

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.312 of 2020

(From the judgment dated 13.2.2020 passed by the Member, Railway Claims Tribunal, Bhubaneswar Bench in O.A.No.125 of 2017)

Pemmi Venkataramana and another Appellants

Versus

Union of India Respondent

Advocate(s) appeared in this case:-

For Appellants : Ms.D.Mahapatra, Advocate

For Respondent : Mr.A.C.Routray, Sr. Panel Counsel

CORAM : JUSTICE B.P. ROUTRAY

JUDGMENT

2nd January, 2024

B.P. Routray,J.

1. Heard Ms. Mahapatra, learned counsel for the Appellants and Mr.Routray, learned Senior Panel Counsel for the Union of India.

2. Present appeal by the claimants is directed against judgment dated 13th February 2020 passed by the Railway Claims Tribunal,

Bhubaneswar Bench, in Case No.125 of 2017, wherein the Tribunal has refused to grant any compensation by disbelieving claimants' case.

3. The case of the claimants is that, their son namely, Pemmi Rambabu while travelling in Train No.12664 Trichinapalli-Howrah Express from Visakhapatnam to Palasa on 5th October 2016 died due to accidental fall from the running train.

4. The Railways denied the claim and contested the same. Both the parties adduced their respective evidences. When the claimants examined two witnesses Viz. A.W.1 & A.W.2, the Railways examined one witness Viz. R.W. 1.

5. The undisputed facts reveal that the dead body of the deceased was first noticed by one unknown person, who informed it to the Station Superintendent of Ichhapuram Railway Station. Accordingly, Diary Entry No.3114/A dated 5th October 2016 was entered and the matter was reported to local police who registered Crime Case No.174 of 2016. The dead body was lying on the track at KM No.626/28-26 and head was decapitated. Inquest was held and at the time of inquest a journey ticket bearing no.53985365 dated 5th October 2016 was recovered.

6. As per the postmortem report, the head was severed and injuries were found all over the dead body. The circumstances regarding recovery of the body, which was lying in Ichhapuram Railway Yard at KM No.626/28-26, along with nature of injuries noticed on the dead body during post-mortem examination are definitely supporting the claim of the applicants that the death of the deceased is due to fall from running train. In this regard, the evidence of A.W.2 may be taken into account. A.W.2 has stated in his evidence that he accompanied the deceased to Visakhapatnam Railway Station where the deceased boarded Trichinapalli-Howrah Express on 5th October 2016 after purchasing a journey ticket. This evidence of A.W.2 is left unrebutted during his cross-examination. So, considering the statement of A.W.2 as well as recovery of the ticket at the time of inquest, it is concluded that the deceased was a bona-fide passenger of the train. Further, keeping in view the totality of all such circumstances along with the evidence of A.W.2, it can safely be concluded that the deceased died due to fall from the running train while travelling in Trichinapalli-Howrah Express Train.

7. It is true that the journey ticket though shows travel from Visakhapatnam to Palasa, but the dead body was recovered lying at

Ichhapuram Railway Station which is beyond Palasa Station and the Tribunal disbelieved the case of the claimants mainly on this ground that the deceased did not have a valid journey ticket to travel up-to Ichhapuram. The reason so assigned by the Tribunal to disbelieve bona-fide journey of the deceased in the train is not found justified. It is for the reason that A.W.2 has stated in his evidence that the deceased boarded the train for travelling after purchasing the journey ticket and there may be some genuine reason for the deceased to travel beyond Palasa. For the only reason that the journey ticket only authorizes him to travel up-to Palasa would not be enough to say that he was not a bona fide passenger at Ichhapuram.

8. In view of the discussions made above, the claimants are found established their case regarding death of the deceased in an untoward incident while travelling in the train. Accordingly, the appeal is allowed and the impugned award is set aside. The Respondent-Union of India is directed to pay compensation of Rs.4,00,000/- (Four lakhs) along with interest @ 6% per annum from the date of accident or Rs.8,00,000/- (eight lakhs), whichever is higher, in terms of the decision rendered in ***Union of India vs- Rina Devi, (2019) 3 SCC 572***, within a period of four months from today. The same shall be disbursed in favour of both the claimants in

equal proportion by keeping 50% of their shares in fixed deposits separately in their names in any Nationalized bank for a period of five years.

9. The copies of evidences and documents, as produced by Ms. Mohapatra in course of hearing, are kept on record.

(B.P. Routray)
Judge



C.R. Biswal, Secy.