

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2636 OF 2021

PETITIONERS : 1. Sk. Zakir s/o Sk. Nisar,
(Ori. Applicants Nos.1 a/a 28 years, occ. Labourer,
to 3) 2. Farhana Begam d/o Sk. Nisar,
@ Shaikh Farhana w/o Baba Baig,
a/a 24 years, occ. Labourer,
3. Sk. Shakir s/o Sk. Nisar,
a/a 20 years, occ. Labourer,
All r/o opposite Hasan Kirana
Shop Barki Chowk, Mohalla Fatte
Buruj, Nanded, Tq. and Distt.
Nanded

..VERSUS..

RESPONDENT : 1. Union of India, representing
(Ori. Non Applicant) Railway Administration, through
The General Manager, South
Central Railway, Rail Nilayam,
Secunderabad, Telangana,

Shri. C. A. Joshi, Advocate for the Petitioners
Shri. N. P. Lambat, Advocate for Respondent/Sole.

CORAM : **N. B. SURYAWANSHI, J.**
DATE : **12.10.2021.**

ORAL JUDGMENT

RULE. Rule made returnable forthwith.

Heard finally with the consent of the parties.

2. This petition impugns the order dated 15.12.2020 passed by the Member (Technical) of Railway Claims Tribunal, Nagpur in MA/NGP/80/2019 in O.A. No.II(u)/NGP/2012/0203.

3. The elder brother of the Petitioners namely Sk. Amjad @ Ahemad s/o Sk. Nisar, died in railway accident on 05.02.2012. The Applicants/Petitioners therefore filed an Application for grant of compensation before the Railway Claims Tribunal, Nagpur, which came to be allowed and compensation of Rs.4,00,000/- alongwith interest was directed to be paid to the Petitioners. When the claim was filed on 22.06.2012, Petitioner No.1 was aged at 15 years, Petitioner No.2 was aged at 12 years and Petitioner No.3 was aged at 10 years. The decision in the claim proceedings was rendered on 03.10.2016.

4. The Petitioner Nos.1 and 2 since became major, filed an Application (Annexure-3) seeking directions to Respondent to pay an amount of Rs.1,00,000/- alongwith accrued interest to Applicant

No.1/Petitioner No.1 and the amount of Rs.1,25,000/- with accrued interest to Applicant No.2/Petitioner No.2. At that time, since Petitioner No.3 was not major, he did not prefer any Application.

5. By the impugned order, the Claims Tribunal rejected the Application filed by the Petitioner Nos.1 and 2, on the ground that if the Application is allowed, it will amount to modification of the original judgment of the Tribunal dated 03.10.2016. This order is impugned in the present petition.

6. Heard the learned Advocate for the Petitioners and the learned Advocate for Respondent.

7. It is not disputed that at the time of filing claim proceedings, the Petitioner Nos.1 to 3 were minor and the Petitioner Nos.1 and 2 have attained majority when they filed the Application, the Petitioner No.3 has also become major now. The Claims Tribunal has erroneously proceeded to ignore the said aspect and has erred in observing that if the

compensation amount is granted to the Petitioners, the same will amount to modification of the original judgment of the Tribunal dated 03.10.2016. In the original judgment, the Tribunal had directed that the Petitioners shall be paid compensation only after they produce Guardianship Certificate, as they were minor at that time.

8. The impugned order since ignores the fact that the Petitioners have become major, is unsustainable and the same is liable to be quashed and set aside. Hence the following order :

ORDER

i) Writ Petition No.2636 of 2021 is **allowed.**

ii) The Respondent/Union of India through General Manager, South Central Railway, Secunderabad, is directed to pay the compensation amount to the Petitioners within a period of eight weeks in accordance with the

directions of the Tribunal.

Rule made absolute in the above terms with
no order as to costs.

(N. B. SURYAWANSHI, J.)

TAMBE