

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.379 of 2013

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Kajoma Kumari W/O Late Lalan Chaudhary Resident Of Village- Samyagarh, P.S-
Ghoswari, (Mokamah), District- Patna.

..... (appellant in Tribunal).....

Versus

The Union of India Through The General Manager, Eastern Railway, Kolkata

..... (respondent in Tribunal).....

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Appearance :

For the Appellant/s : Mr. A. K. Mishra, Advocate with
Mr. Anant Kumar No.I, Advocate

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 04-02-2015

Heard the parties.

2. This is an Appeal preferred against Judgment/order dated 18th March 2013 in Claim Application No. 0A 00360/2002 by the Member (Technical), Railway Claims Tribunal, Patna Bench (hereinafter referred to as the "Claim Tribunal") denying the claim preferred by the solitary appellant and solitary applicant before the Claim Tribunal seeking compensation against death of her husband late Lalan Chaudhary said to have been taking place in an untoward incidents on 02.03.2002.

3. It is noticed that the claim application was preferred before the Claim Tribunal in the individual capacity, but neither there is anything mentioned on the fact that it is being



preferred for others also nor the same fact appears in the statement of the solitary applicant – cum – appellant in the affidavit. Though, there it is mention that her deceased husband left behind seven issues who are daughter Arti Devi (aged 26 years), daughter Bharti Devi (aged 24 years), son Manish Kumar (aged 22 years), daughter Puja Kumari (aged 20 years), son Rahul Kumar (aged 18 years), daughter Rina Kumari (aged 16 years) and son Rohit Kumar (aged 14 years). Dependency certificate dated 24.12.2012 filed on 15.01.2013 before the Claim Tribunal in this case of the year 2002 and the same is not officially on the record as exhibit. When it was confronted, learned counsel for the appellants relies on the provisions as contemplated under section 125 of the Railways Act, 1989, which reads as under :

"125. Application for compensation. - (1) An application for compensation under section 124 [or section 124-A] may be made to the Claims Tribunal-
(a) by the person who has sustained the injury or suffered any loss, or
(b) by any agent duly authorized by such person in this behalf, or
(c) where such person is a minor, by his guardian, or
(d) where death has resulted from the accident, [or the untoward incident], by any dependant of the deceased or where such a dependant is a minor, by his guardian.

(2) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant."

4. To avail the benefit of the provisions aforesaid, the appellant ought to have disclosed the fact with the application which was preferred not only for herself but for other heirs also. But there appears no explanation for non-impleading such heirs in the appeal also even either as co-appellant or respondent.

5. On these two grounds the Appeal appears not maintainable and is, accordingly, dismissed.

(Akhilesh Chandra, J)

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