

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO NO.926 OF 2019

From the Judgment/Order dated 01.01.2019 passed by the learned Railway Claims Tribunal, Circuit Bench at Bhubaneswar in Case No. OA-11u/205/2017.

Kanchanbala Mohanty **Appellant**

-:: VERSUS ::-

Union of India :::: **Respondent**

Appeared in this case by Video Conferencing Mode / Hybrid Mode.

For Appellant :::: Mr. G.C. Dash, Advocate
 (for Appellant)

For Respondent ::: Mr. Debasish Satpathy, CGC
(for Respondent)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 28.06.2022:: Date of Order- 08.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Heard Mr. G.C. Dash, learned counsel appearing for the Appellant and Mr. Debasish Satpathy, learned Central Govt. Counsel appearing for the sole Respondent.

3. This appeal has been filed by the Appellant challenging the order dtd.01.10.2019 passed by the learned Railway Claims Tribunal, Circuit Bench at Bhubaneswar in Case No. OA-11u/205/2017.

4. Mr. Dash, learned counsel for the Appellants submitted that the aforesaid application before the learned Tribunal was filed seeking grant of compensation in view of the death caused to the husband of the Appellant on 22.08.1996. It is submitted that the husband of the Appellant was working as a RPF Constable in Khurda road and while performing his duty, he was knocked down by the train and accordingly succumbed to his injury on the spot on 22.08.1996. But it is submitted that learned Tribunal without proper appreciation of the nature of claim dismissed the application vide the impugned order dtd.01.10.2019 by holding that the deceased is not a passenger within the definition attached to Sec. 124 read with Sec.124-A of the Railways Act.

5. Mr. Das further submitted that since it is never the case of the Appellant that the deceased was a passenger, the dismissal of the claim by the learned Tribunal on the ground that the deceased was not a passenger and accordingly not coming within the definition of the explanation attached to Section 124-A of the Act is illegal and needs interference of this Court.

6. Mr. Satpathy, learned Central Govt. counsel on the other hand submitted that learned Tribunal after considering the materials available on record has rightly dismissed the appeal and no interference is called for by this Court.

7. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same finds that the husband of the Appellant was working as a RPF Constable in Khurda road and while performing his duty, the deceased was knocked down by a train and because of that the deceased succumbed to his injury on the spot on 22.08.1996.

8. It is never the case of the Appellant that the deceased was a bonafide passenger in any train. Therefore, this Court finds that learned Tribunal on misconception and without proper appreciation of the nature of claim, dismissed the claim vide the impugned order dtd.01.10.2019. Since the deceased was admittedly working as a RPF Constable in Khurda Road, the death of the deceased while performing his duty can be treated to be an untoward incident and accordingly his claim should have been dealt with. But learned Tribunal decided the matter on a different context and held the Appellant not entitled to get any compensation while dismissing the claim.

9. In view of such material irregularity on the part of the learned Tribunal in deciding the claim, this Court has got no hesitation in quashing the order dtd.01.10.2019 passed by the learned Tribunal in the above said case. While setting aside the said order and remitting the matter for fresh disposal, this Court directs the learned Tribunal to redecide the claim by giving reasonable opportunity of hearing to both the Parties. Both the Parties are at liberty to adduce any further oral and/or documentary evidence in support of their respective claim. Since the alleged accident is of the year 1996, this Court further directs the learned Tribunal to

make all endeavor to dispose of the claim within a period of six (6) months from the date of receipt of this order.

10. The appeal is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 8th July, 2022/Sneha

