

The claim petition filed by the appellants for grant of compensation on account of death of Lalchand S/o. Khetree Raut due to the injuries sustained by him after falling from Train No. 58803 (Up) Ballarshah Passenger before the Tribunal, *inter alia* stating that on 24.10.2011, deceased Lalchand, the husband of appellant no. 1 and father of appellant no. 2 was travelling along with his two friends in the train from Sondad to Gondia. Deceased Lalchand purchased a ticket no. 41165219 for all of them before boarding the train and there was a huge crowd in the train. When the train was running between Khodshivani to Gategaon, at 11:00 hrs, he fell down from the running train near railway gate 17 km. and sustained injuries on his head, left hand and waist. He was admitted to K.T.S. Hospital, Gondia and thereafter, on the same day in the evening, he was refereed to Government Medical Hospital, Nagpur where he succumbed to the injuries on 25.10.2011. An Accidental Death Report (ADR) was registered by Duggipar Police Station, Division Deori, District Gondia vide ADR No. 28/2011 and the spot panchnama was also prepared.

The post-mortem of deceased Lalchand was conducted at Government Medical Hospital, Nagpur. The appellants filed the claim petition under Section 124-A of the Railways Act, 1989 which came to be rejected by the Tribunal by the impugned judgment and order. Hence, this appeal.

5. Having heard the learned counsels for the respective parties and having gone through the record, it transpires that the Tribunal dismissed the claim of the appellants mainly on the ground that neither the Guard nor the Driver of the train has noticed any accident and no memo of any untoward incident has been issued by the Railway Authority. The names of the witnesses namely, Sanjay Raut and Sachin Raut, who were travelling with deceased Lalchand have come up during the trial. However, the Tribunal has held that it has not been proved that deceased Lalchand had fallen from the train. Though, the Tribunal has recorded that deceased Lalchand was having a valid railway ticket for traveling from Sondad to Gondia but just because the memo regarding the untoward incident has not been issued and the Guard and the Driver of the train did not report any untoward incident to the Railways authority, the Tribunal non-suited the appellants.

6. With the able assistance of the respective counsels for the parties, I have gone through the record. It appears that during the enquiry conducted by the office of the Divisional Railway Manager (DRM), on an application filed by the appellants, statement of witnesses- Sanjay Raut and Sachin Raut were recorded and therefore, the doubt of the Tribunal about presence of witnesses Sanjay Raut and Sachin Raut on the premise that their names appeared when they were examined by the Tribunal for the first time is not correct and contrary to the record, since they were interrogated by the Enquiry Officer of the DRM office. The Tribunal has given more weightage to the versions of the Deputy Station Master, the Guard and the Driver of the train and also to the DRM report which speaks that no incident was reported either by the Driver or the Guard of the said train.

7. The record reveals that post-mortem of deceased Lalchand was conducted and his body was referred by Railway Police Station, Ajni, Nagpur to the Government Medical Hospital, Nagpur for autopsy. Apart from that, deceased Lalchand was having railway ticket no. 41165219, dated 24.10.2011 for travelling from Sondad to Gondia. All these circumstances corroborate the version of witnesses- Sanjay Raut and Sachin Raut. In the post-mortem report, the police have also included the fact of falling from the railway boggy on 24.10.2011 at 11:00 am. Whereas, the railway ticket was purchased by deceased

Lalchand on 24.10.2011 at 10:30 am. All these circumstances corroborate the version of Sachin Raut (AW2) that deceased Lalchand was travelling along with him in the train. So far as the version of the Guard that there was usual crowd in the train is concerned, just because an untoward incident was not reported either by the Guard or the Driver of the train, it cannot be inferred that no untoward incident happened in view of the background of the above referred facts and on the touchstone of preponderance of probabilities.

8. Hence, in my view it is proved that deceased Lalchand fell from the train on 24.10.2011, suffered injuries and succumbed to the injuries on the next day i.e. on 25.10.2011. The learned Tribunal erred by giving much weightage to the version of the Guard and the Driver of the train and ignored the very vital aspect of the case referred above. Therefore, the findings recorded by the Tribunal are required to be set aside and the appeal deserves to be allowed. Hence, I proceed to pass the following order:-

- i) The appeal is allowed.
- ii) Accordingly, the impugned judgment and award dated 04.07.2016 passed by the Member, Railway Claims Tribunal, Nagpur

Bench, Nagpur in Case No. OA(llu)/NGP/2012/0047 is hereby quashed and set aside.

iii) The appellants are entitled to compensation of Rs.8,00,000 (Rs. Eight lakhs) under Section 124-A of the Indian Railways Act. Since, the claim has been filed before the amendment to Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, in the wake of the ratio laid down in the case of *Union of India Vs. Radha Yadav*¹, the appellants will not be entitled to interest on the enhanced compensation of Rs.8,00,000/- which has been made applicable from 01.01.2017.

iv) The respondent shall be liable to pay total Rs.8,00,000/- (Rs. Eight lakh only) to the appellants towards compensation on account of death of deceased Lalchand S/o. Khetree Raut.

v) The respondent are directed to disbursed an amount of Rs.5,00,000/- (Rs. Five lakhs) in the account of appellant no. 1 and Rs. 3,00,000/- (Rs. Three lakhs) in the account of appellant no. 2 within three months from today.

(M. W. CHANDWANI, J.)