

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.593 of 2014

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1. Vijay Kumar Gupta, son of late Brij Mohan Prasad
2. Smt Madhuri Devi, wife of Sri Vijay Kumar Gupta
Both r/o village/mohalla-Station Road, Masaurhi, P.O. & P.S. Masaurhi, District Patna (Bihar.)

.... Appellant/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hazipur
2. Sunita Kumari, wife of Sri Ganesh Kumar, r/o Mohalla Maharajganj, Rajputana Toli, Patna City, P.S. Alamganj, District Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate.
For the Railways : Mr. Ashok Keshari, Advocate
Mr. Kalyan Shankar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 20-07-2017

1. This appeal has been filed for setting aside the order dated 17.7.2014 passed by the learned Member (Technical), Railway Claims Tribunal, Patna, Bench at Patna, in Claim Application No. O.A.00336 of 2006

2. None appears on behalf of the appellant.

3. Senior counsel for the East Central Railway has appeared.

4. It has been submitted on behalf of the respondent that instant appeal filed by the parents of deceased is not maintainable in terms of provisions of Section 123(B) of the Railways Act, 1989.

5. *Section 123(B) of the Railways Act is quoted below:*



(b) “dependent” means any of the following relatives of a deceased passenger, namely:-

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grandparent wholly dependant on the deceased passenger;”

6. The Tribunal has mentioned in the impugned order that the claim petition has been filed by the wife of the deceased. These appellants (parents) have filed a petition before the Tribunal to be impleaded as a party which was refused on the ground that they have failed to produce the dependency certificate. Accordingly, they are not allowed to participate in the proceeding. It is held in judgment reported in ***A.I.R. 1976 Gauhati, page 15) (Saraswati Goswami Vrs. General Manager, N.F. Railway)***, that application for compensation could be filed only by dependant of the deceased.

7. In such circumstances, this Court is of the view that there



is no illegality in the impugned order.

8. This Miscellaneous Appeal is accordingly dismissed.

(Sanjay Priya, J)

S.Ali/-

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