

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.300 of 2019

From the Judgment/Order dated 1.1.2019 passed by the
Railway Claims Tribunal, Bhubaneswar Bench,
Bhubaneswar in Case No.OA(IIU)/05/2016.

**Sasmita Moharana &
Another**

...

Appellants

-versus-

Union of India

...

Respondent

For Appellant : M/s. A.K. Pradhan, S.K
Swain, D. Das

For Respondents : None

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 29.4.2022 & Date of Order: 13.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up by video conferencing mode.
2. Heard Mr. A.K. Pradhan, learned counsel appearing for the appellants.
3. In spite of due appearance and repeated calls by this Court, nobody appears for the sole respondent. Hence, in absence of the learned counsel for the sole respondent, the matter was heard and taken up for disposal.

4. This appeal has been filed by the appellants/claimants challenging the judgment dated 1.1.2019 passed in O.A.(IIU)/05/2016 by the learned Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar.

5. It is submitted by the learned counsel for the appellants that the aforesaid original application was filed before the learned Tribunal seeking grant of compensation on account of death of late Bhimsen Maharana, the father of the appellants. It is submitted that even though the appellants in support of their claim exhibited various documents and also led oral evidence through appellant No.2, but learned Tribunal without proper appreciation of the same dismissed the O.A. vide impugned judgment dated 1.1.2019. It is also submitted that the dead body of the deceased was found lying near Coach No.Eco 5696/AB of Train No.8447 express, but the learned Tribunal solely relying on the submission made by the respondent dismissed the claim application vide impugned judgment. It is submitted that since the deceased was travelling from Laxmipur road to Bhubaneswar by Dhauli Express on 30.6.2005 and the

dead body was found near the coach of the said train, learned Tribunal should not have disbelieved the claim of the appellants solely basing on the submissions made by the respondent. It is also submitted that while the appellants not only filed documentary evidence was led oral evidence, but no such evidence was laid by the respondent. Therefore, in absence of such evidence from respondent, learned Tribunal should not have accepted the submission of the learned counsel appearing for the said respondents. Accordingly, Mr. Pradhan sought for interference of this Court in the impugned judgment.

6. Even though the sole respondent appeared through learned CGC, but nobody remained present when the matter was taken up by this Court. Accordingly, in absence of the learned counsel appearing for the respondent, this Court after considering the material available on record finds that the learned Tribunal without proper appreciation of the claim so made by the appellant, rejected the same vide impugned judgment dated 1.1.2019. This Court accordingly feels it just and proper to set aside the order dated 1.1.2019 passed by the learned Tribunal and remand the matter to the

learned Tribunal for fresh disposal in accordance with law.

7. It is further observed that since the incident is of the year 2005, learned Tribunal shall make all endeavor to dispose of the matter afresh within a period of six months from the date of receipt of the certified copy of this order. It is further observed that the parties will be at liberty to lead any further oral and documentary evidence in support of their respective claim before the learned Tribunal.

8. With the aforesaid observation and direction, the FAO is disposed of.

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B.P. Satapathy, J.

Orissa High Court, Cuttack
Dated the 13th May, 2022/sangita