



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

Writ Petition (WP) No. 6074 of 2022

Suresh S/o Godhanlal Shendre

Versus

South East Central Railway, Near Railway Station through Divisional
Railway Manager and others

With

Writ Petition (WP) No. 7749 of 2022

Suresh S/o Godhanlal Shendre

Versus

South East Central Railway, Near Railway Station through Divisional
Railway Manager and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Jayant Bhoot, Advocate for the petitioner.
Shri C.S.Tamhane, Advocate h/f Shri Sachin Sambre,
Advocate for the respondent Nos. 2 to 4.

CORAM : ANIL S. KILOR, J.

DATED : 17th APRIL, 2024.

Heard.

2. The common order below Exhibit 35 dated 16th July, 2022 passed by the Commissioner under the Employees Compensation Act and the Judge, First Labour Court, Nagpur rejecting the application for

framing of additional issue, is under challenge in these writ petitions.

3. The applicant before the Labour Court is a widow whose husband was died due to train dash working on a railway track. The husband of the applicant was working on contract basis under the non-applicant No.2.

4. In the application, the applicant has claimed compensation from both the non-applicants i.e. the contractor and the railway. However, it is the case of the non-applicant no.2 that he is not liable to pay compensation but the railways is liable to pay compensation, therefore, the non-applicant no.2/ contractor moved an application for framing of additional issues namely whether the respondent no.2 proves that he is not responsible for the payment of compensation to the applicant and it is only respondent no.1 who is liable to pay compensation to the dependents of the deceased ? The said request came to be rejected vide impugned order. Hence, this writ petition.

5. I have heard learned counsel for the respective parties and perused the record.

6. It is revealed from the record that the learned Labour Court framed the issues which are as follows:

- “1) Do the applicants proved that deceased Ravindra Yelne Ghumman died in an accident dated 05/09/2019 arising out of and in the course of his employment with non-applicant no.2 ?
- 2) Do the applicants prove that they are entitled to receive compensation and interest from both the non-applicants ?
- 3) Do the applicants prove that they are entitled to receive penalty ? If yes, at what rate and from whom ?
- 4) What order ?”

7. However, considering the above referred issues more particularly issue no.2, I am of the opinion that it covers the issue which the petitioner has proposed as additional issue.

8. In the circumstances, I do not find any error committed by the learned Labour Court, Nagpur in rejecting the application. The applicant has every right to establish the said fact while leading evidence on issue no.2. Accordingly, the writ petitions are disposed of.

[ANIL S. KILOR, J.]