

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.494 of 2016

Debhid Bud

....

Appellant

Mr. B.N. Samantaray, Advocate

-versus-

Union of India

....

Respondent

Mr. U.R. Jena, C.G.C. for UoI

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

22.09.2022

Order No.

06.

1. Heard Mr. B.N. Samantaray, learned counsel for the claimant-Appellant and Mr. U.R. Jena, learned C.G.C. for Union of India-Respondent No.1

2. Present appeal is directed against the judgment dated 26.02.2016 passed in Case No.O.A./IIU/2013/064 by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar, wherein the prayer of the claimant for getting compensation on account of injury while travelling in railways was refused by the learned Tribunal on the ground that he was not a bonafide passenger.

3. The case of the claimant is that he was travelling in Koraput-Rourkela Intercity Express on 6.9.2012 boarded from Sambalpur to Rajgangpur. At Rajgangpur Railway Station while alighting from the train he sustained injuries due to negligence of the railways.

4. The injured-claimant examined him as a witness (A.W.1) and marked different documents including Police papers and his journey ticket from Secunderabad to Sambalpur in the connecting train. But he did not file any journey ticket from Sambalpur to Rajgangpur in Koraput-Rourkela Intercity Express. Conversely, the railway administration contested the case with counter plea that the injured was travelling in Intercity Express without ticket and this fact he admitted before the DRM while conducting enquiry. The recorded statement of the injured made before the DRM dated 12.6.2013 and signed by the injured was marked in evidence under Ext.R/1 along with the investigation report. The injured-claimant neither objected said document marked in exhibit on behalf of the railway administration nor disputed his earlier statement made before the inquiring authority. The said statement of the claimant is relevant as previous statement within the meaning of Section 145 of the Evidence Act which remains undisputed and therefore forms admission of the claimant. As such no flaw is seen in the conclusion of the Tribunal in accepting such admission of the claimant to refuse his claim.

5. The claimant being a ticketless passenger of the train, the railway administration is exempted from the liability as per the explanation given in Section 124-A of the Railways Act.

6. In the result, the appeal is dismissed.

(B.P. Routray)
Judge