

IN THE HIGH COURT OF ORISSA AT CUTTACK
FAO No.362 of 2016

***Union of India represented through the
General Manager, East Coast Railway,
Bhubaneswar***

.... ***Appellants***

Mr. P.K. Parhi, ASGI along with Mr.D. Gochhayat, CGC

-versus-

Babu Sahu and Another

.... ***Respondents***

Mr. B.N. Samantray, counsel for Respondents 1&2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
30.8.2022

Order No.

05. 1. The matter is taken up through hybrid mode.
2. Heard Mr. P.K. Parhi, learned ASGI along with Mr. D. Gochhayat, learned Central Government Counsel and Mr. B.N. Samantray, learned counsel for claimant- Respondents.
3. Present appeal by the Railways is directed against the award dated 21st April, 2016 passed by the learned Member (Technical), Railway Claims Tribunal, Bhubaneswar in O.A. No.BBSR/OA/IIU/2013/0300 wherein compensation to the tune of Rs.4,00,000/- along with interest @ 6% per annum from the date of filing of the claim case, i.e. 20th December, 2013 has been awarded on account of death of the deceased Hari Krushna Sahu in an untoward incident occurred on 2nd May, 2013.

4. It is submitted on behalf of the Appellant that the deceased did not die out of any untoward incident but he committed suicide. Therefore, the claimants are not entitled for any compensation.

5. After hearing Mr. Samantaray, learned counsel for the claimant – Respondents and perusal of the impugned award reveals that the police upon investigation has submitted the final report stating that the cause of death is due to accidental fall from the running train without any suspicion of foul play. The claimants have stated that the deceased died out of an untoward incident while moving in Visakha Express from Berhampur to Bhubaneswar. A.W.2 has deposed to the effect that he has seen the deceased purchasing the ticket and boarding the train on that relevant date of accident. There is no rebuttal evidence seen in support of the contention of the railways to opine that the death of the deceased is suicidal in nature.

6. When the police has submitted its report stating the nature of death to be accident, in absence of any specific rebuttal material brought on record, the contention of the claimants supported through oral and documentary evidence, cannot be denied to opine the death as suicidal. Therefore when the death is proved to be accidental in nature and it is established through the oral evidence that the deceased was moving from Berhampur to Bhubaneswar in Visakha Express as a bona fide passenger, the presumption of death in an untoward incident is accepted. As such no fault is seen in the approach of the tribunal in granting compensation in favour of the claimants.

7. In the result the appeal is dismissed. At the same time it is observed that the cross appeal preferred on behalf of the claimants for enhancement of the amount has no merit and accordingly dismissed.

8. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

