

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 553 OF 2006

KAUSHABAI DNYANOBA YADAV
VERSUS
UNION OF INDIA

...

Advocate for Appellant : P S Agrawal.
Advocate for Respondent : Mr. Navandar Manish N.

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CORAM : S.V.GANGAPURWALA,J.

DATED : 29TH OCTOBER, 2015

PER COURT :-

The claim application filed by present appellant before the Railway Claims Tribunal is rejected. Aggrieved thereby, the present appeal.

2] I have heard Mr.Agrawal, learned counsel for the appellant and Mr.Navandar, learned counsel for respondent at length.

3] After hearing the matter for quite some time, Mr.Agrawal, learned counsel for the appellant submitted that the appellant be given an opportunity to examine Mr.Amol Shinde. His statement has been recorded by the P.S.O. G.R.P. He was the person who had come to see the deceased and has purchased ticket for him. Mr.Navandar, learned counsel for respondent opposed the said request saying that the same would not serve any purpose and the same is also not permissible after long slumber of more than almost 10 years. Moreover, the tribunal has come to the conclusion that there is no evidence about purchase of ticket by the deceased and no ticket is found from the body of the deceased.

4] I have considered the said aspect. The provisions of Section 124(A) of Railways Act 1989 is a part of beneficial piece of legislation. The statement of said Amol Shinde was already recorded. I would certainly not have considered the prayer of the appellant if the statement of said Amol Shinde would not have been recorded earlier. Considering the fact that his statement is recorded and the evidence of the said person would also be a relevant evidence, I am inclined to consider the request of the appellant, however, upon some condition. The claim petition is filed in the year 2003 and after about 12 years, the statement is being recorded. Considering above, I pass following order :

5] The impugned judgment and order is quashed and set aside. Parties are relegated before the Railway Claims Tribunal, Nagpur. The appellant is entitled to adduce further evidence. The respondent also is entitled to adduce further evidence if it so desires.

6] In case the tribunal comes to the conclusion to award compensation amount then in that case, the appellant would not be entitled for the interest from 16/12/2006 till this date. Parties shall appear before Railway Claims Tribunal on **2/12/2015**. It is made clear that I have not considered contentions of the respective parties on merits.

[S.V.GANGAPURWALA,J.]

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