

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.71 of 2019

Pramila Karmakar and Another ***Appellants***

Ms. Deepali Mohapatra, Advocate

-versus-

***Union of India, represented through its
General Manager, East Coast Railway,
Bhubaneswar***

Respondent

Ms. S. Patra, Central Government Counsel

**CORAM:
SHRI JUSTICE B. P. ROUTRAY**

**ORDER
12.12.2022**

Order No.

- 04.
1. The matter is taken up through hybrid mode.
 2. Heard Ms. D. Mohapatra, learned counsel for the claimant – Appellants and Ms. S. Patra, learned Central Government Counsel for Respondent – Union of India.
 3. Present appeal by the claimants is directed against impugned judgment dated 18th December, 2018 of the Member (Judicial), Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar passed in OA (IIU)/14/2015, wherein the tribunal has refused to grant any compensation on account of death of deceased Soren Karmakar in the alleged untoward incident dated 25th November, 2014.
 4. The claimants are the mother and minor sister of the deceased. Their case is that the deceased started journey from Khorda Road station on 25th November, 2014 to Tata Nagar by Utkal Express on the

strength of ticket bearing number 83926211. His dead body was found lying in the down track KM No.431/16-18 at 11:00 hours on the next day, i.e. 26th November, 2014.

5. The claimants examined one witness as AW-1, who is the mother of the deceased, besides adducing copies of police papers and other documents. Similarly, one witness as RW-1 was examined from the side of the railways, who is the Sub-Inspector of Police in RPF, besides the DRM investigation report.

6. The tribunal disbelieved the case of the claimants on the ground that Utkal Express passed on the same line at around 22:40 hours on 25th November, 2014 and the dead body was noticed only at 11:00 hours on 26th November, 2014, i.e. after 22 hours. In the opinion of the tribunal, had the dead body been there due to fall from the train it would not have left unnoticed for such a long period of 22 hours. This is the sole reason that led the tribunal to disbelieve the case of the claimants despite all such evidences adduced by the claimants.

7. Undisputedly, journey ticket bearing number 83926211 dated 25th November, 2014 from Khurda to Tata Nagar was recovered from possession of the dead body in course of inquest. The reasoning assigned by the tribunal that the dead body could not be noticed by the track clearance team or the gangman cannot be held as a ground to disbelieve the claim of the applicants regarding death of the deceased in the untoward incident. It is for the reason that journey of the deceased in Utkal Express with a valid ticket is not disputed by rebuttal evidence. Rather, finding of the dead body on the railway track with possession of valid journey ticket establishes the fact

regarding journey of the deceased in that relevant train. It would be incorrect to presume that, had the dead body been there it would have been noticed immediately and 22 hours would not have taken to report the same by the track clearance party. There are many other reasons also for non-reporting and this does not always amount absence of dead body from the track.

9. The reasons cited by the tribunal to disbelieve the case of the applicants regarding death of the deceased in an untoward incident are thus found unjustified. Further, the police investigation report, the circumstances regarding recovery of the dead body from the track and possession of a valid journey ticket establish the case of the appellants that the deceased died in an untoward incident while travelling in the train. As such, the claimant – Appellants cannot be denied of compensation.

10. In the result, the Appellants are found entitled to compensation Rs.4,00,000/- along with interest @ 6% from the date of accident, i.e. 25th November, 2014. But keeping in view the principles decided in the case of *Union of India Vs- Rina Devi, (2019) 3 SCC 572*, they are entitled for compensation of Rs.8,00,000/-.

11. Accordingly the Respondent – Union of India is directed to pay compensation of Rs.8,00,000/- (eight lakhs) to the claimants, within a period of four months from today. The entire compensation amount shall be disbursed among the claimants – Appellants by keeping 50% of the share fall due to each claimant in fixed deposit in their names, in any nationalized bank for a period of five years.

12. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

