

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.690 of 2018

Union of India

....

Appellant

Mr. P.S. Nayak, Senior Panel Counsel

-versus-

Tengunu Sa and another

....

Respondents

Mr. D. Patnaik, Advocate for Respondent Nos.1 & 2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

25.08.2022

Order No.

07.

1. Heard Mr. P.S. Nayak, learned Senior Panel Counsel for the Union of India-Appellant and Mr. D. Patnaik, learned counsel for Respondent Nos.1 & 2-claimants.

2. Present appeal is directed against the judgment and award dated 02.05.2018 passed in O.A. No.66 of 2016 by the Member (Technical), Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar wherein compensation to the tune of Rs.8,00,000/- including interest has been granted to the claimants-Respondent Nos.1 & 2 on account of death of the deceased, namely Pradip Sa in the railway accident dated 14.9.2015.

3. It is contended by Mr. P.S. Nayak, learned Senior Panel Counsel for Union of India-Appellant that though the status of the deceased as a bona-fide passenger of the train, i.e., South-Bihar Express at the time of accident is not disputed, but his death in the alleged untoward incident is challenged on the ground that the

claimants failed to prove about happening of any untoward incident at the time of accident resulting death of the deceased.

4. Perusal of the impugned award reveals that the learned Tribunal under Issue No.3 has discussed about the same. The only witness examined for Railways (RW1), who is the Mail Express Guard, stated to the effect that he had no information regarding any untoward incident happened at the time of accident. But the law is settled that the Railways cannot escape of their liability to pay the compensation when the death of the deceased is established to be in course of Railway journey and when the deceased is undisputedly a bona-fide passenger, unless the exception clauses of section 124-A of the Railways Act are attracted. The learned Tribunal has discussed such aspects in detail before directing to pay the compensation by the Railways.

5. Accordingly, no flaw is seen in the approach of the learned Tribunal in directing for payment of compensation in favour of the claimants and no reason is thus found to interfere with the award.

6. In the result, the appeal is dismissed.

(B.P. Routray)
Judge