
(2023) 03 OHC CK 0073
In the Orissa High Court
Case No : FAO No.173 Of 2018

Union Of India

APPELLANT

Vs

Smt. Jharana Behera And Others

RESPONDENT

Date of Decision : 06-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0073

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

Bench : Single Bench

Advocate : S. Panda, K. Panigrahi

Final Decision : Dismissed

Judgement

B. P. Routray, J

1. Heard Mr. S. Panda, learned C.G.C. for the Appellant-Union of India and Mr. K. Panigrahi, learned counsel for the Respondent Nos.1 to 5-claimants.

2. The Railways have come up in challenging the impugned judgment dated 28.11.2017 wherein compensation of Rs.8,00,000/- has been awarded on account of death of the deceased in an untoward incident.

3. The facts of the case are to the effect that the deceased, namely, Niranjan Behera while coming in East Coast Express from Visakhapatnam to Berhampur with valid journey ticket, fell down near Berhampur station due to push and pull inside the train. His dead-body was found lying outside DN track at KM No.603/4-2 in between GTA-BAM railway station. Berhampur GRPS UD Case No.66, dated 12.8.2014 was registered and the enquiry report of the Police was submitted stating death of the deceased due to fall from the train.

4. Mr. S. Panda, learned C.G.C., submits for the Appellant-Railways that the materials do not prove death of the deceased due to fall from running train and therefore, the Railways are not liable to pay any compensation.

5. It is seen that two witnesses were examined from claimants side including one eye-witness. On the other hand, no witness was examined by the Railways. According to A.W.2, the eye-witness of the accident and a co-passenger in the same train, the deceased boarded the train after purchasing a valid general class journey ticket and fell down due to rush inside the compartment before it reached Berhampur station. The post-mortem report speaks the nature of death as cranial cerebral injuries and corroborates the story of fall of deceased from the train. The Police upon completion of investigation have submitted the report stating that the deceased died due to fall from running train.

6. In view of such clear and categorical evidences produced in support of the contention of the claimants, the learned Tribunal has opined in favour of the claimants that the deceased died in an untoward incident while travelling in East Coast Express. No flaw is seen in such approach of learned Tribunal and the contention raised by the Railways before this Court is found without any material support. Accordingly, no reason is found to interfere with the impugned award directing payment of compensation amount in favour of the claimants who are the widow and children of the deceased.

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

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