THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL MISCELLANEOUS APPEAL No. 936 of 2012

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is directed against the order, dated 06.01.2011, in O.A.A.No.89 of 2004, 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 their mother Merugu Kamalamma (hereinafter referred to as the deceased) in an untoward incident of accidental fall from the train and died while undergoing treatment on 10.12.2003.

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 since the applicants failed to prove that they are dependents of the deceased, and accordingly, dismissed the OAA.

6. Heard.

7. A perusal of the order reveals that Ex.A10 No objection Certificate issued by the Mandal Revenue Officer, Nagayalanka, to the effect that applicant Nos.1 to 4 are dependents of the deceased Merugu Kamalamma. OAA was filed in 2004 and as per the affidavit of A.W.1, his younger sister Bhavani died on 12.06.2005, but no death certificate was filed in this regard and she was not shown as dependent of the deceased. Apart from the same, a son of the deceased was not made as party to the OAA. Hence, this Court is of the opinion that this is a fit case to remand the same to the Tribunal for fresh disposal.

8. In view of the facts and circumstances of the case, the Civil Miscellaneous Appeal is allowed and the OAA is remanded to the Tribunal to re-appreciate issue No.1 in the light of Ex.A10 No Objection Certificate issued by the Mandal Revenue Officer, Nagayalanka. The Tribunal shall consider and dispose of the OAA on merits and pass appropriate orders on all other issues 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: 29.11.2019
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