

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 319 of 2013

1. Mrs. Sangita Devi, wife of late Sanjay Agrawal @ Sanjay Prasad Agrawal
 2. Survi Kumar (minor) d/o late Sanjay Agrawal @ Sanjay Prasad Agrawal
 3. Subham Agrawal, s/o late Sanjay Agrawal @ Sanjay Prasad Agrawal
 4. Laxmi Kumari d/o late Sanjay Agrawal @ Sanjay Prasad Agrawal
- Nos. 2 to 4 are minors and are being represented through their mother and natural guardian-appellant no. 1 who has no adverse interest against them.
 All r/o village Kund Mohall Daltonganj, P.O. and P.S. Medninagar, District-Ranchi

..... Applicants/Appellants

Versus

Union of India through the General Manager, South Eastern Railway, P.O. and P.S. 24 Parganas, Kolkata

..... Respondent/Opposite Party

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants	: Mr. Nikhil Ranjan, Advocate Mr. Jai Mohan Mishra, Advocate
For the State	: Mr. Rohan Kashyap, A.C. to G.A.-II
For the U.O.I.	: Mrs. Leena Mukherjee, C.G.C.

C.A.V. On:- 07/02/2023

Pronounced on: 16/02/2023

Heard Mr. Nikhil Ranjan, learned counsel for the appellants, Mr. Rohan Kashyap, learned, learned counsel for the respondent-State and Mrs. Leena Mukherjee, learned counsel for the Union of India.

2. Aggrieved with judgment dated 20.08.2013 passed by the learned Member/Technical, Railway claims Tribunal, Ranchi, in Case No. O.A. (IIU)RNC/2009/0083, the appellants have preferred this appeal.

3. Smt. Sangita Devi & others filed application before the learned tribunal stating therein that she and her husband late Sanjay Agarwal was returning to Daltanganj from his in-law's place on 16.06.2008. They were travelling by Palamu Express with valid ticket. During the journey the railway police started misbehaving with the applicants particularly with Smt. Sangita Devi. Her husband –Sanjay Agrawal (now deceased) protested against the same and in retaliation the railway police officials assaulted the deceased and hit him on the head, chest etc and left him grievously injured. On account of the beating, the deceased was badly injured and he was somehow brought to his house and thereafter taken to Medininagar, Sadar Hospital. The deceased succumbed to the injuries on 17.06.2008 at about 3.30 A.M.

In support of their application the appellants filed journey ticket, Form of order sheet, FIR, Application of Rameshwar Prasad, Inquest report, P.M. report, death certificate and NEWS paper cuttings.

4. On the aforesaid facts, the learned tribunal vide judgment dated 20.08.2013 dismissed the claim petition. Aggrieved with that present appeal has been filed.

5. Mr. Nikhil Ranjan, learned counsel for the appellants submitted that Sangita Devi and her husband (Sanjay Agrawal) were returning to Daltaonganj from her in-law's place on 16.06.2008. In course of travelling in a train incident has occurred. He further submitted that FIR was lodged as Daltoanganj Town Police Station No.239 of 2008 dated 18.06.2008 under Sections 304/34 IPC with regard to the occurrence dated 16.06.2008 between 17:30 hrs. to 20:00 hrs. alleging assault by Constable of Police Personnel of RPF in Train No.3347 Up Palamau Express. He submitted that the investigation was made by Railway Police Force, Dhanbad and in which the case was found to be true under Sections 304/34 IPC against unknown police personnel. It was also mentioned that on that day in Train No.3347 Palamau Express escort was given to the RPF vide Order No.67(6)8 under the Commandant of Head Constable, Timbu Oraon, Head Constable 5411 M.J. Hussain, Constable Mirtunjay Kumar and Constable Ram Dayal Rai, who sat besides Sangita Devi and started misbehaving with the lady which was protested by the lady and her husband. Thereafter all the Constables assaulted her husband causing grievous injury. The said injured was examined by Daltonganj Hospital and later on he died. Learned counsel for the appellants has further submitted that Injured had sustained injury on both eyebrows, head and other parts of the body and the case was found to be true. The Superintendent of Police, Rail, Dhanbad vide order dated 03.10.2008 directed to arrest the Police Personnel and if the Constables are not arrested, the attachment process be executed properly and information shall also be given to the Commandant Railway Protection Force, Dhanbad. Learned counsel for the Appellants has further submitted that subsequently Hon'ble Member of Parliament, Mr. Dharendra Agrawal filed a complain before the National Human Rights Commission, New Delhi which was

registered as Case No.984/15-08-09. In the said case, report was submitted by the then Inspector General of Police, Crime Investigation Department, Ranchi, Jharkhand vide letter No.231 Human Rights Wing, addressed to the Superintendent of Police Rail, Dhanbad, that in your report for initiation of Prosecution against Police personnel through proper channel, the order of the Commandant Railway Protection Force, Dhanbad be obtained under Section 197 Cr.P.C. however no such sanction is required for prosecution as it is not an act of discharge of official duty.

6. By way of referring post mortem report he submitted that in the post mortem report it has been disclosed that injury has been found on the head as well as beneath the left eye of the deceased and the cause of death was shown as grievous injury on the head.

7. He further submitted that viscera was sent for FSL in which it has been stated that aluminum phosphide was detected in the dark brown fluid which could have been decomposed tissues of viscera. Aluminum phosphide commercially known as celphos, is a strong gastro intestinal irritant poison, used as grain preservative and is poisonous.

8. Learned counsel for the appellants further submitted that FSL is doubtful, considering that in the post mortem it has been clearly stated that due to grievous injury the death has occurred. He further submitted that since the accident took place during the travelling the case of the appellants is coming within the definition of "untoward accident" as disclosed in section 123(c) of the Indian Railways Act (hereinafter referred to Act). On these grounds he submitted that without any cogent reasons only considering the FSL report claim of the appellants has been rejected which is against the spirit of welfare legislation. He further submitted that National Human Right Commission has also disbelieved the version of the Railways which has been communicated in May, 2015 Annexure 2, addressed to the Chairman, Ministry of Railway, Railway Board, Rail Bhawan, New Delhi.

9. He submitted that on the ground of bona fide passenger, a case was decided by the High Court of Judicature at Bombay Nagpur Bench, Nagpur in the case of "**Smt Ratta Vs. The Union of India, through its General Manager, South**

East Central Railway” in (First Appeal No. 116 of 2022) wherein para 16, 20,

21 and 22 it has been held as under:-

"16. The compensation on account of untoward incident is paid to provide some solace to the passenger who has been injured or the dependent of the passenger who has been killed in the course of working a railway in an untoward incident. In my opinion, Section 124-A of the Railways Act being a beneficial legislation, should be given liberal and not a literal or strict interpretation. This being a welfare provision, must of necessity, receive a broad interpretation.

20. The underlying object of Section 124-A is to compensate a bonafide 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 of 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' within the meaning of clause (ii) of the explanation to Section 124-A of the Railways Act.

22. Now, in the context of Section 124-A, the concept of strict liability or no fault liability came up for consideration before the Supreme Court in the case of Rina Devi (supra). Relevant for the decision in the present facts, a profitable reference needs to be made to Para 20 to 25 of the decision in Rina Devi (supra) which reads as under:

20. From the judgments cited at the Bar we do not see any conflict on the applicability of the principle of strict liability. Sections 124 and 124-A provide that compensation is payable whether or not there has been been wrongful act, neglect or fault on the part of the Railway Administration in the case of an accident or in the case of an "untoward incident". Only exceptions are those provided under proviso to Section 124-A. In Prabhakaran Vijaya Kumar it was held that Section 124-A lays down strict liability or no fault liability in case of railway accidents. Where principle of strict liability applies, proof of negligence is not required. This principle has been reiterated in Jameela.

21. Coming to the proviso to Section 124-A to the effect that no compensation is payable if passenger dies or suffers injury due to the situations mentioned therein, there is no difficulty as regards suicide or attempted suicide in which case no compensation may be payable. Conflict of opinions in High Courts has arisen on understanding the expression "self-inflicted injury" in the proviso. In some decisions, it has been held that injury or death because of negligence of the victim was on a par with self-inflicted injury. We may refer to the decisions of the decisions of the High Courts of Kerala in Joseph P.T., Bombay in Pushpa and Delhi in Shyam Narayan on this point.

22. In Joseph P.T., the victim received injuries in the course of entering a train which started moving. Question was whether his claim that he had suffered injuries in an untoward incident" as defined under Section 123-A clause (c) could be upheld or whether he was covered by proviso to Section 124-A clause (b). The High Court held that while in the case of suicide or attempt to commit suicide, intentional act is essential. Since the concept of "self-inflicted injury" is distinct from an attempted suicide, such intention is not required and even without such intention if a person acts negligently, injuries suffered in such an accident will amount to "self-inflicted injury". Relevant observations are : (SCC OnLine Ker para 24)

Therefore, the two limbs of the proviso should be construed to have two different objectives to be achieved. We can understand the meaning of the term "self-inflicted injury " not only from the sources provided by the dictionaries, but also from the context in which it is used in the statute. The term "self-inflicted injury" used in the statute can be deduced as one which a person suffers on account of one's own action, which is something more than a rash or negligent act. But it shall not be an intentional act of attempted suicide. While there may be cases where there is intention to inflict oneself with injury amounting to self-inflicted injury, which falls short of an attempt to commit suicide, there can also be cases where, irrespective of intention, a person may act with total recklessness, in that, he may throw all norms of caution to the wind and regardless of his age, circumstances, etc. act to his detriment. Facts of this case show that the appellant attempted to board a moving train from the of side unmindful of his age and fully aware of the positional disadvantage and dangers of boarding a train from a level lower than the footboard of the train. It is common knowledge

that the footboard and handrails at the doors of the compartment are designed to suit the convenience of the passengers for boarding from and alighting to the platform. And at the same time, when a person is trying to board the train from the non-platform side, he will be standing on the heap of rubbles kept beneath the track and that too at a lower level. Furthermore, he will have to stretch himself to catch the handrails and struggle to climb up through the footboard hanging beneath the bogies. The probability of danger is increased in arithmetic progression when the train is moving. Visualising all these things in mind, it can only be held that the act of the appellant was the height of carelessness, imprudence and foolhardiness. It is indisputable that the purpose of Section 124-A of the Act is to provide a speedy remedy to an injured passenger or to the dependents of a deceased passenger involved in an untoward incident. Section 124-A of the Act provides for compensation to a passenger or his dependents who suffers injury or death, as the case may be, in an untoward incident even where the untoward incident is not the consequence of any wrongful act, neglect or default on the part of the Railway Administration. To this extent, it can be said to be a no-fault liability. Even though the provisions relating to payment of compensation in the Act can be said to be a piece of beneficial legislation, it cannot be stretched too much to reward a person who acts callously, unwisely or imprudently. There is no provision of law brought to our notice permitting the passengers to entrain from the nonplatform side of the railway track. However, the counsel for the respondent did not show any provision of law prohibiting the same. The question whether an act by which a passenger sustains injury while boarding a train through the of side, is a self-inflicted injury or not depends on the facts of each case. Merely because a person suffered injury in the process of getting into the train through the of side, is a selfinflicted injury or not depends on the facts of each case. Merely because a person suffered injury in the process of getting into the train through the of side, it may not be sufficient to term it as a self-inflicted injury, unless the facts and circumstances show that his act was totally imprudent, irrational, callous and unmindful of the consequences. All the facts and circumstances established in this case would show that the act of the appellant was with full knowledge of the imminent possibility of endangering his life or limb and, therefore, it squarely comes within the term "self-inflicted injury" defined in Section 124-A proviso (b) of the Act." (emphasis supplied) "

10. Relying on the aforesaid judgment he submitted that when it is found that the appellants were bonafide passenger in view of the provision made in the Act, the tribunal erred in not providing claim and dismissed the same. He further submitted that the claim is arising out of welfare legislation, a pragmatic approach is required to be taken by the learned tribunal which has not been done in the case in hand. To buttress his argument, he relied the judgment of the Madras High Court in the case of **"C. Solaippan & another Vs. Union of India" (C.M.A. No. 2814 of 2015) decided on 08.03.2021** wherein para 8 and 12 it has been held as under:-

"8. The statement of objects and reasons for the provisions of award of compensation are to be considered by the Courts. As far as the welfare legislations are concerned, a pragmatic approach is to be adopted and liberal interpretation is to be followed. The facts and circumstances as well as the suspicion raised with reference to the untoward incident and the probabilities are to be considered in a balanced manner so as to arrive a conclusion whether it is a fit case for grant of compensation or not ? Prudent assessment is required in the event of raising any suspicion regarding the facts related to an untoward incident. But mere suspicion alone cannot be a ground to reject the claim petition, more specifically. In other words, suspicion per se cannot be a ground for rejection. All other connecting factors, mitigating circumstances, probabilities are to be considered cogently to arrive a conclusion.

12. There is no evidence to establish the trespass in the present case. The Divisional Railway Manager report states that it is a case of suspicion and a conclusion was arrived that it is a case where there is a suspicion. Mere suspicion could not be a ground to deny compensation to the victims. Therefore, this Court is bound to consider the concept of social justice as well as social protection to be extended to such victims which is an obligation on the part of a civilized nation. When the family is in distress due to the death of breadwinner of the family, then all mitigating circumstances are to be taken note of and the suspicion raised by the Railways alone cannot be a ground for the purpose of rejection of claim petition."

11. On the other hand, Mrs. Leena Mukherjee, learned counsel for the Union of India submitted that chargesheet in relation to Rail Barkakana P.S. Case No. 21 of 2008, corresponding to G.R. No. 1374 of 2008 has been submitted under section 354, 306/34 of the Indian Penal code against the four accused persons namely (1) Timbu Oroan (2) Mir Jubair Hussain (3) Mritunjay Kumar and (4) Ram Dayal Rai and they moved before the Hon'ble High Court in Cr.M.P. No. 2500 of 2015 for quashing the order dated 12.11.2013 passed by the learned Railways Court, Palamau at Daltonganj in G.R. No. 1374 of 2008 along with the entire criminal proceeding arising out of Rail Barkakana P.S. Case No. 21 of 2008, corresponding to G.R. No. 1374 of 2008 in which by order dated 13.01.2017 further proceeding was stayed. She further submitted that the appellant has also filed a complaint before the NHRC being Case No. 984/34/15/08-09 wherein vide order dated 06.05.2015 the NHRC has directed to pay a sum of Rs. 5 lacs as compensation to the appellants which was challenged by the Railways in W.P.(C) No. 5974 of 2015 and the same is still pending. She further submitted that considering the FSL report the learned tribunal has rightly rejected the claim of the appellants. She submitted that there is no merit in the appeal and the same may kindly be dismissed.

12. In view of above submissions of the learned counsel for the parties the court has gone through the materials on record including L.C.R. Admittedly, the appellants were travelling along with deceased Sanjay Agrawal and travelling under the Ticket No. B-2658940 and the copy of the ticket has been produced considering that the learned tribunal has found that the deceased was bona fide passenger thus it is an admitted fact that the deceased was travelling along with appellants in the said train and in that view of the matter only question is required to be answered by this Court as to whether any incident said to be occurred under Section 123 (c) (ii) and 124-A of the Indian Railways Act. In the L.C.R there is report of newspaper in which

headline is due to assault by the Railway police Sanjay Agrawal has died for that F.I.R. was registered. The post mortem was conducted. Looking into the post mortem report it is crystal clear that due to injury the death has occurred. The letter of May, 2015 contained as Annexure-3 of the supplementary affidavit, addressed to the Chairman, Ministry of Railway, Railway Board, Rail Bhawan, New Delhi by the National Human Right Commission clearly suggests that the contention of the Railway Board vide letter dated 15.10.2014 was not accepted in view of the fact that F.I.R. No. 21/2008 P.S. Barkakana Rail relating to the incident was investigated by CB CID in pursuance of the direction of the Commission and IG CB CID, Jharkhand informed the Commission vide letter dated 29.02.2012 that Head Constable Timbu Oraon, Head Constable M.Z. Hussain, Constable Mrityunjay Kumar and constable Ram Dayal Rai were found guilty under sections 354/306/34 I.P.C. and warrants of arrest had been issued against them. Not only that SP Rail, Dhanbad also confirmed vide letter dated 22.09.2012 that the said four personnel of RPF had been found guilty under sections 354/306/34 I.P.C. Since the four officials of RPF were found guilty in inquiry by the CB CID and also by SP GRP, Dhanbad it is erroneous on the part of the Railway Board to say that they were innocent. The National Human Right Commission has further discarded the communication dated 15.10.2014 of DIG, Railway Safety considering that external injury in the form of swelling and bruises on the head were mentioned in the post mortem report. In that view of the matter it is crystal clear that the RPF Personnel had molested Sangeeta Devi and when her husband Sanjay Kumar Agrawal protested, he was assaulted by them and later on succumbed to the injuries inflicted by them.

13. When the two higher officials of the police accepted the guilt of four police personnel, only on the ground of FSL claim of the appellants was dismissed by the learned tribunal. The documents discussed hereinabove clearly suggests that the deceased was assaulted by the police personnel and once it is proved that the deceased and appellants were bona fide passenger and while travelling by train the occurrence took place in the light of Section 123 (c) (ii) of the Indian Railways Act will come under the untoward incident.

14. There is no dispute that under the Act there is statutory liability of the railway administration for death and /or injury of a passenger due to any untoward incident while travelling in train. Besides, it is a breach of common law duty of reasonable case which lies upon all carriers including the railways. The standard of case is high and strict. Where there is a complete dereliction of duty of railway officials which resulted in a precious life been taken away rendering the guarantee under Article 21 of the Constitution illusory. The deceased was assaulted pursuant to protest of molestation of his wife while travelling in a train, certainly incident will come within the meaning of untoward incident. Reference may be made to the case of "**P.A. Narayan V. Union of India**" (1998) 3 SCC 67. It is well settled that Railways Act being a beneficial piece of legislation should receive liberal and wider interpretation.

15. For better appreciation of the case section 123 (c) and section 124-A of The Railways Act are quoted here-in-below:-

"123. Definitions.—*In this CHAPTER, unless the context otherwise requires,—*

.....

.....

[(c) "untoward incident" means—

(1) (i) The commission of a terrorist act within the meaning of sub-section (1) of Section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson,

by any person in or on any train carrying passengers, or in a waiting hall, cloakroom or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.]

124-A. Compensation on account of untoward incidents.—*When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:*

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation.—For the purposes of this section, "passenger" includes—

(i) a railway servant on duty; and

(ii) 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.]

16. If section 123 and 124-A of the Indian Railways Act are read conjointly for the purpose of interpretation is made taking into account the intention of the legislature to protect the passengers sustaining injuries in untoward incidents the term accidental fall from the train and the deceased was assaulted by the police personnel it is to prove negligence on the part of the Railway to prove liability on the railway to compensate the injured or the legal representative of the deceased.

17. It is well settled that if the words used in a beneficial or welfare statute are capable of two constructions, the one which is more in consonance with the object of preferred. More elaborately it can be said that the beneficial or welfare statutes should be given a liberal and not literal or strict interpretation. In the case of "**Union of India V. Nand Lal Ghaley**" (2014 SCC Online All 16072) the case of '*Hindustan Liver Limited V. Ashok Vishnu Kate*' was considered in para 15 of the said judgment which is quoted here-in-below:-

"15. *In Hindustan Lever Ltd. v. Ashok Vishnu Kate [(1995) 6 SCC 326 (vide para 42); 1995 (71) FLR 1040 (SC).], this Court observed:*

"In this connection, we may usefully turn to the decision of this Court in Workmen v. American Express International Banking Corporation, wherein Chinnappa Reddy, J. in para 4 of the Report has made the following observations:

"The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognized and reduced. Judges ought to be more concerned with the 'colour' the 'content' and the 'context' of such statutes (we have borrowed the words from Lord Wilberforce's opinion in Prenn v. Simmonds). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, Surender Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court we had occasion to say:

"Semantic luxuries are misplaced in the interpretation of 'bread and butter' statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the Court is not to make inroads by making etymological excursions." Francis Bennion in his Statutory Interpretation Second Edn., has dealt with the Functional Construction Rule in Part XV of his book. The nature of purposive construction is dealt with in Part XX at p. 659 thus:

"A purposive construction of an enactment is one which gives effect to the legislative purpose by—

(a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose (in this Code called a purposive-and-literal construction) or

(b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose (in the Code called a purposive and strained construction)."

At p. 661 of the same a book, the author has considered the topic of

"*Purposive Construction*" in contrast with *literal construction*. The learned author has observed as under:

"Contrast with literal construction.—Although the term purposive construction' is not new, its entry into fashion betokens a swing by the Appellate Courts away from literal construction. Lord Diplock said in 1975: 'If one looks back to the actual decisions of the [House of Lords] on questions of statutory construction over the last 30 years one cannot fail to be struck by the evidence of a trend away from the purely literal towards the purposive construction of statutory provisions'. The matter was summed up by Lord Diplock in this way—

.....I am not reluctant to adopt a purposive construction where to apply the literal meaning of the legislative language used would lead to results which would clearly defeat the purposes of the Act. But in doing so the task on which a Court of justice is engaged remains one of construction, even where this involves reading into the Act words which are not expressly included in it"

14. In our opinion, if we adopt a restrictive meaning to the expression accidental falling of a passenger from a train carrying passengers' in section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger traveling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal, interpretation should be given to the expression.

15. Section 2 (29) of the Railways Act defines 'passenger' to mean a person traveling with a valid pass or ticket. Section 123(c) of the Railways Act defines 'untoward incident' to include the accidental falling of any passenger from a train carrying passengers. Section 124-A of the Railways Act with which we are concerned states:

"124-A. Compensation on account of untoward incident.—When in the course of working a Railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the Railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the Railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the Railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;*
- (b) self-inflicted injury;*
- (c) his own criminal act;*
- (d) any act committed by him in a state of intoxication or insanity;*
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.*

Explanation.—For the purposes of this section, "passenger" includes—

- (i) a Railway servant on duty; and*
- (ii) a person who has purchased a valid ticket for traveling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident".*

18. In a country where crores of people who travel by railway trains since everybody cannot afford traveling by air or in a private car by giving a restrictive and narrow meaning to the expression it will amount to deprive a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Thus, when travelling in the train is admitted and said occurrence has taken place which has been found to be genuine by the two

high officials of the police as discussed hereinabove it will come under the untoward incident.

19. Applying the aforesaid position of law as well as discussions and the facts it is evident that the tribunal has taken a hyper technical view in the matter and the evidence and material on record has not been properly construed while dismissing the claim petition of the appellants. There are sufficient material on record to show that the deceased was travelling on the railway ticket placed on record and a finding to that effect has been given in favour of the appellants and deceased by the learned tribunal and four police personnel have been charged for that incident which has been admitted by the two higher officials of police. The court comes to the conclusion that the appellants were entitled to compensation under section 124-A of the said Act.

20. In the case of "**Union of India Vs. Rina Devi**" reported in (2019) 3 SCC 572 the Railway Act, 1989 has been considered by Hon'ble Supreme Court and that what will be amount of compensation and interest under the said Act was considered and it was held at para 19 and 30 as under:-

"19. Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon [Rathi Menon v. Union of India, (2001) 3 SCC 714, para 30 : 2001 SCC (Cri) 1311] and Kalandi Charan Sahoo [Kalandi Charan Sahoo v. South-East Central Railways, (2019) 12 SCC 387 : 2017 SCC OnLine SC 1638] stands explained accordingly. The four-Judge Bench judgment in Pratap Narain Singh Deo [Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289 : 1976 SCC (L&S) 52] holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.

30. As already observed, though this Court in Thazhathe Purayil Sarabi [Thazhathe Purayil Sarabi v. Union of India, (2009) 7 SCC 372 : (2009) 3 SCC (Civ) 133 : (2009) 3 SCC (Cri) 408 : 2010 TAC 420] held that rate of interest has to be @ 6% from the date of application till the date of the award and 9% thereafter and 9% rate of interest was awarded from the date of application in Mohamadi [Mohamadi v. Union of India, (2019) 12 SCC 389 : 2010 SCC OnLine SC 19], rate of interest has to be reasonable rate on a par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises up to the date of payment, without any difference in the stages. Legal position in this regard is on a par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner."

In light of the above judgment compensation as applicable on the date of

accident has to be given with reasonable interest.

21. In view of above facts, it is evident that the appeal deserves to succeed for the reasons that they have successfully proved the entitlement to compensation under the provisions of the said Act due to death occurred in an 'untoward incident' and they are entitled to compensation of Rs. 4,00,000/- as per the last Rules in view of Rule-3 Schedule-II of Railway Accident and Untoward Incidents (Compensation) rule, 1990 with interest from the date of accident.

22. Accordingly, appeal is allowed and impugned judgement dated 20.08.2013 passed by the learned Member/Technical, Railway claims Tribunal, Ranchi, in Case No. O.A. (IIU)RNC/2009/0083 is set aside.

23. It is held that the appellants are entitled to compensation of Rs. 4,00,000/- with interest at the rate of 7.5% from the date of accident as has been held by Hon'ble Supreme Court in the case of ***Union of India Vs. Rina Devi (supra)***. Order as no cost.

24. Let L.C.R. be remitted back to the concerned court forthwith.

(Sanjay Kumar Dwivedi, J.)