



2026:KER:47319

M.F.A.(RCT)No.1 of 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 30TH DAY OF JUNE 2026 / 9TH ASHADHA, 1948

MFA (RCT) NO. 1 OF 2026

AGAINST THE JUDGMENT DATED 20.12.2023 IN OA NO.44 OF
2019 OF RAILWAY CLAIMS TRIBUNAL, ERNAKULAM BENCH

APPELLANT/RESPONDENT IN OA:

UNION OF INDIA
REPRESENTED BY GENERAL MANAGER, SOUTHERN RAILWAY,
CHENNAI, PIN - 600003.

BY ADV SRI.SHYAMDEEP S.SHENOY

RESPONDENTS/APPLICANTS/CLAIMANTS:

- 1 JOSE N.M
AGED 70 YEARS
S/O LATE MATHAI, NARIKUZHIYIL, THIRUMENI P.O.,
KANNUR, NOW RESIDING AT NARIKUZHIYIL,
CHATTIVAYAL,
THAMBORE P.O., THIRUMENI, CHERUPUZHA, KANNUR
DISTRICT, KERALA, PIN - 670511.
- 2 MARY THOMAS
AGED 69 YEARS
D/O LATE MATHAI, NARIKUZHIYIL, THIRUMENI P.O.,
KANNUR, NOW RESIDING AT KOVOOR PUTHENPURAYIL,
ALATHAM VALAPPU, CHITTADI P.O., THIRUMENI,
CHITTODI, KANNUR DISTRICT, KERALA, PIN - 670571.
- 3 BABY NARIKUZHI MATHEW @ BABY MATHEW
S/O LATE MATHAI, AGED ABOUT 64 YEARS,
NARIKUZHIYIL, THIRUMENI P.O., KANNUR, NOW
RESIDING AT AISWARYA,



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VIKAS NAGAR - 142, PATTATHANAM P.O., KOLLAM
DISTRICT, KERALA, PIN - 691021.

- 4 CHANDI N.M
S/O LATE MATHAI, AGED ABOUT 67 YEARS,
NARIKUZHIYIL, THIRUMENI P.O., KANNUR, NOW
RESIDING AT KOKKADAVU, THIRUMENI P.O.,
CHERUPUZHA, KANNUR DISTRICT, KERALA, PIN - 670511
- 5 SALIAMMA SUNNY
D/O LATE MATHAI, AGED ABOUT 62 YEARS,
NARIKUZHIYIL, THIRUMENI P.O., KANNUR, NOW
RESIDING AT FLAT NO. 106, TRAVANCORE TOWERS, NAP
JUNCTION, AZAD ROAD,
NEAR ST. FRANCIS XAVIERS CHURCH, KALOOR,
ERNAKULAM DISTRICT, KERALA, PIN - 682017.
- 6 LICY IGNATIUS @LISSY
D/O LATE MATHAI, AGED ABOUT 64 YEARS,
NARIKUZHIYIL, THIRUMENI P.O., KANNUR, NOW
RESIDING AT ITTIKATTU, THERMALA, VELLAD P.O.,
VELLAD, KANNUR DISTRICT,
KERALA, PIN - 670571
- 7 MOLLY JAMES
D/O LATE MATHAI, AGED ABOUT 58 YEARS,
NARIKUZHIYIL, THIRUMENI P.O., KANNUR, NOW
RESIDING AT CHEMMARAPPILLIL, BALAL, KASARGOD
DISTRICT,
KERALA, PIN - 671533

BY ADVS.
SMT.DIVYA B.NAIR
SRI.T.ABY JACOB

THIS MFA (RCT) HAVING BEEN FINALLY HEARD ON
11.06.2026, THE COURT ON 30.06.2026 DELIVERED THE
FOLLOWING:



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S.MANU, J.

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Dated this the 30th day of June, 2026

JUDGMENT

Respondents filed O.A.No.44/2019 before the Railway Claims Tribunal, Ernakulam Bench seeking compensation for the death of their father late Mathai who died during his travel from Ernakulam to Kannur on 29.3.2019. The Tribunal granted compensation of Rs.8,00,000/- with interest at the rate of 6% per annum from the date of filing of the O.A. Aggrieved by the judgment dated 20.12.2023 respondents in the O.A. filed this appeal.

2. According to the respondents, on 28.3.2019, their father late Mr.Mathai boarded Maveli Express train No.16604 from Ernakulam with the 4th respondent to travel



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to Kannur. They contended that the deceased somehow fell down from the train when it reached Vishupadam, Tirur and died due to the injuries sustained. The deceased and the 4th respondent had reserved berths in the B3 coach of the train and therefore the deceased was a bonafide passenger. They therefore contended that compensation of Rs.8,00,000/- is liable to be granted for the death of their father in the untoward incident.

3. Appellant resisted the claim by filing reply statement denying the contentions of the respondents. It was pointed out that, on 29.3.2019 at 5:25 am., the Station Master, Tirur, had issued a message to all concerned that Loco Pilot of train No.16355, Antyodaya Express, informed that a person was hit by the train between Tirunavaya and Tirur stations. The information was conveyed to local police, RPF and Permanent Way Inspector



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for appropriate action. On search, the dead body of late Mr.Mathai was found lying outside the track at KM.621/900. Body was removed by local police from the spot and inquest as well as autopsy were conducted before handing over the body to the relatives. Appellant contended that the deceased was walking along the side of the track when he was hit by the train and the incident does not come under the definition of untoward incident. It was therefore submitted that the appellant was not liable to pay compensation under Section 124A of the Railways Act, 1989.

4. Fourth respondent was examined as AW1 on the side of the applicants and Exts.A1 to A5 were marked. On the side of the appellant, the DRM report was marked as Ext.R1. Loco Pilot of Antyodaya Express was examined as RW1 and another official was examined as RW2. The



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Drivers Rough Journal dated 29.3.2019 of train No.16355 was marked as Ext.R1(c). Two other documents were also marked. The Tribunal rejected the contentions of the appellant and held that the accidental death of the father of the respondents was an untoward incident and the deceased was a bonafide passenger. The Tribunal granted compensation of Rs.8,00,000/- with interest as noted at the outset.

5. Heard Sri.Shyamdeep.S.Shenoy, learned Central Government Counsel for the appellant and Sri.T.Aby Jacob, learned counsel for the respondents.

6. The learned Central Government Counsel contended that the Tribunal has committed serious error in holding that the death of the father of the respondents was the result of an untoward incident. He further submitted that the case at hand involves peculiar facts and



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circumstances. The deceased was travelling to Kannur along with his son, the 4th respondent. Both were sleeping in two different berths of the B3 compartment of Maveli Express. How the deceased happened to be on the track at the place of accident is not proved. Evidence of the Loco Pilot of Antyodaya Express clearly shows that the deceased was walking through the railway track and was hit by Antyodaya Express. The accident was immediately reported by the Loco Pilot and body of the deceased was recovered without any delay. He submitted that Maveli Express in which the deceased was travelling was not involved in the accident resulting in the death. The deceased, while walking on the railway track, had actually committed trespass. The injuries sustained can be considered only as self-inflicted injuries and therefore no compensation was liable to be paid to the respondents.



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7. The learned counsel for the respondents contended that the liability to pay compensation for injuries sustained and also for death of bonafide passengers is a strict liability imposed on the Railway under Section 124A of the Railways Act. He submitted that even if the deceased was negligent the injury cannot be considered as self-inflicted. So also, even though there is no negligence on the part of the Railway, it cannot be absolved from the liability to pay compensation. He argued that the deceased might have fell down from Maveli Express at the place of accident and while he was trying to move away from the place, the Antyodaya Express might have hit him. The learned counsel placed reliance on the principles laid down by the Hon'ble Supreme Court in **Union of India v. Rina Devi** [(2019) 3 SCC 572] regarding application of principle of strict liability and concept of self-inflicted injury. He contended that the



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defence of the Railway that the injuries sustained by the deceased can be considered only as self-inflicted is liable to be rejected in view of the principles laid down by the Hon'ble Supreme Court.

8. The significant missing link in the case at hand is regarding the presence of the deceased on the track at the place of accident. There is no evidence throwing light on the said aspect. According to the Loco Pilot of the Antyodaya Express, the deceased was seen walking alongside the track when the train approached the place of accident. The train hit the deceased and the Loco Pilot immediately reported the accident to the Station Master, who in turn conveyed the information to the concerned and the body was recovered soon. Evidence on record proves these aspects. Therefore, there is no doubt that the deceased sustained fatal injuries when he was hit by the



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Antyodaya Express. There is nothing on record to show that he sustained injuries in an accident involving the train in which he was travelling, the Maveli Express. The deceased was a bonafide passenger of Maveli Express. He was not expected to get down at Tirur Railway station situated near the place of accident. If he had fallen down from Maveli Express as contended by the respondents, it must be inferred that he had not sustained any serious injuries as a result of such a fall since the deceased was seen walking through the track by the Loco Pilot of Antyodaya Express. If the fatal injuries were sustained as a result of a fall from Maveli Express, the deceased, an octogenarian might not have been in a position to walk alongside the track. As spoken to by RW1, in consonance with his report sent after the accident, the deceased was hit by Antyodaya Express and he succumbed to the injuries before the police



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personnel reached the spot. In these peculiar circumstances, I find considerable force in the contention of the appellant that no compensation is liable to be paid for the death of the victim. I am of the view that the principles of strict liability under Section 124A of the Railways Act cannot be applied to the facts of the instant case. There is no evidence to establish that the deceased fell down from Maveli Express. As noted above, the said train was not involved in the fatal accident leading to the death of the victim. He sustained injuries when he was hit by another train while walking on the railway track. As the theory of fall from Maveli Express is not supported by any evidence and on the other hand being highly improbable as discussed above, the presence of the deceased in the track can be considered only as trespass to the railway track, even if the contention of the appellant that the injuries



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were self-inflicted is rejected. Therefore, I am of the view that no compensation was liable to be granted for the death of the father of the respondents, as trespass upon a railway track is an offence under the Railways Act.

In the light of the above discussion, the appeal is allowed. Impugned judgment of the Railway Claims Tribunal, Ernakulam Bench in O.A.No.44/2019 is set aside. The O.A. shall stand dismissed.

Sd/-

**S.MANU
JUDGE**

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