HIGH COURT OF MADRAS

Bench: Justice K. Rajasekar

Date of Decision: 17th April 2024

CIVIL MISCELLANEOUS APPEAL NO. 2629 OF 2021

RIYANA BEGUM. B & ORS. ...APPELLANTS

VERSUS

UNION OF INDIA THROUGH GENERAL MANAGER, SOUTHERN RAILWAY, CHENNAI ...RESPONDENT

Legislation:

Railway Claims Tribunal Act, 1987 – Section 23

Railways Act, 1989 – Sections 123(c)(2), 124-A, 147

Subject: Appeal challenging the dismissal of a claim petition seeking compensation for the death of a passenger in a railway accident.

Headnotes:

Compensation – Railway Accident – The appellants, dependents of N. Jahankir, who died in a railway accident, sought to set aside the dismissal of their claim for compensation by the Railway Claims Tribunal – The deceased, holding a valid ticket, was hit by a train while on the platform, leading to his death – The Tribunal dismissed the claim, attributing the accident to the deceased's negligence [Paras 1-4].

Untoward Incident – Burden of Proof – The court emphasized that the deceased's act of being on the platform did not constitute self-inflicted injury under Section 124-A of the Railways Act – The burden of proof to show negligence was on the Railways, which failed to substantiate its claims – Referred to Union of India v. Rina Devi, holding that unintentional acts leading to death do not negate the right to compensation [Paras 10-14].

Judicial Interpretation – Negligence and Self-Inflicted Injury – Cited various precedents, including Rajalakshmi v. Union of India, to highlight the distinction between trespassing with intent and accidental occurrences – Held that even if trespassing occurred, it must be proven to be intentional to deny compensation under Section 124-A [Paras 14-17].

Decision: The appeal was allowed – The respondent was directed to pay Rs. 8,00,000/- as compensation with 7.5% interest per annum from the date of the claim petition till payment – Allocated the compensation among the dependents, ensuring minors' shares are deposited in a Nationalised Bank till they attain majority [Paras 19-20].

Referred Cases:

- Union of India v. Rina Devi, 2019 (3) SCC 572
- Rajalakshmi and two others v. Union of India, C.M.A.No.4371 of 2019
- Joseph P.T. v. Union of India, 2013 SCC OnLine Ker 24151
- Pushpa v. Union of India, 2017 SCC OnLine Bom 8117
- Shyam Narayan v. Union of India, 2017 SCC OnLine Del 8734

Representing Advocates:

For Appellants: Mr. E. Vinothkumar

For Respondent: Mr. M. Vijay Anand.

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants to set aside the dismissal of claim petition made in O.A. (11-u)135/2019, dated 24.03.2021 passed by the Railway Claims Tribunal, Chennai Bench.

2. The appellants / claimants are the dependants of N. Jahankir, vegetable merchant, who died in the Railway accident on 05.10.2018. The deceased Jahankir and his friend John, in order to travel from Kuzhithurai to Madurai, bought train tickets at Kuzhithurai railway station, while they were in the platform no.2 at about 21:50 hours, hit by train No.12660, Shalimar to

Nagercoil, Gurudev Express. Both of them were taken to Kuzhithurai Government Hospital and Jahankir succumbed to injuries in the Kuzhithurai Government Hospital on the same day. Since it is the case of untoward incident, the dependants have come forward with claim petition seeking compensation.

3. The respondent - Railway in the reply statement stated that as per the DRM Report, it was concluded that the deceased was a bonafide passenger but he trespassed and was sitting on the edge of the platform no.2 on the Kuzhithurai railway station, which resulted in accident.

4. The Railway Claims Tribunal after conducting enquiry and based on the DRM Report has held that the deceased recklessly crossed the railway track and sat on the edge of the railway platform, the act of the deceased shall not be termed as 'untoward incident' and the Railway Claims Tribunal has dismissed the claim petition.

5. Aggrieved over the dismissal of claim petition, this appeal has been filed by the claimants / dependants of the deceased.

6. The learned counsel for the appellants submitted that, admittedly the deceased has sustained injuries while awaiting in the platform to board a train and he was holding a valid travel ticket. But purely on suspicion raised in the DRM report, the Tribunal has dismissed the claim petition which is not sustainable and prays to award compensation. He has also relied on the judgment of this Court passed in ***Rajalakshmi and two others Vs. Union of India in C.M.A.No.4371 of 2019 dated 08.03.2021*** in

support of his contention that unintentional trespass of the passenger is liable to be punished under the Act, shall not be a valid ground to deny compensation.

7. Per contra, the learned counsel for the respondent submitted that, since the deceased trespassed by crossing the railway track, the accident occurred, hence, it is a case of self-inflicted injury and shall not be termed as 'untoward incident'. The Tribunal properly appreciated the evidence and dismissed the claim petition and prays to confirm the same.

8. I have considered the submissions of both sides and perused the records. The DRM Report is the basis for rejecting the claim petition, which shows that the deceased Jahankir and his friend John have purchased train ticket to travel from Kuzhithurai to Madurai. On the night of 05.10.2018, both the deceased and his friend were sitting on the edge of the platform no.2 of Kuzhithurai railway station. At about 21:12 hours, Train No.12660 was proceeding from Thiruvananthapuram to Nagercoil, crossed Kuzhithurai railway station at Km.No.258. The Loco Pilot of the train also noticed two persons were sitting on the platform and he blew the horn and applied emergency brake but both persons were hit by the engine and sustained serious injuries. Immediately, the Station Master, RPF staff and Guard went to the spot, the injured persons were taken to Kuzhithurai Government Hospital. There is a foot over bridge available in the middle of the platform, near the booking office but instead of using the foot over bridge, the deceased and his friend used the railway track to cross the platform, which resulted in accident.

9. On the side of the claimants/appellants, the wife of the deceased Jahankir was examined as A.W.1, she has stated that her husband

after purchasing the ticket was waiting in the platform to proceed to Madurai, at that time, a train has hit him, thereby causing severe injuries to him. He died in the hospital on the same day. In the cross examination, no where it is suggested to her that her husband and his friend were sitting negligently in the platform, which resulted in accident. There was also no suggestion that both have reached platform by crossing the railway track. The claimants marked the final report and Inquest report, to claim that the deceased was died in the untoward incident. Inquest report reads that they sustained injuries while crossing the railway track.

10. This Court in ***Rajalakshmi and two others vs. Union of India [C.M.A. No.4371 of 2019, dated 08.03.2021]***, has considered the identical case of incident, which has taken place while crossing the track and held in paragraph 10 and 11 as follows:

"10. The distinction to be considered is that Section 147 deals with trespass, which is a punishable offence. The punishment prescribed is imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both. Thus, Section 147 is a penal provision.

11. *Section 124A provides compensation in the event of passengers sustaining injury or in case of death due to 'Untoward incident'. However, to convict a person under Section 147 of the Act, intention / mens rea is to be established. Thus, unintentional trespass through Railway track by mistake committed by a passenger, would not fall under the exclusion clause as contemplated under proviso to Section 124A and in such cases, compensation is to be awarded. In the present case, even the trespass has not been proved beyond any doubt, despite the fact that the respondent/ Railways claims that it is a case of trespass. Presuming that it is a case of trespass, then also, the Railways is bound to establish that the trespass has been committed with an intention and falling under the Criminal Act as contemplated under the Proviso clause to Section 124A of the Act."*

11. Admittedly, in this case, the Railways taken the defence that the deceased and his friend have trespassed, and sitting on the edge of the platform. No evidence placed on record to show that they were sitting on the

edge of the platform. Per contra, the report of the Loco Pilot shows that while he was entering into the railway station at the platform no.2, train hit two persons aged about 40 years and they were seriously injured. The Final report of the Police shows that the deceased trespassed for the purpose of crossing the track, which resulted in accident.

12. On careful perusal of the DRM Report, the finding recorded by the Investigation Officer is as follows:

> *"There are only two platforms at Kuzhithurai station and Foot Over Bridge (FOB) is available at the middle of Kuzhithurai station for passengers to cross from platform no.1 to platform No.2 and vice versa. The deceased, instead of using the foot over bridge to walk from platform No.1 to platform No.2\, trespassed Railway track and carelesly sat on the edge of Platform no.2 and was hit by Train No.12660 and sustained fatal injuries and died at the hospital on 05.10.2018. As a grown up and responsible person, Sri.jahangir was fully aware that his illegal act of trespassing Railway track and sitting on the edge of platform would endanger his life. He threw caution to the winds and committed suicidal mistake of trespassing and sitting on the edge of platform No.2 and was hit by a train and died due to his own carelessness and negligence."*

13. The DRM report shows that after trespassing the railway track for reaching the next platform, the deceased and his friend were sitting at the edge of the platform. The act of crossing the track was also corroborated with the final report filed by the Police but the conjoint reading of the report of Loco Pilot and DRM Report shows that they sustained injuries while sitting on the railway platform and succumbed to the injuries. That being the case, it cannot be termed that due to the negligence act of the trespass, this accident has taken place. Since the accident has taken place, while they were sitting on the railway platform, it is the burden of the Railways to prove the fact that incident shall not fall within the definition of untoward incident as defined under Section 124-A of the Railways Act. If the accident has taken place at the time of crossing the railway track, the contention of the railways would be acceptable that there is negligent act which resulted in accident. Admittedly,

in this case, no eye witness were examined on both sides to show that the deceased and his friend were sitting negligently on the railway platform by endangering their life.

14. As held by the Hon'ble Apex Court in ***Union of India vs. Rina Devi and others [2019 (3) SCC 572]***, if the claimant is able to prove the fact that the deceased or injured was a bonafide passenger, who travelled on a valid ticket and the facts proven, establishes fact that they were in the platform no.2 at the time of accident, then the burden is on the Railways to prove their defence that, by negligently sitting on the railway platform, the deceased sustained self-inflicted injury. The Hon'ble Apex Court in ***Union of India vs. Rina Devi and others*** has considered that the burden of proof when the body was found on the railway station premises and definition of the passengers in relevant paragraphs, it is held as follows:

"Re: (iii) Burden of Proof When Body Found on Railway Premises – Definition of Passenger :

17.1 Conflict of decisions has been pointed out on thesubject. As noticed from the statutory provision, compensation is payable for death or injury of a 'passenger'. In Raj Kumari (supra) referring to the scheme of Railways Act, 1890, it was observed that since travelling without ticket was punishable, the burden was on the railway administration to prove that passenger was not a bonafide passenger. The Railway Administration has special knowledge whether ticket was issued or not. 1989 Act also has similar provisions being Sections 55 and 137. This view has led to an inference that any person dead or injured found on the railway premises has to be presumed to be a bona fide passenger so as to maintain a claim for compensation. However, Delhi High Court in Gurcharan Singh (supra) held that initial onus to prove death or injury to a bona fide passenger is always on the claimant. However, such onus can shift on Railways if an affidavit of relevant facts is filed by the claimant. A negative onus cannot be placed on the Railways. Onus to prove that the deceased or injured was a bona fide passenger can be discharged even in absence of a ticket if relevant facts are shown that ticket was purchased but it was lost. The Delhi High Court observed as follows :

"3(ii) In my opinion, the contention of the learned counsel for the appellants/claimants is totally misconceived. The initial onus in my opinion always lies with the appellants/claimants to show that there is

a death due to untoward incident of a bonafide passenger. Of course, by filing of the affidavit and depending on the facts of a particular case that initial onus can be a light onus which can shift on the Railways, however, it is not the law that even the initial onus of proof which has to be discharged is always on the railways and not on the claimants. I cannot agree to this proposition of law that the Railways have the onus to prove that a deceased was not a bonafide passenger because no such negative onus is placed upon the Railways either under the Railways Act or the Railway Claims Tribunal Act & Rules or as per any judgment of the Supreme Court. No doubt, in the facts of the particular case, onus can be easily discharged such as in a case where deceased may have died at a place where he could not have otherwise been unless he was travelling in the train and in such circumstances depending on the facts of a particular case it may not be necessary to prove the factum of the deceased having a ticket because ticket as per the type of incident of death can easily be lost in an accident. I at this stage take note of a judgment of a leaned Single Judge of this Court in the case reported as ***Pyar Singh Vs. Union of India 2007 (8) AD Del. 262*** *which holds that it is the claimant upon whom the initial onus lies to prove his case. I agree to this view and I am bound by this judgment and not by the ratio of the case of Leelamma (supra).”*

17.2 In Jetty Naga Lakshmi Parvathi (supra) same view was taken by a single Judge of Andhra Pradesh after referring to the provisions of the Evidence Act as follows :

“22. So, from Section 101 of the Indian Evidence Act, 1872, it is clear that the applicants, having come to the court asserting some facts, must prove that the death of the deceased had taken place in an untoward incident and that the death occurred while the deceased was travelling in a train carrying passengers as a passenger with valid ticket. Therefore, having asserted that the deceased died in an untoward incident and he was having a valid ticket at the time of his death, the initial burden lies on the applicants to establish the same. The initial burden of the applicants never shifts unless the respondent admits the assertions made by the applicants. Such evidence is lacking in this case. Except the oral assertion of A.W.1, no evidence is forthcoming on behalf of the applicants. The court may presume that the evidence which could be, and is not produced, would, if produced, be unfavourable to the person who withholds it. The best evidence rule, which governs the production of evidence in courts, requires that the best evidence of which the case in its nature is susceptible should always be produced. Section 114(g) of the Indian Evidence Act, 1872 enables the court to draw an adverse presumption against a person who can make available to the court, but obstructs the availability of such an evidence. The Claims Tribunal, upon considering the material on record, rightly dismissed the claim of the applicants and there are no grounds in this appeal to interfere with the order of the Tribunal.”

17.3 In Kamrunnissa (supra), from the circumstances appearing in that case it was held that there was no evidence that the deceased had purchased the ticket. In the given fact situation of that

case, this Court inferred that it was not a case of 'untoward incident' but a case of run over. It was observed :

"7. The aforestated report also reveals, that the body of the deceased had been cut into two pieces, and was lying next to the railway track. The report further indicates, that the intestine of the deceased had come out of the body. The above factual position reveals, that the body was cut into two pieces from the stomach. This can be inferred from the facts expressed in the inquest report, that the intestines of the deceased had come out of the body. It is not possible for us to accept, that such an accident could have taken place while boarding a train.

8. In addition to the factual position emerging out of a perusal of paragraphs 7 & 8 extracted hereinabove, the report also reveals, that besides a pocket diary having been found from the person of the deceased a few telephone numbers were also found, but importantly, the deceased was not in possession of any other article. This further clears the position adopted by the railway authorities, namely, that the deceased Gafoor Sab, was not in possession of a ticket, for boarding the train at the Devangere railway station."

17.4 We thus hold that mere presence of a body on the Railway premises will not be conclusive to hold that injured or deceased was a bonafide passenger for which claim for compensation could be maintained. However, mere absence of ticket with such injured or deceased will not negative the claim that he was a bonafide passenger. Initial burden will be on the claimant which can be discharged by filing an affidavit of the relevant facts and burden will then shift on the Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found. The legal position in this regard will stand explained accordingly."

15. It is the case of the claimant that the deceased purchased ticket and went to platform no.2 for boarding the train. That being the case, as held by the ***Rina Devi case***, since the basic facts such as the deceased was a bonafide passenger and reached the platform for boarding the train, is established by the claimants. The burden to prove that the deceased and his friend have negligently sat in the platform is on the Railways. However, no evidence were adduced nor Railways has discharged their burden to show that, while they were sitting on the edge of platform, the accident has taken place. While examining the first claimant, wife of the deceased, the Railways have not come forward with the case that the deceased and his friend were

sitting on the edge of the platform negligently and their act falls within the definition of the term 'self-inflicted injury'.

16. Section 124-A of the Railways Act provides that when a person suffers injury or dies due to an untoward incident, it is incumbent upon the railways to pay compensation to the injured or to the dependants of the deceased as the case may be, provided the injury or death does not fall within any of the five exceptions indicated in the Section. Section 124-A of the Act reads as follows:

*"**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, not withstanding 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 –

(a) a railway servant on duty; and

(b) 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."

17. Section 123(c)(2) of the Railways Act provides that the accidental falling of any passenger from a train carrying passengers is an untoward incident. This provision was interpreted by the Hon'ble Apex Court in ***Union of India vs. Rina Devi and others [2019 (3) SCC 572]***. The relevant portion of the judgment reads as follows:

"***Re : (ii) Application of principle of strict liability — Concept of self-inflicted injury***

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 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 [Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] 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 [Jameela v. Union of India, (2010) 12 SCC 443 : (2010) 4 SCC (Civ) 644] .*

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 "selfinflicted 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 High Courts of Kerala in Joseph P.T. [Joseph P.T. v. Union of India, 2013 SCC OnLine Ker 24151 : AIR 2014 Ker 12] , Bombay in Pushpa [Pushpa v. Union of India, 2017 SCC OnLine Bom 8117 : (2017) 3 ACC 799] and Delhi in Shyam Narayan [Shyam Narayan v. Union of India, 2017 SCC OnLine Del 8734 : 2018 ACJ 702] on this point.*

22. *In Joseph P.T. [Joseph P.T. v. Union of India, 2013 SCC OnLine Ker 24151 : AIR 2014 Ker 12] , 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(c) could be upheld or whether he was covered by proviso to Section 124A 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)

"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 offside 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 bogie. 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 dependants of a deceased passenger involved in an untoward incident. Section 124A of the Act provides for compensation to a passenger or his dependants 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 nofault 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 offside, 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

offside, 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)

23. *In Pushpa [Pushpa v. Union of India, 2017 SCC OnLine Bom 8117 : (2017) 3 ACC 799] a hawker died in the course of boarding a train. It was held that he was not entitled to compensation as it was a case of "self-inflicted injury". The relevant observations are : (SCC OnLine Bom para 14)*

"14. Such an attempt by a hawker has been viewed by the trial court as something amounting to criminal negligence on his part and also an effort to inflict injuries to himself. The trial court reasoned that if the deceased had to sell his goods by boarding a train, he should have ensured to do so only when it was quite safe for him to get on to the train or otherwise he could have avoided catching the train and waited for another train to come. It also hinted that there was absolutely no compulsion or hurry for the deceased in the present case to make an attempt to somehow or the other board the train while it was gathering speed."

24. *In Shyam Narayan [Shyam Narayan v. Union of India, 2017 SCC OnLine Del 8734 : 2018 ACJ 702] , same view was taken which is as follows : (SCC OnLine Del para 7)*

"7. I cannot agree with the arguments urged on behalf of the appellant applicants in the facts of the present case because there is a difference between an untoward incident and an act of criminal negligence. Whereas negligence will not disentitle grant of compensation under the Railways Act, however, once the negligence becomes a criminal negligence and selfinflicted injury then compensation cannot be granted. This is specifically provided in the first proviso to Section 124A of the Railways Act which provides that compensation will not be payable in case the death takes place on account of suicide or attempted suicide, self-inflicted injury, bona fide passenger's own criminal act or an act committed by the deceased in the state of intoxication or insanity."

25. *We are unable to uphold the above view as the concept of "self-inflicted injury" would require intention to inflict such injury and not mere negligence of any particular degree. Doing so would amount to invoking the principle of contributory negligence which cannot be done in the case of liability based on "no fault theory". We may in this connection refer to the judgment of this Court in United India Insurance Co. Ltd. v. Sunil Kumar [United India Insurance Co. Ltd. v. Sunil Kumar, (2019) 12 SCC 398 : 2017 SCC OnLine SC 1443 : (2017) 13 Scale 652] laying down that plea of negligence of the victim cannot be allowed in claim*

based on "no fault theory" under Section 163-A of the Motor Vehicles Act, 1988. Accordingly, we hold that death or injury in the course of boarding or deboarding a train will be an "untoward incident" entitling a victim to the compensation and will not fall under the proviso to Section 124-A merely on the plea of negligence of the victim as a contributing factor."

18. In the absence of any evidence to show that the incident falls within the exceptions as stated above, Railways have to pay compensation to the dependants herein. The admitted facts herein are that while the deceased and his friend were waiting in the platform, they were hit by the train. It is not a case of self-inflicted injury or they have sustained injury while they were crossing the railway track. Accordingly, this Court is of the view that the finding of the Tribunal is not proper and the claimants/ appellants are entitled for compensation.

19. In the result, this Civil Miscellaneous Appeal is allowed. The respondent-Railway is directed to deposit a sum of **Rs.8,00,000/- [Rupees Eight Lakhs only]** along with interest at the rate of **7.5% per annum** from the date of claim petition till the date of payment. The deposit shall be made within a period of six weeks from the date of receipt of a copy of this judgment to the credit of O.A. (11-u)135/2019, on the file of the Railway Claims Tribunal, Chennai Bench. On such deposit, the first claimant, wife of the deceased is entitled to 40% and second and third claimants, who are the minor children of the deceased are entitled to 25% (each) and the fourth claimant, mother of the deceased is entitled to 10% and the compensation awarded for the minor appellants / claimants is directed to be deposited in any one of the Nationalised Banks till the minor attains major. The mother of the minor appellant viz., Riyana Begum.B, is permitted to withdraw the accrued interest once in three months for the welfare of the minor children, now awarded by this Court along with interest and costs. The Tribunal shall disburse the

amount now awarded by this Court by directly giving the credit to Savings Bank Accounts of the claimants without any formal application.

There shall be no order as to costs in the present appeal.