

**HIGH COURT OF ORISSA: CUTTACK**

**FAO NO. 622 OF 2009**

From the judgment and award dated 18.10.2007 passed by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar in Case No. O.A. 163 of 2005.

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Union of India, represented through  
General Manager, East Coast Railway,  
Bhubaneswar. .... Appellant

-Versus-

Mamata Behera .... Respondent

For Appellant : M/s. A.K. Mishra,  
H.M. Das & A.K. Sahoo

For Respondent : M/s. B.N. Samantaray, B. Beura,  
D. Pattnaik & P. Jena

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Date of Judgment: 31.07.2012

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**P R E S E N T:**

**THE HONOURABLE SHRI JUSTICE M.M.DAS**

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**M.M. Das, J.** The Union of India represented by its General Manager, East Coast Railway, Chandrasekharapur, Bhubaneswar has challenged the award dated 18.10.2007 passed by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar in O.A. No. 163 of 2005.

2. The claimant filed a claim application before the Tribunal stating, inter alia, that on 19.8.2005 she boarded 217 Puri Palasa Passenger Train from Dhaulimuhan for Kalupadaghat and

due to heavy rush, she had to stand near the door of the compartment and on the way at Nirakarpur Station, she accidentally fell down due to push of a passenger on account of heavy rush. She was carried to Nirakarpur P.H.C. and then shifted to Khurda Hospital where she remained as an indoor patient. Her left leg was amputated on account of the nature of the injuries sustained. She claimed a compensation of Rs. 2.00 lakhs as provided in the schedule. The claimant filed the claim application being supported by her affidavit along with the journey ticket, medical certificate and the memo of the Station Superintendent addressed to the Medical Officer, Nirakarpur. She examined herself and was cross-examination by the appellant. The appellant also filed certain documents in support of its claim that the accident was not within their knowledge and denied the allegations made in the claim application. The Tribunal on appreciating the evidence adduced dispelling the theory that the claimant was knocked down as propounded by the Driver and Guard in their affidavits, accepted the cause of the claimant and directed the appellant to pay compensation of Rs. 2.00 lakhs along with 4% interest from the date of filing of the O.A. i.e. from 31.10.2005 within sixty days failing which to pay interest @ 6% per annum from the date of default, along with cost of Rs. 2500/-.

3. Mr. A.K. Mishra, learned counsel for the appellant vehemently urged that the Tribunal has erred in appreciating the

evidence adduced on behalf of the appellant and has illegally ignored the evidence of the eye-witnesses i.e. Driver and Guard. He has also submitted that the story as made out by the claimant is highly improbable to believe that a lady passenger will go unnoticed by any co-passenger and will be pushed out of the compartment.

4. On perusal of the impugned award and after hearing Mr. Mishra, learned counsel for the appellant as well as the learned counsel for the respondent, I find that the Tribunal has appreciated the materials produced before it in coming to a right conclusion that the claimant is entitled to compensation as awarded. I, therefore, find no merit in this FAO, which is accordingly dismissed with a direction to the appellant to deposit the compensation amount of Rs. 2.00 lakhs (Rupees two lakhs) along with @ 4% (four percent) interest per annum from the date of filing of the claim application till the date of deposit, before the Tribunal, within a period of eight weeks from today, if not already deposited. On such deposit being made, the same shall be disbursed in favour of the claimant.

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***M.M. Das, J.***

**FAO No. 87 of 2008**

This matter was heard analogously with FAO No. 622 of 2009. This appeal has been confined to the order passed by the Tribunal rejecting the application to review the award dated 18.10.2007 passed in Case No. O.A. 163 of 2005 by the Railway Claims Tribunal, Bhubaneswar Bench, Bhubaneswar. Since the said award has been confirmed by this Court in FAO No. 622 of 2009 by judgment delivered today, therefore, this appeal no more survives and is accordingly disposed of.

***M.M. Das, J.*** .....

*bks*