

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.142 of 2020

Bidulata Swawin and another

.... ***Appellants***
Mr.G.C.Das, Advocate

-versus-

Union of India

.... ***Respondents***
Mr.M.Pradhan, CGC

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

**ORDER
24.11.2022**

Order No.

- 7.
1. The matter is taken up through Hybrid mode.
 2. Heard Mr.Das, learned counsel for the Appellants and Mr.Pradhan, learned counsel for the Respondent-Union of India.
 3. Present appeal by the claimants is directed against impugned judgment/award dated 6th January, 2020 passed by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar in Case No.OA-II/291/2017, wherein the Railway Claims Tribunal has refused to grant any compensation by disbelieving the death of the deceased in the alleged untoward incident.
 4. Perusal of the impugned award reveals that the Tribunal has disbelieved the case of the claimants mainly on the ground of discrepancy in evidence of AW-3 and the averments made in the claim petition. In the opinion of the Tribunal, the claimants have averred that the deceased was standing on the

platform at the time of incident, whereas as per the evidence of AW-3, the son of the deceased, he was travelling in Gurudev Express and while getting down in the platform, the untoward incident happened. Therefore, the Tribunal disbelieved the entire case of the claimants for the discrepancies noticed in the averment and evidence.

5. Mr.Das submits for the claimants that a petition praying for amendment of the claim application was filed by the claimant since 7th December, 2017 praying for amendment to the effect that, the deceased was travelling in the train concerned, which was ignored and left unnoticed by the Tribunal. Therefore, the impugned award is liable to be set aside and the matter needs fresh adjudication.

6. Perusal of the L.C.R. reveals that a petition dated 7th December, 2017 praying for amendment was filed by the claimants, and though the Tribunal by order dated 29th January, 2018 dealt with some aspects of amendment to the claim application, but did not consider the very point regarding amendment that the deceased was travelling in Gurudev Express.

7. Thus, in view of non-consideration of the prayer for amendment sought for by the claimants much prior to the date of passing of award, it is felt apposite to remit the matter back to the Railway Claims Tribunal for fresh adjudication.

8. Accordingly, the matter is remitted back to the Railway Claims Tribunal, Bhubaneswar to decide the claim application afresh after taking a decision on the prayer for amendment of the claimants and if necessary, grant further opportunity of hearing to

both parties. The parties present before this Court are directed to appear before the Railway Claims Tribunal on 12th December, 2022 along with a certified copy of this order and the Tribunal shall do well to dispose of the claim application within a period of four months thereafter.

9. With the aforesaid observation and direction, the appeal is disposed of.

(B.P. Routray)
Judge

C.R.Biswal

