

(2024) 02 OHC CK 0015
In the Orissa High Court
Case No : FAO No.534 Of 2015

Mamata Maharana And Another Vs Union Of India ?

Date of Decision : 02-02-2024

Acts Referred:

Citation : (2024) 02 OHC CK 0015

Hon'ble Judges : B. P. Routray, J

Bench : Single Bench

Advocate : D. Mohapatra, J. Sahoo

Final Decision : Allowed

Judgement

B. P. Routray, J

1. Heard Ms. D. Mohapatra, learned counsel for the Appellants-claimants and Mrs. J. Sahoo, learned C.G.C. for Union of India-Respondent.

2. Present appeal by the claimants is directed against the judgment dated 01.09.2015 passed in OA/IIU/BBS/2011/0177 by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar, wherein learned Tribunal has refused to grant any compensation by disbelieving the death of the deceased in an untoward incident.

3. The admitted facts of the case are that, the deceased was found lying in an injured condition near the railway track at KM No.599/9-7 in between Jagannathpur-Berhampur Railway Station. He was taken to the hospital for treatment and while undergoing treatment in MKCG Medical College & Hospital, Berhampur, he succumbed to the injuries. The inquest was held and post-mortem was conducted upon registration of Berhampur GRPS UD Case No.67/10. As per the opinion of the post-mortem examining Doctor, the injuries were ante-mortem in nature and the cause of death was due to such injuries caused by hard and blunt force impact consistent with railway accident.

4. The claimants, who are the widow and minor son of the deceased namely, Narayana Maharana, have stated that the deceased while travelling from

Bhubaneswar to Berhampur in Cuttack-Berhampur DMU passenger train on 13.09.2010, accidentally fell down from the running train near Berhampur Railway Station resulting his death.

5. The claimants examined two witnesses, Viz.A.W.1 and A.W.2 on their behalf and also adduced copies of Police papers including the copy of the FIR, inquest report, post-mortem report, etc.

6. On the other hand, the railways though denied the claim of the applicants, but did not adduce any evidence, either oral or documentary. They also did not produce the statutory report of the DRM before learned Tribunal.

7. As seen from copy of the report dated 13.9.2010 of the Station Superintendent of Berhampur Railway Station sent to the Inspector-in-charge of GRPS that, the deceased was found lying at KM No.599/7-9 outside the up-line track wearing black colour pant and light colour shirt. It is admitted that the deceased was shifted to MKCG Medical College & Hospital, Berhampur and while undergoing treatment he succumbed to the injuries. The evidence of A.W.2 specifically says that the deceased boarded the DMU train in the evening hours on 13.9.2010 after purchasing the journey ticket. The journey ticket was lost in course of the occurrence. This part of the evidence of A.W.2 is not rebutted. The railways did not choose to adduce any evidence either in support of their contention to deny the claim or in rebuttal to the evidence produced from the side of the claimants. Thus in other words, what is stated by the claimants in evidence is left unanswered.

8. The circumstances further reveal that the deceased was recovered from the railway track in an injured condition and was sent to the hospital for treatment. The injuries sustained by the deceased, in the opinion of the treatment Doctor, are consistent with railway accident and due to hard and blunt force impact. Therefore, such injuries noticed on the person of the deceased are found consistent with story of fall from running train. Keeping in view all such circumstances and the evidence of A.W.2, it can safely be concluded that the death of the deceased is due to fall from running train. Accordingly, the claimants are found to have established their contention regarding death of the deceased in an untoward incident while travelling in Cuttack-Berhampur DMU train. The claimants being the widow and minor son of the deceased are thus found entitled for compensation as per the scheduled amount.

9. In the result, the appeal is allowed and the impugned award is set aside. The Respondent-Union of India is directed to pay compensation of Rs.4,00,000/- along with interest @6% per annum from the date of accident or Rs.8,00,000/-, whichever is higher, in terms of the decision in the case of Union of India -vs- Rina Devi, (2019) 3 SCC 572, within a period of four months from today. The compensation amount shall be disbursed among the claimants-Appellants in equal proportion by keeping 50% of the shares fall due to each claimants fixed for a period of five years in any nationalized Bank.

10. The copies of the evidences and documents produced by Ms. Mohapatra, learned counsel for the Appellants in course of hearing, are kept on record.

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

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