HIGH COURT OF JUDICATURE AT BOMBAY



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

**FIRST APPEAL NO.192/2019**

1. Usha wd/o Rajusingh Bais,
   Aged 30 years, Occ.-Household,

2. Anjali d/o Rajusingh Bais,
   Aged 11 years, Occ.-Student.

3. Krishna s/o Rajusingh Bais,
   Aged 7 years, Occ.- Student.

Hariram Nagar, Ward No.13, Pulgaon Camp,
Pulgaon, Distt. Wardha.
Appellant No.2 and 3 are minor through
guardian appellant no.1.

...**APPELLANTS**
**O. Applicants** on R.A.

**VERSUS**

Union of India,
through General Manager,
Central Railway, CST, Mumbai.

...**RESPONDENT/**
**O. Respondent on RA**

---

Mr. V.A. Patait, Advocate for appellants.
Mr. P.S. Khubalkar, Advocate for respondent.

---

**CORAM : PUSHPA V. GANEDIWALA, J.**
**Reserved on : 08-10-2021.**
**Pronounced on : 15-11-2021.**

**J U D G M E N T**

This is the claimants appeal, preferred under Section 23 of the Railways Act, 1989 (for short 'Railways Act'), assailing the judgment and order dated 08-06-2018 passed by the Member, Railway

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



Claims Tribunal, Nagpur Bench, Nagpur in Application No.54/OA(IIu)/ RCT/NGP/2016, whereby the claim of the appellants for compensation came to be dismissed.

2. The facts in brief, leading to filing of the present appeal, may be stated as under :-

The claimants/appellants are the wife and minor children of the deceased Rajusingh Bais. It is the case of the appellants/claimants before the Railway Claims Tribunal that on 28-10-2015 deceased boarded on one passenger train at Pulgaon Railway Station, travelling from Pulgaon to Sewagram. While the deceased was standing beside the door of compartment to get down at Sewagram Railway Station, he accidentally fell down from the running train due to the jerk of the train and thereby received serious injuries and he succumbed to injuries on the spot as a result of untoward incident. It is the further case of the claimants that the deceased had to change the train at Sewagram Railway Station to undertake journey to Pedapalli. The deceased was going to Pedapalli for painting work. He had purchased a second class ordinary ticket dated 28-10-2015 for travelling from Pulgaon to Pedapalli vide ticket no.6110 for Rs. 65/-. The appellants/claimants claimed statutory compensation as per the Rule.

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



3. The respondent-Railway Administration resisted the claim of the appellants by filing written statement and in their specific pleadings it is submitted that as per the STR, at the time of accident the deceased was travelling by standing on the door of the compartment of train and he fell down from the train due to his negligent act which is dangerous and harmful act and therefore Railway Administration is not liable to pay any compensation if the passenger dies due to self inflicted injury.

4. The learned Member of the Tribunal, on the basis of pleadings of the parties, framed necessary issues and recorded findings as adduced by the parties.

5. Appellant no.1 wife of the deceased examined herself and also brought on record relevant documents. The respondent-Railway Administration examined Hemraj Gorakshnath Patil, Dy. S.M. Wardha.

6. Learned Tribunal on the basis of evidence on record and the submissions on behalf of both the sides, dismissed the claim of the appellants mainly on the ground that the claimants have failed to prove that the deceased was the bona fide passenger and the death of the deceased is due to an untoward incident. This judgment of the Tribunal is challenged in the present appeal.

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



7. I have heard learned Advocate Mr. Patait for the appellants and Mr. Khubalkar, learned Advocate for the respondent-Railway Administration.

On the basis of submissions putforth on behalf of both the sides and the material on record, the following point arises for determination of this Court :-

> "Whether the claimants could establish that deceased was a bona fide passenger on 28-10-2015 for journey from Pulgaon to Pedapalli and he died in an untoward incident?"

8. At the outset, it is not disputed that the deceased was holding a valid journey ticket dated 28-10-2015 for passenger train from Pulgaon to Pedapalli vide Ticket No.AB09216110. The said ticket was recovered from the body of the deceased during inquest panchanama. Therefore, there is no question that the deceased was not a bona fide passenger (in General Category). It is also not disputed that the death of the deceased is due to head injury (as per the post mortem report Exhibit-A-6) and the dead body of the deceased was found at Sewagram Railway Station between electric Pole Nos.760/10 and 760/8. Claimant-Usha Bais, the wife of the deceased, is admittedly not the eye witness to the incident. Her testimony is only relevant on the point that the deceased had left home for going to Pedapalli on 28-10-2015 for doing painting work. As stated earlier, train passenger

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



ticket for the journey from Pulgaon to Pedapalli was recovered from the body of the deceased. The said ticket was verified by the Railway Administration and found to be a valid ticket issued by the respondent-Railway Administration (Verification Certificate Exhibit-A-2). Neither the claimants nor the Railway Administration examined any eye witness to the incident. Marg came to be registered at Marg No.75/2015, under Section 174 of the Code of Criminal Procedure on the information received from railway official (Police HC/647 GRP, Wardha) informing that a dead body was lying near km.no.760/10 down home signal SEC Wardha Seargram upside. Thereafter, proceedings for inquest panchanama and spot panchanama were undertaken. As per the DRM report at page nos.A-21 to A-23 of the record and proceedings of the Tribunal and on the basis of enquiry performed by the respondent, the following inferences came to be drawn :-

(a) As per inquest panchanama performed by GRP, Wardha, the deceased died due to fall from an unknown train.

(b) The deceased was travelling alone and during travelling he was standing or sitting at the door of the train and fell down from the running train. It was concluded that as the deceased because of his own negligent act fell down from the running train. The claimants are not entitled for any compensation.

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



9. Now the question is, whether the injuries sustained by the deceased, being a bona fide passenger, is due to an 'untoward incident' or self inflicted injuries?

10. The definition of 'untoward incident' is given under Section 123 (c)(2) of the Railways Act, 1989, which *inter alia* means the accidental falling of any passenger from a train carrying passengers. It is the case of the claimants so also DRM enquiry report suggest that the deceased while travelling fell down from the running train and sustained injuries and died on the spot.

11. As per Section 124A of the Railways Act, 1989, when in the course of working a railway an untoward incident occurs, then whether or not there has been wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent 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.

12. Proviso to the aforesaid section enumerates the conditions wherein the railway administration shall not be liable to pay

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



compensation, which reads thus :

(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.

13. The Hon'ble Apex Court in the case of ***Union of India vs Prabhakaran Vijaya Kumar and others*** reported in ***2008(5) ALL MR 917*** has held that-

*"Section 14-A of the Railways Act, 1989 casts strict liability on the Railway even the deceased died due to his own fault. Then also, Railway is liable to pay amount of compensation."*

The Hon'ble Apex Court in the case of ***Jameela and others vs Union of India*** reported in ***2010 AIR (SC) 3705***, has held that :

*"When deceased died while alighting the train due to his own negligence, it is not a criminal act and, therefore Railway cannot deny its liability."*

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



In the case of ***Union of India vs Rina Devi***, reported in ***2018 AIR (SC) 2362***, the Hon'ble Apex Court has held that :

> *"Death or injury in course of boarding or de-boarding train will be "untoward incident". Victim will be entitled to compensation and will not fall under proviso to Section 124A merely on plea of negligence of victim as contributing factor."*

In the case of ***Union of India vs Anuradha and another*** reported in ***2014 ACJ 856***, this Court has held that :

> *"Even the deceased boarded in a wrong train having a valid journey ticket and died while alighting the train that does not mean that he was not a bona fide passenger and on that ground claim cannot be rejected."*

14. In the instant case, the circumstances which have been brought on record and the particulars referred in the DRM report would indicate that the death of the deceased is due to his falling down from the running train. Whether deceased was at fault or not is not to be considered so long as the case of the deceased does not fall in any of the exceptions to Section 124A.

15. As the deceased was holding a valid and bona fide ticket for travelling from Pulgaon to Pedapalli and his death was an untoward

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



incident and was not covered by proviso to Section 124A of the Railways Act, 1989, the appellants/claimants are entitled to receive compensation in terms of law. The learned Member of the Tribunal has erroneously recorded the finding that the deceased was not a bona fide passenger and the claimants could not prove the death of the deceased in an untoward incident. The learned Member of the Tribunal in the absence of any substantive material on record and on the basis of conjectures and surmises, has gone into the question that there was no train from Pulgaon which has a stop at Sewagram in the evening hours i.e. after 17.01 hours, the time at which the deceased had purchased the journey ticket. The learned Member of the Tribunal ought not to have gone into those questions and should have considered that the death of the deceased was due to falling down from the train and he was holding a valid journey ticket and therefore the contention of the learned Counsel Mr. Khubalkar appearing on behalf of the respondent-Railway Administration that the deceased died due to self inflicted injuries, cannot be accepted. The learned Member of the Tribunal, therefore, was not justified in rejecting the claim solely on the ground that the claimant could not prove as to which train the deceased was travelling. The appellants/claimants having discharged the initial burden of proof that the deceased was the bona fide passenger and his death was untoward incident. The respondent-Railway Administration

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::

HIGH COURT OF JUDICATURE AT BOMBAY



cannot be absolved their liability of paying compensation to the dependents of the deceased.

16. For the reasons stated above, the impugned judgment cannot be sustained. Hence, the following order :-

**O R D E R**

(i) Appeal is allowed.

(ii) Impugned judgment dated 08-06-2018, is hereby quashed and set aside.

(iii) The respondent-Union of India is directed to pay to the appellants a sum of Rs. 8 lakh ( as per ***Union of India vs Rina Devi***, reported in ***2018 AIR SC) 2362 )***.

(iv) The said amount shall be subject to deposit of deficit Court fee, if any.

(v) The said amount shall be deposited in the account of the claimants/appellants after verifying the identity within a period of three months.

17. Appeal stands disposed of.

**JUDGE**

*Deshmukh*

::: Uploaded on - 15/11/2021 ::: Downloaded on - 26/05/2026 12:11:28 :::