

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.69 of 2014

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Sarita Devi Widow Of Late Umesh Das @ Mahesh Das Resident Of Village -
Ghosepur, P.O. Farka, P.S. Sabour, District - Bhagalpur

... .. Appellant/s

Versus

The Union Of India Through The General Manager, Eastern Railway, Kolkata
West Bengal.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dharendra Nath Jha, Advocate
For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsel for the parties.

2. This appeal is barred by limitation of 39 days.

The delay in filing of this appeal is explained in I.A. No.8280 of
2015. Hence, the delay is condoned.

3. The claim petition filed by the appellant before
the Railway Claims Tribunal, Patna Bench, vide MA/OA
00064/2002 has been dismissed by the impugned order dated
11.09.2013. The claim has been dismissed on the ground that
appellant failed to produce any oral evidence or any evidence of
dependency.

4. Learned counsel for the appellant submits that
the appellant had no knowledge about the date fixed for
evidence before the Tribunal nor any notice was sent to the
claimant-appellant. Moreover, the appellant clearly stated that
she is wife of deceased Umesh Das @ Mahesh Das. Therefore,



according to law she was dependent of the deceased.

5. The lower Courts record reveals that issues were framed on 09.01.2013 and the matter was adjourned for 06.03.2013 for production of evidence. Thereafter, no order-sheet shows that the matter was taken up on 06.03.2013. Abruptly, on 04.04.2013, the opportunity of evidence of the appellant was closed as none appeared on behalf of the appellant thereat. Only the aforesaid factual position shows that the record was not running properly and with proper notice to the parties.

6. Hence, the impugned order is fit to be set aside on that ground alone. Accordingly, the same stands set aside and the matter is remitted back to the Tribunal to proceed according to law and decide the matter within three months. The applicant may produce her identity proof and address proof to substantiate that she is wife of the deceased. Thereafter, there would be no need to produce dependency certificate because dependency is decided in terms of statutory provision and not on the basis of a certificate issued by the competent authority.

7. Accordingly, this appeal stands allowed.

Mkr./-

(Birendra Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
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