



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

FIRST APPEAL NO. 426 OF 2019

1. Smt. Sulbha wd/o Ravindra Sute
Aged about : 38 Years, Occu : Labour;
2. Gaurav s/o Ravindra Sute
Aged about : 17 Years;
Occu : Education;
3. Ku. Karina d/o Ravindra Sute
Aged about : 15 Years;
Occu : Education;

Applicant Nos.2 and 3 are minors through
Appellant No.1 – Mother.

All R/o Bothurda, Tahsil Samudrapur,
District Wardha.

... APPELLANTS

VERSUS

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

... RESPONDENT

Ms. Meenakshi M. Zunke, Advocate h/f Ms. Monali H. Pathade, Advocate for
Appellants.

Ms. Neerja G. Chaubey, Advocate for Respondent/Union of India.

CORAM

: PRAVIN S. PATIL, J.

ARGUMENTS HEARD ON

: NOVEMBER 04, 2025.

PRONOUNCED ON

: NOVEMBER 12, 2025.

JUDGMENT

. Heard Ms. Meenakshi M. Zunke, Advocate h/f Ms. Monali H. Pathade, learned Counsel for the Appellants and Ms. Neerja G. Chaubey, learned Counsel for the Respondent/Union of India.

2. By the present Appeal, challenge is to the Judgment and order dated 20/12/2017 passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No. OA (Iiu)/NGP/2016/0013, whereby the learned Tribunal dismissed the Claim Application filed by the Appellant.

3. The facts of the present Appeal in brief are as under :

The Claimant No.1, who is widow of the deceased Ravindra Sute, filed the Claim Petition before the Railway Claims Tribunal stating that on 17/1/2015 her husband purchased railway ticket from Nagpur Railway Station for his journey to Wardha and boarded in Train namely, Sewagram Express bearing Train No.22893. According to her, there was a heavy rush in the compartment where he was boarded. Due to rush and jerk in the Train, he fell down from the running Train in between Sewagram to Seloo Railway Station at K.M.No.763/22-24. Thus, according to the Claimant, accident was taken place during traveling of the deceased Ravindra, and particularly, due to jerk of

the Train. Hence, she claimed compensation of Rs.8,00,000/- from the Respondent/Railway Department.

4. *Per contra*, the Respondent/Railway Department has contested the claim before the Tribunal. It is the submission of the Railway Department that initial burden is on the Claimant to establish the fact that the deceased was a *bona fide* passenger and the accident was occurred during boarding or while alighting from the Train in the matter. However, the Appellant failed to discharge initial burden in the matter, and therefore, she is not entitled for any compensation under the provisions of Railways Act, 1989.

5. In the background of abovesaid factual position, the learned Tribunal has recorded the finding that Applicant failed to discharge initial burden and further held that the Appellant is not entitled for any compensation. As such, by the impugned Judgment and order dated 20/12/2017 the Claim Petition filed by the Appellant was dismissed.

6. In the present Appeal, Appellant has come up with a submission that the learned Tribunal failed to appreciate the specific evidence which was brought on record to establish that the deceased was a *bona fide* passenger and wrongly recorded finding in absence of cogent evidence in favour of

Respondent. It is argued on behalf of the Appellants that in the present matter there was an enquiry conducted by the Railway Department and the evidence which was brought before the Court was never part of an enquiry which was conducted by the Rail Administration. Hence, the Appellants seeks indulgence of this Court in the matter.

7. I have heard learned Counsel for both sides at length. In the present case, admittedly the Appellant No.1, in support of her claim, has examined herself as AW-1 and one Gajanan Tanbaji Harne as AW-2 before the Railway Tribunal. It is clear from the evidence of Appellant, and more particularly, from the cross-examination that Appellant was not an eye-witness of the incident. According to her, she is residing at village Bothurda. She further admitted that deceased used to consume liquor and due to the drinking habit his liver got damaged. She further stated that she do not know for what purpose the deceased was going to Nagpur. She has stated that neither her relatives are residing at Nagpur nor the deceased was working at Nagpur. As such, the Appellant herself is not aware as to whether the deceased was traveling on 18/1/2015 by Sewagram Express or not.

8. The Appellant, in order to discharge initial burden that deceased was a *bona fide* passenger, has also relied upon the evidence of Gajanan

Harne. In his cross-examination this witness has categorically admitted that he does not know the departure time of the Train. He further stated that he had not seen the deceased while purchasing the railway ticket. As such, he has denied the fact that in his presence railway ticket was purchased by the deceased.

9. *Per contra*, the Respondent has examined the witness namely, Rajkishor Kaptan Singh as RW-1, who was Loco Pilot of Sewagram Express bearing Train No. 22893 at the time of incident. He categorically stated that his duty hours were from 17.45 Hrs. on 17/1/2015 till 01.50 Hrs. on 18/1/2015. He stated that during his duty hours at K. M. No. 763/20 one person fully covered with some clothes was already sitting between the down track. Since the Level Crossing gate was nearby, he blew the whistle but said person did not move from the track, and accordingly, the Train was dashed and run over by the Train. It is pertinent to note that Appellant did not cross-examine this witness before the Railway Tribunal.

10. In addition to this, I have gone through the inquest panchanama (Exhibit-A-4), which is a part of original record as Document Nos. A-54 and 55. In the said inquest panchanama the condition of corpse was described as under :

“On seeing the corpse of deceased, the deceased namely Ravindra Kisnaji Sute, aged about 42 years, presently resident of Samudrapur found to be in dead condition in between the railway at mouza Warud and the corpse is lying having face in upward condition, the legs are towards north and head is towards west. There is blackish colour trouser and slight gray colour full sleeves shirt on the person of the deceased. Hair of head are black and mustache is seen black. Mouth is seen half opened. There are injuries place to place at head, throat, both hands and both legs. Skull is broken and came out. Corpse is seen cut from waist and both legs are seen twisted. Intestine of the deceased is seen emerged out. On turning the corpse downward and upward condition, the injuries are seen place to place on the body. On seeing the private part, some injury is seen on the private part. The minor injury is also seen near the hole of the hip. The injuries are seen place to place at head, throat, waist, both hands and both legs of the deceased.”

As such, from the inquest panchanama one thing is clear that the deceased was lying in between the railway track and his body was cut into two pieces (from waist), both legs were twisted and intestines were emerged out. Therefore, considering the position of the dead body, it is clear that such type of accident cannot be taken place due to falling down from running Train, but it can only be taken place if a person has intentionally come before the Train with an intention to commit suicide.

11. Apart from above, the record, more particularly Loco Pilot Note Book, specifically indicates that while he was on duty he has noted that there

was a suicide by unknown person. Accordingly, he has reported this fact immediately to his Higher Authority. This document is placed on record as Document Nos. A-78 to 79. Furthermore, Sewagram Station Diary shows that it is reported by the Loco Pilot, and accordingly, the dead body was removed by two gangmen and the incident was reported to the Police Station on 18/1/2015 at 12.10 Hrs. The said report is at Document No. A-44. Immediately thereafter the spot panchanama and inquest panchanama was prepared in the matter. As such, if all the facts are considered collectively, it is clear that it is not a case of untoward incident, rather it is a case of self-inflicted injury.

12. The learned Counsel for Appellant was expected to point out as to how in the above circumstances it cannot be inferred that it is a self-inflicted injury, but nothing is placed on record to substantiate the fact that same is not self-inflicted act but an untoward accident. The Appellant has relied upon the Judgment of Hon'ble Supreme Court in the case of *Union of India V/s Prabhakaran Vijaya Kumar and others, (2008) 9 Supreme Court Cases 527*.

In the said case Hon'ble Supreme Court had dealt with the issue as to whether the accident by falling of passenger from Train amount to untoward incident or not and in the light of evidence, recorded the findings in the

matter. In my humble opinion, the law laid down in the said case is not applicable in the present Appeal because the facts in the case in hand are totally different than the case which was under consideration before the Hon'ble Supreme Court of India.

13. Likewise, the Judgment of this Court in First Appeal No. 266/2021 relied upon by the Appellant is also not applicable in the present Appeal because said Judgment was again on the issue as to whether the occurrence of incident while a person was boarding or getting down from the Train can be considered as untoward incident or not. Therefore, the case laws relied upon by the Appellants are not helpful to Appellant in the matter.

14. The learned Counsel for Respondent has relied upon the Judgment of Hon'ble Supreme Court in the case of ***Union of India V/s Rina Devi, AIR 2018 Supreme Court 2362***. In this case, the Hon'ble Supreme Court has held that 'self inflicted injury' would require intention to inflict such injury and not mere negligence of any particular degree. According to the Hon'ble Supreme Court, if the case falls under the proviso to Section 124-A of the Railways Act, 1989, then no compensation is required to be paid by the Railway Administration. According to me, this case law is applicable in the matter.

15. In the present case, from the abovesaid facts, it is clear that on the date of incident the deceased was intentionally inflicted the self-injury and committed suicide. Therefore, the present case falls under the proviso to Section 124-A of the Railways Act. Hence, considering this as self inflicted injury, I am of the opinion that Appellants are not entitled for any compensation.

16. It will be profitable to rely upon the Judgment of Hon'ble Supreme Court in the case of ***Kamrunnisa V/s Union of India, (2019) 12 Supreme Court Cases 391***. In the said case, the Hon'ble Supreme Court has recorded somewhat identical factual position. In that case, body of the deceased had been cut into two pieces and was lying next to the railway track. The Hon'ble Supreme Court has held that it was not possible to accept that railway accident had taken place when the deceased was boarding the Train on the Railway Station. The relevant paragraphs of this Judgment are reproduced as under :

“6. We have considered the contentions advanced at the hands of the rival parties. We are of the view that the issue in hand can be determined on the basis of Paras VII and VIII of the inquest report, submitted by the Assistant Commissioner, Railway Police Station, Devangere. The above paragraphs are extracted hereunder:

“VII.	<i>Dead body was lying in two pieces on road. No one on the railway track, with head towards south and lying inside down, legs towards north which had become into two pieces and lying next to the railway track, muscle and intestine has come out of the body.</i> <i>White full shirt, white dhoti and spectacles.</i> <i>White chappals, there is a diary in his pocket having few phone numbers. No other items are found apart from this.</i>
VIII.	<i>Dead body was lying in two pieces on road. No one on the railway track, with head towards south and lying inside down, legs towards north, railway track is facing east-west direction. Towards north: Road Nos. 2, 3 and Good Shed Road, south by: PF 1 AND THEN quarters of railway staff,</i> <i>a) b) c) No.”</i>

A perusal of the aforesaid report reveals that the body of the deceased, Gafoor Sab, was found on road. It is, therefore, not possible for us to accept that the railway accident in question had taken place when the deceased was boarding the train on the railway station.

7. The aforesaid report also reveals that the body of the deceased has been cut into two pieces, and was lying next to the railway track. The report further indicates that the intestine of the deceased had come out of the body. The above factual position reveals that the body was cut into two pieces from the stomach. This can be inferred from the facts expressed in the inquest report that the intestines of the deceased had come out of the body. It is not possible for us to accept that such an accident could have taken place while boarding a train.”

17. It is pertinent to note that learned Tribunal, while dealing with the present matter, has considered the evidence of parties as well as inquest

panchanama and postmortem report, and accordingly, by recording the cogent reasons held that the Appellant failed to discharge his initial burden that deceased was a *bona fide* passenger of the Train. Secondly, it is held that the incident cannot come under the category of 'untoward incident' from the evidence available on record. It is rightly held by the learned Tribunal that Loco Pilot of the Train has categorically stated in his evidence that at railway crossing gate though he has blow whistle, the person did not move from the track, and therefore, considering this statement the case falls under the category of 'self inflicted injury'.

18. In the circumstances, I find no reason to interfere in the well reasoned order passed by the learned Tribunal. I concur with the findings recorded by the learned Tribunal, and accordingly, present Appeal stands dismissed.

[PRAVIN S. PATIL, J.]