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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.490 OF 2016

1. Durgaiiah Komuravelli
Aged 54 years,

2. Smt. Buchavva Komuravelli
Aged 49 years,
Room No.322/26, premana Chawl,
Anand Gadh, Park Site, Vikhroli (W),
Mumbai – 400 079.

....Appellants
(Original Claimants)

V/s.

Union of India
Through General Manager,
Central Railway,
Having his office at G. M. Building,
2nd Floor, CST Mumbai,
Mumbai – 400 001.

....Respondent
(Original Respondent)

Mr. Vaneet Khosla for the appellants.

Mr. T. J. Pandian a/w Mr. Gautam Modonwal and Mr. Prasad Sawant for the respondent.

CORAM : JITENDRA JAIN, J.
DATED : 15 April 2026

Judgment :

1. This appeal is filed by the original claimants challenging an order passed by the Railway Claims Tribunal, Mumbai dated 7 January 2015, whereby the claim for compensation has been dismissed primarily on the ground that the incident does not fall within the definition of an “untoward incident” as defined under Section 123 of the Railways Act, 1989.

2. On 24 September 2010, Mr. Srinivas Komuravelli, while travelling at

around 11:30 p.m. from Dockyard Road railway station to Vikhroli railway station, met with an accident at Sewri railway station and died. The parents of Mr. Srinivas, thereafter, filed an application for compensation under the Railways Act, 1989 which came to be dismissed. It is on this background that the present appeal is filed.

3. I have heard Mr, Khosla, learned counsel for the appellants and Mr.Pandian, learned counsel for the respondent.

4. Insofar as the recovery of ticket is concerned, the inquest panchnama prepared on the date of the incident records that a ticket dated 24 September 2010 for the journey from Vikhroli to Dockyard Road was recovered along with Hyderabad-Mumbai railway ticket. This is a report prepared by the authorities of the respondent. Even the police report prepared confirms the recovery of the ticket for journey from Vikhroli to Dockyard Road. Therefore, insofar as the issue of “bonafide passenger” is concerned, the appellants have proved that the deceased was travelling on a valid ticket.

5. Now coming to the issue of “untoward incident,” the deceased fell on the track which was going towards CSMT railway station whereas the deceased was travelling from Dockyard Road to Vikhroli in the opposite direction. The Dockyard Road railway station is on the right hand side of the train moving towards Bandra, whereas Sewri railway station is towards the left. It is possible that due to rush at Sewri railway station, the deceased who was standing near the door may have been pushed down and lost his balance from force from left side and had fallen on the track towards CSMT. At that point of time, the train going towards CSMT would have hit the deceased resulting in his death.

6. It is important to note that though the timing of the incident was

23:30 hours, there would be passengers on the railway station to witness the incident. If the deceased was struck by a moving train while crossing the track at the station, then there would have been passengers on the platform who would have observed him crossing the track. There is no evidence or eye witness of any person stating that the deceased was crossing the track at the time of the incident. Even the Motorman, who might have seen, the deceased being struck, was not examined. The details of train is also not stated in the records of the respondent as required as per Form-2. Therefore, the contention raised by the respondent that the deceased, who died while crossing the track by moving train, cannot be accepted.

7. The fact that the train ticket was from Vikhroli to Dockyard Road indicates that the deceased may have boarded the train at Dockyard Road railway station which is on the right side of the train moving towards Bandra. There is no reason for the deceased to cross the railway track at Sewri. The respondent should have led evidence of any witness in support of their submission that the deceased was crossing the tracks at the time of the incident.

8. In the absence of the same, the circumstantial evidence would show that the deceased fell down from a train while travelling from Dockyard Road to Vikhroli on the other side of the platform and he was hit by a train moving towards CSMT station, which has resulted into his death.

9. In a case dealing with social welfare legislation, if there is any doubt with respect to the nature of the incident and the authorities have not led any evidence of any witness but the circumstantial evidence in the form of the railway ticket tilts in favour of the original claimants, then an interpretation which will favour the claimants should be adopted.

10. I have examined this issue without considering the evidence adduced by the claimants through their witness, Mr.Sagar More since the railway authorities and the tribunal have alleged that Mr. Sagar More was a planted witness. Therefore, even if the evidence of Mr. Sagar More is ignored for the reason stated above, the benefit of doubt in the absence of any eye witness and by relying upon the ticket, in my view, would fall within the definition of an “untoward incident” as defined in Section 123 of the Railways Act, 1989. This would be a case of accidental falling of any passenger from a train carrying passengers.

11. At this juncture, it would be apposite to refer to the judgment of this Court in the case of ***Balu Narayan Gawale & Anr. Vs. Union of India, represented by the General Manager Central Railway***¹ wherein this Court was confronted with a substantially similar issue. Paragraph 14 of the said decision is as under :-

“14. As the case of the Respondent was that the deceased was knocked down by the train while crossing the railway track, the burden was upon the Respondents to lead evidence to prove the said fact. Despite being aware of the exact position when the body of the deceased was found, in the memo issued by the Station Master to the on duty GRP it is stated that the deceased was knocked down by some unknown down local train. It is surprising that it is claimed that deceased was knocked down by some unknown down local train as the deceased was found at a particular spot and the railways could have easily identified the train which would be passing through the particular spot at that particular time. Admittedly, Railways have not examined any official neither the motorman of the alleged train which has knocked down the deceased in order to prove that the deceased was crossing the railway track. The Appellants have discharged the initial burden of proving that the deceased was a bona fide passenger holding a valid ticket, had boarded the train at the relevant time and due to heavy over crowding of the train fell out of the train and had expired as a result of injuries sustained. The provisions of Section 124 of the Railways Act provides for compensation on account of any untoward incident except in the event of contingencies mentioned in clauses (a) to (e). The exceptions carved out in the said Section has not been established in the present case. The impugned judgment is therefore perverse for the reason that the Tribunal has failed to notice that the inquest panchanama specifically

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mentioned that the ticket was found in the wallet of the deceased and secondly, the Tribunal failed to appreciate that the Respondents have not examined any witnesses and thus the case of the Appellants was established by the evidence which has been produced on record.”

12. This Court also draws support from the decision in the case of ***Smt. Jaishree Vijay Gondake & Ors. Vs. Union of India***² wherein this Court has held as under :-

“8. If a person is hit by a moving train, then it is not only the duty of the Motor Man, but it is his obligation that he should inform the Station Master of immediate next station, so that the Station Master can go to the incident place. In this case, there is no such statement on behalf of the respondent before the Tribunal that the Motor Man informed the Station Master that a person has been hit while he was driving the train. Secondly, there is no material on record to show that there was an entry and exit on the sides of the railway line, by which the persons can enter the railway line from one side to cross over to other side. Therefore, the submission made that the deceased was hit by moving train while crossing the railway line also cannot be accepted.”

13. In view of above, the appeal is allowed in above terms.

14. The father of the deceased has died while the appeal was pending and therefore, the only claimant now, who survives, is the mother of the deceased who is entitled to get the compensation of Rs.4 lakhs. No interest is awarded.

15. The respondent is directed to remit the amount to the bank account of the claimant i.e. the mother of the deceased within eight weeks of the claimant making an application.

16. The appeal is disposed of in above terms.

(JITENDRA JAIN, J.)