

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.534 of 2016

Gayadhar Giri and another

.... ***Appellants***
Mr.A.Acharya, Advocate

-versus-

Union of India

.... ***Respondent***
Mr.J.Nayak, CGC

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
12.10.2022

Order No.

7.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Acharya, learned counsel for the Appellants and Mr.Nayak, learned Central Government Counsel for the Union of India.
3. Present appeal is directed against the judgment/award dated 17th May, 2016 of the Member (Technical), Railway Claims Tribunal, Bhubaneswar Bench in Case No.BBSR/OA/IIU/2012/0011.
4. The learned Railway Claims Tribunal, Bhubaneswar Bench refused to grant compensation in favour of the claimants/Appellants by disbelieving the death of the deceased in the alleged untoward incident and secondly, the dependency of the claimants as parents of the deceased.

5. Mr.Acharya submits for the Appellants that despite admitted discovery of the dead body near the railway track mentioned in the DRM report and availability of the journey ticket of the deceased produced from the side of the claimants, the Tribunal has erroneously disbelieved their case to reject the claim.

6. Mr.Nayak, learned C.G.C. on the other hand supports the findings of the Tribunal by stating that the genuineness of the claim of the applicants is doubtful in absence of production of certified copies of the documents.

7. The case of the claimants is that, deceased Jayanta Giri while travelling in Howrah-Ahmadabad Express Train on 5th October, 2009 with a valid journey ticket died due to accidental fall from the train. His dead-body was discovered near the railway track at KM No.588/02 between Raigarh and Kotalia Railway Station under Chakradhar Nagar Police Station in Raigarh district of Chhatisgarh on 5th October, 2009.

8. It is seen that no dispute with regard to parenthood of the claimants in respect of the deceased has been raised by the Respondent. Neither DRM inquiry report nor police investigation report do question about the parenthood of the claimants, but the Tribunal strangely doubting the marital status of the deceased has disbelieved dependency of the claimants without any foundation. An automatic presumption was drawn by the Tribunal that since the marital status of the deceased was not disclosed by the claimants, their dependency as parents is disbelieved. Such approach of the Tribunal is not found proper and it is held that in

absence of any dispute with regard to dependency of the claimants or any dispute with regard to parenthood of the claimants in respect of the deceased, no occasion is there to disbelieve their dependency and the same should have been accepted.

9. Next coming to the claim of the applicants, the DRM report establishes the fact that the dead body of the deceased was discovered from the railway track at that particular point mentioned above. The police investigation report is also supports the same. So in absence of any denial, no hindrance there is in accepting the copies of the documents particularly when the death and discovery of the dead body is supported in the report of the respondent. The finding of journey ticket as produced on behalf of the claimants before the Tribunal is disbelieved on the ground that no co-passenger has been examined by the claimants to have seen the deceased purchasing the same from the counter. This reasoning cannot be allowed to sustain because there is no rebuttal evidence produced against the same by the Respondent. The production of the journey ticket on behalf of the claimants is never disputed nor disputed to be a fake one, to disclose such journey from the place departed. The journey ticket is bearing No.79809471 dated 5th October, 2009 from Howrah to Ahmadabad. The same is not disputed by the Respondent to be invalid in any aspect. Therefore, the reasoning assigned by the Tribunal cannot be permitted to sustain to disbelieve the claim of the Appellants.

10. When the travelling of the deceased in the train is clearly stated by the claimants, the journey ticket was produced, the dead-body of the deceased was recovered from the railway track supported by the police investigation and DRM inquiry report, no reason is found to deny compensation to the claimants. Thus, holding the Appellants as the parents of the deceased as per their claim, they are found entitled for due compensation amount under the Railways Act.

11. In the result, the appeal is allowed and the Respondent is directed to pay compensation of Rs.4,00,000/-(four lakhs) in favour of the claimants within a period of two months from today, which shall be disbursed in favour of the both the claimants in equal share by keeping 50% of the same in fixed deposits in any Nationalized Bank for a period of five years.

12. Copies of the DRM report along with other documents as produced by Mr.Acharya in course of hearing are kept on record.

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

(B.P. Routray)
Judge