

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 619 OF 2018

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Rajani Ravindra Pol d/o.  
Deceased Shyamal Sachin Salvi

....Appellant

***Versus***

Union Of India,  
Through The General Manager,  
Western Railway

....Respondent

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Mr. Vaneet Khosla for the Appellant.

Mr. Pratik Irpatgire for the Respondent.

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CORAM : JITENDRA JAIN, J.  
DATED : 17<sup>th</sup> MARCH 2026

**JUDGMENT :**

1. This appeal challenges an order dated 31<sup>st</sup> January, 2018 passed by the Railway Claims Tribunal (Tribunal), whereby, the claim made by the appellant came to be rejected on solitary ground that same does not constitute “untoward incident”, as defined by the Railways Act, 1989.

2. I have heard Mr. Khosla, learned counsel for the appellant and Mr. Irpatgire for the Railways-respondent.

3. The appellant is the daughter of the deceased. The deceased on 28<sup>th</sup> December, 2010 was travelling from Nallasopara to Santacruz with a valid season pass. The deceased was working as a housemaid. At around 6.30 a.m. - 7.00 a.m., the deceased lost her life on account of fall from the train and, therefore, the application was made before the Tribunal for

compensation.

4. The Tribunal with respect to “bonafide passenger” gave finding in favour of the appellant but with respect to “untoward incident”, relied upon the documents prepared by the railway authorities and after examining the nature of injuries came to a conclusion that the deceased was knocked down while crossing the track and, therefore, the claim was rejected.

5. The respondents are not in appeal against the findings given by the Tribunal in favour of the appellant.

6. The Station Master’s Report dated 28<sup>th</sup> December, 2010 does not give any reason for the death, though various reasons are set out including “hit by unknown train while trespassing”. This is the first report prepared after the incident and if the appellant was trespassing, the Station Master would have stated so in his report, but on the contrary, the Station Master has stated “not known”.

7. The inquest panchnama is prepared while the body was lying in the hospital. The panchas have stated that the deceased must have died due to being hit by some unknown local train. Admittedly, the panchas were not the eye witnesses at the time when the incident happened. Therefore, any opinion expressed by such panchas cannot be accepted.

8. The Police Report states that the deceased was crossing lane no. 4 and was hit by some unknown local train and died on the spot. This is stated to have been recorded in the Station Master’s written memo. I have already observed above that, in the Station Master’s Report, there is no such reason given and, therefore, report prepared by the police is on incorrect basis, which does not find its place in the Station Master’s Report.

9. In the Divisional Railway Manager's Report it is stated and rightly so that, the Station Master did not mention any cause of incident in the memo, but in the inquest panchnama it is stated that the deceased was knocked down by unknown local train. I have already opined my views on both these documents above.

10. Furthermore, Divisional Railway Manager's Report is based on incorrect facts, which were never recorded in the Station Master's Report and, therefore, the conclusion that the deceased died on account of negligence, carelessness and trespassing cannot be accepted.

11. In the report prepared by the Station Master and addressed to the General Railway Police (GRP) on 17<sup>th</sup> August, 2012 it is stated that, the reason of the untoward incident is not known. In Form No.2 annexed thereto, there is no indication of the case made out of trespassing, negligence, or criminal act.

12. The reasoning of the tribunal based on the nature of injury for coming to the conclusion that the deceased died on account of trespassing or crossing the railway line, cannot be sustained. The respondent-railways have not examined any witness, including a medical expert. The Tribunal is not an expert body for coming to a certain conclusion based on the nature of the injury. Therefore, the Tribunal's finding on this aspect cannot be sustained.

13. The reliance placed by the respondent on Section 147 read with Section 124A of the Railways Act cannot be accepted. Section 147 provides that a person enters upon any part of a railway without lawful authority, or having lawfully entered upon, misuses such property, or refuses to leave. In this case, in none of the report it is stated that the deceased entered into

any part of the railway without lawful authority or misused the property or refused to leave. There is no eyewitness of crossing the tracks. Therefore, provisions of section 124A(c) of exclusion on account of “own criminal act” is not applicable to the facts of the present case.

14. For all the above reasons, the impugned order to the extent challenged by the appellant herein is set aside and the findings of the Tribunal on “untoward incident” is reversed. The deceased died on account of an accidental fall from a train carrying passengers with a bonafide ticket. and, therefore, the claim is required to be granted.

15. The appellant to make an application to the respondent authority along with the present order for compensation of Rs. 4,00,000/- @ 6% per annum from the date of accident till the date of realisation along with the bank details. The respondent to remit the amount within 12 weeks from receiving the said application. The aggregate amount of compensation, along with interest is subject to cap of Rs. 8,00,000/-.

16. When the appeal was filed, the original claimant/appellant was unmarried. Subsequently, she was married and the amendment has been carried out in present appeal pursuant to order of this court dated 17<sup>th</sup> October, 2023. The respondent authorities to consider the married name of the appellant for grant of compensation.

17. Appeal is allowed in above terms.

[ JITENDRA JAIN, J. ]