

BEFORE THE RALWAY CLAIMS TRIBUNAL

(BENGALURU BENCH AT BENGALURU)

CLAIM APPLICATION No.OA (II U)/SBC/0030/2021

DATED THIS MONDAY, THE 1ST DAY OF APRIL, 2024

CORAM:

1. Mrs. IVY CHARLES D'CRUZ,
Hon'ble Member (Judicial)
2. Mr. RAVI NANDKEOLYAR,
Hon'ble Member (Technical)

BETWEEN

1. Smt. Suma Basavaraj Gudadini
@ Renuka Basavaraj Gudadini,
W/o. late Basavaraj Dundappa Gudadini
Age: 42 Years.
2. Vinayak Gudadini
S/o. late Basavaraj Dundappa Gudadini
Age: 24 Years.
3. Akshata Basavaraj Gudadini
D/o. late Basavaraj Dundappa Gudadini
Age: 22 Years.
4. Raghavendra Gudadini
S/o. late Basavaraj Dundappa Gudadini
Age: 19 Years.

Applicant No.1 to 4 are resident of
R/o. Banjar Nagar
Bijapur Vijaya College,
Bijapur-586 103.

5. Swetha W/o. Mahatesh Sasanur,
Age: 26 Years, Occ:Homemaker.
No.184, 8th Cross, LG Rose Heritage,
Kadasonnappanahalli, Kannur,
Bengaluru.

:: Applicants

AND

Union of India through
The General Manager,
South Western Railway,
HUBLI.

:

: Respondent

Value of Claim Rs.8,00,000 plus 12% Interest

Date of Filing and Registration : 18.06.2021

Heard and Reserved on : 06.03.2024

Ld., Counsel Present:

For the Applicants :: Smt. Padma S. Uttur & Shri K. Purushotham
For the Respondent :: Shri Sathish. B

J U D G M E N T

IVY CHARLES D'CRUZ,
Member (Judicial).

1. Basic details relating to untoward incident as contained in the application:-

a) Date of accident: 06.01.2017

b) Name of the deceased, Age and Occupation:

Shri Basavaraj Dundappa Gudadinni S/o. Dundappa Gudadinni
Aged about 52 Years, Senior Veterinary Doctor.

c) Relationship of the claimants with the deceased: Wife and Two sons and Two daughters. Parents of the deceased are stated to be no more.

d) Train involved and transit details: Unknow Train. While returning from Gadag to Vijayanagar Railway Stations.

e) Untoward incident narrated: It is alleged in the claim application of the applicants that Shri Dundappa Gudadinni S/o. Dundappa Gudadinni (hereinafter called and referred to as 'deceased' for brevity) was a resident of Banjar Nagar of Bijapur District and Senior Veterinary Doctor by profession. On 06.01.2017 the deceased was travelling from Gadag to Vijayanagar. During the course of journey, when the train arrived Vijayanagar Railway Station, the deceased while trying to alight from the train, due to jerk of the train, he accidentally fell down from the running train, sustained grievous injuries. Immediately, he was taken to District Hospital, Vijayapura and died while on treatment.

e. Jurisdiction: The place of accident is within the jurisdiction of this Tribunal.

3. Salient features of Reply:

a) Averments in Reply: General denial of all the averments in the claim application.

b) Crux of DRM's Report: Therefore, while going through the available document, it is concluded that -

- 1) The deceased had travelled from Gadag to Vijayanagar when the said train was stopped at PF No.02 of Vijayapura Railway Station, he got down from off side and boarded the Train No.56906, which was stabled on PF No.01 with intention to come to platform No.1, the victim slipped and fell down from moving train on PF No.01. He was trespassing from PF No.02 to PF No.01 and during treatment he died in Vasudev Hospital, Vijayapura.
- 2) The victim did not use FOB he had trespassed, an offence punishable under the provisions of Railway Act, 1989 amended 2003.
- 3) SMR/BJP in his statement he stated that no such incident reported to BJP, Railway Station on 06.01.2017 as per TSR and control order book.
- 4) There is no fault on the part of Railway hence railway administration is not responsible for death of the person.

(emphasis supplied)

4. Evidence:

a) Applicant's Evidence: Applicant No.5, Smt. Swetha W/o. Mahatesh Sasanur, Daughter of the deceased (AW/1) filed her affidavit dated 22.06.2022 (Exh. AW 1/1) and deposed before this Tribunal on 22.06.2022 and 18.04.2023. Exh A-1 to A-20 were marked through her.

b) Respondent Evidence: None

5. Issues Framed:

On the basis of pleadings of the parties, the following issues were framed for determination on 09.07.2021:-

1. Whether the deceased was a bonafide passenger?
2. Whether there was any untoward incident as is defined under the provisions of Section 123© of Railways Act, 1989?
3. Whether the applicants are dependents of the deceased?
4. Whether the applicants are entitled for any relief and interest as prayed for in the application?

5. Issue-wise discussion and reasoning for the Judgment:-

We have gone through the pleadings of the case and have carefully considered the documents and evidence led by the parties in the matter and our findings on the issues are as under:

ISSUE No.1 and ISSUE No.2

5.1 As these two issues are inter-connected and inter-dependent, for the sake of brevity and better appreciation, the same are being dealt together.

5.2 Applicant No.5, Smt. Swetha W/o. Mahatesh Sasanur, Daughter of the deceased (AW/1) filed her affidavit dated 22.06.2022 (Exh. AW 1/1) and deposed before this Tribunal on 22.06.2022 and averred that on the day of incident, her father while getting down from the train, due to sudden jerk of train, he slipped and fell down, sustained injuries and died at District Hospital, Vijapura on the very same day. She stepped into witness box on 22.06.2022. The entire text of her deposition is given as under:-

“My name is Shweta. I am conversant with English language. I have filed this claim application, claiming compensation for the death of my father who had died in an accidental fall from the train. My deceased father was aged about 52 years and was a Veterinary doctor on Government hospital. Yes, we have received all the death benefits from the State Government. My elder brother was appointed on compassionate ground. My deceased father married only once. My mother is alive. Deceased mother is no more. I will produce the death certificate of mother of the deceased. We are four for our parents. My mother only brought Family Living Member Certificate from Tahsildar, Vijayapura. I will produce the recent Family Living Member Certificate. I have entrusted the present OA to Smt. P.S.Uttur. My husband brought all the police documents and handed over to the advocate to file the case. My husband only briefed my advocate about the incident to file the case. During 2017, I was residing at Bangalore. My deceased father was residing in Vijayapura. I have gone through the contents of my claim application before giving evidence before this Tribunal. I got married on 06.06.2016. In my Aadhaar card, my name is mentioned as Shweta B Gudadinni. However, after my marriage I have not corrected my name as Shweta W/o Mahantesh Sasanur. In the bank account also my name is mentioned as Shweta B Gudadinni. My father died on 07.01.2017 at hospital. My father was posted and working at Rona and left the house on Sunday i.e., one week prior to the incident. My father was working at Rona and residing at hospital itself. We have produced a copy of the journey ticket from Gadag to Vijayapura. However, the original ticket is with the police. Normally, my father used to return to Vijayapura by Hubli Intercity Express train. Keeping this in mind we have stated same in our OA. After the incident my father himself had called my mother over phone and informed that he had fall from the train, sustained injuries and was taken to hospital for treatment. I do not know at which platform he had an accidental fall. Police have shifted my father to the hospital. I have not visited the hospital. I have not given any statement to the Police. I am not aware about the investigation conducted by police. I have gone through all the police documents and the contents of the documents are false. We have not challenged the contents of the police documents before any other forum, since,

the contents made in the Police documents are false. I do not know the exact place in which my deceased father actually fell down from the train at Vijayapura Railway station. Yes, I know there is a provision of Foot Over Bridge at Vijayapura Railway station. My uncle and grand father went to hospital and brought the dead body. During inquest mahazar my mother Renuka @ Suma, my brother Vinayaka my grand father Vittala and my uncle Siddappa were present and Police have recorded all the four statement. However, we have not produced the said statements before the Court. I do not know the contents of the statement which they given to the Police. I have enquired with my mother about the pre and post incident and also the statement recorded by the Police before giving evidence in this Court. It is true that in the Police Final Report the name of my mother, brother, grand mother and uncle names were depicted. Balasaheb Biradar is my father's friend. Shiva Kumar Chawan is my father's colleague. I deny the suggestion that my father after completion of journey from Gadag to Vijayapura alighted from the train from off side, tried to board the moving train of Train No. 56906 which was moving from Platform No.1 and fell down. Yes, my father is educated and well aware that there is a provision of foot over bridge. The ticket which we have produced before this Hon'ble Tribunal is for the journey from Gadag to Vijayapura by Hubli Intercity Express Train and my deceased father has completed his journey. I do not know whether my deceased father had authority to board/travel by Tr.No.56906. I deny the suggestion that, the incident had occurred while my father trespassed the Railway track. In the claim application the name of the Applicant No.2, 4 and 5 names are not matched with the names shown in the Family Living Member Certificate. We will correct the names and file before this Tribunal. I deny the suggestion that in order to get compensation from Respondent Railway I am deposing falsely.

5.3 Ld., Counsel or the Applicants placed reliance on the following judgments to support the case of the Applicants.

(a) Union of India Versus Rina Devi in the judgment of Civil Appeal No.4945 of 2018 rendered by Hon'ble Supreme Court of India.

(b) Malarkodi. P & 4 Others Versus Union of Indian in MFA (RCT) No.141 OF 2017 by Hon'ble High Court of Kerala at Ernakulam.

5.4 Ld., Counsel for the Applicants further added that Smt. Swetha W/o. Mahatesh Sasanur, Daughter of the deceased through her Affidavit has discharged her burden cast on them in this regard. She further emphasized that the deceased was a bonafide passenger. Travelled without ticket is on Railway, which they have failed to discharge and incident comes under the purview of Section 123©(2) of Railway Act, 1989 and hence Applicant is entitled to compensation as prescribed under the rule/statute.

5.5 We have perused the matter. Exh A-3 – Certified Copy of Inquest Mahazar. The panchas at Para-9(2) have opined that the deceased was travelling from Gadag to Vijayapura by Hubli – Intercity Train, when the said

train arrived and had a halt at Platform No.2 of Vijayapura Railway Station, the deceased in order to reach Platform No.1, alighted from the train from the offside, and tried to board Hubli-Solapur Passenger from the off side, which was stationed at Platform No.1, and the said train suddenly started moving, the deceased accidentally slipped, fell down, sustained injured and died at Vasudeva Private Hospital.

5.6 In this case, the Respondent Railways have conducted a detailed enquiry and produced Statutory DRM's Investigation Report and contended that –

The deceased had travelled from Gadag to Vijayanagar when the said train was stopped at PF No.02 of Vijayapura Railway Station, he got down off side and boarded the Train No.56906, which is stabled on PF No.01 with intention to come platform No.1, the victim slipped and fallen down from moving train on PF No.01. He was trespassing from PF No.02 to PF No.01 and during treatment he died in Vasudev Hospital, Vijayapura.

(emphasis supplied)

5.7 Furthermore, during the course of investigation, the Investigation Authorities have recorded the statement of on duty Police Constable, Government Railway Police, Vijayapura, Shri Ramesh, which is annexed to the DRM's Report. In the said statement, he has stated that –

“on being asked I have state true that I have put total 13 years of service in Government Railway Police and present working as Head Constable/GRP/Vijayapura. On 06.01.2017, I was nominated 20.00 hrs., to 08.00 hrs., on 07.01.2017 duty at Vijayapura Railway Station. During my duty hours at about 20.00 hrs., noticed that some people gathered on PF No.1 immediately, I rushed to the spot and caused inquiry with co-passengers they stated that one person aged about 52 years had travelling in train No.11424 – Intercity Express and getting down from the train from off side with intention to come to platform No.1 while boarded in train No.56906 passenger, he slipped and fallen down got severe injury. In this regard co-passengers called to 108 ambulance and the injured person shifted to Vasudev Hospital, Vijayapura for further treatment. In this regard as per instruction of Shri B.J. Shivanagi on duty SHO/GRP/BJP, I escorted the injured to hospital and admitted in Vasudev Hospital for further treatment. And the said matter was informed to his relative, the his relative come to hospital I had returned to station.

(emphasis supplied)

5.8 The statement of Shri Ramesh, Head Constable, Government Railway Police, Vijayapura Railway Station, who had been examined in the enquiry

conducted by the police and whose statement was recorded and reflected in said DRM report, which in turn fully supports the story as noticed herein above. Copy of DRM report was made available to the counsel for applicants and the statement of said Shri Ramesh, Head Constable, GRP was also annexed to the said Report, but no efforts or attempt were made by Applicants or his counsel to examine said Shri Ramesh to rebut or contradict the projection made by him, rather his focus remained on the plea that offside boarding. From the above, it is clear that applicants did not dispute the statement of Shri Ramesh who received the information from the co-passenger and also stated that deceased tried to board the train from the off side. Thus, in such circumstances, inescapable conclusion is that there is no challenge made to this said aspect at any stage.

15.9 One more important aspect in this case is that the applicants in order to strengthen and prove their case have produced Exh A-3 – Certified copy of Inquest Panchanamma, which was conducted on 07.01.2017 between 7.00 AM to 9.00 AM. Para-11 of the vernacular language of the same reads as under:-

ಮೃತನು ಜೀವಂತ ಇರುವಾಗ ದಿನಾಂಕ:-06-01-2017 ರಂದು ವಿಜಯಪುರ ರೈಲು ನಿಲ್ದಾಣದ ವೇದಿಕೆ ನಂ-02 ರಲ್ಲಿದ್ದ ಇಂಟರ್‌ಸಿಟಿ ರೈಲಿನಿಂದ ಇಳಿದು ಹಳಿ ದಾಟಿ ವೇದಿಕೆ ನಂ-01 ರಲ್ಲಿಗೆ ಬರಲು ವೇದಿಕೆ ನಂ-01 ರಲ್ಲಿಂದ ನಿಧಾನವಾಗಿ ಚಲಿಸುತ್ತಿದ್ದ ಪ್ಯಾಸೆಂಜರ್ ರೈಲನ್ನು ಅಪ್ ಸೈಡ್‌ನಿಂದ ಹತ್ತಿಕೊಂಡು ಬರಲು ಪ್ರಯತ್ನಿಸುತ್ತಿರುವಾಗ ತನ್ನಷ್ಟಕ್ಕೆ ತಾನೇ ಚಲಿಸುವ ರೈಲಿನಿಂದ ಆಯತಪ್ಪಿ ಆಕಸ್ಮಿಕವಾಗಿ ಕೆಳಗಡೆ ಬಿದ್ದು ಗಾಯಗೊಂಡಾಗ ಚಿಕಿತ್ಸೆ ಕುರಿತು ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲಾದಾಗ ಚಿಕಿತ್ಸೆ ಫಲಕಾರಿಯಾಗದೆ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ಮೃತಪಟ್ಟಂತೆ ಕಂಡುಬರುತ್ತದೆ.

15.10 Ld., Counsel for the Applicants has furnished English translation of Exh A-3 – Inquest Panchanamma. However, Para-11 of the English version of the same reads as under:-

“On 06/01/2017 after getting the general rail ticket, travelling from Gagag by Hubli-Intercity train, the said train came to station and stopped in platform No.2, hence, got down in upside of the train and to come to flat form No.1 and to catch the Hubli-Solapura Passenger Train which was moving slowly in flat form No.1, accidentally his hands and legs were slipped and he fell down and injured and he was admitted to Vasudeva Private Hospital of Vijayapura for treatment and he was died.”

15.11 On perusal of Exh A-3, it differs from Vernacular Language to English translation made by the Counsel for the applicants. It is specifically mentioned in Para-11 of the inquest report that when the deceased was alive on 06.01.2017, he had travelled by Intercity Express and alighted from the

Intercity train from the off side of platform No.2 and tried to catch Hubli-Solapur Passenger Train, from the off side of the said train, which was moving slowly from Platform No.1, he had accidentally fell down from the slow moving train, sustained injuries and was shifted to the hospital, where he succumbed to the injuries. Para-11 of the vernacular language has clearly mentioned that the deceased had alighted from the off side and tried to board the Hubli-Solapur Passenger train from the off side, However, this facts are not clearly and correctly translated in English language instead of 'off side' (i.e., other than the platform side), the applicant and his counsel have wrongly translated as 'upside', only with an intention to suppress the material facts to mislead the Tribunal to get the compensation from the Respondent Railways.

5.12 The inquest refers to the fact that the deceased falling down on the offside of track while the train was started moving. The applicants in the application has specifically pleaded that the deceased was travelling from Gadag to Vijayapura by Hubballi Intercity Train and journey ticket is also produced along with the application. So, it is clear that the deceased was travelling from Gadag to Vijayapura Railway Stations. The train in which the deceased has performed and completed his journey had arrived at platform No.2 of Vijayapura Railway Station. The passengers after completion of journey at their destination station have to alight from the train at the platform side and use Foot Over Bridge to go to other platform or to the exit from the station. In the instant case, it is clear that when the Hubballi Intercity Train had arrived at Platform No.2, the deceased had alighted from the off side of the train and tried to board the other train i.e., Train No.56906 – Hubli-Solapur Passenger Train, which had already started moving from the platform No.1, the deceased tried to board the moving train, fell down, sustained injuries and died. That by itself is a criminal offence committed by the deceased. From the pleading, it is very clear that the destination station of the deceased was 'Vijayapura'. Even in the cross-examination, Smt. Shwetha (AW-1), Daughter of the deceased deposed that 'her father had completed his journey from 'Gadag to Vijayapura'. In the Statutory DRM's Investigation Report, it is concluded that the deceased had got down from the off side of Platform No.2 and without using Foot Over Bridge had trespassed and tried to board Train No.56906 – Hubballi-Solapur Passenger Train, which was slowly moving. It is not the case of the applicants that the

deceased wanted to continue further journey and (not) purchased the ticket to any other destination from which, the deceased had fallen down. It is specific case of the applicants is that the deceased was travelling from Gadag to Vijayapura, when such being the case, the deceased had no authority to board the train from which he fell down that too from the off side. The fact remains that he had tried to board the moving train for which the deceased did not possess any valid ticket/authority. We must observe that the applicants had no case that the deceased has fallen from the train in which he was travelling and had admitted to the case as incident of being run over by another train for which he had no ticket. Hence, Issue No.1 is answered in the negative.

ISSUE No.2

5.13 The version of the applicants is that the deceased while getting down from Gadag-Vijayapur Express train due to over crowd had fallen down. But, it is a case of a person who got down admittedly from the off side of the train, and tried to board another train again from the off side, consequently, the train started moving, the deceased came under the wheels of another train. There could be instances where in some wayside stations, there may be no adequate safety measures available for a person detraining to come out of the Railway Station premises by using foot over bridge or a gate that would allow for an exit without having to cross the track. There is no such case made before us. On the other hand, the fact that the person was getting down on the off side of the train and tried to board another train from the off side to reach Platform No.1. If he was therefore getting hit, we cannot bring this within the definition of Untoward Incident as defined under Section 123(c). A fall from the train in which he was travelling is a mere conjecture. At this juncture, it is pertinent to mention here that Vijayapura Railway Station is a “NHG-4” category Station’ and having provision of Foot Over Bridge. There are three platform at Vijayapura Railway Station. As per norms, minimum essential amenities laid down by the Indian Railway on the basis of yardstick of average passenger tickets sold and hence provision of Foot Over Bridge is made by the railways based on the tickets sold or the patronage the Railways gets at the station.

5.14 The deceased was well aware that there is a provision of Foot Over Bridge. It is not the case of the applicants that there was an announcement in the station at the last minutes stating that the train would arrive at Platform No.2 instead of Platform No.1. When the deceased was well aware that there was FoB and there was no reason for the deceased to cross the Railway track and tried to board the Train No.56906 passenger train from off side, which is stationed at Platform No.1 with an intention to reach platform No.1, due to which he fell down on the adjoining track and got run over by Train No.56906. In our view, the death even from the off side could come within the term of definition 123©, but the manner that we have seen through the documents, we are unable to persuade ourselves that the death of the deceased was on account of fall from the train.

15.15 In the case of Mr. Rajesh & Ors., Versus Union of India represented by the General Manager, South Western Railway, Hubli, Hon'ble High Court of Karnataka at Bengaluru in MFA No.6752 OF 2017 (RCT) dated 23.08.2022, wherein it is held that –

“..Reverting to the facts of the case, on 08.12.2012, the deceased was travelling from Hubli to Gadugeri Railway Station with a valid journey ticket.

Suffice it to note that in order to board the train, which was stationed at Road No.2, she negligently crossed Road No.1 and the Train No.56516 coming from the opposite direction hit her and she sustained injuries and thereafter she died.

The DRM's report depicts that the deceased was negligently and carelessly without adopting safety measures crossing the track while Train No.56516 was approaching on Road No.2 which resulted in her run over. It is a common sense that crossing the track is dangerous.

The Tribunal in extensor referred to the material on record and held that the deceased was not a *bona fide passenger* and also concluded that the deceased was run over by some unknown train and died. In my view, the order of the Tribunal is justified. The appeal is devoid of merits. I refuse to invite interference with the orders of the Tribunal.

Resultantly, the appeal is dismissed.

To conclude, let me take the opportunity to send a message to the general public that TRACKS ARE FOR TRAINS. SEE TRACKS/ THINK TRAIN. ALWAYS EXPECT A TRAIN. STOP TRAINS CAN'T. LOOK, LISTEN AND LIVE.

(emphasis supplied)

15.16 Similarly, in the case of Mr. K.S. Sreedhar Naik & Ors., Versus Union of India represented by the General Manager, South Western Railway, Hubli Hon'ble High Court of Karnataka at Bengaluru in MFA No.6526 OF 2016 (RCT) dated 24.08.2022, wherein it is held that –

“..Reverting to the facts of the case, the DRM report depicts that the deceased crossed the track without observing the running train and run over by some known train. The relative of the deceased also admitted that she was run over by some unknown train while crossing the track. During the course of inquest, police authorities have not recovered journey ticket. Hence, she is not a *bona fide passenger*.

Suffice it to note that the applicants contended that there was no user-friendly foot over bridge/sky walk, hence, the deceased was compelled to cross the track to reach other platform.

I have considered the contention with utmost care. The record would also reveal that the deceased was crossing the railway track. It is a common sense that it is very dangerous to cross the tracks even when the crossing is closed as it, may be fatal. I strongly feel no one should take such a risk.

I may add a word here that it is our responsibility to avoid a train since it cannot avoid us. Always keep in mind that anytime is train time. Remember to look, listen and live. Stopping may add thirty seconds to our journey while non-stopping could put an end to it completely. ANYTIME IS TRAIN TIME! Remember to practice safety, Don't learn it by accident.

Never race a train to cross the tracks.

The Tribunal in extenso referred to the material on record and held that the deceased was not a *bona fide passenger* and also concluded that the deceased was run over by some unknown train and died. In my view, the order of the Tribunal is justified. The appeal is devoid of merits. I refuse to invite interference with the orders of the Tribunal.

Resultantly, the appeal is dismissed.

(emphasis supplied)

5.17 In the case of P.T. Joseph @ Thomas Jacob versus Union of India, Hon'ble High Court of Kerala in MFA No.21 OF 2012 decided on 12th September, 2013 has held that –

24.....But it shall not be an intentional act of attempted suicide. While there may be cases where there is intention to inflict oneself with injury amounting to self-inflicted injury, which falls short of an attempt to commit suicide, there can also be cases where, irrespective of intention, a person may act with total recklessness, in that, he may throw all norms of caution to the wind and regardless of his age, circumstances, etc. act to his detriment. Facts of this case show that appellant attempted to board a moving train from the offside unmindful of his age and fully aware of the positional disadvantages and dangers of boarding a train from a level lower than the footboard of the train. It is common knowledge that the footboard and handrails at the doors of the compartment are designed to suit the convenience of the passengers for boarding from and alighting to the platform. And at the same time, when a

person is trying to board the train from the non-platform side, he will be standing on the heap of rubbles kept beneath the track and that too in a lower level. Furthermore, he will have to stretch himself to catch the handrails and struggle to climb up through the footboard hanging beneath the bogie. The probability of danger is increased in arithmetic progression when the train is moving. Visualising all these things in mind, it can only be held that the act of the appellant was the height of carelessness, imprudence and foolhardiness. It is indisputable that the purpose of section 124-A of the Act is to provide a speedy remedy to an injured passenger or to the dependents of a deceased passenger involved in an untoward incident. Section 124-A of the Act provides for compensation to a passenger or his dependents who suffers injury or death, as the case may be, in an untoward incident even where the untoward incident is not the consequence of any wrongful act, neglect or default on the part of the railway administration. To this extent, it can be said to be a no fault liability. Even though the provisions relating to payment of compensation in the Act can be said to be a piece of beneficial legislation, it cannot be stretched too much to reward a person who acts callously, unwisely or imprudently. There is no provision of law brought to our notice permitting the passengers to entrain from the non-platform side of the railway track. However, the counsel for the respondent did not show any provision of law prohibiting the same. The question whether an act by which a passenger sustains injury while boarding a train through the offside is a self-inflicted injury or not depends on the facts of each case. Merely because a person suffered injury in the process of getting into the train through the offside, it may not be sufficient to term it as a self-inflicted injury, unless the facts and circumstances show that his act was totally imprudent, irrational, callous and unmindful of the consequences. All the facts and circumstances established in this case would show that the act of the appellant was with full knowledge of the imminent possibility of endangering his life or limb...”

(emphasis supplied)

15.19 Thus, in view of above discussion, our inevitable conclusion is that it would be a case which would squarely fall within the Exceptions provided under Proviso (b) & (c) of Section 124-A. As such we hold that issue No 2 has not been proved by the applicants.

5.20 In the given circumstances, we hold that applicants have failed to prove issues No.1 and 2 to the effect that the deceased was a bona fide passenger and suffered in an untoward incident. There is no merits in the contentions raised by the applicant. Therefore, both the issues are decided in negative and against applicants and hence answered in the ‘Negative’.

ISSUE NO.3

6. Issue of dependency is not examined in detail as the Respondent Railways is not liable to pay any compensation being covered under exception in Section 1234-A(C) of the Railways Act, 1989.

ISSUE NO.4

7. Under Section 124 A of the Railway Act, the dependents of a deceased person would be entitled to claim compensation only when it is established that the death of the deceased was due to an untoward incident. The expression “untoward incident’ is defined in Section 123 of the Railway Act as including the case of accidental fall from a train carrying passenger. The applicants are, therefore, required to establish that the deceased was a passenger and he had an accidental fall from the passenger train amounting to an untoward incident.

8. In view of the findings on Issue Nos.1 and 2 that the death of the deceased Shri Basavaraj Dundappa Gudadinni S/o. Dundappa Gudadinni was not on account of an untoward incident within the meaning of Section 123(c) (2) of the Railways Act, the applicants are not entitled to any relief by this Tribunal. Accordingly, the claim application deserves to be dismissed and is hereby dismissed. Hence ordered:

O R D E R

1. The Claim Application is **‘DISMISSED’**. In the facts and circumstances of the case, there is no order as to costs.

2. Registry is directed to send a free certified copy of this Judgment to the parties in view of Rule 34 (3) of the Railway Claims Tribunal (Procedure) Rules, 1989.

3. With these observation, the application is **‘DISMISSED’** and disposed off accordingly. File be consigned to Record Room after compliance.

(IVY CHARLES D’CRUZ)
(MEMBER (JUDICIAL))

(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)

Judgment pronounced on Monday, the 1st Day of April, 2024.

(IVY CHARLES D’CRUZ)
(MEMBER (JUDICIAL))

(RAVI NANDKEOLYAR)
MEMBER (TECHNICAL)