



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.739 OF 2016

1. Smt. Nagmani Ramnna Burumuri,
2. Kumari Preety Ramnna Burumuri

Both residing at A/304, A/5,
Pareira HSG Complex Bldg.,
Phoolpada Road, Virar (E)

...Appellants
(Org. Claimants)

Versus

Union of India,
through the General Manager,
Western Railway, Station Building,
Chrchgate, Mumbai – 400 001.

...Respondent
(Org. Opponent)

Mr. Sainand V. Chaugule for the Appellants.

Mr. Akash Kotecha a/w Mr. Sarwadnya Kadtane & Mr. Anand M.
Waradkar & Ms. Divya Dhumne for the Respondent.

CORAM : JITENDRA JAIN, J.

DATE : 9 MARCH 2026

JUDGMENT:

1. This appeal is filed by the original claimants challenging an order dated 17 March 2015 passed by the Railway Claims Tribunal, Mumbai (Tribunal), whereby the application made for grant of compensation of Rs. 4 lakhs on account of the death of the deceased due to railway accident was rejected on the ground that based on station master memo, inquest panchnama and Divisional Railway Manager (DRM) Report, the incident does not fall within the meaning of “untoward incident” as defined by Section 123(c)(2) of the Railways Act, 1989.

2. I have heard Mr. Chaugule, learned counsel for the appellants and Mr. Kotecha, learned counsel for the Respondent.
3. The deceased was an employee of the railway working in the commercial department and was posted at Elphinstone Road office of the respondent.
4. On 11 September 2010, the deceased in the afternoon travelled from Virar to Elphinstone to report for work in second shift. After completing his shift, the deceased travelled from Elphinstone to Virar in the midnight at around 3 A.M. When the train was approaching Virar Railway Station, due to heavy rush in the compartment, the deceased fell down and met with an accident. He was declared dead at the time of his arrival at the primary health centre at Virar.
5. The claimants made an application for compensation, which was dismissed by the Tribunal and, therefore, the present appeal is filed.
6. For grant of compensation two conditions have to be satisfied, viz., the deceased should be a “*bonafide* passenger” and the death should occur on account of an “untoward incident” as defined under Section 123(c)(2) of the Railways Act, 1989.
7. Insofar as the issue of “*bonafide* passenger” is concerned, admittedly there is no dispute that the deceased was an employee of the respondent railways. The railway employees are entitled to a free pass and a copy of the free pass granted to the deceased has been annexed with the appeal memo and the same was also annexed alongwith the original application. There is no dispute that this free pass was issued by the railway authorities. Merely because this railway pass as per the inquest panchnama was not recovered at the place of incident, it cannot

be said that the deceased was not a “*bonafide* passenger”. It is possible that this document was not recorded in inquest panchnama, though found from the search of the belongings of the deceased or it is also possible that the free pass was at home and the deceased was travelling without the free pass. In either case, it cannot be disputed that on the date of the accident, the deceased had in his favour a free pass issued by the railway authorities. Merely because, it was not found at the time of the accident or the deceased was not carrying it, cannot be a ground for rejecting the claim moreso when the Court is considering a welfare legislation and even moreso when the deceased was none other, but the employee of the respondent railways. Therefore, this ground of the respondent cannot be accepted for rejecting the claim.

8. In this connection, I draw support from paragraph 6 of order passed by this Court in First Appeal No.659 of 2014 on 8 December 2025 in the case of ***Union of India vs. Kamal Shikhare & Ors.*** and same reads as under :-

“6. Admittedly, the local pass was not found at the site of the accident. However, the wife of deceased in her examination-in-chief and cross-examination produced the local pass along with the identity card. It is not disputed that the local pass was valid on the date of the accident. The genuineness of the local pass though disputed by the appellant could not be proved as to how it is non-genuine and what steps did they take if according to them it was a non-genuine. Therefore, the genuineness of the local pass stands proved. There could be various reasons that on the date of the accident the deceased may have forgotten the local pass at home but that would not disentitle the compensation amount to the dependents. Therefore, the finding of the Tribunal that the deceased was a bona fide passenger cannot be faulted.”

9. The second condition required to be satisfied for claiming compensation is, the accident should satisfy the definition of an “untoward incident” as defined by the Railways Act, 1989.

10. The Tribunal has rejected the application by relying upon the station master memo, inquest panchnama and DRM report and it is important to note that the cause of death in all these three documents made by three different authorities of the railways are diametrically opposite and contradictory. The Tribunal records that in the station master memo, it is stated that the deceased is found lying on the platform down through track between Nallasopara and Virar. The Tribunal further records that in the inquest panchnama, it is stated that death of the deceased appears due to dashing against mail train and since the deceased was staying near Virar, the chances of trespassing are high. The Tribunal further records that in the DRM report, it is stated that the deceased was knocked down while crossing the track.

11. In my view, the Tribunal fell in grave error by relying on these three contradictory documents giving three different versions of the accident. By no stretch of imagination, the Tribunal could have given any credence to these reports which are self-contradictory.

12. The station master's report of 11 September 2010 does not give any reason whatsoever for the cause of death, though various reasons is printed format has been set out.

13. The inquest panchnama was recorded not at the site of the accident, but at the primary health centre, where the body was kept. The inquest panchnama records that they are confirming what was told to them by the police constable. Such police constable was never examined by the railway authorities before the Tribunal, nor it is the case of the railway that he was an eyewitness to the incident. Such hearsay evidence in such type of beneficial legislation can by no stretch of imagination be relied upon for adjudicating the compensation claim. The inquest panchnama further records, the opinion of the panchas

after recording the nature of injuries that the death of the deceased appears to be due to dashing against some unknown mail train. In my view, the panchas are not medical experts, nor eyewitness and, therefore, based on the nature of injury and hearsay evidence such an opinion could have never been given by the panchas. Secondly, the panchas have expressly stated that the accident (appears) due to dashing against unknown mail train, though the panchas were never the eyewitness to the incident. In my view, no relevance should be attached to such an inquest panchnama.

14. The DRM report states that in the inquest panchama, it is stated that the deceased was knocked down by an unknown train. I have already expressed my views on the weightage to be given to the inquest panchnama and since I have discarded the inquest panchnama, the DRM report which is based on such inquest panchama also has to be rejected.

15. In the written statement, it is not the case of the respondent railway that the deceased died due to crossing of the tracks.

16. Admittedly, the deceased who was an employee of the railways died while falling down from the moving train. In my view, such an incident would squarely fall within the phrase accidental falling from a train carrying passenger which defines “untoward incident” by Section 123(c)(2) of the Railways Act, 1989.

17. Merely because the deceased was staying close to the railway station, it cannot be presumed that he was crossing the tracks and was knocked down by a moving train. This would be a finding based on surmises and conjectures. The station master report states that the accident happened between Nallasopara and Virar. Therefore, even on this count, such an argument cannot be accepted.

18. Before parting, I would like to observe that such matters where the employees of the railways themselves have died because of the accident, should have never landed in this Court or in the Tribunal, but the railways should have on their own and more particularly after examining conflicting reports by their own authorities should have granted the compensation without making the claimants, who are the dependents of the railway employee, run from pillar to post. I hope that in future such things are not repeated.

19. In view of above, the claimants to make an application for grant of compensation alongwith the present order with the respondent-railways for compensation of Rs 4 lakhs alongwith interest at 6% from the date of accident till the date of payment should be calculated subject to a cap of Rs.8 lakhs and the amount should be remitted to the bank account of the claimants within eight weeks from the date of making such an application. In the application, the claimants should also give details of their bank accounts. The respondent railway authorities should ensure that the claimants are not made to run from pillar to post for transfer of the amount to their account and I hope that the amount will be remitted immediately within eight weeks from the date of making such application.

20. The First Appeal is disposed of in above terms.

[JITENDRA JAIN, J.]