

**THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

**CIVIL MISCELLANEOUS APPEAL No. 415 of 2014**

**JUDGMENT:**

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 07.01.2011, in O.A.A.No.255 of 2006, on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, the Tribunal).

2. The appellants in the C.M.A. are the applicants, and respondent in the C.M.A. is the respondent, before the Tribunal. For better appreciation of facts, the parties hereinafter are referred to, as they are arrayed before the Tribunal.

3. The applicants filed the above OAA, claiming compensation of Rs.4,00,000/- for the death of Ch.Nagalakshmi (hereinafter referred to as the deceased) in an untoward incident of accidental fall from the train and died while undergoing treatment on 28.05.2006.

4. Railways filed written statement denying the averments made in the application and prayed to dismiss the same.

5. The Tribunal, on consideration of both oral and documentary evidence available on record, came to the conclusion that the applicants failed to prove that they alone are dependents of the deceased, and accordingly, dismissed the OAA.

6. Heard.

7. A perusal of the order of the Tribunal reveals that applicant No.1 is the husband and applicant No.2 is son of the deceased. Applicant No.1 married the deceased on 14.03.1998 after the death of his first wife. The applicants filed Ex.A5, Family Members Certificate, issued by the Village Secretary, Undrajavaram Gram Panchat, which shows that the applicants along with son and daughter of first wife are the family members of the deceased Nagalakshmi. Basing upon Ex.A.5, the Tribunal came to the conclusion that the applicants alone are not the dependants of the deceased and dismissed the OAA.

8. Admittedly, the deceased is the second wife of applicant No.1. Hence, her husband and her children alone are her dependants, but not the children born through the first wife of her husband. Therefore, the Tribunal erred in holding that the applicants alone are not the dependants of the deceased and hence, the said finding is liable to be set aside. Hence, this Court is of the opinion that this is a fit case to remand the same to the Tribunal for fresh disposal on merits.

9. In view of the facts and circumstances of the case, the Civil Miscellaneous Appeal is allowed and the OAA is remanded to the Tribunal for disposal afresh on merits and pass appropriate orders as expeditiously as possible. There shall be no order as to costs. Miscellaneous petitions pending in this appeal, if any, shall stand closed.

**T.AMARNATH GOUD, J**

Date: 05.12.2019  
TJMR