

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No. 145 of 2022

Rafida Bibi & Others ***Appellants***

Mr. S. Sahoo, Advocate

-versus-

Union of India & Another ***Respondents***

Mr. B.S.Rayaguru, CGC

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No.

ORDER
11.05.2022

1. Heard Mr. S. Sahoo, learned counsel for the Appellants and Mr. B.S.Rayaguru, learned Central Government Counsel for the Railway-Respondent.
2. This appeal is filed by the Claimants, who are the mother, wife and minor daughter of the deceased namely Umor Hushen, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'the Act, 1987') being aggrieved by the judgment and award dated 7th April, 2022 passed by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar (for short, 'the learned Tribunal') in O.A.(IIU) No.20 of 2020 assailing the mode of payment of compensation amount.
3. At the outset, learned counsel for the parties submit that the legal issue involved in this appeal is similar to FAO No.262 of 2020 and batch of appeals

disposed of by this Court vide judgment dated 9th September, 2021 and the present Appeal may be disposed of in the light of the said judgment.

4. Mr. B.S.Rayaguru, learned Central Government Counsel for the Railway-Respondent, however, submits that although the facts and law involved in this case is similar, but Claimants should approach learned Tribunal by filing appropriate application for variation in the condition and mode of payment of the compensation amount. In that event, learned Tribunal will be in a position to pass necessary orders on their application.

5. Mr. S. Sahoo, learned counsel for the Appellants submits that since Railway could not produce any material before the learned Tribunal to justify restriction in disbursement of compensation, remittance of the matter to learned Tribunal will be an empty formality only, and thereby the claimant(s) will be highly prejudiced. Even though Mr. Sahoo, learned counsel for the Appellants argued that the issue involved in this appeal is squarely covered by the aforesaid decision of this Court rendered in FAO No.262 of 2020, but in the present case, Appellant No.3 was minor at the time of filing of the claim application and she continues to be a minor. Therefore, the ratio decided by this Court in the aforesaid FAO No.262 of 2020 cannot be applied in toto to the facts of the present case. In view of the insertion of Rule-5 by virtue of the amendment, which came into force w.e.f 01.01.2020 to the Railway Accident and

Untoward Incident, (Compensation Rules), 1990, learned Tribunal has rightly directed to deposit the share of Appellant No.3 in FDR and this Court is not inclined to interfere with the same. But at the same time, it is observed that the share in favour of Appellant No.3 has not been rightly made by the learned Tribunal. The Appellant No.3 being the minor daughter of the deceased Umor Hushen, major share should have been allowed in her favour and the same having been not done, this Court also directs the share of Appellant No.3 be enhanced by another Rs.1,00,000/- (Rupees One Lakh), by reducing the share of Appellant Nos.1 & 2 by Rs.50,000/- each. Mr. Sahoo, learned counsel appearing for the Appellants also gave his consent for enhancing the share of Appellant No.3 by reducing the share of Appellant Nos.1 & 2.

6. Since Appellant Nos.1 & 2 are mother and wife of the deceased and all are major having no physical or mental disability, learned Tribunal should not have directed to deposit the major portion of their share in FDR.

7. Having heard learned counsel for the Parties and taking into account the grounds raised in this appeal vis-à-vis the decision rendered by this Court in FAO No.262 of 2020, this Court feels it proper to direct the learned Tribunal to disburse the entire share of Appellant Nos. 1 & 2 by reducing their share to the extent of Rs.50,000/- on proper identification, as expeditiously as possible preferably within a period of

one month from the date of filing of an application along with certified copy of this order following due procedure of law. The Claimant(s)/Appellant(s) is/are directed to submit his/her (their) A/c details of any nationalized bank as per the requirement along with the application form for disbursal of the compensation amount, as aforesaid. The share deducted from the share of Appellant Nos.1 & 2 and allowed in favour of Appellant Nos.3 be kept in shape of FDR till she attains majority in addition to her original share.

8. Accordingly, the FAO is disposed of.

9. Urgent certified copy of this order be granted on proper application.

(Biraja Prasanna Satapathy)
Judge

Subrat