



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 327 OF 2020

- 1) Bharat Vittal Raut
- 2) Savita Bharat Raut

All R/O A-Block, behind 303,
Near Gurunanak
Near Kurla Camp
Ulhasnagar-4, District- Thane

....Appellants

Versus

Union Of India,
Through the General Manager,
Central Railway, Mumbai CSMT
Mumbai – 400 001

....Respondent

Mr. Mohan Rao for the Appellants.

Mr. T. J. Pandian a/w. Mr. Prasad Sawant for the Respondent.

CORAM : JITENDRA JAIN, J.

DATED : 16th MARCH 2026

JUDGMENT :

1. This appeal is filed challenging judgment dated 22nd March, 2019 passed by the Railway Claims Tribunal, Mumbai (Tribunal) whereby application for compensation on account of death on 29th March, 2012 of Mr. Suvidh Bharat Raut between Ulhasnagar to Ambernath Railway Station came to be rejected, on the ground that the deceased was not a “*bonafide* passenger” and the death occurred not on account of an “untoward incident” as defined by the Railways Act, 1989.

2. I have heard Mr. Rao, learned counsel for the appellants and Mr.

Pandian for the respondent.

3. On 29th March, 2012 the deceased while travelling from Ulhasnagar to Ambernath fell down from the running train between Ulhasnagar to Ambernath Railway Station and lost his life.

4. The first issue which requires to be considered is whether the deceased was a “*bonafide* passenger” holding a valid ticket to travel. Admittedly, as per the inquest panchanama no cash, ornaments and valuable articles were found. Even there is no mention of any ticket having been found. However, the appellants have led the evidence of co-passenger Mr. Sandip Valvi who in his affidavit filed before the Tribunal has stated that, the deceased had purchased two tickets for himself and for the witness and both were travelling together. In the affidavit it is also stated that the deceased informed Mr. Sandip Valvi that the monthly railway pass expired yesterday. The witness has also stated that he had informed the Ambernath Police Station about the incident and went alongwith the Railway Police at the incident spot and then to the hospital. He stated that due to heavy rush the deceased fell down from a moving train. The said witness was cross-examined by the respondent. The cross-examination happened in 2016 and the incident occurred in 2012. Therefore, the witness could not produced his ticket. It is also possible that on account of fall and subsequent transporting the body to the hospital the ticket may have been lost. Since an affidavit is filed by the co-passenger confirming the purchase of tickets, following the decision of the Hon’ble Supreme Court in the case of *Union of India Vs. Rina Devi*¹, the finding of the Tribunal that the deceased was not a “*bonafide* passenger” cannot be accepted.

5. Mr. Valvi, cannot be treated as planted witness. The inquest

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panchanama states that nothing was found from the search of the deceased. It also states that the elder brother of the deceased came to the hospital and identified the body. Therefore, the evidence of Mr. Valvi that he was present at the time of the incident cannot be brushed aside. The only person who could have informed the family members of the deceased was Mr. Valvi who knew the deceased and was staying near the house of the deceased and was a co-passenger.

6. Insofar as the “untoward incident” is concerned the incident happened between Ulhasnagar and Ambernath Railway station. At the sight of the incident, there is no eyewitness nor any office of the Railway Authorities is located. Therefore, the Station Master’s report, Railway Police report and the inquest panchanama stating that the deceased was knocked down while crossing the railway tracks cannot be accepted in the absence of any eye witness. The respondent-railway has not examined any witness to show that the deceased died by crossing the railway tracks, and further the authorities whose reports are filed were not the eyewitness. Even the pancha’s in the inquest panchanama have stated that they are of the opinion that the deceased was knocked down by a moving train. Such an opinion by a non-expert person and who were not an eyewitness cannot be relied upon.

7. The witness, Mr. Valvi in his affidavit has stated that due to heavy rush the deceased fell down and he informed the Railway Police. This was not controverted in the cross-examination. Therefore, it cannot be said that the deceased died on account of crossing the tracks.

8. The finding of the Railway Tribunal based on the nature of the injury for coming to the conclusion that the deceased was knocked down by a moving train also cannot be accepted. The Tribunal is not an expert to

given an opinion based on the nature of the injury that a person may have been knocked down by a moving train while crossing the track. It is for the medical expert and for the eyewitness to do so. In this case both are not present. Therefore, even these reasoning cannot be accepted.

9. The learned counsel for the appellants is justified in relying upon the decision of this Court in the case of ***Smt. Vijaya Pandit Sirsat & Another V/s. Union of India***², where this court has rejected the various reports of the railway authorities who were not the eyewitness for submitting that the deceased was knocked down while crossing the tracks.

10. In view of above, the impugned order dated 22nd March, 2019 to the extent challenged herein is set aside and the claimants are directed to make an application for compensation with the respondent authorities within four weeks from today alongwith the copy of the present order and give their bank details. Respondent to grant compensation of Rs. 4,00,000/- along with 6 % interest per annum from the date of accident till the date of payment subject to a cap of Rs. 8,00,000/-. The amount should be remitted to the bank accounts of the claimants within eight weeks from the date they make an application.

11. This appeal is disposed of in above terms.

[JITENDRA JAIN, J.]

² First Appeal No. 850 of 2006 decided on 22nd March, 2011