

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.916 of 2019

Union of India

.... ***Appellant***
Mr. J. Nayak, C.G.C.

-versus-

Bishnu Charan Das and another

.... ***Respondents***

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

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

22.12.2022

Order No.

03.

1. Heard Mr. J. Nayak, learned C.G.C. for the Appellant-Union of India and Mr. D. Mund, learned counsel for the Respondent Nos.1 & 2-claimants.

2. Present appeal is directed against judgment dated 13.11.2018 passed in O.A. No.311 of 2013 of the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar, wherein learned Tribunal has directed to pay compensation of Rs.1,20,000/- along with simple interest @9% in favour of the claimants from the date of accident, i.e. 16.07.2013 on account of injury to the original claimant, namely, Padma Das.

3. Mr. J. Nayak, learned C.G.C. for the Appellant-Union of India submits that there is serious doubt on the bonafideness of the original claimant as a passenger in Puri-Talcher train, since the ticket is from Puri to Bhubaneswar and the place of accident is beyond Bhubaneswar Railway Station, i.e., at Vani Vihar station.

4. Upon perusal of the record, it is seen that, admittedly, as per the copy of the ticket filed on behalf of the claimants, the scheduled journey is on 16.7.2013 from Puri to Bhubaneswar in Train No.67141130, i.e., Puri-Talcher passenger train.

5. It is the case of the claimants that the injured (original claimant) was an old man aged about 75 years on the date of journey and due to his old age and rush in the train, he could not detrain at Bhubaneswar and therefore was standing near the door to alight at the next station, i.e. Vani Vihar station. The accident happened between Bhubaneswar and Vani Vihar station. The copy of the ticket produced in support of journey of the injured and his admission in Capital Hospital, Bhubaneswar with crush injury in the foot, are not rebutted in any manner by contrary evidence. Though the Railways have examined one witness, viz., R.W.1, the Enquiry Officer, but the same is of no assistance to rebut the story narrated by the claimants regarding sustenance of injury.

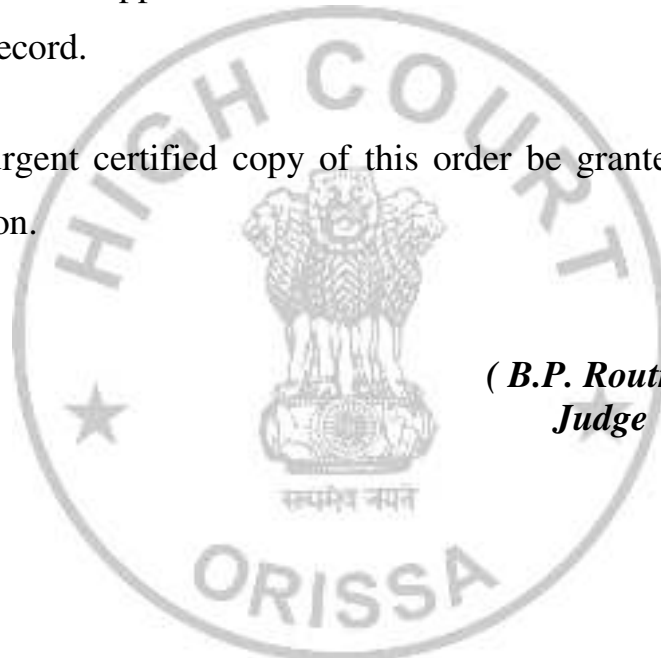
6. Payment of compensation under the Railways Act is governed by the principles of strict liability as held by the Supreme Court in the case of *Union of India vs. Prabhakaran Vijay Kumar and others*, (2008) 9 SCC 527. In the case at hand, when the journey ticket of the injured remains undisputed so also sustenance of crush injury by him is found consistent with the story of falling from the running train and supported by medical certificates, no point is seen in favour of the Railways to deny the compensation.

7. Further, the learned Tribunal applying the principles propounded in the case of *Union of India -vs- Rina Devi, (2019) 3 SCC 572* has directed for payment of higher amount of compensation. The same is found justified without leaving any room for interference.

8. In the result, the appeal is dismissed being without merit.

9. The copies of the documents filed by Mr. J. Nayak, learned C.G.C. for the Appellant-Union of India in course of hearing are kept on record.

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



(*B.P. Routray*)
Judge