

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 23rd OF FEBRUARY, 2023

MISC. APPEAL No. 2657 of 2020

BETWEEN:-

1. SMT. GIRJA KUWAR W/O LATE
SHRI GORAKH BHUIYA, AGED
ABOUT 40 YEARS, VILL.
VIKATAM P.S. MIRAL DIST.
GADWA (JHARKHAND)
2. DHARMENDRA KUMAR BHUIYA
S/O LATE GORAKH BHUIYA,
AGED ABOUT 21 YEARS,
VILLAGE VIKATAM PS MIRAL
(JHARKHAND)
3. BIGAN BHUIYA S/O LATE
SHIVNANDAN BHUIYA, AGED
ABOUT 65 YEARS, VILLAGE
VIKATAM PS MIRAL
(JHARKHAND)

.....APPELLANTS

(BY MS.APARNA SINGH - ADVOCATE)

AND

**UNION OF INDIA THR. ITS GENERAL
MANAGER WEST CENTRAL
RAILWAY JABALPUR (MADHYA
PRADESH)**

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI C.M.TIWARI - ADVOCATE)

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

ORDER

1. This Misc. Appeal under Section 23 of Railways Claims Tribunal, has been filed against the award dated 6-3-2020 passed by Railway Claims Tribunal, Bhopal Bench, Bhopal in case no. OA/IIu/BPL/89/2018.
2. The claim petition filed by the Appellants has been dismissed by the Claims Tribunal.
3. The facts of the case are that on 11-7-2017, the dead body of Gorakh Bhuiya was found on the up railway track in mangled condition. The Appellants filed a claim petition on the ground that the deceased was travelling in the train with a validly issued ticket. The deceased fell down from the running train and therefore, compensation of Rs. 8 lac be awarded.
4. The respondent filed their written statement and denied the averments made in the claim petition.
5. The appellants did not examine any witness but they relied upon the DRM report, Ex. R-1 in support of their claim.
6. The Claims Tribunal has rejected the claim on the ground that the Appellants have failed to prove that the deceased was travelling in a train and died in an untoward incident.
7. Challenging the award passed by the Tribunal below, it is submitted by the Counsel for the Appellants that if a person fell down from a running train which is going on down track then the dead body would certainly fall on the up track. It is clear from the DRM report, Ex. R-1, a railway ticket was found from the body of the deceased.

8. Per contra, the Counsel for the respondent has supported the findings recorded by the Claims Tribunal.

9. Heard the learned Counsel for the parties.

10. On 11-7-2017, the dead body of the deceased was found on the up track at 811/8-811/9. The dead body was in mangled condition. Various parts of body were found at different locations. It is clear from the DRM report, Ex. R-1, railway ticket No. 28001911 was found apart from mobile and some currency notes. Even as per DRM report, Ex. R-1, it appeared that the deceased had fallen down from the running train. If the deceased had fallen down from a train going on down track, then the dead body would be found on the up track. Because of centrifugal and centripetal forces, some part of dead body of the person may be found in between the down tracks as well as on up track. The Claims Tribunal has conveniently ignored the effect of centrifugal and centripetal forces. The Claims Tribunal has also conveniently ignored the fact that a validly issued railway ticket was also recovered from the body of the deceased. If the deceased had committed suicide, then the driver of the train would have certainly noticed the said fact. Thus, it is held that the deceased died in an untoward incident and he was a bonafide passenger.

11. Accordingly, the award dated 6-3-2020 passed by Railway Claims Tribunal, Bhopal Bench, Bhopal in case no. OA/IIu/BPL/89/2018 is hereby set aside.

12. The claim petition filed by the Appellants is allowed and a compensation of Rs. 8 lac is awarded to the Appellants.

13. The Appeal succeeds and is hereby **Allowed**.

(G.S. AHLUWALIA)
JUDGE

HS