

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.315 OF 2012

PRACHI
PRANESH
NANDIWADEKAR

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Seetabai Pandharinath Temghare
Aged about 48 years,
Occupation- House-Wife,
R/o. Indiranagar Cyndigate,
Zopadpatti, Opposite Pournima,
Talkies, Murbad Road, Kalyan (E),
District – Thane

....Appellant
(Orig. Applicant)

V/s.

Union of India
through the General Manager,
Central Railway
C.S.T., Mumbai

....Respondent
(Orig. Respondent)

Mr. Sainand Chaugule for the appellant.

Mr. T. J. Pandian a/w Mr. Gautam Modanwal for the respondent.

CORAM : JITENDRA JAIN, J.
DATED : 19th January 2026

Judgment :-

1. This appeal is filed by the original applicant against the order of the Railway Claims Tribunal dated 11 November 2011, whereby the application of the appellant came to be dismissed on the ground that the deceased was not a bonafide passenger.
2. I have heard learned counsel for the appellant and the respondent. The issue which arises in the present appeal is whether the Tribunal was justified in holding that the deceased was not a bonafide passenger ?

3. Admittedly, the deceased was an employee of the respondent-railway. While travelling in an Express train, he fell down between Khandala and Monkey Hill point and lost his life.

4. The learned Tribunal gave a finding, which is not challenged, that it is a case of an accidental fall from a train. Therefore, insofar as the issue of “untoward incident” is concerned, it is concluded since there is no challenge to it by the respondent.

5. The only issue which remains to be considered is whether the deceased was a bonafide passenger.

6. Explanation to Section 124A of the Railways Act, 1989 defines “passenger” to include a railway servant on duty; and 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”. The deceased, admittedly, was not on duty at the time of the incident and therefore, Explanation (i) to section 124 A of the said Act is not applicable.

7. The question therefore arises is whether the deceased had a valid ticket for travel.

8. The deceased, being a railway employee, is governed by the Railway Servants (Pass) Rules, 1986 as amended in the year 1993. As per the said Rules, a railway servant is entitled to a free pass. There is no definition given of “privilege pass”. However, Section 2 (f) of the 1986 Rules defines “pass” to mean an authority given by the Department of Railways or any railway administration to a person, authorizing him to travel gratuitously.

9. Schedule to the said Rules gives the entitlement of the “privilege pass” based on the category to which an employee belongs. There is no

dispute that the deceased had a second class free pass which is annexed at page 38 of the appeal paper book. In the said pass, there is a description which is required to be given namely date of arrival, date of departure, outward/inward etc. These details have not been filled up by the deceased in the impugned case. However, there is no dispute that the incident happened during the time when the pass was valid.

10. If an employee wants a reservation, then he has to approach the ticket counter and the officer at the ticket counter will give endorsement of the coach, the train number and the berth which will be reserved for the employee. However, if an employee decides not to travel by a reserved compartment, then such an endorsement may not be necessary. In the instant case, there is nothing on record to show that the deceased was travelling by the reserved compartment. Therefore, non-endorsement on the pass is inconsequential. As per the Tribunal, the deceased should have filled up the date of journey and other details on the pass. However, merely because an employee holding a valid pass fails to mention himself the details referred to in the pass, same cannot be held to mean that the employee was travelling without a valid pass. There could be various reasons as to why an employee did not make an endorsement himself on the relevant pass. However, in the absence of any reason given in the impugned order, the benefit of doubt has to be given to the deceased. There is no reason why a railway employee carrying a valid pass would not give the details of his journey, since in any case, the travel is free. There is nothing on record to show that the deceased had exceeded the entitlement of the number of trips as per the pass. Therefore, no adverse inference can be drawn on this count.

11. If the pass is misused, then the Rules and the Schedule prescribes the

fines and penalty and the disciplinary proceedings which may be taken against an employee. However, the present case does not fall in any of these categories. The Rules does not prescribe the procedure for seeking prior approval on the pass.

12. In view of above, it cannot be said that the deceased was not a bonafide passenger.

13. A very similar situation arose before the Andhra Pradesh High Court in the case of *Pulipaka Varalakshmi & Ors. Versus Union of India*¹ and the Hon'ble High Court rejected the contention raised that the deceased therein was not a bonafide passenger. Similar argument has been advanced before me and therefore, the ratio laid down by the Andhra Pradesh High Court applies to the facts of the present case. However, the Andhra Pradesh High Court reduced the compensation since the nature of use of the pass was in doubt. In the instant case also, the deceased ought to have either got the endorsement done by the appropriate authorities or he himself should have made an endorsement on the details required in the pass i.e., date of journey, etc. This having not been done, in my view and following the decision of the Andhra Pradesh High Court, full compensation cannot be granted. The appellant would be entitled to Rs. 3 lakhs. There cannot be a straight jacket formula on the justification of Rs.3 lakhs. However, I have exercised my discretion after examining the facts of the present case.

14. The views expressed by me in the present appeal are also supported by the following decisions of various High Courts :-

(I) *Union of India through General Manager, East Central Railway, Hajipur Vs. Anandi @ Anandi Devi w/o Late Baijnath*²,

(II) *R. C. Jayamohan & Anr. Vs. Union of India, represented by General*

1 2011 SCC OnLine, AP 263

2 Misc. Appeal No.168 of 2014 dated 6 March 2024

Manager, Southern Railway, Chennai-1³,

(III) Jaya and Ors. Vs. Union of India, represented by General Manager⁴

(IV) Surekha Suresh Jadhav & Anr. Vs. Union of India through General Manager, Central Railway, C.S.T. Mumbai.⁵

15. In view of above, the following order is passed :-

O R D E R

- (i) The impugned order dated 11 November, 2011 is quashed and set aside.
- (ii) The appellant is permitted to amend the original application to bring the children of the deceased on record. Amendment to be carried out within two weeks from today in the copy of the original application. Since records and proceedings are available in this Court, amendment to be carried out here itself.
- (iii) The appellant is entitled to Rs. 3 lakhs plus interest at the rate of 6% per annum from the date of accident till the actual payment subject to a cap of Rs. 8 lakhs.
- (iv) The appellant to give details of the bank accounts of the dependents and the respondent is directed to transfer the amount equally to all the dependents within eight weeks from the date the appellant makes application for the compensation alongwith the copy of the present order.

16. The appeal is allowed in above terms.

(JITENDRA JAIN, J.)

3 AIR OnLine 2020 Ker 1367

4 2019 SCC OnLine Mad 34606

5 First Appeal No.17 of 2016 dated 17 December 2025