

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL
M.A. No.2157 of 2019

BETWEEN:-

- 1. RAMVATI W/O LATE SHRI BALRAM BAMNE, AGED ABOUT 53 YEARS, OCCUPATION: HOUSEWIFE R/O NEAR RAM MANDIR, BEED, TAHSIL PUNASA, POST BEED, DISTT. KHANDWA (MADHYA PRADESH)**
- 2. SANTOSH S/O LATE SHRI BALRAM BAMNE, AGED ABOUT 32 YEARS, OCCUPATION: LABOUR R/O NEAR RAM MANDIR BEED, TAHSIL PUNASA POST BEED (MADHYA PRADESH)**
- 3. SEEMA W/O SHRI RANIWAS BAMNE, AGED ABOUT 28 YEARS, OCCUPATION: HOUSEWIFE R/O NEAR RAM MANDIR BEED, TAHSIL PUNASA POST BEED (MADHYA PRADESH)**
- 4. MENAKSHI W/O SHRI RAJESH BAMNE, AGED ABOUT 26 YEARS, OCCUPATION: HOUSEWIFE R/O NEAR RAM MANDIR BEED, TAHSIL PUNASA POST BEED (MADHYA PRADESH)**
- 5. KIRAN D/O LATE SHRI BALRAM BAMNE, AGED ABOUT 25 YEARS, OCCUPATION: LABOUR R/O NEAR RAM MANDIR BEED, TAHSIL PUNASA POST BEED (MADHYA PRADESH)**

**6 JYOTI D/O LATE SHRI BALRAM
BAMNE, AGED ABOUT 23 YEARS,
OCCUPATION: LABOUR R/O NEAR RAM
MANDIR BEED, TAHSIL PUNASA POST
BEED (MADHYA PRADESH)**

.....APPELLANTS

(BY SHRI ASHOK KUMAR GUPTA - ADVOCATE)

AND

**UNION OF INDIA THR.GENERAL
MANAGER CENTRAL RAILWAY, MUMBAI
C.S.T. MUMBAI (MAHARASHTRA)**

.....RESPONDENT

(NONE)

Reserved on : 16.02.2024

Pronounced on : 22.03.2024

*This petition having been heard and reserved for orders, coming
on for pronouncement this day, the Court pronounced the following:*

ORDER

This Miscellaneous Appeal is preferred under Section 23 of the Railway Claims Tribunal Act, 1987 (for brevity “Act of 1987”) by the appellants/claimants aggrieved by the judgment dated 25.01.2019 passed in Claim Case No.OA/IIu/BPL/2014/0171 passed by the learned Member (Technical) Railway Claims Tribunal, Bhopal, whereby learned Tribunal dismissed the OA of appellants.

2. Brief facts of the case are that on 25.05.2013 deceased – Balram, husband and father of claimants (appellants herein) was travelling from Khandwa to Bir by Shuttle Train bearing ticket No.T 20733157. Due to heavy crowd in the train and jerk pushed by other persons, deceased Balram fell down from the train at Bir Station. In the incident, deceased Balram died.

2.1 Respondent by filing written statement have denied averments of the claim application and contended that no accident took place and deceased committed suicide from the moving train.

2.2 Learned Railway Claims Tribunal framed the issues and dismissed the claim application of claimants/appellants herein. Hence, this appeal.

3. Learned counsel for the appellants submits that deceased – Balram was travelling from Khandwa to Bir by Shuttle Train. Deceased purchased ticket bearing No.T 20733157. It is further submitted that due to heavy crowd in the train and jerk pushed by other persons, deceased Balram fell down from the train at Bir Station and died. It is further submitted that the deceased was a patient of kidney ailment and he had gone Khandwa for treatment. It is further submitted that finding of the Tribunal is against the oral and documentary evidence and contrary to the provisions of Section 124 of the Railways Act, 1989 (for brevity “Railway Act”), therefore, impugned judgment deserves to be set aside and claim application be allowed.

4. Heard learned counsel for the appellants and perused the record.

5. In this matter, evidence of Santosh Bamne (son of deceased) has been produced on behalf of claimants and documents vide Annexure A-1 to A-18 have been filed. On behalf of respondent/Railway, DRM report vide Annexure R/1 (containing page 1 to 42) has been submitted.

5.1 From the affidavit and cross-examination of Santosh Bamne, it is found that on the date of incident deceased – Balram had gone to Khandwa for treatment of kidney. Deceased was returning from Khandwa to Bir and incident took place at Bir Station. GRP Police, Khandwa prepared a Naksha Panchayatnama of dead body of deceased vide Annexure A/5, in which it is mentioned that from the pocket of deceased, a ticket from Khandwa to Bir bearing No.T 20733157 dated 25.05.2013 was recovered and a catheter was also inserted in the urinary tract of the deceased that corroborates the statement of Santosh Bamne that his father-deceased was suffering from Kidney ailment and he had gone to Khandwa for treatment. The aforesaid ticket is annexed as Annexure A/3.

5.2 It is pertinent to mention here that DRM report (Annexure R/1) has been submitted by the respondent/Railway. Report prepared by Sub Inspector, RPF is annexed at pages 6-7 in the DRM report, in which also, it is mentioned that from the pocket of deceased, a ticket from Khandwa to Bir bearing No.T 20733157 was found and a catheter was inserted in the urinary tract of the deceased. At page No.31 in the said DRM report, SHO of Police Station GRP Khandwa conducted an enquiry and submitted a report to the SDM, Khandwa, in which it is stated that deceased fell down from the running train and was cut due to which he died. In the DRM

report also, journey ticket of deceased is annexed. At page 41 of the said DRM report, statement of Balkrishna Agrawal is annexed, in which it is stated that he was also travelling on the same train in which deceased was travelling. Deceased Balram fell down from the train and he was cut and died. It is also pertinent to mention here that Railway has not produced any oral evidence to rebut the statements of claimants. The aforesaid reveals that deceased was a victim of an untoward incident. He was bonafide passenger. He purchased the ticket and boarded in the train for travelling from Khandwa to Bir. Incident took place at Bir Station. Therefore, it cannot be said that it is a case of suicide or one falling under the exception given under Section 124-A of the Railways Act so to deny the claim.

6. In the considered opinion of this Court, judgment dated 25.01.2019 passed in Claim Case No.OA/Iiu/BPL/2014/0171 by the learned Member Technical, Railway Claims Tribunal, Bhopal, deserves to be and is hereby set aside. Claim petition is allowed. Respondent is directed to make payment as per the admissible limits as was operating on the date of the accident alongwith accrued interest @6% from the date of filing of the claim petition till the date of actual payment.

7. Accordingly, the appeal succeeds and is hereby allowed.

8. Record of the Tribunal be sent back.

(PRMOD KUMAR AGRAWAL)
JUDGE

Sateesh