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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.9 OF 2022

1. Waman Maruti Suryawanshi,
2. Mrs.Prabhavati Waman Suryawanshi,
R/o.Ram Nagar, Surya Darshan Chawl,
Room No.275, Digha Gaon, Navi Mumbai.

Appellants

versus

Union of India through
General Manager, Central Railway,
2nd floor, G.M.Building, D.N.Road, Mumbai-400001.

Respondent

Mr.Vasant More i/by Mr.Deepak Sadvilkar for Appellants.

Mr.Niranjan P.Shimpi with Ms.Bhagyashri Waghmare for Respondent-UOI.

CORAM : AARTI SATHE, J.

Date of Reserving the Judgment : 17th September 2026

Date of Pronouncing the Judgment : 24th September 2026

JUDGMENT:-

1. The present First Appeal is filed by the Appellants being aggrieved by the Judgment and Decree passed by the Railway Claims Tribunal, Mumbai, 2nd Bench Mumbai ("Tribunal") under Section 23 of the Railway Claims Tribunal Act, 1987 dated 20th September 2019 ('impugned judgment and decree') whereby the following order came to be passed:

"ORDER

The claim application is dismissed. Parties shall bear their own costs."

2. Briefly the facts are as follows:

(i) At the relevant time i.e. sometime around 2015, Rahul Waman Suryawanshi (deceased) was employed with Maharashtra Industrial

Development Corporation ('MIDC') and was the sole bread winner of the family. It is the Appellants' contention that they were financially dependent upon the deceased for their needs. It is further their contention that apart from them, there were no other dependents of the deceased;

(ii) On 22nd March 2015, as per the Appellants' contention, the deceased purchased a valid railway ticket at Ghansoli Railway Station and boarded a local train bound for Airoli Railway Station. It is further Appellants' contention that while the train was running between Ghansoli and Rabale railway stations, the deceased accidentally fell from the moving train and sustained heavy injuries and died before admission in the hospital. It is the Appellants' contention that a railway ticket was recovered from the deceased and the same has been recorded in the inquest panchanama and subsequently the said ticket was handed over to the Appellants. However, the Appellants inadvertently misplaced the said railway ticket.

(iii) On 9th April 2015, the Appellants filed Original Application No.430 of 2015 before the Tribunal, claiming compensation on account of death of the deceased under the provisions of Section 124A of the Railways Act, 1989 ('Railways Act');

(iv) On 8th June 2015, the Respondent-Railways carried out statutory investigation under the provisions of Railway Passengers (Manner of Investigation of Untoward Incident) Rules, 2003 ('Rules') and submitted Divisional Railway Manager (DRM) report wherein it was concluded that the deceased was trespassing the railway track and got injured. It is, therefore,

Respondent-Railways contention that the deceased had not died on account of an untoward incident as defined under Section 123(c)(2) of the Railways Act, however, it was on account of his own negligence that the deceased had died. The Respondent-Railways on 14th July 2015 filed written statement along with DRM report, *inter alia*, submitting on the basis of the Station Master, Ghansoli's memo that "*one unknown person aged about 26 years was hit by an unknown train while trespassing the railway track*". Accordingly, the Respondent-Railways denied the claim on the ground that the deceased was hit by a local train and was not a bona-fide passenger;

(v) On 26th July 2019, the Appellant No.1 deposed on behalf of the Appellants before the Tribunal, and he was also cross-examined by the Respondent-Railways. After hearing both the parties and after cross-examination was conducted, the Tribunal framed the following issues:

- "i) Whether the deceased was a bona fide passenger of the train in question at the time of accident?
- ii) Whether the deceased suffered injuries and died in an untoward incident while travelling in the train in question?
- iii) Whether the Respondent is protected under the exceptional clause of Sec.124(A) of the Railway Act and not liable to pay any compensation?
- iv) Whether the applicants are the only dependents of the deceased?
- v) Relief?"

(vi) By the impugned Judgment and Decree, the Tribunal answered certain issues against the Appellants and certain issues in favour of the Appellants. However, ultimately the Tribunal dismissed the Original Application filed by the Appellants by holding that the deceased was indeed knocked down by the unknown train between Ghansoli and Rabale railway stations, sustained serious

injuries and died subsequently. The Tribunal, however, held on the basis of perusal of the inquest panchanama that it was established that the deceased was in possession of a valid railway ticket for his journey of 22nd March 2015 and hence was a bonfide passenger;

(vii) The Tribunal on the basis of the evidence and the record, therefore, came to the conclusion that the Appellants have failed to prove that the deceased had fallen down from a local train and had suffered injuries in the process and died.

3. In view of the aforesaid findings, the following points arise for determination in the present appeal viz.:

(a) Whether the Appellants have proved that the deceased was a bona fide passenger travelling with a valid railway ticket and hence was entitled to the claim as made before the Tribunal?

(b) Whether the deceased had died of fall from the train or had been hit by an unknown train while trespassing on the railway track?

(c) Whether the deceased had died on account of an untoward incident and hence was liable to be compensated by the Railways?

(d) Whether the exceptions as provided in Section 124A of the Railways Act are applicable to the facts of the present case?

(e) What reliefs are the Appellants are entitled to?

4. Mr. Vasant More instructed by Mr. Deepak Sadvilkar appeared for Appellants and Mr. Niranjana P. Shimpi along with Ms. Bhagyashri Waghmare appeared for Respondent-Railways.

5. Mr. Vasant More, learned counsel on behalf of the Appellants submitted that the Tribunal failed to appreciate the facts of the present case and erred in coming to a conclusion that the Appellants were not entitled to the claim

amount, inasmuch as, it was not proved that the deceased had sustained injuries while trespassing on the tracks. He further submitted that the Tribunal decided the issue of bona fide passenger in favour of the Appellants, however, only on the basis of the memo of Station Master and the DRM report, the Tribunal erroneously came to a conclusion that the deceased had been hit by an unknown train while trespassing the railway track. He submitted that the Respondent-Railways failed to prove that the case fell within the exceptions of Section 124A of the Railways Act and further that there was no eyewitness i.e. the motorman or the guard of the local train to prove or depose that the deceased had indeed been knocked down by an unknown train while crossing the railway track. He further submitted that the Tribunal failed to consider the most crucial document i.e. the inquest panchanama wherein it was clearly recorded that the deceased had indeed fallen down from a running local train and therefore it was incorrect on part of the Tribunal to only rely upon the memo of Station Master and DRM report. He further submitted that the Tribunal had erroneously dismissed the claim of the Appellants on the ground that the alleged incident was not an untoward incident. He submitted that such a finding of the Tribunal was incorrect, inasmuch as, the Appellants had filed affidavit-in-evidence wherein they showed that the deceased had indeed fallen down from a running local train and also the same was proved by the evidence of AW-1 and the inquest panchanama. He submitted that the Respondent-Railways had not brought on record anything contrary to prove that the deceased died on account of being knocked down by the train while crossing the railway track. He also sought to place reliance on the judgments of **Sadashiv Rannappa Kotiyan Vs.**

Union of India¹ and **Mrs.Seema Pathare & Anr. Vs. Union of India**² to contend that, a co-ordinate Bench of this Court in the aforesaid decisions categorically held that, there was no expert evidence produced by the Respondent-Railways before the Tribunal to prove the nature of injuries sustained by the deceased therein while crossing the railway track. He submitted that in the aforesaid decisions, this Court held that once it was established and held by the Tribunal that the deceased was indeed a bona fide passenger, there was no reason for the Tribunal to hold that the deceased died while crossing the railway track, which, *per se*, was a criminal act. He submitted that the Respondent-Railways have failed to discharge their onus of proving that the deceased had not fallen from the running train but was hit by an unknown train while trespassing/crossing the railway track. He also submitted that the Tribunal had observed that the nature of injuries could have been inflicted on the deceased by being knocked down or by being run over by the train without having any concrete evidence on record to support the aforesaid finding. He also sought to place reliance on the provisions of Section 124A of the Railways Act to contend that, in the facts of the present case, the Respondent-Railways had not proved that the compensation would not be payable because exceptions as contemplated under clauses (a) to (e) of the Railways Act were applicable. He also sought to place reliance on the decision of the Supreme Court in the case of **Union of India Vs. Rina Devi**³ to contend that in the aforesaid case, the Supreme Court has held that negligence is no ground to deny the compensation and further mere

1 F.A. No. 658 of 2018 (Bom HC)

2 F.A. 551 of 2021 (Bom HC)

3 2018 ACJ 1441

absence of a ticket, would not negate the claim that the deceased was a bona fide passenger. He submitted that in the facts of the present case in fact a ticket was found on the body of the deceased and the finding of the Tribunal that the deceased was a bona fide passenger strengthens the claim of the Appellants. He also submitted that post amendment of the Rules, the amendment of compensation payable in case of death of a passenger as a result of an untoward incident, has been enhanced from Rs.4 lakh to Rs.8 lakh and by applying the principles in **Rina Devi** (supra), if the amount so calculated is less than the amount prescribed on the date of impugned Judgment and Decree of the Tribunal, the claimant would be entitled to higher of the two amounts. He submitted that considering that in the facts of the present case the accident occurred on 22nd March 2015, applying the principles of **Rina Devi** (supra) and the amended Rules, the Appellants would be entitled for a compensation of Rs.8 lakh.

6. *Per contra*, learned counsel on behalf of the Respondent-Railways submitted that the impugned Judgment and Decree dismissing the Appellants' claim, is perfectly valid and reasoned judgment, and the same need not be interfered in the present First Appeal. He submitted that in the facts of the present case, the Appellants themselves had no personal knowledge of the accident and further that the deceased was not residing with them on the date of accident. He has submitted that in fact the statement of one Ms.Kanchan Magar Gole, cousin of the deceased, is a vital statement where the said Ms. Kanchan Magar Gole had deposed that the deceased and his mother were her neighbours and the deceased had left his residence on 21st March 2015 and therefore, the Appellants could never

have the knowledge of the whereabouts of the deceased and about his travel by train or purchase of the ticket. He further submitted that though Appellant No.1 submitted that he would call said Ms. Kanchan Magar Gole for evidence, the same was never done, which showed the dishonest intention of the Appellants. He further submitted that the DRM report on which the Respondent-Railways sought to place reliance upon, is a statutory investigation report carried out under the provisions of Rules and the same has sufficient evidentiary value under the provisions of Section 191 of Railways Act. He submitted that the inquest panchanama which was only on the basis of the information of panchas, would not carry any evidentiary value and also the contents therein were very vague and the same did not show as to whether the ticket was valid or expired or found on the person of the deceased. He submitted that as per the provisions of Section 2(29) of the Railways Act, the term 'passenger' has been defined and the same means a person travelling with valid pass or ticket. The definition of passenger under the provisions of Section 2(29) is reproduced below:

"(29) "passenger" means a person travelling with a valid pass or ticket."

7. He further submitted that initial burden to prove that the Appellants are entitled for the compensation, has not been discharged by the Appellants and also considering the same, it lacks the valid ingredients of Sections 104 and 106 of the Indian Evidence Act, 1872. He also submitted that as per the definition of the term 'untoward incident', as prescribed in Section 123(c)(2) of the Railways Act, the act of trespassing by the deceased, would not fall under the definition of the term 'untoward incident'. The relevant definition is reproduced below:

[123. (c) "untoward incident" means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.]

ANALYSIS AND FINDINGS

8. I have heard learned counsel on behalf of the parties. At the outset, the only issue which needs to be decided in the present case is whether the deceased was entitled to the compensation as prayed for before the Tribunal and whether the cause of the death of the deceased was on account of being hit by an unknown train by trespassing or whether the deceased had fallen off from a running train when he was travelling between Ghansoli and Airoli station.

9. To decide the aforesaid issue, the Tribunal on examination of the documents and evidence, has in my view come to an erroneous conclusion that the deceased was hit by an unknown train while trespassing, inasmuch as, the Tribunal has not taken into consideration that there was absolutely no eyewitness or any evidence led by the Respondent-Railway to establish the aforesaid contention. It is my view that the Tribunal has only relied on the DRM report and the Station Master Memo to come to the conclusion that the deceased was crossing the railway track and trespassing without examining whether indeed the same was a correct position. In fact, in the office note which forms part of the DRM report dated 8th June 2015, it has been noted that the aforesaid incident of the deceased dying

might have taken place while the victim was crossing railway track. The relevant office note dated 8th June 2015 is reproduced below: -

“OA No. OA/2015/0430/RCT/BB

Date: 08.06.2015

Sub: Case No. OA/2015/0430 RCT: BB, V/S UOI through GM / C. Rly.
CST Mumbai claim on account of death of Rahul Waman Suryavanshi on 22.03.2015 at KM No. 43/4 bet GNSL-RABE stations.

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Enquiry was entrusted to Inspector/RPF/TAPG who obtained relevant documents from GRP/VSH and furnished the statutory investigation report in the case, which reveals as under:

On 22.03.2015 at about 09:10 hours CNC/GNSL issued a memo to GRP/Vashi that an unknown person is injured at KM No. 43/4 between GNSL & RABE Railway Stations while tress passing the railway track. On receipt of the memo GRP/SH attended the spot and brought the injured person to NMM/Hospital Vashi for treatment where he was declared dead by on duty Doctor on the same day at 10:03 hours. Hence an inquest panchanama was prepared by GRP/SH and the dead body was handed over to Hospital authority for Post-Mortem. A case was registered ADR No. 38/2015 under section 174 Cr.PC by GRP/VSH. As per memo issued by CNC/GNSL and report submitted by IPF/PNVL this incident might have taken place while the victim was crossing Railway Track. The documents collected from GRP/Vashi along with the report of Inspector/RPF/TAPG are attached herewith

ADRM is requested to accord his "Acceptance" as per the provision of Rule. 11(2) of the said statute, please.”

(emphasis supplied)

10. Further it is seen that even though the aforesaid office note relies on the inquest panchanama which had categorically noted that the deceased fell down from the running local train, the DRM report has been prepared by ignoring this crucial noting in the inquest panchanama. The contents of the inquest panchanama are reproduced below: -

(English Translation of the Inquest Panchanama written in Marathi)

Inquest Panchanama

Date- 22/03/2015

1. Mr. Kiran Janardan Waghe, age-36 years, Residing at :- Room No. 179, Vithal Rukmini Chawl, Ram Nagar, Digha Navi Mumbai.
2. Mr. Nithesh Yogelal Chavan, aged- 26 years, Residing at : Swami Samarth Chawl, Room No 2108, Digha, Navi Mumbai.

Today PHC 2863 V. V. Doke appointed at Vashi Railway Police Station called above Panchas at Accident Department of Municipal Hospital at Vashi and

told that on 22/03/2015, at about 9:10 Hrs. one unknown person aged 26 years **HAS FALLEN DOWN FROM UNKNOWN LOCAL TRAIN at K.M. No. 43/4** and sustained injury and as per Memo of Ghansoli Station Master he was taken to the Municipal hospital and on duty Medical officer declared him dead before admission at about 10:03 Hrs. Therefore, as per request, we Panchas and Police are present and preparing the Inquest Panchanama as under :-

The dead body kept on iron stretcher of Accident Department of Municipal Hospital and kept in supine Position. Head is towards West side and feet are towards west side. **Name of deceased:- RAHUL WAMAN SURYAWANSHI**, aged 26 years Residing at Ram Nagar, Suryadarshan Chawl, Room No. 275, Dighe, Navi Mumbai.

Description: Height 5 X 5 inch, physically Medium, Complexion Fair, Face Vertical, Nose Straight, Mustaches - French Cut, Beard Little. Cloths:- Black Colour Half T Shirt , White Colour Sando Baniyan, Black Colour Half Pant, Light Colour Underwear.

Injuries:- 2 inch long wound above left eyebrow, Small injuries bears the said wound. abrasion on the left hand from shoulder, abrasion on the left knee, abrasion on the body, On checking the Body we found, One Samsung Company Mobile, Rs. 120 /- Cash, Other Misc. Papers, **RAILWAY TICKET**.

At the time of preparing panchnama, Brother in Law of deceased Kanchan Magar Gole, aged 40 years, Residing at Dighe Gaon, Navi Mumbai came at Municipal Hospital, Vashi and **IDENTIFIED THE DECEASED AS HIS BROTHER IN LAW Mr. RAHUL WAMAN SURYAWANSHI**, aged 26 years, Residing at Dighe Gaon, Navi Mumbai.

Accordingly, to we Police and panchas, The said **DECEASED HAS DIED DUE TO FALL DOWN FROM UNKNOWN LOCAL TRAIN AND SUSTAINED SERIOUS INJURED**. But to know the real reason of his death body has been sent to Municipal Hospital for post mortem.

This panchanama is prepared in Marathi, read over & explained to us and it is true and correct.

Panchanama started at 11:10 hrs. and completed at 11:50 hrs.

Therefore written down Panchanama,

Dated: 22/03/2015

1] Sd/-

2] Sd/-

11. The Tribunal, therefore, has completely ignored the aforesaid inquest panchanama and on the basis of the DRM report which only has held that the incident might have occurred on account of the deceased trespassing the railway track has erroneously come to the conclusions that the deceased is not entitled to compensation.

12. I am therefore inclined to reject the submission made by learned counsel on behalf of the Respondent-Railways that the DRM report is an investigative report and hence has statutory force as per the provisions of Section 191 of the Railways Act. This in view of the fact that Section 191 of the Railways Act only makes entries in the railway records admissible in evidence, however, the same does not render them conclusive proof as facts stated therein. The credibility of railway records must be judicially tested for the reliability and corroboration especially where they conflict with independent evidence. The reliance placed by learned counsel on behalf of Appellant on the decision of **Basanta Mangaraj and Anr. Vs. Union of India**⁴ rendered by the High Court of Orissa at Cuttack bench in support of the aforesaid proposition would support the view I have taken. The relevant paragraph of the aforesaid decision is reproduced below:-

xi. Thirdly, the reliance placed by the Tribunal on Section 191 of the Railways Act is wholly misconceived. That provision merely makes entries in railway records admissible in evidence; it does not render them conclusive proof of the facts stated therein. The Tribunal has, therefore, erred in treating departmental memos and internal reports as determinative of factual truth, overlooking the settled principle that admissibility and probative value are distinct concepts. The credibility of railway records must still be judicially tested for reliability and corroboration, especially where they conflict with independent evidence.

(emphasis supplied)

13. Further, in the facts of the present case, when it is an admitted position that there were no eyewitnesses to testify whether the deceased actually was caught trespassing/crossing the railway tracks, the contention of learned counsel on behalf of the Respondent-Railways that the same would not be an “untoward incident” as defined in Section 123(c)(2) of the Railways Act deserves to be rejected. The provision of Section 123(c)(2) of the Railways Act is very clear that an untoward

⁴ F.A.O. No. 170 of 2025 (Orissa HC at Cuttack)

incident would be an incident which would be an accidental falling of any passenger from the train carrying passenger. The Tribunal has not examined this fact but on the other hand has held that the deceased was a bonafide passenger at the time of the accident and indeed was in possession of a valid railway ticket. Once that being the finding of the Tribunal, it would be incorrect on the part of the Tribunal to merely rely on Station Master Memo and DRM report to come to a conclusion there was no untoward incident as defined in the Railways Act to deny compensation to the deceased. I am therefore in agreement with the reliance placed by learned counsel on behalf of the Appellant in the case of **Jameela & Ors. Vs. Union of India**⁵ & **Rina Devi** (supra) to contend that when a passenger falls from a running train during the course of journey, the incident constitutes an untoward incident, and the Respondent-Railways are liable unless the case falls within the exception as provided under Section 124 (a) to (e). In fact, in the case of **Rina Devi** (supra), it has been held that even in the cases where no eyewitnesses are available, the presence of a valid ticket, and discovery of the body near the railway track are sufficient to infer accidental fall unless rebutted by credible evidence. The relevant paragraphs of the aforesaid decisions are reproduced below:

Jameela & Ors. Vs. Union of India

5. We are of the considered view that the High Court gravely erred in holding that the applicants were not entitled to any compensation under section 124-A of the Act, because the deceased had died by falling down from the train because of his own negligence. First, the case of the Railways that the deceased M. Hafeez was standing at the open door of the train compartment in a negligent manner from where he fell down is entirely based on speculation. There is admittedly no eyewitness of the fall of the deceased from the train and, therefore, there is absolutely no evidence to support the case of the Railways that the accident took place in the manner suggested by it. Secondly, even if it were to be assumed that the

5 2010 ACJ 2453

deceased fell from the train to his death due to his own negligence it will not have any effect on the compensation payable under section 124-A of the Act.

6. Chapter XIII of the Railways Act, 1989 deals with the 'Liability of Railway Administration for Death and Injury to Passengers due to Accidents'. Section 123, the first section of the Chapter, has the definition clauses. Clause (c) defines 'untoward incident' which insofar as is relevant for the present case is as under:

"123 (c) 'untoward incident' means—

xxx xxx xxx

(2) the accidental falling of any passenger from a train carrying passengers."

Section 124-A of the Act provides as follows:

"124-A. Compensation on account of untoward incident.—When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no. compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to-

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.--For the purposes of this section, 'passenger' includes-

- (i) a railway servant on duty; and
- (i) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident."

(Emphasis added)

7. It is not denied by the Railways that M. Hafeez fell down from the train and died while travelling on it on a valid ticket. he was, therefore, clearly a 'passenger' for the purpose of section 124-A as clarified by the Explanation. It is now to be seen that under section 124-A the liability to pay compensation is regardless of any wrongful act, neglect or default on the part of the railway administration. But the proviso to the section says that the railway administration would have no liability to pay any compensation in case death of the passenger or injury to him was caused due to any of the reasons enumerated in clauses (a) to (e).

8. Coming back to the case in hand, it is not the case of the Railways that the death of M. Hafeez was a case of suicide or a result of self-inflicted injury. It is also not the case that he died due to his own criminal act or he was in a state of intoxication or he was insane, or he died due to any natural cause or disease., His falling down from the train was, thus, clearly accidental.

9. The manner in which the accident is sought to be reconstructed by the Railways, the deceased was standing at the open door of the train compartment from where he fell down, is called by the Railways itself as negligence. Now negligence of this kind which is not very uncommon on Indian trains is not the same thing as a criminal act mentioned in clause (c) to the proviso to section 124-A. A criminal act envisaged under clause (c) must have an element of malicious intent or mens rea. Standing at the open doors of the compartment of a running train may be a negligent act, even a

rash act but, without anything else, it is certainly not a criminal act. Thus, the case of the Railways must fail even after assuming everything in its favour.

10. We are, therefore, constrained to interfere in the matter. The judgment and order of the High Court coming under appeal is set aside and the judgment and order of the Tribunal is restored. Since a period of more than 10 years has already elapsed from the date of the judgment of the Tribunal, the compensation money along with interest need not be kept in fixed deposits but should be paid to the appellants in the ratio fixed by the Tribunal. The payment must be made within 2 months from today.

(emphasis supplied)

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18. As already observed, though this Court in Thazhathe Purayil Sarabil held that rate of interest has to be @ 6% from the date of application till the date of the award and 9% thereafter and 9% rate (interest was awarded from the date of application in Mohamadi²⁰, rate of interest has to be reasonable rate on a par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises up to the date of payment, without any difference in the stages. Legal position in this regard is on a par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner.

(emphasis supplied)

14. I am further of the view that the Tribunal was not an expert body to examine the nature of injuries and come to a conclusion that the said injuries could have been inflicted only because the deceased knocked down or run over by the train and not been sustained after having fallen down by any train. This finding of the Tribunal to my mind is not a finding which can be sustained as there was nothing on record to show, what could be the nature of injury, to decipher that the deceased was indeed hit by an unknown train. None of the documents on record establish, what was the cause of the injury, and hence the same cannot be a finding which can be sustained. The personal opinion of the Tribunal on the nature of injuries cannot be a decisive factor to hold that the accident had occurred on account of the deceased being run over by an unknown train.

15. Further, the Tribunal has also failed to consider the case of the Appellants that the death of the deceased did not fall under the exceptions as

enumerated under clauses (a) to (e) of Section 124A of the Railways Act. In the absence of such a finding, conclusion reached by the Tribunal, that no compensation was payable to the Appellants is to my mind an incorrect approach adopted by the Tribunal. I am therefore of the view that the impugned judgement and decree of the Tribunal requires to be set aside, and the First Appeal deserves to be allowed. Considering the evidence led in the present proceedings and the law laid down by Supreme Court and various High Courts, interference is required in the impugned judgement and decree. The points for determination are answered accordingly.

16. It is an undisputed fact that the Appellants are father and mother of the deceased and hence are dependents under Section 123(b) of the Railway Act. Further, it is well settled that the Railways Act is a beneficial piece of legislation and hence it should receive a liberal interpretation and whenever there are two views possible, a construction in favour of the beneficiary of the legislation should be preferred and the real intent of the legislation ought to be sought. Considering the aforesaid beneficial nature of the legislation, also to my mind, the Tribunal has taken a narrow and erroneous interpretation of the provisions of the Railways Act and deprived the family members of the deceased from the beneficial legislation.

17. Insofar as the contention of the learned counsel on behalf of the Appellant, that considering the amendment effected in the Rules by the Amendment Rules of 2016 and that the amount of compensation to be payable on death of the passenger which have been enhanced from Rs. 4,00,000/- to Rs.8,00,000/- is concerned, the ratio as laid down in **Rina Devi** (supra) would be

applicable to the facts of the present case, and in view thereof, considering that the accident had taken place on 22nd March 2015 and the impugned Judgement and Decree was passed on 20th September 2019, which was after the amendment to the Rules, applying the principles laid down in paragraph 18 of **Rina Devi** (supra), the compensation payable would be Rs.8,00,000/-. However, considering the interest from the date of accident till today, on Rs. 4,00,000/- at the rate of 9%, it would be Rs.8,14,641/-.

18. The Supreme Court in the Judgment of **Rina Devi** (supra) in paragraph No. 18 has held that, interest will be payable from the date of the accident. Having regard to the legal position, which is held to be on par with claims under the Motor Vehicles Act, 1988, interest @9% p.a. (i.e. Rs.36,000/- p.a. or Rs.3,000/- per month) appears to be just and reasonable. It is well settled that Section 124A of the Railways Act is a beneficial piece of legislation. The Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 (Rules of 1990) are framed in exercise of the powers conferred by the Railways Act.

19. Taking into account the date of the impugned Judgment and Decree i.e. 20th September 2019, which is subsequent to the amendment to the said Rules of 1990 in the year 2016 (whereby the compensation payable for death has been revised to Rs.8,00,000/-), paragraph 18 of **Rina Devi** (supra) would apply. Accordingly, a comparison between the two amounts is required to be made, and the higher of the two amounts is liable to be awarded, this being under a beneficial piece of legislation. The date of the incident is 22nd March 2015 and the amount as compensation as claimed on that date was Rs.4,00,000/-. The impugned Judgment

and Decree was passed by the Tribunal on 20th September 2019. By that time, the compensation payable pursuant to the amended Rules of 2016 was enhanced to Rs.8,00,000/-. However, considering the interest from the date of accident till today on Rs.4,00,000/-, @ 9% would be Rs.4,14,641/-. The total amount as of today would be Rs.8,14,641/-. As per the ratio of the Judgment of **Rina Devi** (supra), the higher of the two amounts is Rs. Rs.8,14,641/-

ORDER

- (i) First appeal is allowed and impugned judgment and decree dated 20th September 2019, is hereby quashed and set aside.
- (ii) Claim of the Appellant stands allowed of an amount of **Rs.8,14,641/-** and as the Appellants are the father and mother of the deceased i.e. the dependents the said amount be equally distributed between them.
- (iii) The said amount of **Rs.8,14,641/-** be deposited by the Railways in the bank account of the Appellants within a period of **eight weeks** from the date the Appellant furnishes the bank details to the Chief Claim Officer, Central Railway.
- (iv) If the said amount is not deposited in their bank accounts within a stipulated period. It will carry further interest at rate of 9% per annum till the time of payment.
- (v) First Appeal stands disposed of accordingly. Interim application(s) if any, also stands disposed of.

(AARTI SATHE, J.)