

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.257 of 2016

***Union of India, represented through
the General Manager, South Eastern
Railway, Kolkata*** ***Appellant***

Mr. D. K. Sahoo, Central Government Counsel

-versus-

Pramila Roy ***Respondent***

Mr. B.N. Samantaray, Advocate

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
17.10.2022

Order No.

- 04.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. D.K. Sahoo, learned Central Government Counsel for Union of India and Mr. B.N. Samantaray, learned counsel for the claimant - Respondent.
 3. Present appeal by the Union of India is against the impugned judgment dated 16th November, 2015 passed by the Railway Claims Tribunal, Bhubaneswar bench in OA/IIU/2010/0105 wherein compensation to the tune of Rs.4,00,000/- along with interest @ 6% per annum from the date of filing of the case has been granted on account of death of the deceased Kartik Roy in an untoward incident dated 28th May, 2009.
 4. Mr. Sahoo, learned CGC contends that the accident happened when the deceased was sitting on the track, that too by another train in

which he was not travelling and therefore the claimant is not entitled for any compensation.

5. The tribunal has recorded relevant portion of the evidence of A.W.2, the eye witness. It needs to be mentioned that the travelling of the deceased in Howrah – Bombay Mail on the relevant date of accident with a valid journey ticket is not disputed. As per the claim the deceased died in an untoward incident that happened on 28th May, 2009 near Himagiri Railway Station. No evidence has been adduced from the side of the railway authorities before the tribunal. Two witnesses have been examined for the claimant. A.W.1 is the claimant who is wife of the deceased and A.W.2 is the friend of the deceased who was traveling along with the deceased in the same train. As per the uncontroverted evidence of said AW-2, the deceased while boarding the train fell down near the track and the other train, i.e. Ahmedabad Express coming in the said track dashed against him resulting death of the deceased. The specific statement of A.W.2 is to the effect that , “.. ..while trying to board he lost his balance and fell down near the track.. ..”. This statement being not rebutted and the eye witnessing of the incident by AW-2 is admitted, the falling of the deceased while boarding the train is established to be the accidental falling within the meaning of Section 123(2) of the Railways Act. As such no merit is seen in the contention of the Union of India.

6. Resultantly the appeal is dismissed being devoid of merit.

(B.P. Routray)
Judge