

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.326 of 2022

Udaya Mahani

.... Appellant

Mr. S. Sahoo, Advocate

-versus-

Union of India

.... Respondent

Mr. P.P. Behera, C.G.C. for Union of India

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

09.12.2022

Order No.

I.A. No.490 of 2022

02.

1. Heard Mr. S. Sahoo, learned counsel for the Appellant and Mr. P.P. Behera, learned C.G.C. for Union of India- Respondent.

2. Upon hearing both the parties and considering the grounds mentioned in the petition, the delay in filing the appeal is condoned.

3. The I.A. is disposed of.

FAO No.326 of 2022

4. Heard Mr. S. Sahoo, learned counsel for the Appellant-claimant and Mr. P.P. Behera, learned C.G.C. for the Responent-Union of India.

5. Present appeal by the claimant is directed against the judgment dated 25.04.2022 passed in OA (IIU)/77/2018 by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar wherein

learned Tribunal has refused to grant any compensation by disbelieving the case of the claimant.

6. Perusal of the impugned award reveals that the learned Tribunal disbelieved the case of the Appellant-claimant mainly on the ground that it is a case of suicide according to DRM report and keeping in view the nature of injuries.

7. The case of the claimant is that, the deceased, who had gone to Puri for Darshan of Lord Jagannath and returning his village on 6.5.2017 in Puri-Ahmedabad Express, at Kalupadaghat Railway Station due to sudden jerk and heavy rush in the compartment, he accidentally fell down from the running train and died.

8. Three witnesses were examined from the side of the claimant. Besides A.W.-1, the father of the deceased and the present claimant, two other witnesses, viz. A.W.2 and A.W.-3 have been examined. A.W.-2 is the witness who has seen the deceased falling down from the running train and A.W.-3 is the witness who has seen the deceased purchasing journey ticket at Puri Railway Station.

9. Such evidences adduced by A.W.-2 and A.W.-3 are not sufficiently rebutted in their cross-examination to disbelieve their statements. It is further seen from the inquest report as well as the GRPS UD enquiry report, that, the deceased died due to accidental fall from the train. One of the witnesses in course of police enquiry has also stated so. But the Tribunal disbelieved all such evidences mainly on the ground that the nature of injuries

sustained by the deceased justifies a case of suicidal death. It is true that as per the post mortem report, the cause of death is due to severance of the head by crushing of the neck. But this only ground would not nullify the case of the Appellant that such an injury would be impossible in case of accidental fall. Nowhere on record any material is produced to satisfy that only in suicidal cases, the head would be severed and not in accidental cases. Therefore, such a conclusion arrived by the Tribunal, only based on the nature of injury and against all such evidences adduced through the eye-witnesses, is unsustainable. Accordingly, the same is set aside.

10. The next ground is regarding non-availability of journey ticket from possession of the deceased. The law is settled that non-availability of the journey ticket would not always disentitle the case of the applicant regarding bona-fideness of valid journey of the deceased. When A.W.-3 says that he has seen the deceased purchasing the journey ticket from Puri Railway Station and no rebuttal evidence is produced to the same, no point is there to disbelieve said A.W.-3. Therefore, the bonafide journey of the deceased in the train cannot be doubted and the claimant cannot be denied compensation.

11. In the result, the impugned award is set aside. The appeal is allowed and in terms of the principles decided in the case of *Union of India -vs- Rina Devi, (2019) 3 SCC 572*, the Respondent – Union of India is directed to pay compensation of Rs.8,00,000/- (rupees eight lakhs) to the claimant along with interest @6% per annum from the date of accident, within a

period of four months from today. The entire compensation amount including interest shall be disbursed to the claimant – Appellant by keeping 50% of the same in fixed deposit in his name, in any nationalized bank for a period of five years.

12. An urgent certified copy of this order be granted on proper application.

13. The copies of depositions and exhibits as filed by Mr. Sahoo, learned counsel for the Appellant in course of hearing are kept on record.

