

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 664 OF 2016
WITH
INTERIM APPLICATION NO. 14620 OF 2023**

Mr. Abdul Hafiz s/o Islam Khan and Anr. ...Appellant
Versus
Union of India through General Manager ...Respondent

Mr. Ashif Husain i/by Hashim Husain for Appellant.

Mr. T. J. Pandian a/w T. C. Subramanian, Mr. Gautam
Modanwal for Respondent-UOI.

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CORAM : NITIN B. SURYAWANSHI, J.
DATE : 18th OCTOBER 2023

PC.:

1. Heard.
2. Admit.
3. With the consent of parties, matter is taken up for final hearing. Claim filed by appellants before the Railway Claims Tribunal, Mumbai on account of death of their son Parvez Khan in an accident while travelling from Malad to Churchgate has been rejected by the tribunal on the sole ground that appellants failed to prove their relationship with deceased.
4. Appellants by filing Interim Application No. 14620 of 2023 placed on record copies of birth certificate of deceased

Parvez Khan son of Abdul Hafiz Khan, school leaving certificate of the deceased and other relevant certificate. It is the contention of appellants that after the death of their son they went to their native place at village Sabada Tehsil and District - Banda, Uttar Pradesh and there they had misplaced their mobile phone due to which they were unable to contact advocate representing them before the Railway Claims Tribunal. In the month of May 2015, when appellants returned to Mumbai, they met their advocate at that time they were informed that their claim application is dismissed as they failed to establish relationship with deceased.

5. Learned Advocate for Respondent opposed the First Appeal stating that in spite of having sufficient opportunity, appellants have failed to establish their relation with the deceased and therefore the tribunal is justified in rejecting their claim. He submits that there is no merit in the appeal and appeal may be dismissed.

6. Since substantive claim of appellants is rejected only on the ground that appellants failed to establish their relationship with the deceased, in the interest of justice, appellants deserve opportunity to prove their relationship with deceased and establish their claim on merits.

7. Hence, the following order:-

(i) Impugned Judgment dated 2nd March 2015 of the Railway Claims Tribunal is quashed and set aside.

(ii) Claim Application No.OA(Ilu)/MMC/2012/0324 is remanded back to the Railway Claims Tribunal.

(iii) Railway Claims Tribunal shall allow appellants to lead evidence to establish their relationship with deceased Parvez Khan and then shall decide the claim on its own merits, within a period of six months from the date of receipt of this order.

(iv) Appeal is allowed in the above terms.

(v) Interim Application stands disposed off.

(NITIN B. SURYAWANSHI, J.)