

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

WRIT PETITION NO.4412 OF 2024

Ashok Maruti Shambharkar & Anr.	...Petitioners
V/S	
The Union of India	Respondent

Ms. Mooman i/b Mr. V.B. Ghorpade *for the Petitioners.*
Mr. P.S. Gujar *for Respondent.*

CORAM: SANDEEP V. MARNE, J.
DATE : 21 MARCH 2025.

P.C.:

1. The Petition challenges order dated 10 November 2023 passed by the Railway Claims Tribunal, Mumbai Bench, (**Tribunal**) rejecting the application for amendment of Original Application No.446 of 2017.

2. I have heard Ms. Mooman, the learned counsel appearing for the Petitioners and Mr. Gujar, the learned counsel appearing for the Respondent.

3. Original Application No.446 of 2017 is filed by the Petitioner seeking compensation in respect of death of his son on 27 February 2017. It appears that in the Original Application,

Petitioners have averred that the deceased was travelling from Ambarnath to Ulhasnagar by local train. By way of amendment application, the only amendment that the Petitioners sought in the Original Application was to correct the journey undertaken by the deceased from “Ambarnath to Ulhasnagar” to “Badlapur to Ulhasnagar”. The Application is rejected by the Tribunal virtually by going into merits of the case, which ought to have been avoided.

4. It appears that the claim of Petitioners is about journey of the deceased in ‘up’ direction. The sequence of stations in ‘up’ direction is Badlapur to Ambarnath to Ulhasnagar. As per the inquest panchanama, the body of the deceased was apparently found between Ambarnath and Badlapur stations. It therefore otherwise inconceivable that the deceased was travelling from Ambarnath to Ulhasnagar on the day of incident. In my view therefore, the claim raised by the Petitioners that there is typographical error in describing the journey from Ambarnath to Ulhasnagar appears to be plausible. Since the body was found between Ambarnath and Badlapur stations, Petitioners must be given an opportunity to amend the Original Application by correcting the error and by indicating the journey from Badlapur to Ulhasnagar. If the amendment is not allowed, the same may result in summary rejection of the Original Application as the claim of journey from Ambarnath to Ulhasnagar would go clearly against the factum of discovery of body between Ambarnath and Badlapur stations.

5. Considering the facts and circumstances of the case, though there is delay in moving the application for amendment, the same appears to be necessary for the purpose of determining the real question of controversy between the parties.

6. The Petition succeeds. Order dated 10 November 2023 passed by the Railway Claims Tribunal is set aside. The Application for amendment of Original Application is allowed in terms of prayers made therein.

7. Writ Petition is **allowed** in above terms. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

Digitally signed
by SUDARSHAN
RAJALINGAM
KATKAM
Date:
2025.03.25
10:19:15 +0530