

**IN THE HIGH COURT OF MADHYA
PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA
ON THE 20th OF MARCH, 2023
MISC. APPEAL No. 2216 of 2019**

BETWEEN:-

**UNION OF INDIA THROUGH ITS GENERAL
MANAGER WESTERN CENTRAL RAILWAY,
JABALPUR (MADHYA PRADESH)**

.....APPELLANT

(BY SHRI GOPI CHOURASIA - ADVOCATE)

AND

- 1. SHRI SHRIKUMAR GUPTA @ SHRI GUPTA S/O
LATE KAMALCHAND GUPTA, AGED ABOUT
51 YEARS, R/O RAJYA PARIWAHAN NEAR
BUS STAND MAIHAR THANA KOTWALI,
DISTRICT SATNA (MADHYA PRADESH)**

- 2. SMT. RADHA GUPTA W/O SHRI SHRIKUMAR
GUPTA, AGED ABOUT 46 YEARS, R/O RAJYA
PARIWAHAN NEAR BUS STAND MAIHAR
THANA KOTWALI, DISTRICT SATNA
(MADHYA PRADESH)**

.....RESPONDENTS

(BY SMT. APARNA SINGH - ADVOCATE)

*This appeal coming on for hearing this day, the court passed the
following:*

ORDER

This miscellaneous appeal, under section 23 of the Railway
Claims Tribunal, has been filed against the judgment dated

01.01.2019 passed by Railway Claims Tribunal, Bhopal Bench, Bhopal in O.A.No.IIu/BPL/2014/0152.

2. The facts of the case in short, are that an application was filed by the respondents for grant of compensation on account of death of deceased Shравan Kumar Gupta alias Betal Gupta on 29.05.2013. It is the case of the claimants that the deceased, aged about 23 years was a Labourer and on 29.05.2013 after purchasing a second class general ticket no.A 94322853 boarded Godan Express. He was to travel from Satna to Maihar. The deceased by misunderstanding Godan Train as a passenger train, boarded the train and was standing at the door of the train. Since the bogie was over-crowded, therefore, he fell down at 1143/4-3 and sustained grievous injuries and died on the spot. Accordingly, it was claimed that the deceased has died in an untoward incident and he was a bonafide passenger.

3. A defence was taken by the appellant that the deceased was travelling in a superfast train after purchasing a ticket of passenger train. The deceased had boarded from Satna Railway Station and he had to go to Maihar; whereas Godan Express train has no stoppage at Maihar. It appears that the deceased must have jumped at Maihar Railway Station in order to de-board the train and in that process, he sustained grievous injuries resulting in his death and accordingly it was submitted that the appellant is not entitled to pay the compensation as the act of the deceased was in violation of proviso to section 124-A of Railways Act.

4. The Claims Tribunal heard the matter and there was a difference of opinion between the Members of the Claims Tribunal. The Technical Member held that the claimants are not entitled for the compensation as they have failed to prove that the deceased has died

in an untoward incident as well as he was the bonafide passenger; whereas the Members Judicial took a different view and allowed the claim of the claimants. Accordingly, the matter was placed before the Chairman, who by order dated 26.12.2018 decided the same in favour of the claimants and accordingly, the final order was passed on 01.01.2019 in the light of the dictum of the Chairman.

5. Challenging the order passed by the Bhopal Bench of Railway Claims Tribunal, it is submitted by the counsel for the appellant that since the deceased was travelling in a superfast train, which did not have stoppage at Maihar Station and the deceased was to travel from Satna to Maihar, therefore, as soon as the train reached to Maihar Railway Station, he jumped from the Bogie in order to de-board the train and accordingly, he sustained grievous injuries, which resulted in his death. Accordingly it is submitted that the case of the deceased is squarely covered by Proviso (b) of section 124-A of Railways Act and therefore, the deceased did not die in an untoward incident. It was further submitted that since the deceased was travelling in a superfast train, after purchasing the ticket of passenger train, therefore, it cannot be said to be a bonafide passenger.

6. Per contra, it is submitted by the counsel for the respondents that merely because the deceased was travelling in a superfast train and had a ticket, which was meant for passenger train, would not make him an unauthorised passenger because difference in the fare can always be recovered. It is not the case of the appellant that the deceased was travelling without any ticket. So far as an attempt to de-board a running train which do not have any stoppage at Maihar station, is concerned, it is submitted that since an attempt to de-board the running train is not an offence, therefore, the appellant cannot be

denied the compensation by holding that the deceased did not die in an untoward incident.

7. Heard the learned counsel for the parties.

8. It is the case of the claimants that the deceased had purchased a ticket from Satna to Maihar, which was meant for passenger train. However, at that time Godan Express came on the platform, therefore, under a wrong impression the deceased boarded the Godan Train, which was the superfast train and did not have stoppage at Maihar Station. Thus it is clear that the deceased was travelling in a superfast train by purchasing a ticket of passenger train.

9. Now the question for consideration is as to whether the deceased can be said to be a passenger without any authorisedly issued ticket or not ?

10. If a passenger is found to be travelling in a superfast train on a ticket meant for passenger train, then the difference of fare can be recovered. Thus, it cannot be said that the deceased was unauthorisedly travelling in a superfast train. The Railways have also employed the Ticket Checkers and if they did not recover the difference in fare, then it cannot be said that the deceased was not a bonafide passenger.

11. Accordingly the findings given by the Bhopal Bench of Claims Tribunal that the deceased was a bonafide passenger, is hereby affirmed.

12. The next question for consideration is as to whether the deceased died in an untoward incident and whether the respondents/claimants are entitled for compensation or not ?

Section 124-A of Railways Act reads as under :-

“124A. 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.”

13. Proviso to section 124-A of Railways Act makes it clear that no compensation shall be payable under this section, if the death occurs on account of the eventualities as mentioned in sub-section (a) to sub-section (e). sub-section (b) of Proviso to section 124-A provides that in case of self-inflicted injury, no compensation shall be granted.

14. Now the question for consideration is as to whether an attempt to jump from running train by the reason that it does not have stoppage at a particular station, would amount to self-inflicted injury or rash and negligent act of the passenger/deceased.

15. The spot map is a part of the DRM report. From the spot map, it is clear that the dead body was found on the railway track in front of the platform. Therefore, the contention of the respondents that the deceased was standing at the door and because of over-crowding in the Bogie, he fell down from the train, is not correct. But from the spot map, it is clear that when the train reached at Maihar Railway Station, he made an attempt to jump from running train because the train did not have stoppage at Maihar. Thus, it was a deliberate and conscious act on the part of deceased.

16. Under these circumstances, an attempt to de-board a running train on the ground that it does not have stoppage at Maihar Railway Station, would certainly fall within the category of “self-inflicted injury.”

17. It is next contended by the counsel for the respondents that why a person would put his life in danger because he always knows that de-boarding from a fast moving train would be detrimental to his health or life.

18. Considered the submissions made by the counsel for the respondents.

19. It is not the case of the claimants that after realizing that Godan Express does not have a stoppage at Maihar Station, the deceased had decided to de-board at the next stoppage of Godan Express.

20. It is the case of the claimants that since the deceased was standing near the door and because of rush, he fell down. The location of the incident clearly indicates that the train had already reached the Maihar Railway Station and an attempt was made by the deceased to de-board the train at Maihar Railway Station. Thus, it

was a conscious conduct of the deceased, which is covered by the exception “self-inflicted injuries”.

21. Under these circumstances, this Court is of the considered opinion that in view of proviso to section 124A of the Railways Act, the claimants are not entitled for compensation for the death of the deceased because the death of the deceased is a result of “self-inflicted injuries.”

22. Accordingly, judgment dated 01.01.2019 passed by Chairman, Railway Claims Tribunal, Bhopal Bench, Bhopal in O.A.No.IIu/BPL/2014/0132 is hereby **set aside**.

23. This Court by order dated 23.02.2022 had directed that on depositing 50% of the compensation amount, the execution with regard to 50% of the awarded amount shall remain stayed and the amount so deposited, may be disbursed by the Tribunal to the respondents/claimants.

24. Accordingly, it is directed that in case if 50% of the award amount has already been disbursed to the claimants/respondents, then the respondents/claimants shall re-deposit the same with the appellant within a period of 2 months from today; otherwise it shall carry 6% interest till the refund of the same.

25. The appeal succeeds and is hereby **allowed**.

(G.S.AHLUWALIA)
JUDGE

TG/-