

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.512 of 2020

Kaibalya Pradhan and another ***Appellants***

Mr. A. Tripathy, Advocate

-versus-

Union of India ***Respondent***

Mr. B.K. Padhi, C.G.C. for UoI

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

08.09.2022

Order No.

06.

1. Heard Mr. A. Tripathy, learned counsel for the claimants-Appellants and Mr. B.K. Padhi, learned C.G.C. for Union of India-Respondent.

2. Present appeal is directed against the judgment dated 21.01.2020 passed in O.A. No.61 of 2017 by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar, wherein learned Tribunal refused to grant compensation in favour of the claimants.

3. Mr. A. Tripathy, learned counsel for the Appellants-claimants submits that the finding of the Tribunal to the effect that the deceased committed suicide in front of the train is not well founded with material evidence. Conversely, he was seen purchasing ticket for journey in the concerned train as per the evidence adduced from the side of the claimants.

4. After hearing Mr. B.K. Padhi, learned C.G.C. for Union of India-Respondent and upon perusal of the impugned judgment, it reveals that the claimants approached the Tribunal with their case that the deceased while travelling in Samaleswari Express on 22.4.2014 from Baragarh to Barpali accidentally fell down from the running train near Baragarh Railway station at Cabin No.11 and sustained injuries resulting death.

5. The claimants have examined two witnesses viz. A.W.1 and A.W.2 on their behalf and the Railways examined one witness, viz. R.W.1. Both parties have adduced their further evidences including the copies of police papers and the enquiry report of the DRM.

6. It is seen that R.W.1, who was the loco pilot of the train in question at the relevant time, has stated in his evidence that on that relevant date after departure of the train from Baragarh Road Railway station, he saw a male person standing on the left side of the railway track at KM No.606/6 and suddenly jumped in front of the engine. He immediately stopped the train and informed the matter to the duty guard. Such evidence of R.W.1 is found supported from the enquiry report of the DRM dated 20.6.2016.

7. On the other hand, both the witnesses, A.W.1 & A.W.2 examined from the side of the claimants are not eye-witnesses and they also did not travel in the same train. Therefore, on consideration of evidence adduced from both sides, the preponderance of probability is found heavier in favour of the statement of R.W.1 that the deceased committed suicide by

jumping in front of the running train. This fact is further fortified as no journey ticket could either be produced or recovered from possession of the deceased.

8. Thus no illegality is seen in the approach of the Tribunal in rejecting the case of the claimants on the finding that neither the deceased was a passenger of the train nor any untoward incident happened causing his death.

9. In the result, the appeal is dismissed.



(B.P. Routray)
Judge