

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.581 OF 2014

JUDGMENT:

The Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed to set aside the order passed by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, 'the Tribunal') in R.P.No.8 of 2012 in O.A.A.No.372 of 2008 and remand the matter to the Tribunal for fresh adjudication, after giving liberty to the appellant/applicant to prove her case and also to pass such other order or orders as the Hon'ble Court deems fit.

2. Heard the learned counsel for the appellant/applicant, the learned Standing Counsel for the respondent/Railways and perused the record.

3. It has been contended that the documents viz., Ex.A.5-death certificate, Ex.A.7-xerox copy of ration card and Ex.A.8-voter ID card substantiate that the appellant/applicant is mother of the deceased M.Narayana Murthy, who died in an untoward incident of accidental fall from train No.2861 Visakhapatnam-Hazrath Nizamuddin Link Express on 07.08.2008. The appellant/applicant is dependent on the deceased. The Tribunal did not consider these documents and also the sworn affidavit and evidence adduced on behalf of the appellant to substantiate that she was sole dependent on the deceased. In spite of adducing ample evidence, the Tribunal erroneously dismissed O.A.A. Aggrieved by the same, the appellant-applicant filed R.P.No.8 of 2012. The said R.P was also dismissed by the Tribunal vide order, dated 14.02.2014.

4. The ingredients under the Railways Act are to benefit the dependents of the deceased and no strict proof is required to prove dependency. Admittedly, there is no other claim application claiming compensation on account of death of M.Narayana Murthy. As per the records, the appellant/applicant is mother and the sole dependent on deceased, who filed application for grant of compensation on account of alleged untoward incident said to have taken place on 07.08.2008. Since Ex.A.8-voter ID, Ex.A.7-ration card coupled with the evidence of A.W.1 demonstrate that the appellant/applicant was sole dependent on the deceased, the Tribunal ought to have considered those documents and held that the appellant/applicant was dependent on her deceased son. Though the Tribunal had framed three other issues, it did not answer the same.

5. In view of the facts and circumstances of the case, it is held that the appellant/applicant is mother and sole dependent on the deceased M.Narayana Murthy. Accordingly, the order, dated 14.02.2014, passed in R.P.No.8 of 2012 and the order, dated 09.08.2012, passed in O.A.A.No.372 of 2008 are set aside and the O.A.A. is restored to the file of Tribunal to answer issue Nos.2 to 4 in accordance with law, after affording opportunity to both parties, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this Judgment.

6. Accordingly and with the above observation, the appeal is allowed.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

DECEMBER 17, 2018
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Date: 17.12.2018

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