**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**FAO No. 329 of 2022**
**(CNR No. ODHC010536902022)**

In the matter of an application under Articles 226 & 227 of the Constitution of India.

.....

***Umakanta Biswal & Anr.*** .... ***Appellants***

*-versus-*

***Union of India*** .... ***Respondent***

**For Petitioner :** Ms. D. Mohapatra, Adv.

**For Opp. Parties :** Mr. R.K. Mahapatra, Sr. Panel Counsel

**PRESENT:**

**THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY**

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**Date of Hearing:06.11.2026 & Date of Judgment: 06.11.2026**

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***Biraja Prasanna Satapathy, J.***

1. This matter is taken up through hybrid mode.

2. Heard learned counsel appearing for the Parties.

3. The present appeal has been filed by the appellants inter alia challenging the judgment passed by the Railway Claims Tribunal on

30.05.2022 in Case No. OA(IIU)/258/2018. Vide the said judgment, the Tribunal dismissed the claim application so filed by the present Appellants.

4. Learned counsel appearing for the Appellants contended that on the death of the deceased, who happens to be the son of the Appellants on 27.07.2018, the claim application was filed before the Tribunal so registered as Case No. OA(IIU)/258/2018.

4.1. It is contended that in support of the claim, Appellant No.1 deposed as AW-1 and the co-passenger, who was accompanying the deceased on the fateful day, was examined as AW-2.

4.2. Relying on the evidence so laid by both the witnesses on behalf of the Appellants, learned counsel appearing for the Appellants contended that, since it was proved through the evidence of AW-2 that the deceased was travelling along with the said witness as a co-passenger on 27.07.2018 from Lokmanya Tilak Terminus Railway Station, Mumbai, on the face of such evidence, which was never controverted through the cross-examination so made by the Respondent-Railways, the Tribunal could not have dismissed the claim application, on the grounds indicated in the impugned judgment. Evidence of PW-2 reads as follows:-

> *"1, Ajaya Biswal, aged about 44 years, S/o Jagannath Biswal, At: Binatara, Goladia^ P.O/P.S. Chandbali, Dist. Bhadrak, State - Odisha do hereby solemnly affirm and state on oath as follows;*
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> *That I am one of the occurrence witnesses in the above undue incident. That on dated 27.07.2018 at about 11.30 hours I*

*purchased one General Railway Ticket from the Railway ticket counter of Lokamaya Tilak Tenninus (L.T.T.), Railway station of Mumbai to move from LT.I. Railway station to Jabalpur Junction through Pawan express Train NO. 11061. That the deceased Dipesh Biswal also purchased one General Railway from ticket counter of L.T.T. Railway station through Pawan express Train No. 11061 to Jabalpur Railway junction. That at about 12:12 P.M. we boarded in Pawan express Train No. 11061 from LT.T. Railway Station. That on 28.07.2018 at about 3.30 AM. due to sudden jerk the deceased was accidentally fall down from the running Train at K.M. No. 947/01 down line in between Bhitoni Railway Station and Bherghat Railway station. That due to accidental fall down from running train the deceased sustained grievous injury and died on spot-That the deceased Dipesh Biswal was a bonafide passenger with a General Railway ticket to move from Mumbai to Jabalpur Railway junction and died due to accidental fall down from the running train.*

*That the facts stated above are true to the best of my knowledge and belief."*

4.3. It is further contended that in his cross-examination, AW-2 also contended that the deceased was staying with him at Mumbai and after the accident, AW-2 intimated the death of the deceased in the Railway to his father-appellant accident and accordingly the claim application was filed by the Appellants, who happen to be the parents. Cross-examination of AW-2 reads as follows:-

*"I am doing plumber work at Mumbai. I have not filed any document before the Hon'ble Tribunal to show that I am residing at Mumbai and doing my work. Tie distance between VT Railway stations to Kurla station is about 70 KIVI. On 27.07.2018 I started my journey of my house at about 8.30 A.M. Tie deceased is my co-villager. The deceased was staying with me at Mumbai. Before the death of the deceased, the deceased*

*was staying with me for one month. I have purchased my own ticket to visit my house at Bhadrak. I have no documents at present with me regarding travelling on the date of incident, later on I will produce the same before the Hon'ble Court which is kept in my house. Till today I have not reported regarding the alleged incident before any GRPS/ Railway Authority or to any local police. I intimated his father regarding the incident. It is not a fact that I was not staying at Mumbai. It is not a fact that whatever statement I given is wrong."*

4.4. Learned counsel appearing for the Appellant accordingly contended that in view of the evidence AW-1 and AW-2, which remains uncontroverted, the Tribunal could not have held that the Appellants failed to prove the death of the deceased in a railway accident on 27.07.2018.

4.5. In support of her submission, Ms. D. Mohapatra, learned counsel relied on the decisions of the Hon'ble Apex Court in the case of ***Sukhabhai Nanjibhai Makwana & Anr. Vs. Union of India in Civil Appeal No.12951 of 2026*** & ***Doli Rani Saha Vs. Union of India in Civil Appeal No.8605 of 2024.***

4.6. Hon'ble Apex Court in the case of ***Sukhabhai Nanjibhai Makwana*** held as follows:-

***"****1. The appellants are the unfortunate parents of one Maheshbhai, who while travelling to Surat via Ahmedabad on 27.09.2017 was a victim of an 'untoward incident'. While travelling in the general compartment of the train, he fell down on account of a sudden jerk and jolt when the said train was between Sabarmati and Ahmedabad Railway Stations. He sustained multiple grievous injuries and was admitted in hospital. He, however, succumbed to his injuries on 31.10.2017. The claim application preferred by the parents under Section 16 of the Railway Claims Tribunal Act, 19871*

*was allowed by the Railway Claims Tribunal on 17.06.2022. It held that Maheshbhai was victim of an 'untoward incident' and had suffered an accidental fall. The claimants were held entitled to compensation of ₹8 lakhs along with interest @9% per annum from the date of the incident till the date of the order. The Union of India being aggrieved, preferred an appeal under Section 23 of the Act of 1987. A learned Single Judge of the Gujarat High Court3 by the order dated 15.07.2025 allowed the said appeal by holding that there was no evidence as to the fall of the victim from the train and, therefore, the incident could not be called an 'untoward incident' as defined under Section 123(c)(2) of the Railways Act, 19894. The claimants being aggrieved are in appeal.*

*2. Mr. Nachiketa Joshi, learned Senior Advocate for the claimants, submitted that the High Court committed an error in reversing the judgment of the Tribunal by which the claim application preferred by the claimants had been allowed. The victim was a bona fide passenger who had a fall from the train in which he was travelling between Sabarmati and Ahmedabad Railway Stations. Merely on the ground that the travel details of the victim, such as the name of the train in which the victim was travelling having not been disclosed, has weighed with the High Court. He submitted that it having been specifically pleaded by the claimants that the victim was travelling with a valid ticket which was lost, the burden to prove that the victim was an unauthorised passenger was on the Railways. No material was brought on record by the Railways to disbelieve the claim of the claimants. The Report submitted under Rule 6 of the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 20035 as amended in 2007 was after a period of more than seven months from the occurrence of the untoward incident. As per Rule 7 of the Rules of 2003, such investigation was required to be immediately completed and report in that regard was to be expeditiously submitted. Referring to the decision in Kalandi Charan Sahoo and Another vs. General Manager, South-East*

*Central Railways, Bilaspur decided on 25.04.2017, he submitted that on account of belated preparation of the investigation report, the same could not be relied upon. He further referred to the evidence led by the claimants before the Tribunal and submitted that the Tribunal rightly held that the victim was a bona fide passenger. By narrowly interpreting the provisions of the Act of 1989, the High Court erred in reversing the award passed by the Tribunal. He also placed reliance on the decision in Union of India vs. Rina Devi7. He, therefore, submitted that in view of the material brought on record, the award passed by the Tribunal ought to be restored and the impugned order passed by the High Court be set aside.*

*3. Per contra, Mr. Kanakamedala Ravindra Kumar, learned Additional Solicitor General for the respondent, supported the impugned order passed by the High Court. He submitted that the claim of the claimants was rightly disbelieved by the High Court since no details of the train travel were disclosed in the claim application. No eyewitness was examined nor any railway ticket was found on the person of the victim. Referring to the evidence of the Superintendent, who had stated that there was no movement of any train at the relevant point of time, it was submitted that Railways had rebutted the evidence led by the claimants. It was rightly held that the injury in question sustained by the victim was a 'self-inflicted injury' and, thus, no compensation was payable to the claimants under Section 124-A of the Act of 1989. It was, therefore, submitted that the impugned order of the High Court did not call for any interference and the appeal was liable to be dismissed.*

*4. We have heard the learned counsel for the parties at length. With their assistance, we have perused the relevant documentary material available on record. Having given due consideration to the rival submissions, we are of the view that the High Court committed an error in setting aside the award passed by the Tribunal. The claimants were rightly held entitled to*

*receive compensation under Section 124-A of the Act of 1989 and the award of the Tribunal deserves to be restored.*

*5. A perusal of the claim application preferred by the claimants under Section 16 of the Act of 1987 indicates that the victim was travelling with a valid and proper railway ticket on 27.09.2017. While he was travelling to Surat in the general compartment of the train, on account of heavy rush he lost his balance and fell downfrom the train between Sabarmati and Ahmedabad Railway Station. He was thereafter taken to a hospital for medical treatment, but he succumbed to his injuries on 31.10.2017. The claim application was accordingly filed on 12.01.2018. Along with the claim application, a communication dated 13.11.2017 issued by the Police Station Officer, G.R.P. Ahmedabad, was annexed. As per this letter, the investigating officer was directed to take charge of the investigation with regard to the accidental death of the victim. Written statement was filed by the Railways denying the claim made by the claimants. The stand taken was that on account of a self-inflicted injury, the victim had expired. No travel ticket was recovered from the victim nor were any material details mentioned in the claim application. The Railways sought to rely upon an investigation report dated 17.05.2018. As per the documents placed on record, on 28.02.2018 the Sub-Divisional Magistrate (East), Ahmedabad, forwarded the necessary papers for preparation of a report in that regard under Rule 6 of the Rules of 2003. The said papers were received by the Ahmedabad Railway Police Station on 17.04.2018 and the aforesaid report dated 17.05.2018 was submitted.*

*6. The father of the victim, Sukhabhai Nanjibhai Makwana examined himself in support of the claim and relied upon the claim affidavit in that regard. In his cross-examination, he stated that his son was unmarried and that he was travelling alone in the train on 27.09.2017 when the untoward incident occurred. He stated on oath that his son had purchased a ticket*

*which was, however, lost. He accepted the suggestion made to him by the Railways that his son while travelling, was standing near the door of the compartment. The Railways examined an Assistant Sub-Inspector serving at Sabarmati Railway Station. He stated that he had not received any information from any engine driver that somebody had dashed with the engine. He stated that he did not know the train from which the victim had fallen down and he did not know about the incident. He had only seen the victim in an injured condition under a bridge. He stated that he had not searched his pocket. The Station Superintendent was also examined by the Railways, who stated that the incident in question was reported to him at 07.30 hrs. He stated that he attended the injured and had sent him to the hospital through an ambulance. The victim was not in a position to speak and that he had not checked his pocket for any ticket. Though he had given a memorandum on the same day, no investigation was made by him subsequently. These were the two witnesses examined by the Railways.*

*7. As noted above, the Tribunal accepted the evidence led by the claimants and held the victim to be a bona fide passenger, who had lost his life on account of an untoward incident. It was noticed that no ticket had been produced by the claimants but that by itself would not establish the fact that the victim was an unauthorised passenger. There was a possibility of the ticket being lost in such circumstances. The award passed by the Tribunal granting compensation was reversed by the High Court principally on the ground that necessary details of the train in which the victim was travelling had not been disclosed and that no ticket was found with the victim. Further, the report of the Division Railway Manager dated 17.05.2018 was relied upon to set aside the award of the Tribunal.*

*8. We may first note certain factual aspects that are available on record of the present proceedings. In the claim application dated 12.01.2018*

*preferred by the claimants, in paragraph 6(d) it was specifically pleaded as under:*

*"It is true that my deceased son's railway travelling ticket, a handkerchief, a wrist watch, a pocket comb and a cash of Rs. 800/- to 900/- and etc. is lost."*

*In the written statement filed by the Railways, these averments were denied. The victim's father examined himself in support of the claim application. The tenor of his crossexamination conducted by the Railways makes interesting reading. The relevant portion thereof is as under:*

*"I state on oath that my deceased son used to always purchase the ticket before travelling. This is the reason why I stated in my affidavit that he had purchased the ticket which was lost. It is true that my son was travelling by standing near the door of the compartment. My deceased son had no mobile phone."*

*The Railways examined two witnesses namely, the Assistant Sub-Inspector with the Railway Protection Force as well as the Station Superintendent. In their cross-examination, they admitted that they had not searched the pocket of the victim for his ticket.*

> *9. In Rina Devi (supra), this Court has held that mere absence of a ticket with the victim would not negate the claim that the victim was a bona fide passenger. The initial burden can be discharged by the claimant by filing an affidavit of the relevant facts, after which the burden would shift on the Railways. In paragraph 17.4 of the said decision, it has been held as under:*
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> *"17.4 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."*

*10. Another material factor that is to be borne in mind is that the untoward incident took place on 27.09.2017, which left the victim with grievous injuries. He was thereafter hospitalised for a period of more than a month. He, however, succumbed to his injuries on 31.10.2017. In normal course, when the victim was undergoing medical treatment, it is quite unlikely that the railway ticket would have been preserved by the claimants. In any event, the Railways failed to discharge the burden that had shifted on them in view of the claimant's statement on oath. Taking an overall view of the matter, the Tribunal proceeded to hold that the victim was a bona fide passenger and that absence of the ticket could not be held against the claimants. The claimants had specifically pleaded that the victim's ticket, handkerchief, wristwatch, comb and cash of ₹800/- to ₹900/- were lost. The victim's father having deposed on oath that his son had purchased the ticket resulted in the initial burden being discharged by the claimants and it was upto the Railways to rebut the same. The witnesses examined by the Railways failed to check the pockets of the victim. In these circumstances, we are of the view that the Tribunal was justified in concluding that the victim was a bona fide passenger. The High Court gave undue importance to the absence of the railway ticket without taking into consideration the statement made on oath by the victim's father*

*and the fact that the victim had been hospitalised for a period of more than one month. On preponderance of probabilities, it can be concluded that the victim was a bona fide passenger and that absence of recovery of his ticket cannot result in defeating the claim for compensation. The principle of 'strict liability' flowing from Section 124-A of the Act of 1989 as held in Union of India vs. Prabhakaran Vijaya Kumar & Others8 is clearly attracted.*

*11. Another relevant aspect to be noticed is that the claim application was preferred by the claimants on 12.01.2018. It is only after being served with a notice of the said proceedings that the authorities entered into communication for having the investigation report under Rule 6 of the Rules of 2003 prepared. This report was ultimately prepared on 17.05.2018, which is about seven months from the untoward incident. Delay in conducting the inquiry could not be attributed to the claimants and the Railways cannot seek to take advantage of the delay on their part in preparing the investigation report. In Kalandi Charan Sahoo (supra), absence of such inquiry being conducted immediately as required under the Rules of 2003 was held to be a factor against the Railways. There is no explanation on record furnished by the Railways as to the reason for delayed preparation of the investigation report. We are, therefore, inclined to ignore the said investigation report. The same, therefore, cannot come in the way of the claimants in receiving compensation.*

*12. Thus, considering the entire material on record, we are satisfied that the Tribunal had rightly granted compensation to the claimants under Section 124-A of the Act of 1989. The High Court was not justified in reversing the said award on the ground that the claimants could not produce the ticket on which the claimant was travelling. For all the aforesaid reasons, the order dated 15.07.2025 passed by the High Court in R/First Appeal No.4716 of 2022 is set aside. The award dated 17.06.2022*

*passed in O.A. No.11 of 2018 by the Tribunal is restored. The award be now satisfied by the Railways within a period of thirty days. The Civil Appeal is allowed in the aforesaid terms, leaving the parties to bear their own costs. Pending Interlocutory Applications are also disposed of.*"

4.7. Hon'ble Apex Court in the case of ***Doli Rani Saha*** held as follows:-

*"1. The case of the appellant is that her brother, Swapan Kumar Saha, suffered a fatal fall from a moving train, (No 5658; Kanchanjanga Express) at KM 373/9, Dolma Gate on 5 September 2003, resulting in his death. The body of the deceased was recovered three days after the incident, on 8 September 2003.*

*2. The appellant filed a claim petition under Section 16 of the Railway Claims Tribunal Act 1987 before the Guwahati Bench of the Railway Claims Tribunal1 seeking compensation of Rs 4,00,000 arising from the death of her brother. By its judgment dated 17 March 2009, the Tribunal dismissed the claim, concluding that the deceased was not travelling on the train. The review petition against this judgment was dismissed on 29 September 2010.*

*3. The decision of the Tribunal was assailed in first appeal before the Gauhati High Court. The High Court dismissed the first appeal by its judgment dated 7 January 2014 in MFA No 288 of 2010. A review petition against this judgment (bearing Review Petition No 41 of 2014) was also dismissed on 13 November 2014. The appeal arises from this judgment of the High Court.*

*4. We have heard Mr Abhinav Hansaria, counsel, in support of the appeal and Mr Vikramjit Banerjee, Additional Solicitor General, with Mr Ishaan Swarana Sharma, counsel, for the respondent.*

*5. The submission of the appellant is that in concluding that the deceased was not travelling in the train on 5 September 2023, both the High Court and the Tribunal have overlooked the findings contained in the final report dated 6 November 2003 submitted by the Investigating Officer2 to the Sub-Divisional Magistrate, Rangiya. According to the submission, the above report also includes an extract from the post-mortem report which indicated that the cause of death was due to head injuries resulting from a "blunt force impact". The estimated time of death was determined to be between forty-eight and seventy-two hours before the conduct of the post-mortem.*

*6. In support of the claim that compensation ought to be awarded to the appellant, Mr Hansaria submitted that:*

*a. It is not necessary to produce a valid ticket to claim compensation under Section 124A of the Railways Act 1989,3 in view of the decision in Union of India v Rina Devi4;*

*b. The law laid down by this Court in successive decisions has clarified the test by which the amount of compensation under the Railways Act must be computed, including the entitlement of the claimant in case of an increase in the permissible amount; and*

*c. The appellant should be awarded interest as admissible in law.*

*7. In response, the respondent argued that the appellant had not provided a reason for the delay in the discovery of the body of the deceased. It argued that other employees of the Railways were bound to have chanced upon the body in the days after the alleged date of death. It supported the judgments of the Tribunal and the High Court.*

*8. Written submissions have been submitted on behalf of the appellant as well as the respondent. B. Decisions of the Railway Claims Tribunal and the High Court*

*9. Before turning to the issue at hand, it is necessary to briefly advert to the judgments of the Tribunal and the High Court. The Tribunal framed the following issues for consideration: a. Whether the deceased was a bona fide passenger of the train in question on the date of incident; b. Whether the incident as alleged in the claim application took place and was covered within the definition of an untoward incident under Section 123(c) of the Railways Act; and c. Whether the appellant was entitled to compensation, and what the relief should be, if any.*

*10. The appellant (AW-1) deposed in support of the claim, together with her cousin, Deepak Saha (AW-2). Both witnesses were cross examined. The railways did not produce either oral or documentary evidence. After considering the material on record and hearing the parties, the Tribunal found as follows:*

*a. No ticket was found with the deceased, whose body was found on 8 September 2003;*

*b. Neither AW-1 nor AW-2 were eye witnesses to the death;*

*c. There was nothing else on record to show that the deceased boarded the train; and d. The appellant was required to produce the best evidence but did not do so. The report of the IO was not sufficient to rebut the presumption under Section 191 of the Railways Act. The Tribunal concluded that there was no evidence to prove that the deceased died as a consequence of falling off the train. It found that compensation was therefore not payable to the appellant. It later dismissed the application for review of its judgment on the ground that no new facts were placed on record which would warrant a review. The Tribunal also observed that the secret witnesses examined by the IO were not examined.*

*11. On appeal, the High Court dismissed the appeal against the decision of the Tribunal. By its judgment dated 7 January 2014, the High Court held that:*

*a. From the material available on record, it appeared that the body of the deceased was found lying near the railway track. However, nothing on record indicated that the deceased was travelling as a passenger on the train;*

*b. The post-mortem report indicated that the death took place between forty-eight and seventy-two hours before the conduct of the post-mortem, which was on 9 September 2003 at 1:30 pm. From this, it cannot conclusively be held that the deceased died on 5 September 2003; and*

*c. The report filed by the IO is not supported by substantive material. Since he had no personal knowledge regarding the cause of death, his report cannot be accepted as evidence of the fact that the deceased was travelling as a passenger on the train in question. The Court therefore concluded that the appellant failed to establish that the deceased was travelling as a passenger on 5 September 2023 on the train in question.*

*12. The High Court later dismissed the review petition preferred by the appellant. It held that:*

*a. The material facts as well as the questions of law had been considered in the judgment under review; and*

*b. The report of the IO was based on a "secret enquiry" conducted by him. The IO did not disclose the material facts which led him to conclude that the deceased was travelling in the train. Further, he was not examined. The opinion of the IO, as recorded in his report, was therefore not substantiated. Therefore, the High Court concluded that the appellant had not made out a case that there was an error apparent on the face of the record.*

*C. The errors in the judgments of the Railway Claims Tribunal and the High Court*

*13. From the recapitulation of the various judicial pronouncements leading to the present appeal, it can be seen that the primary issue is whether the deceased was travelling on the train in question. In Rina Devi (supra), a two-Judge Bench of this Court considered the question of the party on which the burden of proof will lie in cases where the body of the deceased is found on railway premises. This Court held that the initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways. Significantly, it also held that the mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger. The relevant extract from the ruling of the Court is reproduced below:*

*"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." (emphasis supplied)*

*14. In the present case, the appellant had duly filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted to the Railways, which has not discharged its*

*burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted.*

*15. Further, the report of the IO indicates the details mentioned in the post-mortem report. It states that the cause of death was due to an injury sustained on the head and that all injuries were antemortem and caused by "blunt force impact". It also states that forty-eight to seventy-two hours had passed since the time of death.*

*16. The High Court noticed the time of death estimated by the post-mortem report. From this, it concluded that it was not possible to hold that the deceased died on 5 September 2003 because the post-mortem examination was conducted on 9 September 2003 at about 1:30 pm. It appears that the High Court was of the opinion that the deceased died later than 5 September 2003 because the postmortem report indicated that forty-eight to seventy-two hours had passed since the time of death. However, the High Court did not notice that the IO indicated that the deceased fell off the train at approximately 11:15 pm on 5 September 2003.*

*17. Seventy-two hours prior to the conduct of the post-mortem would be about 1:30 pm on 6 December 2003. This would be about thirteen to fourteen hours after the deceased fell off the train. Conclusions in post-mortem reports as to the time of death are approximations. This is also indicated by the fact that they usually provide a window of time in which the deceased may have died. A margin of error of about half a day in cases where compensation is at issue is not disproportionate, where the evidence is otherwise corroborated by the material on record. In this case, the estimation as to the time of death in the post-mortem report differs from the time at which the IO stated that the deceased fell off the train by about half a day. The report of the IO otherwise corroborated that the deceased fell from the train. Further, the post-mortem report also stated that the deceased sustained antemortem injuries due to blunt force. Hence, from the material*

*on record, it can be concluded that the deceased was a bona fide passenger on the train in question and that he sustained grave injuries leading to his death, due to his fall from the train. Compensation is therefore due to the appellant. D. Compensation and interest*

*18. The decision in Rina Devi (supra) holds as follows on the aspect of compensation:*

*"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 fourJudge 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."*

*The decision in Rina Devi (supra) has subsequently been followed in Union of India v. Radha Yadav5 and in Kamukayi and others v. Union of India and Others. 6 19. In Rina Devi (supra), this Court held that the claimant would*

*be entitled to interest from the date of the accident and, in case the amount so calculated is less than the amount prescribed as on the date of the grant of compensation, the claimant would be entitled to the higher of the two amounts. The principle which has been laid down in Rina Devi (supra) serves a salutary purpose. This was noticed in the decision in Radha Yadav (supra) where it was observed that "the idea is to afford the benefit of the amendment, to the extent possible". 20. In 2003, the compensation payable for the death of a passenger was Rs 4,00,000, as provided under Schedule I of the Railway Accidents (Compensation) Rules 1990, as amended by the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules 1997. The compensation payable for the death of a passenger as on date is Rs 8,00,000, which was enhanced by a notification bearing GSR 1165(E) dated 22 December 2016.*

*21. Following the judgment in Rina Devi (supra), from which we see no reason to depart, we hold that the appellant is entitled to compensation quantified at Rs 8,00,000. The compensation shall be paid by the respondent to the appellant by 30 September 2024, failing which the amount awarded by this Court shall carry interest at the rate of six per cent per annum from the date of the order of this Court until payment.*

*22. The District Legal Services Authority, Kokrajhar shall provide all details, including the address of the appellant, so as to facilitate payment by the respondent in terms of the above directions. If the appellant has a bank account, including a Jan Dhan account, details shall be provided by the DLSA to the respondent so that the transfer of funds is made seamlessly to the appellant.*

*23. The appeal is disposed of in the above terms. 24. Pending applications, if any, stand disposed of. "*

4.8. Basing on the materials available with the tribunal and the decisions so cited supra, learned counsel contended that with quashing of the impugned judgment, the claim application be allowed.

5. Mr. R.K. Mahapatra, learned Senior Panel Counsel made his submission basing on the materials available on record. It is contended that on being reported about the incident on 27.07.2018, an enquiry was conducted by the concerned DRM with submission of a report dated 22.02.2019. (Copy of the report so produced be kept in record.)

5.1. The concerned DRM in his report came to a definite finding that the deceased was not travelling in the train in question on 27.07.2018, and such a report was submitted basing on the statement of the Guard of the train and so also the Duty Key Man. It is accordingly contended since the DRM after causing due enquiry while submitting the report on 22.02.2019 came to a finding that the deceased was not travelling and he was not a bona fide passenger, no illegality or irregularity can be found with the impugned judgment so passed by the learned Tribunal.

6. To the submission made by Mr. R.K. Mahapatra, learned Senior Panel Counsel, Ms. D. Mohapatra, learned counsel for the appellants made further submission contending inter alia that the report dated 22.02.2019 so produced by the Railways was never proved by examination of the concerned DRM or through any other witnesses on behalf of the Railways. It is accordingly contended that since such a report was never proved by leading any evidence, reliance cannot be made to the said report and the Tribunal committed gross error in relying on the same.

7. Having heard learned counsel for the Parties and considering the submission made, this Court finds that the claim application was filed by the appellants-parents of the deceased claiming compensation inter alia on the ground that the deceased died while travelling from Mumbai on 27.07.2018, with a valid train ticket.

7.1. It is found that in support of such claim, Appellant No.1 examined himself as AW 1 and the co-passenger was examined as AW-2. This Court further going through the evidence of AW-2, finds that the said witness clearly admitted that the deceased along with him purchased ticket from the railway ticket counter of Lokmanya Tilak Terminus Railway station at Mumbai to move from LTT Mumbai to Jabalpur Junction through Pawan Express Train No.11061.

7.2. From the cross-examination of the said AW 2, it is also found that AW-2 admits that the deceased was staying with him at Mumbai and after the accident, the matter was reported to his father-appellant No.1. Nothing has been elicited from AW-2 by the Respondent-Railways, controverting the evidence of AW-2, that the deceased was not travelling as a co-passenger.

7.3. It is also the view of this Court that the report produced by the DRM on 22.02.2019 since was not proved with examination of any witness on behalf of the railways, relevancy and effect of the said report could not have been taken into consideration by the Tribunal.

7.4. In view of the aforesaid analysis, this Court is of the view that the Tribunal without proper appreciation of the materials placed before it,

rejected the claim application vide the impugned judgment dated 30.05.2022.

7.5. Therefore while quashing the said judgment, this Court remits the matter to the Tribunal with a direction to pass the award in favour of the Appellants as due and admissible within a period of six (6) weeks from the date of receipt of this order and release the same to the extent of 50% by keeping 50% in a fix deposit.

8. Accordingly, the FAO stands disposed of.

***(BIRAJA PRASANNA SATAPATHY)***
***Judge***

Orissa High Court, Cuttack
Dated the, 6th November, 2026/Jyoti

Signature Not Verified
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Signed by: JYOTIPRAVA BHOL
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 13-Nov-2026 18:08:40