



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

FIRST APPEAL NO.922 OF 2024

1. Asnara Bibi Jiyaal Haque,
aged about 44 years, Occup. Housewife
2. Jamirul Jiyaal Haque,
Age 21 years, Occup. Education.
- 3 Al Alamin Jiaul Hoque,
Age 14 years, Occup. Education.
4. Jamila Khatun Jiyaal Hoque
Age 10 years, Occup. Education.
(Applicant Nos.3 and 4 through
applicant no.1 Mother, the natural
guardian
All Applicants R/o Rahimpur,
Haddatola, Kamatbari, Po.Enayetpur,
Sub.Dist.Manikchak, Dist. Malda,
(W.B.)732202

....Appellants

-Versus-

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

.....Respondents.

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

CORAM :MRS. VRUSHALI V. JOSHI, J.

DECIDED ON :- 21/08/2025.

JUDGMENT:-

- 1) **Heard.**
- 2) The appellants have challenged the judgment passed by
the Railway Claims Tribunal, Nagpur Bench in Claim Application

No.OA (Ilu)/NGP/85/2021, dated 24/04/2024, thereby dismissing the Claim Application filed by the present appellants under Section 16 of the Railway Claims Tribunal Act, 1987 (for short Act of 1987).

3) The brief facts of the present case are as under:-

That the deceased was travelling from C.S.M.T to Howrah Junction by train No.02259 up Gitanjali Express. The deceased was resident of Rahimpur, District Malda town. He was travelling with his nephew Masidur. They were bonafide passengers of said train as they had purchased railway reservation tickets from C.S.M.T to Howrah junction and both of them boarded the train No. 02259 Up Gitanjali Express.

4) It is the case of the claimants that due to heavy rush and sudden jerk, the deceased fell down from the running train and died on the spot. The claim was resisted by the Railway Tribunal alleging that the incident of accident is not an untoward incident under Section 123(c)(2) of the Act of 1987 but it is a self-inflicted injury. In other words it was the case of suicide. The person, who was travelling with the deceased has stated that he has committed

the suicide by jumping from the train. The conduct of the deceased is explained as per Section 124-A of the Act of 1987 and therefore, the appellants are not entitled for the compensation.

5) The learned counsel appearing for the applicant has stated that the appellants have examined the mother of the deceased, she is not the eye witness. The evidence of one lady constable, is the only basis for rejecting the claim. Said lady constable has immediately interacted with the co- passenger, who is the nephew of the deceased who has informed her that the deceased jumped from the train. The said person was travelling with the deceased as he was not well and after taking the meal he went to wash basin to wash hands and thereafter, he jumped from the said train. The said eye witness pulled the chain. He informed the guard and thereafter informed the police at Jalgaon.

6) On perusal of the documents, it appears that the only evidence, which is available on record about the suicidal death is the statement made by the co-passenger who is the relative of the deceased. Said person is not examined by the appellants. Statement made by the said person to the constable was examined

and the claim was rejected. Considering the entire record as the deceased was the bonafide passenger and whether he jumped or due to rush he fell down from the running train is the crux of the matter. The burden is on the appellants to prove that the deceased accidentally fell down from the train.

7) The learned counsel appearing for the appellants has stated that the co-passenger, who is the eye witness and the relative of the appellants has made the statement about falling down of the deceased due to rush, inadvertently he is not examined, however, the evidence of said witness is necessary and requested to remand back the matter to the Railway Tribunal to examine the said witness.

8) As the request is made that eye witness is the main witness and for the proper adjudication of the claim, it is necessary to remand back the matter to the Tribunal to reconsider the claim to that extent by giving opportunity to the claimants to examine the said witness. Hence, the following order:-

(i) The judgment passed by Railway Claims Tribunal, Nagpur Bench in Claim Application No.OA (IIu)/NGP/85/2021,

dated 24/04/2024, rejecting the claim of the applicants/appellants is hereby quashed and set aside.

(ii) The First Appeal is remanded back to the Railway Claims Tribunal, Nagpur Bench, Nagpur to decide afresh after considering the evidence of the co-passenger, who is an eye witness of the said incident.

(iii) Both the parties to appear before Railway Claims Tribunal, Nagpur Bench, Nagpur on 15/09/2025 to decide the claim of the appellants/applicants within a period of two months from the date of receipt of the said record.

9) First Appeal stands disposed of.

(MRS.VRUSHALI V. JOSHI, J)