

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION (REVIEW) NO. 318 OF 2020
IN
FIRST APPEAL NO. 1105 OF 2019

Virbhan s/o Zipruji Bagul (dead) 2. Vimalbai w/o Virbhan Bagul (dead) thr. LR's
Deepak s/o Virbhan Bagul

..VS..

Union of India, thr. the General Manager.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.G. Bagul, Advocate for applicant.
Shri N.P. Lambat, Advocate for respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 13/01/2021

The applicant herein has sought review of the judgment dated 06.03.2020 passed in First Appeal No. 1105 of 2019.

2. The applicant claims to be the legal representatives and dependent of the original claimant who died in a railway accident. The Railway Tribunal had dismissed the claim by holding that the applicant was not dependent of the deceased, and hence he is not entitled for compensation. In an appeal filed against this judgment, this Court has confirmed that the applicant is not a dependent within the meaning of Section 123(b) of the Railway's Act, 1989, and hence, not entitled for the compensation.

3. The review is sought mainly on the ground

that the Court has not considered Rule 26 of the Railway Claims Tribunal (Procedure) Rules, 1989 in proper manner. It is further stated that the relevant provisions of the Railway's Act have been considered by this Court and other Courts in many other cases wherein it is held that the brother who is a legal representatives of the deceased is entitled to continue the claim.

4. The parameters of review are prescribed in Order 47 of Code of Civil Procedure. The grounds raised by the appellant do not demonstrate "error apparent on the face of the record", justifying exercise of the power of review. Suffice up to day, Review Petition cannot be allowed to be "an appeal" in disguise.

5. The application has no merits and accordingly, dismissed.

JUDGE

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