



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

FIRST APPEAL NO. 1032 OF 2024

1. Surman wd/o Jaychand Pardhi
Aged 60 Years, Occupation – Housewife;
2. Sanjay s/o Jaychand Pardhi
Aged 32 Years, Occupation – Farmer;
3. Vijay s/o Jaychand Pardhi
Aged 29 Years, Occupation – Farmer;

All R/o Village Khara, Tahsil Kirnapur,
District Balaghat (M.P.)

... APPELLANTS

VERSUS

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

... RESPONDENT

Mr. S. B. Dhande, Advocate a/w Ms. A. P. Murrey, Advocate for Appellants.
Ms. N. G. Chaubey, Advocate for Respondent/Union of India.

CORAM : ROHIT W. JOSHI, J.
DATE : FEBRUARY 13, 2025.

ORAL JUDGMENT

. Heard Mr. S. B. Dhande, learned Counsel for Appellants and Ms.
N. G. Chaubey, Advocate for Respondent/Union of India. With consent of the

learned Counsel for both sides, matter is taken up for final hearing at admission stage.

2. The widow and sons of the deceased Jaychand Pardhi have filed the present Appeal under Section 23 of the Railway Claims Tribunal Act, 1987, assailing the Judgment and Order dated 2/2/2017 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No. OA(IIu)/NGP/2013/0234.

3. The Appellants are Original Applicants before the learned Tribunal. They contend that on 9/6/2013 the deceased-Jaychand purchased an ordinary ticket for travelling from Khara to Gondia Railway Station. He boarded in a passenger train and met with an accident in running train near village Chandnitola by falling down from running train, as a consequence of which, he suffered serious injuries and died at the spot of the accident.

4. The Appellants filed the claim petition seeking compensation on account of demise of Jaychand in Railway accident. The Respondent opposed the claim contending that the injuries of such nature were not possible by falling from a running train. The Respondent also contends that initial burden has not been discharged by the Appellants in order to entitle them to receive

compensation. The Respondent, therefore, contends that the claim petition was rightly rejected by the learned Tribunal.

5. Having heard the respective submissions, following points arise for my consideration.

- (i) Has deceased died in an untoward incident, within the meaning of Section 123(c) of the Railways Act, 1989 ?
- (ii) Are the Appellants entitled to receive compensation on account of death of deceased Jaychand ?

6. It is undisputed that the dead body of deceased was found near railway track at village Chandnitola. This is also undisputed that the ticket, which was found on the person of deceased, was verified and found to be a valid railway ticket. The Appellant No.1, who has entered the witness-box on behalf of the Appellant Nos.2 and 3 has made a statement that her husband/deceased had purchased a railway ticket on 9/6/2013 for travelling from Khara i.e. the place of his residence to Gondia. In my considered opinion, the initial burden stands discharged, in view of the said statement made in the deposition, coupled with the fact that a valid railway ticket was recovered from the body of deceased Jaychand immediately after the body was found.

7. The learned Counsel for Appellants has placed reliance on the Judgment of Delhi High Court in the case of *Sh. Prempal Singh & Anr. V/s Union of India, 2018 SCC OnLine Del 9571*, wherein it is held that when there is evidence on record indicating that, (i) the deceased had purchased a ticket; (ii) he had boarded the train; and (iii) his dead body was found along the side of railway track, the initial burden to be discharged by the Claimants is duly discharged.

AS TO POINT NOS.1 AND 2 :

8. In the present case, head of the deceased is separated from the trunk. His left hand is amputated from the palm. There are several injuries in the nature of abrasion and also injury of fracture at Ribs 1, 4 and 5 on right side and 1 & 2 on left side. Having regard to the injuries, it cannot be said that such injuries could not have happened by falling from the running train. The Delhi High Court has also, in the Judgment relied upon by the learned Counsel for Appellants (supra), held that when a passenger falls from a running train in different situations, different nature of injuries will be suffered by him and only because the body of deceased was cut into two halves, it could not be said with certainty that the injuries could not be suffered by falling from a running train. Apart from the skull being separated from the head, there are

several other injuries also that are suffered by the deceased. Apart from this, once initial burden is discharged by the Appellants, it is for the Railways to prove that the deceased did not die in 'an untoward incident' within the meaning of Section 123(c) of the Railways Act. Apart from this, liability of Railways to pay compensation is a strict liability.

9. Having regard to the totality of circumstances, particularly the evidence of widow of the deceased, and the nature of injuries, coupled with the fact that the deceased was holding a valid railway ticket and his dead body is found besides the railway track on the route from village Khara to Gondia at a far away place from his residence, I am of the opinion that the Appeal deserves to be allowed. In the result, I pass following order.

ORDER

- A) The First Appeal is allowed.
- B) The Judgment and Order dated 2/2/2017 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No. OA(IIu)/NGP/2013/0234 is quashed and set aside.
- C) The Appellants are entitled to receive compensation of Rs. 8,00,000/- without any interest.

- D) The Appellant No.1–Surman Jaychand Pardhi, widow of the deceased, will be entitled to receive sum of Rs. 5,00,000/- and the Appellant No.2–Sanjay Jaychand Pardhi and Appellant No.3–Vijay Jaychand Pardhi, sons of the deceased will be entitled to receive Rs.1,50,000/- each.
- E) The parties to bear their own costs.
- F) The Appellants are directed to furnish their bank account details to the Chief Claims Officer, South-East Central Railway, Bilaspur (C.G.) within a period of three weeks from today i.e. on or before 27/2/2025.
- G) The Respondent is directed to remit the amount of compensation directly in the bank accounts of the Appellants on or before 30/6/2025.

10. First Appeal is disposed of in above terms with no order as to costs.

(ROHIT W. JOSHI, J.)