

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.702 of 2013

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Shiv Narayan Sada Son Of Late Uchit Sada R/O Village-Ganga Prasad
Sitanebad, P.S. Simri Bakhtiyarpur, Distt-Saharsa Bihar

... .. Appellant/s

Versus

Union Of India Through The General Manager, N.E. Railway, Gorakhpur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pravin Kumar Gupta, Adv
For the Respondent/s : Mr.Anil Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-02-2019

Heard learned counsel for the parties.

2. One Tetari Devi had filed Claim Case No.OA 00086 of 1999 before the Railway Claims Tribunal, Patna Bench, claiming compensation for death of her son-Dinesh Das in a rail accident caused on 19.04.1998.

3. During the pendency of claim case, Tetari Devi died on 01.03.2008, father of the victim had already died in the year 2002.

4. In the circumstance, the appellant, full brother of the victim of accident, filed a petition before the learned Tribunal for his substitution.

5. By the impugned order dated 30.07.2009, the learned Tribunal noted that since Shiv Narayan Sada is not dependant of the deceased. Hence, he cannot be substituted. The



learned Tribunal further noted that since there is no claimant in the matter, the claim was disposed of.

6. Appellant-Shiv Narayan Sada has challenged the order of the learned Tribunal on the ground that the appellant was legal representative of the deceased, he should have been given opportunity to proceed with the proceeding before the learned Tribunal.

7. Section 123(b) of the Railways Act, 1989, defines the term dependent, as follows:

“123. Definitions.-In this Chapter, unless the context otherwise requires,-

(b) “dependant” means any of the following relatives of a deceased passenger, namely:-

(i)the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii)the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;



(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grandparent wholly dependant on the deceased passenger;

8. Apparently, the appellant, who is aged about 59 years as per his affidavit, is not a dependant on the deceased. Hence, his prayer was fit to be rejected by the learned Tribunal and the learned Tribunal has rightly rejected the same.

9. Accordingly, this appeal has got no merit. Moreover, the appeal is barred by limitation of 1455 days. Though, an application for condonation has been filed vide I.A.No.7700 of 2013, however, since I do not find any merit in this appeal, the limitation petition also stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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