



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

FIRST APPEAL NO.862 OF 2024

- 1 Bhikan Shivdas Koli, Aged about 50 years,
Occup.Labour
- 2 Latabai W/o Bhikan Koli
Age 43 years, Occup.Household.
Both R/o , Kolivada, Utran gujar Hadd, Tal- Appellants
Erandol, Dist. Jalgaon (MS) 424109
Presently R/at Plot No.49, Chinchbhuvan, Near
Khapri, Punarvasan, Dist. Nagpur.

-Versus-

The Union of India, General Manager Central Respondent
Railway,CSMT,Mumbai.

Ms.Sumesha Chaudhari counsel for the appellant.
Ms. N.G.Chaubey, counsel for respondent sole.

CORAM :MRS. VRUSHALI V. JOSHI, J.

DECIDED ON :- 22/08/2025.

JUDGMENT:-

- 1) **Heard.**
- 2) Being aggrieved by the Judgment passed by the Railway
Claims Tribunal, (Member Technical) Mumbai Bench, Mumbai
in Claim Application No.OA (IIu/MCC/903/2015 dated
29/11/2019, thereby dismissing the Claim Application filed by
the present appellants under Section 16 of the Railway Claims
Tribunal Act, 1989 (for short referred to as the 'Act of 1989').

- 3) The brief facts of the case are as under:-
- 4) Deceased Santosh Bhikan Koli was travelling from Kasara to Jalgaon by 12105 Vidarbha Express for going to his village Utran for attending Valmiki Jayanti Celebration. His friend Yogesh Ramdas Koli was with him. Both of them have purchased the tickets from Kasara Railway Station and boarded to the train to go to Jalgaon.
- 5) It is the case of the appellants/claimants that there was heavy rush in the train and there was no place to sit and they were standing near the door of the train. When the train was passing through Manmad and Panewadi, the deceased fell down from the train due to rush and jerk in the compartment. The co-passenger saw while deceased falling down from the train. The tickets of both of them were misplaced during the said accident. As it was a railway accident the, claimants, who are the father and mother of the deceased have filed this claim application.
- 6) The respondent has resisted the claim stating that it is not an untoward incident as per Section 124(A) of the Act. The deceased was not the *bonafide* passenger of the train. The police

documents and the evidence of the witness shows that the deceased has sustained injuries in untoward incident and died. There is no valid evidence or eye witness to prove that the death of the deceased was not an untoward incident and the deceased was not the bonafide passenger of the train.

7) The learned counsel appearing for the appellants has stated that the respondent has not examined a single witness to prove that the death of the deceased was not caused in an untoward incident. Without considering the documentary evidence, the Tribunal has rejected the claim of the appellants. Hence prayed to quash and set aside the order passed by the Tribunal by allowing this appeal.

8) The learned counsel appearing for the appellants has argued that the eye witness is examined by the claimants. He has stated in his evidence on affidavit that whatever he has stated in his statement is correct. In his affidavit, he has stated that he was travelling with the deceased and deceased fell down from the running train, he was standing on footstep, because of the rush his head dashed with the electric pole and he died. On perusal of the

record, it appears that the deceased was travelling by said train. He fell down from the train and due to which he died on the spot. The witness has stated in his statement that after consumption of the tobacco, the deceased went near the door and he leant to spit and his head hit with the electric pole and he fell down. His head was crushed. In the affidavit, witness has stated that whatever he has stated in his statement is correct. As per his statement, as the deceased went near the door and leant from running train and hit his head with electric pole, it is the negligent act of the deceased. It comes under proviso of Section 124(A) of the Act of 1989.

9) The respondent has relied on DRM report which contends that the deceased was travelling in an unauthorised manner on the footboard of the train and when he leant out of the running train for spitting, he has been hit by the overhead electric pole, due to which he fell down from the running train and he sustained injuries and died. It appears that the incident occurred due to the negligence of the deceased which comes under the proviso of Section 124-A, as self inflicted injury for which the railway administration is not responsible. The tickets were not found with the deceased or the co-passenger has not produced it.

Therefore, he is not the bonafide passenger as per Section 2(29) of the Act of 1989. It is not proved from the documentary or the oral evidence that he died due to untoward incident as per Section 124 of the Act of 1989 and therefore, the respondent is not responsible to compensate under Section 124(A) of the Act of 1989.

10) Considering the documents on record and as it is the self inflicted injury because of negligent Act of the deceased the Tribunal has rightly rejected the claim of the applicants. Hence, the First appeal stands dismissed and disposed of.

(MRS.VRUSHALI V. JOSHI, J)