IN THE HIGH COURT OF JHARKHAND, RANCHI

M.A. No.449 of 2023

1.Baijanti Gope, aged about 28 years, wife of deceased Banmali Gope
2.Jema Godin, aged about 60 years, mother of deceased Banmali Gope
3.Bharti Gope, aged about 11years, minor daughter of deceased Yamuna Prasad Singh
4.Gaurav Gope, aged about 7 years, minor son of Banmali Gope

Applicant Nos.3 and 4 being minor represented through their natural guardian applicant no.1

Residents of village/ Mohalla-Chandipee, PO Nawagaon, PS Jhinkpani, District West Singhbhum (Chaibasa), Pin Code 833215, Jharkhand .... Appellants/ Applicants

-- Versus --

Union of India, through the General Manager, South Eastern Railway, Kolkata, PO and PS Garden Reach, District Kolkata, W.B.

…. Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants:- Mr. Dharmendra Kumar Malityar, Advocate
Mr. Anukul Gaurav, Advocate
For the State :- Mr. Prashant Vidyarthi, Senior Panel Counsel
Mr. Romit Kumar, Advocate

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*6/**29.09.2026*** Heard learned counsel for the appellants/ applicants

as well as Mr. Prashant Vidyarthi, the learned Senior Penal Counsel appearing on behalf of the sole-respondent/ Union of India, through General Manager, South Eastern Railway, Kolkata.

2. This appeal has been preferred under section 23(1) of railway Claims Tribunal Act, 1987 challenging the validity of the judgment dated 12/09/2023 passed by Member (Judicial) and Member (Technical) at Railway Claims Tribunal, Ranchi in Case No. OA(IIU)/RNC/165/2018. Check List no.-2909180016 in application under section 124A of Railway Claim Tribunal Act 1987, wherein the Tribunal has dismissed the claim application seeking Compensation amounting of Rs 8 Lakhs with @ 12% interest from the date of filling of application on account of death claim of the deceased.

3. Mr. Dharmendra Kumar Malityar, the learned counsel for the appellants submits that on 01.09.2017 deceased Banmali Gope fter purchasing a valid Train Ticket from Jhinkpani to Kendposi Railway station boarded Tata Barbil passenger train at Jhinkpani with co-passenger Kailash Gope and started his journey as a bonafide passenger. He next submits that the bogie /compartment was full of passengers and due to rush of passengers, the deceased Banmali Gope was standing inside the bogie and as soon as the train was about to reach kendposi, the passengers intending to get down, started moving towards the gate and due to push and pressure of the said passengers and due to heavy jerk of the train, the deceased could not hold his balance and grip and, consequently,

accidentally fell down from the running train at Kendposi railway station. In the said incident both the legs of deceased were cut and the deceased died at the spot and the ticket was lost in the incident. He next submits that UD case no. 03/2017 being Dangwaposi P.S case was registered and enquest report was carried out, however the tribunal has rejected the claim of the appellants only on the point that railway tickets were not found from the body of the deceased. He submits that the learned Tribunal has wrongly held that deceased was not a bonafide passenger and according to him brother of the deceased, Harish Gope has gone to see off the deceased to the station and he stayed there and has purchased ticket in favour of the deceased and thereafter left the station which has come in his evidence who has been examined as AW(2). He next submits that this case is coming within the definition of untowards incident as defined under section 123(c)(2) of the Railways Act 1889. He next submits that the learned Tribunal has wrongly rejected the claim of the appellant and in view of that said order may kindly be set aside and the award may kindly be passed in favour of the appellants who happened to be legal heirs/ successors of the deceased namely Banwali Gope.

4. Mr. Prashant Vidyarthi, the learned counsel for the respondent Railways vehemently opposed the submission of the learned counsel for the appellants and submits that the learned Tribunal has given clear cut finding on the basis of the materials and

there is no illegality in the impugned award. He next submits that the ticket from the body of the deceased has not been found and that has been taken into consideration by the learned Tribunal. He next submits that no case is made out as one passenger was also there along with the deceased namely Kailash Gope and he has neither deposed before the Tribunal and he has not informed first about the said incident to the railway authority or the police authority. He next submits that the alleged incident is said to be at 7.30 p.m. whereas dead body was found at 10.30 p.m in night on the same day which further casts suspicion and in view of that the learned Tribunal has rightly rejected the claim. He next submits that the body was found cut into three parts which is further doubtful and that has been considered by the Tribunal and the learned Tribunal has rightly passed the order and hence, this appeal may kindly be dismissed.

5. In view of the above submission of the learned counsels appearing for the parties, the Court has gone through the materials on record as well as the averments made in the appeal and further the judgment of the learned Tribunal by which it transpires that the incident took place on 01.09.2017 which is fortified in light of the aforesaid U.D.Case. In the trial court records, post mortem report is there and cause of death is said to be cut of the body due to train accident which further fortify the case of the appellants about the incidental fall from the train. The body has cut into three parts

which has come in the post mortem report and the Station Manager letter addressed to OG/GRD/DPS South Eastern Railways further suggest that the body was found at 20.25 hours at loop line of ANP KM 346-11-13 and he has requested to look into that and investigate and dispose of the body. Thus, death from the train is proved in light of these documents and further brother of the deceased, Harish Gope has been examined as AW-2 and he has stated that he has gone to the railway station and has purchased the ticket for his brother which further fortifies that deceased was travelling in the train.

6. There may not be any eye witness to the incident, however, investigation was conducted and after investigation the final form has been submitted and post mortem report also speaks about the cause of death and cut of the body into to pieces. The AW-2 examined also stated that he has dropped the deceased at the railway station and he has also purchased the ticket.

7. A reference may be made to the case of "*Union of India v. Rina Devi"* reported in *(2019) 3 SCC 572* at paragraph nos.25, 26 and 29 it has been held as under:

> ***25.*** *We are unable to uphold the above view as the concept of "self-inflicted injury" would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on "no fault theory". We may in this connection refer to the judgment of this Court in United India Insurance Co.*

Ltd. v. Sunil Kumar [United India Insurance Co. Ltd. v. Sunil Kumar, (2019) 12 SCC 398 : 2017 SCC OnLine SC 1443 : (2017) 13 Scale 652] laying down that plea of negligence of the victim cannot be allowed in claim based on "no fault theory" under Section 163-A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or de-boarding a train will be an "untoward incident" entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor.

> *"**26.** Conflict of decisions has been pointed out on the subject. As noticed from the statutory provision, compensation is payable for death or injury of a "passenger". In Raj Kumari [Raj Kumari v. Union of India, 1992 SCC OnLine MP 96 : 1993 ACJ 846] referring to the scheme of the Railways Act, 1890, it was observed that since travelling without ticket was punishable, the burden was on the Railway Administration to prove that passenger was not a bona fide passenger. The Railway Administration has special knowledge whether ticket was issued or not. The 1989 Act also has similar provisions being Sections 55 and 137. This view has led to an inference that any person dead or injured found on the railway premises has to be presumed to be a bona fide passenger so as to maintain a claim for compensation. However, the Delhi High Court in Gurcharan Singh [Gurcharan Singh v. Union of India, 2014 SCC OnLine Del 101 : 2015 ACJ 171] held that initial onus to prove death or injury to a bona fide passenger is always on the claimant. However, such onus can shift on the Railways if an affidavit of relevant facts is filed by the claimant. A negative onus cannot be placed on the Railways. Onus to prove that the deceased or injured was a bona fide passenger can be discharged even*

in absence of a ticket if relevant facts are shown that ticket was purchased but it was lost. The Delhi High Court observed as follows : (Gurcharan Singh case [Gurcharan Singh v. Union of India, 2014 SCC OnLine Del 101 : 2015 ACJ 171] , SCC OnLine Del para 4)

"4. … (ii) In my opinion, the contention of the learned counsel for the appellant claimants is totally misconceived. The initial onus in my opinion always lies with the appellant claimants to show that there is a death due to untoward incident of a bona fide passenger. Of course, by filing of the affidavit and depending on the facts of a particular case that initial onus can be a light onus which can shift on the Railways, however, it is not the law that even the initial onus of proof which has to be discharged is always on the Railways and not on the claimants. I cannot agree to this proposition of law that the Railways have the onus to prove that a deceased was not a bona fide passenger because no such negative onus is placed upon the Railways either under the Railways Act or the Railway Claims Tribunal Act and the Rules or as per any judgment of the Supreme Court. No doubt, in the facts of the particular case, onus can be easily discharged such as in a case where the deceased may have died at a place where he could not have otherwise been unless he was travelling in the train and in such circumstances depending on the facts of a particular case it may not be necessary to prove the factum of the deceased having a ticket because ticket as per the type of incident of death can easily be lost in an accident. I at this stage take note of a judgment of a learned Single Judge of this Court in Pyar Singh v. Union of India [Pyar

> *Singh v. Union of India, (2007) 8 AD Del 262] which holds that it is the claimant upon whom the initial onus lies to prove his case. I agree to this view and I am bound by this judgment and not by the ratio of the case of Leelamma [Union of India v. Leelamma, 2009 SCC OnLine Ker 903 : (2009) 1 KLT 914] ."*
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> ***29.** We thus hold that mere presence of a body on the railway premises will not be conclusive to hold that injured or deceased was a bona fide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bona fide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."*

8. In view of the above paragraphs of the aforesaid judgment and further considering the facts of the present case, it is crystal clear that the appellants have been able to prove that the deceased was travelling in the train as a bonafide passenger. The deceased fell due to jostling and death has occurred and it will amount to accident and it cannot be said to be that it was a case of suicide or it is not a self-inflicted injury, neither due to his own criminal act nor he was in a state of intoxication or insanity nor due to any natural cause or disease and, moreover, the Railway has also failed to

prove death has occurred due to his own negligence. Thus, it can be safely said that his falling down from the train was accidental and the said accident not falling under the exception of section 124-A of the proviso and identical was the issue before the Hon'ble Supreme Court in the case of *"Jameela and Others v. Union of India",* reported in *(2010) 12 SCC 443,* wherein it has been held in paragraph no.10 of the said judgment as under:

> *"10. It is not denied by the Railways that M. Hafeez fell down from the train and died while travelling on it on a valid ticket. He was, therefore, clearly a "passenger" for the purpose of Section 124-A as clarified by the Explanation. It is now to be seen, that under Section 124-A the liability to pay compensation is regardless of any wrongful act, neglect or default on the part of the Railway Administration. But the proviso to the section says that the Railway Administration would have no liability to pay any compensation in case death of the passenger or injury to him was caused due to any of the reasons enumerated in clauses (a) to (e)".*

9. If section 123 and 124-A of the Indian Railways Act are read conjointly for the purpose of interpretation is made taking into account the intention of the legislature to protect the passengers sustaining injuries in untoward incidents the term accidental fall from the train. It is well settled 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 be preferred. More elaborately it can be said that the beneficial or welfare statutes should be given a liberal and not literal or strict interpretation**.** In the case of *"Union of India V. Nand Lal Ghaley" (2014 SCC Online All 16072)* the case of *'Hindustan Liver Limited V. Ashok Vishnu Kate'* was considered in para 15 of the said judgment which is quoted here-in-below:-

> *"**15.** In Hindustan Lever Ltd. v. Ashok Vishnu Kate [(1995) 6 SCC 326 (vide para 42); 1995 (71) FLR 1040 (SC).] , this Court observed:*
> *"In this connection, we may usefully turn to the decision of this Court in Workmen v. American Express International Banking Corporation, wherein Chinnappa Reddy, J. in para 4 of the Report has made the following observations:*
> *"The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognized and reduced. Judges ought to be more concerned with the 'colour' the 'content' and the 'context' of such statutes (we have borrowed the words from Lord Wilberforce's opinion in Prenn v. Simmonds). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, Surender Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court we had occasion to say:*

"Semantic luxuries are misplaced in the interpretation of 'bread and butter' statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the Court is not to make inroads by making etymological excursions." Francis Bennion in his Statutory Interpretation Second Edn., has dealt with the Functional Construction Rule in Part XV of his book. The nature of purposive construction is dealt with in Part XX at p. 659 thus:

"A purposive construction of an enactment is one which gives effect to the legislative purpose by—

(a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose (in this Code called a purposive-and-literal construction) or

(b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose (in the Code called a purposive and strained construction)."

At p. 661 of the same a book, the author has considered the topic of "Purposive Construction" in contrast with literal construction. The learned author has observed as under:

"Contrast with literal construction.—Although the term purposive construction' is not new, its entry into fashion betokens a swing by the Appellate Courts away from literal construction. Lord Diplock said in 1975: 'If one looks back to the actual decisions of the [House of Lords] on questions of statutory construction over the last 30 years one cannot fail to be struck by the evidence of a trend away from the purely literal towards the purposive construction of statutory provisions'. The matter was summed up by Lord Diplock in this way—

……I am not reluctant to adopt a purposive construction where to apply the literal meaning of the legislative language used would lead to results which would clearly defeat the purposes of the Act. But in doing so the task on which a Court of justice

is engaged remains one of construction, even where this involves reading into the Act words which are not expressly included in it"

14. In our opinion, if we adopt a restrictive meaning to the expression accidental falling of a passenger from a train carrying passengers' in section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger traveling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression.

15. Section 2 (29) of the Railways Act defines 'passenger' to mean a person traveling with a valid pass or ticket. Section 123(c) of the Railways Act defines 'untoward incident' to include the accidental falling of any passenger from a train carrying passengers. Section 124-A of the Railways Act with which we are concerned states:

"124-A. Compensation on account of untoward incident.—When in the course of working a Railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the Railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the Railway administration shall,

notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the Railway administration if the passenger dies or suffers injury due to—

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.—For the purposes of this section, "passenger" includes—

(i) a Railway servant on duty; and

(ii) a person who has purchased a valid ticket for traveling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident".

10. In a country where crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car by giving a restrictive and narrow meaning to the expression it will amount to deprive a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Thus, travelling in train is proved and said occurrence has taken place which has been found to be genuine in view of the aforesaid U.D. Case, investigation and post mortem report which has further supported

by one witness and it will come within untoward incident under the Railways Act.

11. In view of the above facts and evidence and reasoning it is evident that the Tribunal has taken hyper technical view and the evidence and materials have not been properly considered in dismissing the claim of the appellants. There are sufficient materials on record to show that the deceased was travelling in train which has been supported by one of the witness and no suggestion has been made by the railways in cross examination of the said witness, thus, it is proved that the deceased was travelling in train. The Court comes to the conclusion that the appellants are entitled to compensation under section 124 A of the said Act and moreover, there is no DRM's report produced in light of Railway Passenger(Manner of Investigation of untowards Incident) Rules, 2003 and in view of the Rule 13 of the said rules, it is statutory provision to submit the said report.

12. In the case of ***"Union of India Vs. Rina Devi" reported in (2019) 3 SCC 572*** the Railway Act, 1989 has been considered by Hon'ble Supreme Court and that what will be amount of compensation and interest under the said Act was considered and it was held at para 19 and 30 as under:-

> "***19.*** *Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the*

same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon [Rathi Menon v. Union of India, (2001) 3 SCC 714, para 30 : 2001 SCC (Cri) 1311] and Kalandi Charan Sahoo [Kalandi Charan Sahoo v. South-East Central Railways, (2019) 12 SCC 387 : 2017 SCC OnLine SC 1638] stands explained accordingly. The four-Judge Bench judgment in Pratap Narain Singh Deo [Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289 : 1976 SCC (L&S) 52] holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.

30. *As already observed, though this Court in Thazhathe Purayil Sarabi [Thazhathe Purayil Sarabi v. Union of India, (2009) 7 SCC 372 : (2009) 3 SCC (Civ) 133 : (2009) 3 SCC (Cri) 408 : 2010 TAC 420] held that rate of interest has to be @ 6% from the date of application till the date of the award and 9% thereafter and 9% rate of interest was awarded from the date of application in Mohamadi [Mohamadi v. Union of India, (2019) 12 SCC 389 : 2010 SCC OnLine SC 19] , rate of interest has to be reasonable rate on a par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises up to the date of payment, without any difference in the*

stages. Legal position in this regard is on a par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner."

13. In light of the above judgment compensation as applicable on the date of accident has to be given with reasonable interest.

14. In view of above facts, it is evident that the appeal deserves to succeed for the reasons that the appellant has successfully proved the entitlement to compensation under the provisions of the said Act due to death occurred in an 'untoward incident' and the appellant is entitled to compensation of Rs.8,00,000/- (Eight Lakhs) as per the last Rules in view of Rule-3 Schedule-II of Railway Accident and Untoward Incidents (Compensation) Rule, 1990. The said amount will carry interest @ 6 % from the date of application till date of the award.

15. As such, judgment dated 12/09/2023 passed by Member (Judicial) and Member (Technical) at Railway Claims Tribunal, Ranchi in Case No. OA(IIU)/RNC/165/2018 is set aside and the appeal is allowed in above terms and disposed of. The trial court records be sent back to the learned court concerned forthwith.

(Sanjay Kumar Dwivedi, J.)

Dated: 29.09.2026
SI/
A.F.R.
Uploaded/7.10.2026