

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2026.01.14
16:17:03 +0530

FIRST APPEAL NO.1523 OF 2025
WITH
INTERIM APPLICATION NO.9385 OF 2025

Union of India

...Appellant

Versus

Swaraj Dipak Chavhan

...Respondent

Ms. Leena Patil, for the Appellant.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 13, 2026

P. C. :

1. Heard Ms. Patil, learned counsel for the Appellant.
2. By the present Appeal, the Appellant challenges the award dated 14th October, 2024 passed by the Railway Claims Tribunal, Mumbai in Claim Application No. 852 of 2017 filed by the Applicant seeking compensation for injuries sustained by him in an untoward incident which had occurred on 16th April, 2013. It was stated in the Claim Application that on 16th April, 2013, the Applicant who is a labourer was travelling from Jalgaon to Dondaicha station by Train No. 59014 Surat-Bhusaval passenger along with his younger brother. As there was heavy rush in the compartment, the injured was standing near the door of the

compartment. When the train was nearing Sindkheda station at milestone 210/10 to 210/11, the Applicant lost his balance and fell outside the train. As a result, the Applicant came under the train and his leg was cut from the knee. The ticket of the injured was found by the police and produced along with Claim Application.

3. The Railway authority opposed the Claim Application and relied upon the DRM's report which recorded that on 17th April, 2013, an unknown person was lying at Sindkheda station yard with left leg cut off. It was stated that his statement was recorded in which the Applicant had affirmed that due to heavy crowd in the train, he was standing near the door of the compartment of Bhusaval-Surat passenger. In view of the statement, recorded to the report of DRM, it was contended that the injury had taken place due to the Applicant's own negligence for which the railway administration is not responsible.

4. The Tribunal framed necessary issues as to whether the Applicant/injured who was travelling in the train in question is a bonafide passenger and as to whether the incident can be described as an untoward incident as defined under section 123(c) (2) of Railways Act, 1989. The Tribunal answered both issues in favour of the Applicant and by applying the Railway Accidents & Untoward Incidents (Compensation) Rules, 1990, as amended in 2016 fixed the compensation at Rs. 5,60,000/-.

5. Ms. Patil, learned counsel for the Appellant has taken this Court through the provisions of the Railways Act, 1989 and would contend that the incident does not fall within the definition of an “untoward incident” under section 123(c) (2) of Railways Act, 1989. She further taken this Court to the DRM’s report and would submit that it is the Applicant’s own case that the incident had taken place as the Applicant was standing near the door and had fallen down. She submits that it is therefore evident that incident has taken place due to Applicant’s own negligence as the Applicant was travelling on the foot board, for which the Railway Administration is not held responsible. She would submit that the Tribunal has failed to take into consideration the negligence of the Applicant and has erroneously awarded the compensation.

6. I have considered the submissions and perused the record.

7. In so far as the Applicant being a bonafide passenger is concerned, the original ticket was found by the police which was produced and therefore, there is no dispute that the Applicant was bonafide passenger. It is also not disputed that the Applicant had suffered an injury by falling out of moving train. The provisions of section 123(c) (2) of Railways Act, 1989 defines “untoward incident” as accidental falling of any passenger from a train carrying passengers.

8. The Hon’ble Apex Court in the case of ***Jameela and Others vs.***

***Union of India*¹** had not accepted the plea of negligence and self inflicted injury in identical case where the deceased in that case was standing at the open door of the train compartment from which he fell down. The Hon'ble Apex Court held that standing at the open door of the compartment of the running train may be a negligent act but is neither a self inflicted injury nor a criminal act and does not fall within the exception as set out in section 124-A of the Railway Act, 1989. The Tribunal has rightly applied the proposition of law which was laid down by the Apex Court in the case of **Jameela and Ors.** (supra).

9. In light of the above, there is no merit in the Appeal. The First Appeal stands dismissed.

10. Interim Application does not survive for consideration and stands disposed of.

[SHARMILA U. DESHMUKH, J.]

¹ 2010 ACJ 2453 (SC).