

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.472 of 2019

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Mamta Kumari W/o Late Pravin Kumar Resident of Near Gandhi Complex,
P.S. Belbanwa, Dist. East Champaran, at Motihari

... .. Appellant/s

Versus

The Union of India through the General Manager, East Central
Railway, Hajipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms. Pravina Kumari, Adv

For the Railways : Ms. Chhaya Mishra, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 22-10-2019

Heard parties.

2. This appeal has been filed for setting aside the order dated 30.11.2015 passed by learned Member (Judicial) in Claim Case No. OA/OC/MA No. OA00160/2013 by which the claim application of the Claimant-appellant has been dismissed for non prosecution as well as lack of evidence.

3. Claimant-appellant filed an application for grant of compensation on account of death of her husband in an untoward incident on 26.07.2012 and claim case was filed in the



year 2012 and thereafter respondent-railways appeared and filed their written statement and issues were framed, however, Claimant-appellant could not produce any evidence in support of her claim case, as such for want of evidence as well as for non prosecution the claim case was dismissed on 30.11.2015.

4. It has been submitted by learned counsel for the appellant that the appellant is an illiterate rustic villager and had filed her claim case and was always consulting his lawyer to know about the next date of the case but she was never informed nor she was informed that the case has been dismissed for default on 30.11.2015.

5. It has been further submitted on behalf of appellant that appellant used to contact her counsel who always told her that she will be informed about the outcome of the case and appellant having faith in her conducting lawyer was under the impression that her case is being properly looked after by her counsel. She always used to give expenses for doing pairvi to her counsel but she was surprised to know that her counsel never appeared and ultimately case was dismissed for default and even said information of dismissal was never conveyed to her and although she consulted her lawyer on 25.06.2016 and 12.09.2017 but she was informed that matter is still pending and



lastly she herself made enquiry from the office of the claims tribunal on 26.06.2019 when she was informed that the claim case had already been dismissed on 30.11.2015.

6. It has been further submitted that due to fault of lawyer the litigant should not be made to suffer.

7. Taking a sympathetic view under the facts and circumstances of the present case, that the Claimant-appellant is sufferer of rail accident in which her husband who was the sole bread earner of the family died, the order dated 30.11.2015 passed by learned Member (Judicial) in Claim Case No. OA/OC/MA No. OA00160/2013 is set aside and Claim Case No. OA/OC/MA No. OA00160/2013 is restored to its original file.

8. Claimant-appellant shall appear before the Tribunal with a certified copy of order passed by this Court and the learned Tribunal thereafter shall grant opportunity to the Claimant to produce her evidence both oral and documentary and after granting similar opportunity to other side shall finally decide the claim case within six months from the date of receipt/production of a copy of order passed by this Court.

9. The miscellaneous appeal is allowed and the matter is remitted to the Claims Tribunal to decide the claim case on



merit after granting reasonable opportunity of hearing to both sides.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2019
Transmission Date	NA

