



leg. It is important to note that the Guwahati Express train had no halt at Jalgaon.

3. The Tribunal has observed that the applicant fell down while travelling since he was sitting near the door of the coach and this is the statement made by the applicant without there being any duress or coercion and furthermore, the train had no halt at Jalgaon station and, therefore, he boarded wrong train and fell down while de-boarding.

4. I have heard learned counsel for the applicant and the respondent.

5. Two issues arise for my consideration. First issue being, whether a passenger sitting near the door can be denied the compensation on the ground of negligence and secondly, whether a passenger de-boarding a train which does not halt at a railway station where he was going, can be said to have been covered by the provisions of Section 124A of the Railways Act, 1989, which denies the compensation under certain circumstances, one of them being “self-inflicted injury.”

6. Insofar as the first issue is concerned, as to whether a person sitting near the door can be denied compensation, the Hon’ble Supreme Court in the case of *Jameela and others versus Union of India*¹ was posed with an identical issue and the Hon’ble Supreme Court has observed after considering the conditions of the passengers and trains in India that merely because a passenger is standing near the door and he falls down, it cannot be a case which is covered by proviso to Section 124A of the Railways Act, 1989 which denies the compensation on account of “self inflicted injury”. To put it differently, a person sitting or standing near the door, if he accidentally falls down, it would not be a case of suicide, self-inflicted injury, criminal act, etc. Therefore, the first reasoning given by the Tribunal

1 (2010) 12 SCC 443



cannot be sustained in the light of the decision rendered by the Hon'ble Supreme Court in the case of **Jameela and others (supra)**.

7. Insofar as the second issue is concerned, there is nothing on record to show that the applicant boarded Guwahati Express train which he expressly knew that it did not have a stop at Jalgaon. It is possible that he may be under a bonafide belief that all trains halt at Jalgaon because Jalgaon is an important place in Maharashtra. However, on realising that the train has not halted at Jalgaon, if a person attempts to de-board a moving train, it is but natural that some injury would be caused. In the instant case also, there was an injury on head and left leg. The applicant could have waited for the next railway station to de-board the moving train but at that point of time, a person loses his mental balance and in panic tries to de-board the moving train without there being any intention of "self-inflicted injury." No person in such a situation would do any act to impose upon him "self-inflicted injury" and in some cases, it is also possible that he may go unscathed.

8. On platform where local trains are run, there is a display board stating that the train will not halt at some of the railway stations and names of such railway stations are displayed. However, in long distance trains, such display board is not found on the platforms. Such long distance trains are also used by passengers to travel short distance from one small railway station to another. No announcements are made that the train will not halt at so and so railway stations. Therefore, in such circumstances, if a person boards a train and train does not have halt at the railway station where he wants to de-board, no fault can be attributed to such a passenger.

9. The learned counsel for respondent has relied upon the decision of the Delhi High Court in the case of *Pappan versus Union of India*² where on

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a very similar factual situation, the claim for compensation was denied since the train which the passenger boarded did not have a halt at Mathura. However, it is not clear as to whether the passenger in that case was under a bonafide belief that the train does not have a halt and still boarded the train or in ignorance boarded the train. However, this decision to some extent does support the case of the railway authorities. However, there are two decisions of this Court where on a very identical factual situation, the claim for compensation has been allowed. The decision in the case of ***Ratta versus Union of India***³ and ***Union of India versus Reena***⁴ on very similar factual situation supports the case of the appellant. Relevant paragraphs of these judgments are reproduced herein :-

Ratta versus Union of India

“19. Keeping the facts of this case aside, it is common knowledge that the passengers, having valid journey ticket bona fide board a wrong train under some mistaken impression; illiteracy and panic leads a passenger holding a valid travel ticket to board a wrong train; of course the possibility of purposely boarding a wrong train for convenience without a proper ticket cannot be ruled out.

20. The underlying object of section 124-A is to compensate a bona fide passenger holding a valid journey ticket if he becomes a victim of an untoward incident. The proviso to section 124-A has carved out circumstances under which the passenger is not entitled for compensation. Ravindra's case does not come within the proviso to section 124-A.

21. In such view of the matter, I have no hesitation in holding that Ravindra who purchased a valid ticket for travelling, by a train carrying passenger and became a victim of an untoward incident cannot be deprived of the compensation which a passenger is entitled to under section 124-A of the Railways Act, merely because he did not have a valid ticket beyond Kamptee railway station where the train does not have a scheduled halt. Accordingly, I hold Ravindra to be a 'passenger'

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within the meaning of clause (ii) of the explanation to section 124-A of the Railways Act.”

Union of India versus Reena

“18.When a passenger realizes that he has got into a wrong train, the natural thought that would come to her mind is to somehow or other get off that train and that is exactly what the daughter and her mother did when they got off the GT Express Train going in the wrong direction, when the train slowed down near Ajni Railway Station. While doing so, both of them fell and the mother died and the respondent-daughter has injured herself having both legs amputated. The entire factual matrix nowhere suggests that the mother and the daughter had any intention to self-inflict an injury upon themselves or that it was their own criminal act.....”

10. Being faced with the binding decisions of this Court and a decision of the Delhi High Court, I am bound by the view taken by this Court. Furthermore, in social welfare legislation, if there are conflicting views, then the view in favour of the applicant should be taken keeping in mind the object for which the Railways Act has been enacted. Therefore, I respectfully follow the decisions of this Court referred to hereinabove.

11. I may end with a caution that the passenger, if he boards a wrong train should not make any attempt to de-board the train at a railway station not having a halt and risk his life. It is advisable to wait till the train halts at the next railway station and pay necessary fine for travelling beyond the destination for which the ticket was purchased. I am conscious that at that point of time, a human being may take steps to risk the life but it is at that point of time that test of mental balance is tested. This is required in the larger interest of the dependents of the passenger. The Railway authorities should introduce a public announcement system like that in Vande Bharat train, in all the trains to reduce such incidents.

12. With that note, I allow the appeal of the appellant. The appellant to



make necessary application along with the present order for grant of compensation in accordance with law.

13. The compensation of Rs.80,000/- is to be granted to the appellant with interest @6% p.a. from the date of incident to the date of payment.

14. The amount to be remitted within 12 weeks from the date of making the application.

15. The appeal is disposed of.

(JITENDRA JAIN, J.)