

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.1026 of 2013

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellants-applicants, challenging the order, dated 11.09.2013, passed in O.A.A.No.393 of 2006 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellants-applicants, the learned Standing Counsel for the respondent-Railways and perused the record.

3. In the course of submissions, it is brought to the notice of this Court that the D.R.M's Report in this case is available and the availability of the said D.R.M's Report is specifically mentioned in the written statement filed by the respondent-Railways in the Original Application before the Tribunal. However, for the reasons best known to the respondent-Railways, the D.R.M's Report is not brought on record. The Railways Act, 1989 is a beneficial legislation intended to compensate victims of railway accidents who suffer injuries /death in an untoward incident defined under Section 123 (c) of the Act. D.R.M.'s report is an important piece of evidence to adjudicate the claim of the victims. Though the respondent/railways examined one witness and got marked a document (attested copy of Guard's rough journal) as Ex.R1 to prove its case, D.R.M.'s report has not been brought on record. It

is contended on behalf of the applicants that D.R.M.'s report is available in records and that is required to be examined to reach a just conclusion, and that no credibility can be given to the evidence of R.W.1 and recitals in Ex.R1 in the absence of D.R.M.'s report in the subject case. There is substance in the submissions made on behalf of the applicants. This Court opines that D.R.M.'s report is required to be placed on record to adjudicate the *lis* and to reach to a just conclusion.

4. Accordingly, the appeal is allowed. Impugned order dated 11.09.2013 passed in O.A.A. No.393 of 2006 by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad is set aside. Consequently, O.A.A. is restored to its file. The Tribunal is directed to allow both the parties to lead further evidence, if any. If original D.R.M.'s report is not available, the parties are entitled to mark a copy of the same as secondary evidence. The Tribunal is directed to dispose of the O.A.A. as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this Judgment. There shall be no order as to costs of the appeal.

Pending Miscellaneous Petitions, if any, shall stand closed.

13th December, 2018
Bvv/Drk

Dr. SHAMEEM AKTHER, J