

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5608 OF 2017

(Arising out of SLP (C) No. 3970 of 2017)

KALANDI CHARAN SAHOO AND ANR.

... Appellants

VERSUS

GENERAL MANAGER, SOUTH-EAST  
CENTRAL RAILWAYS, BILASPUR

... Respondent

O R D E R

We have heard learned counsel for the parties finally at this stage itself with their consent.

Leave granted.

The appellants herein had filed a claim before the Railway Claims Tribunal (hereinafter referred to as 'RCT') on account of death of their son Sunil Kumar Sahoo in a train accident that occurred on 20.11.2005. The deceased was the employee in Railway and was holding the post of Assistant Loco-Pilot at the relevant time. He was posted at Raipur under the South East Central Railway, Bilaspur. On 20.11.2005, he was returning from Durg to Raipur, when he fell down from the running train near D. Cabin of Raipur Railway Station and, as a result thereof, he died on the spot.

Though Rule 27 of the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003 (hereinafter

referred to as 'Rules') mandates the Railway authorities to investigate into such an untoward incident. Admittedly, no such inquiry was conducted immediately after the incident. It is only when the appellants filed the claim before the RCT on 27.02.2009 that investigation into the incident was ordered on 23.04.2009. According to the Railways, the said investigation revealed that the deceased de-trained from the moving train at D. Cabin without stoppage of the train and invited the accident. The claim was rejected on the aforesaid basis and the aforesaid plea of the Railway was accepted by the RCT resulting into the dismissal of the claim of the appellants. The appellants filed the appeal, i.e., F.A.O. No. 535 of 2013 challenging the aforesaid order of the RCT. The High Court has dismissed the same by cryptic and non-speaking order with the only observations that findings of the Tribunal in the impugned Award and the reasons assigned in support of the same, do not warrant any interference.

It is in these circumstances, the appellants are before us in these proceedings via Article 136 of the Constitution. After hearing learned counsel for the parties, we find that it is not even necessary to go into the issue as to whether it was the fault of the deceased or that he accidentally fell down. Learned counsel for the appellants has drawn our attention to the provisions of Section 124A of the Railways

Act, 1989, which warrants payment of compensation whenever untoward incident occurs whether or not such an incident has occurred by any wrongful act, neglect or default on the part of the Railway administration. Going by the aforesaid provisions and in the peculiar facts of this case, where no inquiry as mandated by the Rules was conducted immediately after the incident had occurred, we are of the view that the appellants shall be entitled to compensation payable under Section 124A of the Railways Act, 1989. We are informed that, at the material time, compensation payable under the said provision was Rs.4 lakhs.

This appeal is, thus, allowed allowing the compensation of Rs.4 lakhs (Rupees Four Lakhs) to the appellants which shall be paid by the respondent within two months.

....., J.  
[ A.K. SIKRI ]

....., J.  
[ ASHOK BHUSHAN ]

New Delhi;  
April 25, 2017.

ITEM NO.11

COURT NO.7

SECTION XIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 3970/2017

(Arising out of impugned final judgment and order dated 18/07/2016  
in FAO No. 535/2013 passed by the High Court of Orissa at Cuttack)

KALANDI CHARAN SAHOO AND ANR.

Petitioner(s)

VERSUS

GENERAL MANAGER, SOUTH-EAST  
CENTRAL RAILWAYS, BILASPUR

Respondent(s)

(With office report)

Date : 25/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Somanatha Padhan, Adv.  
Mr. Ashok Anand, Adv.

For Respondent(s)

Mr. A. K. Panda, Sr. Adv.  
Mr. Uday Prakash Yadav, Adv.  
Ms. Sushma Verma, Adv.  
Mr. U. B. Chaurasia, Adv.  
Mr. Raj Bahadur Yadav, Adv.  
Mr. Shreekant N. Terdal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Nidhi Ahuja)  
Court Master

(Mala Kumari Sharma)  
Court Master

[Signed order is placed on the file.]