

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 10th OF NOVEMBER, 2025

MISC. APPEAL No. 657 of 2017

RAMAAVATAR @ RAMOTAR PRAJAPATI AND OTHERS

Versus

UNION OF INDIA

.....
Appearance:

Shri Vinayak Shah - Advocate for the appellants.

Shri Ashish Agrawal - Advocate for the respondent no.1.

.....
WITH

MISC. APPEAL No. 653 of 2017

VISHNU PRASAD PRAJAPATI

Versus

UNION OF INDIA

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Appearance:

Shri Vinayak Shah - Advocate for the appellants.

*Shri Ranjan Agnihotri with Shri O.P. Agnihotri - Advocate for the respondent
no.1.*

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MISC. APPEAL No. 655 of 2017

HARBHAJAN SINGH GOND

Versus

UNION OF INDIA

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Appearance:

Shri Vinayak Shah - Advocate for the appellant.

Shri Dhananjay Kumar Mishra - Advocate for the respondent no.1.

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Reserved on - 15.10.2025

Pronounced on - 10.11.2025

ORDER

Since all three appeals arise from the judgment dated 23.12.2016 passed by Railway Claims Tribunal, Bhopal, therefore, same are being decided by this common order.

2. The claimants have filed these appeal i.e M.A. Nos. 657/17, 653/2017 and 655/2017 challenging the judgment dated 23.12.2016 passed in OA / Ilu / BPL / 2012 / 0299, OA / Ilu / BPL / 2012 / 0385 and OA / Ilu / BPL / 2012 / 0251, respectively, by learned Railway Claims Tribunal, Bhopal.

3. The concise account of the case are that on 16.04.2011, a group of 8 to 10 persons went to Maihar for tonsure ceremony of Rajesh (son of appellant Ramaavtar). While returning on 17.04.2011, they boarded on train No.51672 (Satna-Itarsi Passenger) which was overcrowded and while the train started moving, the victims Loli Bai, Indramati and Rajesh fell down from the train and got trapped and **ran over** by another train passing at the very moment resulting into death of all three on the spot. By filing a written statement, the respondent-Railway denied the accident stating that indeed the deceased persons were crossing the railway lines, while they were hit by a passing through train. The written statement was also supported with the D.R.M. report.

4. After examining the evidence produced, the learned Claims Tribunal came to the conclusion that the deceased persons were not boarded on a train and claimants have failed to prove the accident to be an untoward accident as defined U/s 123 (c) of the Railways Act and thus, the respondent-

Railway is not liable to pay any compensation.

5. Learned counsel for the appellants has argued that learned Claims Tribunal erred in holding that the claimants have failed to prove the accident to be an untoward accident whereas they have produced many evidence in support of their claims. They have satisfactorily proved that the deceased persons were boarded on a train having valid journey tickets. The burden lies upon the Railway to prove the contrary. The learned Claims Tribunal erred in dismissing the claims filed by the claimants.

6. On the other side, learned counsel for the Railways has argued that the learned Tribunal has correctly found that the deceased persons were not boarded on train No. 51672 as the train of said number does not pass through Maihar Railway Station. The train number 51674 (Satna-Itarsi passenger) train though passes through the Maihar Railway Station but on that day, it arrived on 06.34 PM and departed on 06.36 PM whereas the accident occurred at around 03.30 PM. He has also argued that indeed it is case of violation of railway rules. The deceased persons were crossing the railway lines unauthorizedly to reach to other platform and got hit by train No. 19051, therefore, the claimants are not entitled to any compensation. He prays for dismissal of appeal.

7. Heard and perused the record.

8. After going through the record, however, the Railways has satisfactorily proved that the deceased persons were not boarded on train No.51672 as the same did not pass through the Maihar Railway Station on the date of accident, however, it is found undisputed that the deceased

persons died by run over by train No. 19051 while crossing the railway lines. In the opinion of this Court, even if the deceased persons were crossing the railway tracks unauthorizedly to reach to other platform, the claim for compensation under Section 124-A of the Railways Act, 1989, may still be maintainable; if it is established that the death occurred due to an “untoward incident” and that the railway administration failed in its statutory duty to ensure safety by preventing unauthorized access to the tracks. Contributory negligence or unauthorized entry alone does not automatically absolve the railway administration of liability, unless the case falls within the exceptions provided viz. suicide, self-inflicted injury, own criminal act, intoxication, or natural cause.

9. In the case at hand, the statement of Shyamlal Barman (Loco Pilot) shows that on 17.04.2011, he was running the train No.19051 and while passing through Maihar Railway Station, deceased Rajesh (only 3 years old) came onto the railway tracks and while saving him, two female also came onto the track and all of three were run over by the train. The said statement is sufficient to presume that the act of deceased persons was not deliberate, albeit, to save the child who had no knowledge about the consequence of crossing tracks, two female also lost their lives. Where passengers cross tracks due to absence of sufficient preventive measures like fencing, barricades, announcements, or security by the Railways to restrict the passenger from crossing the railway lines, particularly on the platforms and the railway has failed to provide or maintain effective preventive measures, in the opinion of this Court, the administration cannot escape from liability

on the ground that the victim crossed unauthorizedly.

10. On perusal of record, this Court finds that the Railway has failed to prove that they have taken each and every preventive measure to restrict the persons from crossing the railway lines and, therefore, failure to take such preventive measures amounts to negligence or breach of statutory duty, and supports the finding that the death occurred due to an “untoward incident” under Section 124-A even if the person crossed the tracks; if crossing is accessible or easy even for a three years child, it implies a systemic failure of the railway to restrict access.

11. In view of the above discussion, this Court finds that the learned Claims Tribunal erred in dismissing the claims of the claimants and thus, the impugned judgment dated 23.12.2016 passed in OA / Ilu / BPL / 2012 / 0299, OA / Ilu / BPL / 2012 / 0385 and OA / Ilu / BPL / 2012 / 0251 respectively, is hereby set-aside.

12. Consequently, all three appeals stand **allowed and disposed of**.

13. The Railway Claims Tribunal, Bhopal, is directed to award the compensation to the claimants in accordance with the Rules and guidelines prevailing at the relevant point of time.

(HIMANSHU JOSHI)
JUDGE