



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

FIRST APPEAL NO. 966 OF 2025

APPELLANTS

- : 1. Shobha Wd/o Subhash Katone,
Age 37 years, Occu. Housewife,
(Applicant no.1 for herself and for applicant
Nos.4 and 5, mother the natural Guardian)
2. Akash S/o Subhash Katone,
Age 21 years, Occu. Education.
3. Manisha D/o Subhash Katone,
Age 18 years, Occu. Education.
4. Vaishali D/o Subhash Katone,
Age 15 years, Occu. Education,
5. Durga D/o Subhash Katone,
Age 19 years, Occu. Education.

Applicant nos.1 to 5 R/o At Post Warkhed,
Tal Malkapur, Dist. Buldhana (M.S.) 443 102

6. Chandr Kala Wd/o Uttamrav
Age 72 years, Occ. Housewife,
R/o 341/B, Sector Om Nagar, Akbar Pur,
Kolar Road, Bhopal (M.P.) 462 042.

VERSUS

RESPONDENT

- : Union of India,
General Manager, Central Railway,
CST Mumbai.

Ms. Sumesha M. Chaudhari, Advocate for the appellants.
Ms. Neeraja G. Chaubey, Advocate for the respondent.

CORAM : M. W. CHANDWANI, J.
DATE : SEPTEMBER 20, 2025

ORAL JUDGMENT

1. This appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter referred to as “the Act of 1987” for short), questions the dismissal of the claim petition bearing No. OA(IIu)/NGP/17/2024 vide judgment and order dated 04.12.2024, filed by the appellants under Section 16 of the Act of 1987 for compensation on account of the death of Subhash S/o Uttam Katone in a railway accident on 16.02.2023, on whom they were dependent.

2. The appellants claim that on 16.02.2023, deceased Subhash Uttam Katone, while travelling by Train No. 12485 – Nanded-Ganganagar Express from Malkapur to Bhopal, fell from the moving train between Bodwad and Achegaon Station between KM No. 467/29 and 467/27 on the up track and died due to the injuries sustained by him to his head. According to the appellants, the deceased had purchased two general class railway journey tickets for himself and for co-passenger Sambhaji Shivaji Shirke and kept both the tickets with the co-passenger. According to the appellants, the

deceased was travelling as a *bona fide* passenger with a valid journey ticket. The appellants further state that due to huge crowd and sudden jerk to the train, the deceased lost his balance and fell from the moving train at the spot of the incident and died due to the injuries sustained by him. The death was due to an untoward incident.

3. The respondent-Railways filed their written statement and opposed the claim. It was the contention of the respondent-Railways that the death was not due to an untoward incident. The alleged incident was not as a result of falling from the moving train. It is further the case of the respondent-Railways that the deceased was not a *bona fide* passenger travelling with a valid journey ticket.

4. On behalf of the appellants, appellant no.2 - Akash Subhash Katone, the son of the deceased, was examined as AW1. The learned Member of the Tribunal, on consideration of the evidence, found that the claim was without any substance and as such dismissed the claim. The claim petition has been dismissed mainly on the ground that the appellants failed to prove that the deceased was a *bona fide* passenger having a valid journey ticket and he fell from

running train No. 12485 – Nanded - Ganganagar Express as claimed by them. Being aggrieved with the dismissal of the claim, the appellants are before this Court in appeal.

5. I have heard Ms. Sumesha Chaudhari, learned counsel appearing for the appellants and Ms. Neeraja Chaubey, learned counsel appearing for the respondent. Perused the record and proceedings.

6. Having heard the learned counsels appearing for the respective parties and having gone through the impugned judgment, the evidence on record and the relevant documents, it transpires that the dead body of the deceased was found on the up-track of Bodwad-Achegaon section in a severely damaged condition. Therefore, initially ADR came to be registered by the GRP, Bodwad and an inquiry was conducted by Railway Police. The DRM investigation report reveals that the ticket was not found with the dead body at the time of preparing the spot and inquest panchanama. Therefore, it suggests that the deceased was not a *bona fide* passenger. Considering the condition of the dead body, it was opined that the deceased was run over by a train.

7. The appellants filed a claim petition before the Railway Claims Tribunal contending that the deceased was holding valid journey ticket which was kept with co-passenger Sambhaji Shivaji Shirke. The journey ticket was produced before the Investigating Officer of Bodwad Railway Police by the co-passenger after two days. However, the Tribunal did not appreciate this fact on the count that co-passenger Sambhaji Shirke was not examined by the appellants and therefore, held that the deceased was not a *bona fide* passenger. Considering the condition of the dead body coupled with the fact that there was no eye-witness to the incident, the Tribunal also proceeded to hold that the deceased was run over by a train and the death was not due to an untoward incident.

8. It is a matter of record that immediately after two days, when co-passenger Sambhaji Shirke, with whom the journey ticket of the deceased was lying on his return journey from Bhopal, produced the journey ticket of the deceased before the Investigating Officer of GRP, Bodwad. Rather, his statement which was recorded immediately after two days of the incident, shows that he was a co-passenger with the deceased but due to huge crowd, they were travelling in different bogies and therefore, he could not come to

know about the incident. Since, the deceased was nowhere to be found at the destination station, he returned back to Malkapur from where the deceased and the co-passenger had started their journey together. Though, this witness was not examined by the appellants before the Tribunal, the production of the ticket before the GRP, Bodwad and the statement of the co-passenger recorded by the IO of the Railway Police, clearly suggest that the deceased had a valid journey ticket and as such, he was a *bona fide* passenger. The Tribunal failed to consider that strict rules of the Evidence Act are not applicable to the scheme of compensation while considering the claim. The Tribunal ought to have held that the deceased was holding a valid journey ticket.

9. In the above context, it is necessary to make a useful reference to the decision in *Union of India .vs. Prabhakaran Vijaya Kumar and others*, reported at *2009(1) Mh.L.J. 27* wherein, the principles of interpretation of beneficial or welfare legislation have been settled. It needs to be stated that in *Prabhakaran's* case, the Hon'ble Apex Court has held that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of the Act and for the benefit of

the person for whom the Act was made, should be preferred. The beneficial or welfare statutes should be given a liberal and not literal or strict interpretation.

10. As stated above, this Court is of the opinion that the deceased was a *bona fide* passenger, meaning thereby that the deceased was traveling by train No. 12485 – Nanded-Ganganagar Express along with co-passenger Sambhaji Shirke with a valid journey ticket. The body of the deceased was found on the up-track from where the said train passed. It is not the case in the inquiry conducted by GRP Bodwad that the deceased committed suicide. So also there is no report by the Loco Pilot or Guard of any train to the Station Master that the deceased was run over or dashed with any train while crossing the railway line at the spot of the incident. Once it is held that the deceased was a *bona fide* passenger and was travelling in Train No. 12485, on the touchstone of preponderance of probabilities, the only inference that can be drawn is that the deceased died in a railway accident by falling from a moving train.

11. In view of the above, the conclusion recorded by the Railway Claims Tribunal that if a person falls from a moving train, his

body may not be severely damaged and his body may not be found in between the railway tracks cannot be sustained. Such an inference cannot be drawn on the basis of severity of damage to the body in absence of scientific evidence. Therefore, the Tribunal was not justified in dismissing the claim petition of the appellants. The appeal filed by the claimants deserves to be allowed.

12. After amendment to the Schedule appended to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, the compensation payable under the various entries of the Schedule has been revised with effect from 01.01.2017. In view of the amendment to the Schedule, in case of a death claim, the claimants are entitled to get compensation of Rs.8,00,000/- (Rupees Eight lakhs only).

13. Accordingly, the First Appeal is allowed.

(i) The judgment and order dated 04.12.2024 passed by the Railway Claims Tribunal, Nagpur in Claim Petition No. OA(IIu)/NGP/17/2024, is set aside. The claim petition is allowed.

(ii) The respondent-Central Railway is directed to pay Rs.8,00,000/- (Rupees Eight Lakhs only) to the appellants towards

compensation along with interest @ 6% per annum from the date of petition, within three months from the date of uploading of this judgment.

(iii) Out of the total compensation of Rs.8,00,000/-, appellant no.1 is entitled to get Rs.2,00,000/- (Rupees Two lakhs), appellant nos.2, 3 and 6 are entitled to get Rs.1,00,000/- each (Rupees One lakh each) and appellant nos.4 and 5 are entitled to get Rs.1,50,000/- each (Rupees One Lakh Fifty thousand each), along with proportionate interest.

(iv) Since appellant nos. 4 and 5 are minor, the amount of compensation awarded to appellant nos.4 and 5 be kept in a Fixed deposit till they attain the age of majority.

(v) The First Appeal stands disposed of in the aforesaid terms.

(M.W.Chandwani, J.)

Diwale