

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No. 7 of 2022

Laxmipriya Patra & Others* *Appellants

-versus-

Union of India* *Respondent

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
06.04.2022**

**Order
No.**

4. 1. This matter is taken up through Hybrid mode.
2. This appeal is filed by the Claimants, who are the wife and children of deceased Baikuntha Patra @ Vykuntha Patro, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'the Act, 1987') being aggrieved by the judgment and award dated 5th July, 2021 passed by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar (for short, 'the learned Tribunal') in OA No.27 of 2018 assailing the mode of payment of compensation amount.

3. At the outset, learned counsel for the parties submit that the legal issue involved in this appeal is similar to FAO Nos.262 of 2020 and batch of appeals disposed of by this Court vide judgment dated 9th September, 2021 and the present Appeal may be disposed of in the light of the said judgment.

4. Mr. P.K.Das, learned Central Government Counsel for the Railways-Respondent, however, submits that although the facts and law involved in this case is similar, but Claimant should approach learned Tribunal by filing appropriate application for variation in the condition and mode of payment of the compensation amount. In that event, learned Tribunal will be in a position to pass necessary orders on their application.

5. Ms. Mohapatra, learned counsel for the Appellants submits that since Railways could not produce any material before the learned Tribunal to justify restriction in disbursement of compensation, remittance of the matter to learned Tribunal will be an empty formality only, and thereby the claimant(s) will be highly prejudiced. Even though Ms. Mohapatra, learned counsel for the Appellants argued that the issue involved in this appeal is squarely covered by the aforesaid decision of this

Court rendered in FAO No.262 of 2020, but in the present case Appellants Nos.2 and 3 (Applicant Nos.2 and 3) were minor at the time of filing of the claim application. Even though in due course of time, appellant No.2 (applicant No.2) has become a major, but she is the unmarried daughter of the deceased. But appellant No.3 (applicant No.3) still continues to be a minor. Therefore, the learned Tribunal has rightly directed to keep the share of the Appellant Nos.2 and 3 (Applicant Nos.2 & 3) in FDR vide the impugned order. Therefore, the ratio decided by this Court in the aforesaid FAO No.262 of 2020 cannot be applied in toto to the facts of the present case. In view of the insertion of Rule-5 by virtue of the amendment, which came into force w.e.f. 01.01.2020 to the Railway Accident and Untoward Incident, (Compensation Rules), 1990, learned Tribunal has rightly directed to keep the share of appellant Nos.2 and 3 in shape of FDR in their respective names for a period of three years and this Court is not inclined to interfere with the same. But since the appellant No.1 is a major and wife of the deceased, direction to keep 90% of the amount in FDR is not in consonance with the amended Rule-5 of the Rules.

6. Having heard learned counsel for the Parties and taking into account the grounds raised in this

appeal vis-à-vis the decision passed by this Court in FAO No.262 of 2020, this Court feels it proper to direct the learned Tribunal to disburse the share of appellant No.1 in full on proper identification, as expeditiously as possible preferably within a period of one month from the date of filing of an application along with certified copy of this order following due procedure of law. The Claimant(s)/Appellant(s) is/are directed to submit his/her (their) A/c details of any nationalized bank as per the requirement along with the application form for disbursal of the compensation amount, as aforesaid.

Urgent certified copy of this order be granted on proper application.

(Biraja Prasanna Satapathy)
Judge

Subrat