THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.MP.No.393 OF 2013
AND
CIVIL MISCELLANEOUS APPEAL No.186 OF 2013

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, 'the Act') is directed against the order, dated 31.01.2013, in O.A.A.No.343 of 2007 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, 'the Tribunal'), whereunder and whereby, the claim of the appellants/applicants under Section 16 of the Act read with Sections 124-A and 125 of the Railways Act, 1989 with regard to grant of compensation of Rs.4,00,000/- consequent on the death M. Laxman, who is the son and brother of the appellants, respectively, in an untoward incident of railway accident that took place on 22.11.2007 was dismissed.

2. Heard the learned counsel for the appellants/applicants and the learned Standing Counsel for the respondent/Railways. Perused the material on record.

3. In the course of submissions made by the learned counsel on both sides, it is brought to the notice of the Court that the appellants/applicants had not filed the postmortem examination report of M. Laxman, who is the deceased in this case. Now the appellants filed the copy of the postmortem examination report along with an application, under order XLI Rule 27 C.P.C., to receive the said copy of the postmortem examination report by way of additional evidence.

4. The enactment under the Railways Act is a beneficial legislation for the accident victims and their dependants. The Tribunal held that as the postmortem examination report was not filed, the cause of the death was not proved. Now, the postmortem examination report is placed on record. The truth or otherwise and also to answer all the issues framed by the Tribunal, an opportunity is required to be given to the appellants/applicants to mark copy of the postmortem examination report of M. Laxman.

5. Under these circumstances, C.M.A.MP.No.393 of 2013 filed to receive the postmortem examination report to adduce additional evidence is allowed. Consequently, the impugned order, dated 31.01.2013, in O.A.A.No.343 of 2007 passed by the Tribunal is set aside.

6. Accordingly, the appeal is allowed and the matter is remanded to the Tribunal for disposal in accordance with law. The Tribunal shall provide opportunity to both the parties to adduce evidence. Thereafter, the Tribunal shall complete the exercise of disposing of the O.A.A. within a period of three (3) months from the date of receipt of a copy of this order.

There shall be no order as to costs.

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

Dr. SHAMEEM AKTHER, J

December 18, 2018.
MD