IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 333 of 2024
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1. Smt. Rita Devi, aged about 59 years, wife of Late Akhileshwar Ram

2. Avinash Kumar, aged about 39 years, son of Late Akhileshwar Ram

3. Subhash Kumar, aged about 34 years, son of Late Akhileshwar Ram

4. Miss Suman Priti, aged about 32 years, daughter of Late Akhileshwar Ram

All are residents of village – Sonbariya, PO – Latdag, PS – Meral, District – Garhwa, Pin - 822114 **.... Appellants**

-- Versus --

Union of India, through General Manager, East Central Railway, Hajipur, PO and PS -Hajipur, District – Hajipur, Bihar

.... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellants :- Mr. Arvind Kr. Lall, Advocate
For the Respondent :- Mr. Chandra Prakash, Advocate

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*03/**06.10.2026*** Heard learned counsel appearing for the appellants and learned counsel appearing for the respondent – Railway.

2. This appeal has been preferred under Section 23 of Railway Claims Tribunal Act, 1987 being aggrieved by judgment and award dated 12.06.2024 passed in Case No. OA (IIU)/RNC/2015/0011 by the learned Railway Claims Tribunal Ranchi Bench, Ranchi decided by Judicial Member and Member Technical by which the claim of the appellants has been dismissed.

3. Learned counsel appearing for the appellants submits that earlier the claim of the appellants was dismissed by the order dated 13.10.2015 by the learned Tribunal which was challenged before this Court in Misc. Appeal No.27 of 2016 which was decided by judgment dated 08.02.2021 and after setting aside the said award remanded the

matter to the learned Tribunal to adjudicate the case within a stipulated period from that date of appearance of parties by observing inter alia that as it is a benevolent legislation and the Railway Claim Tribunal cannot deny the claim on the ground that it has got no jurisdiction. He further submits that thereafter the present order dated 12.06.2024 has been passed and again it has been dismissed. He then submits that appellants herein have preferred an application under Section 16 of the Railway Claims Tribunal Act read with Rule 5 of the Railway Claims Tribunal (Procedure) Rules, 1989 before the learned Railway Claims Tribunal, Ranchi Bench, Ranchi being Case No. OA (IIU)/RNC/2015/0011. He next submits that on 26.01.2014 while the deceased Akhileshwar Ram was crossing Parhua rail crossing between Meral and Ramana Railway Station then suddenly the express train Tata-Jammu Tawi Express Train without blowing whistle dashed the car in which Akhileshwar Ram was travelling as a result, the said Akhileshwar Ram was crushed to death and the car was badly damaged and pursuant to that UD Case No.3 of 2014 was registered by Daltonganj Rail Thana. He also submits that earlier rail *gumti* was duly constructed in the said crossing but it was not functioning and there was no rail man to close the gate nor any signal man was posted to control the persons crossing the rail line which is apparent from the photographs annexed with the claim application. He next submits that postmortem of the deceased was made on 26.01.2014 in Sadar Hospital, Garhwa. The appellants are the legal heirs/successors as well as legal representative of the said deceased. He next submits that learned Claims Tribunal has been pleased to hear the arguments on maintainability of the case and by judgment dated 13.10.2015 dismissed

the same on the ground that the Tribunal has got no jurisdiction and thereafter the petitioner has preferred the appeal which has been remanded by this Court and again the learned Tribunal has held that the deceased was not a bona fide passenger on the date of accident and the claim of the petitioner was not coming within the definition of Section 123(a) read with Section 124 and 124-A of the Act. He next submits that Section 18 of the Railways Act, 1989 contemplates putting gates, chains and bars etc. at the level crossing for smooth running of the trains and it is the duty of railway to protect that area under Section 18 of the Railways Act, 1989. He next submits that the learned Tribunal has wrongly held that the case of the petitioner is not covered under Section 124 of the Railway Act read with Untoward Incidents (Compensation) Rules, 1990. He next submits that the case of the petitioner is fully covered in light of judgment of this Court in the case of ***Dharam Bidyas Kujur vs. Union of India through General Manager, South Eastern Railway and Another reported in AIRONLINE 2019 JHA 1183.***

4. Learned counsel appearing for the respondent – Railway opposes the prayer and submits that the deceased was negligent in crossing the railway gate and for that liability cannot be fastened upon the railway. He further submits that the deceased was not bona fide passenger of any train and in view of that the learned Tribunal has rightly held that Section 124 of the said Act is not helping the appellants. He then submits that in light of Section 161 the deceased is further liable for crossing on banned level crossing. On these grounds, he submits that the appeal may kindly be dismissed and the judgment of learned Tribunal

may kindly be affirmed.

5. It is an admitted position that earlier on the point of jurisdiction by the judgment dated 13.10.2015 the case of the appellants was rejected by the learned Tribunal which was challenged before this Court in Misc. Appeal No.27 of 2016 and by the judgment dated 08.02.2021 the said finding was set aside and the matter was remanded back to the learned Tribunal to decide afresh, however, learned Tribunal has again dismissed the claim saying that the case of the appellants is not coming within the purview of Section 124 of the said Act.

6. In support of the claim, appellants herein examined two witnesses as AW-1 and AW-2. The appellants filed FIR as Exhibit-A1, Fardbayan and Final Report as Exhibit-A2, Aadhar Card of Balram Ram and Death Certificate of Akhileshwar Ram as Exhibit-A3, News Paper Cutting as Exhitib-A4, Jharkhand Police ID Card of the deceased as Exhibit-A5, Postmortem Report as Exhibit-A6 and Photographs of Railway Crossing as Exhibit-A7, Photo Copies of Aadhar Card of Suman Priti, Aadhar Card of Subhash Kumar, Aadhar Card and Voter ID Card of Avinash Kumar, Voter ID Card of Rita Devi, Aadhar Card of Rita Devi, Bank particulars of Rita Devi, Family Details Certificate and Aadhar Card of Mahi Ranjan.

7. In the order of learned Tribunal, it has come that the respondents have not produced any witness. The learned Tribunal has held that the case is arising out of dashing of car at level crossing and the deceased was not travelling on any train, as such Section 124 and 124A of the said Act is not attracted and has held that it was not untoward train accident.

8. Two judgments relied by the appellants before the learned Tribunal in W.P. (C.) No.4543 of 2014 on which reliance has been placed by learned counsel appearing for the appellants and of Orissa High Court has been distinguished by the Tribunal saying that those of the judgments has been passed under Article 226 of the Constitution of India which is wider jurisdiction of the High Court, however, the Tribunal is exercising the power under the statutory law limited jurisdiction.

9. 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 crossing the railway gate where no hindrance was put by the railway and it is to be proved negligence on the part of the Railway as it is in violation of Section 18 of the said Act.

10. 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 be 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 reported in (2014 SCC Online All 16072)*** the case of ***Hindustan Liver Limited V. Ashok Vishnu Kate*** was considered in paragraph No. 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:*
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> *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:*
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> *—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-cumLabour 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-andliteral 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.

11. In identical situation, this Court in the case of Dharam Bidyas Kujur vs. Union of India and Anr. (supra) has allowed the prayer directing the Railway to pay compensation and that was the case of also crossing the railway gate.

12. High Court of Assam in the case of ***Swarnalata Barua v. Union of India and Others, reported in AIR 1963 Assam 117*** wherein it is held that there is an obligation on the part of Railway Administration to ensure that whenever a train passes over a thoroughfare adequate warning should be given to the public about passing of the train at the time they pass, so that accident may be avoided. The said duty need not necessarily be a statutory duty. It is implied and inherent in the functions to be discharged by the Railway Administration in the matter of running their railways. It is not disputed that had the Railway Administration taken the precautionary measure either by putting a railway gate for keeping it closed at the time the train was due to pass or putting some other obstructions which could have prevented the public from passing over the level crossing that would be the information and notice to the public that the train will pass through the railway track, then accident of this kind that had happened in this case would not have occurred.

13. The Orissa High Court has also allowed the compensation in identical situation in the case of ***Laxmi Priya Sahu and Another vs. Divisional Railway Manager, East Coast Railway, Khurda and***

Another reported in (2013) 3 T.A.C. 352.

14. Further the case of the petitioner is not coming within any of the condition of proviso of Section 124A of the said Act.

15. Further considering the judgment of Hon'ble Supreme Court in the case of ***Union of India v. Rina Devi reported in (2019) 3 SCC 572*** the appeal deserves to be succeed for the reasons that the appellants have successfully proved the entitlement to compensation under the provisions of the said Act due to death occurred in an "untoward incident" and the appellants are entitled to compensation of Rs.8 lacs as per the last Rules in view of Rule 3 Schedule-II of Railway Accident and Untoward Incidents (Compensation) Rule, 1990. For ready reference, paragraph Nos.19 and 30 of "***Union of India v. Rina Devi" (supra)*** is quoted here-in-below :-

> ***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.*
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> *Re : (iv) Rate of interest*
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> ***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.*

16. In view of the judgment of Hon'ble Supreme Court in the case of ***Union of India vs. Rina Devi (supra)*** since the accident is of the earlier period (year 2014) and the appeal is decided now, as such the said amount will not carry interest. It is held that the appellants are entitled for compensation of Rs.8,00,000/- (Rupees Eight Lakhs) without any interest and accordingly the appeal stands disposed of. No order as to costs.

17. Let the trial court record be sent back to the learned Court concerned forthwith.

(Sanjay Kumar Dwivedi, J.)

Dated 06.10.2026
Sangam/
A.F.R.