

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.393 of 2013

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Munnilal Vidyarthi, Son Of Late Fauzdari Thathera, resident of Village- Purani Bazar, Barh, P.S. Barh District- Patna

.... Appellant/s

Versus

The Union of India, through the General Manager, East Central Railway, Hajipur (Bihar)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Advocate

For the Respondent/s : Mr. A. K. Kesri, 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 18.03.2013 in Claim Application No. 0A 000100/2003 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 his unmarried daughter late Baby Kumari said to have been taking place in an untoward incidents on 06.04.2002.

3. It is noticed that the claim application was preferred before the Claim Tribunal in the individual capacity. No way in the evidence or the pleading said anything about other heirs of the deceased including wife of the petitioner. However, the dependant certificate dated 12th November 2012 filed on 8th January 2013 is on the record before the Claim Tribunal in this

case of the year 2003 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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