

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 948 OF 2025

Mr. Venkatesh G. Devendra

...Appellant

Versus

Union Of India Th. The General Manager

...Respondent

Mr. Sainand Chaugule, for the Appellant.
Mr. Niranjana Shimpi, for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : April 16, 2026

P. C. :

1. By the present First Appeal, the Appellant, who is the original Applicant No. 3 is aggrieved by the dismissal of the Claim Application filed before the Railway Claims Tribunal seeking compensation for death of the Appellant's unmarried brother due to accidental fall while travelling in a local train between Mumbai CST to G.T.B Nagar railway station on 13th March, 2008.

2. The Claim Application was filed by the parents of the deceased. During the pendency of the proceedings before the Railway Claims Tribunal, the father of the deceased expired and the present Appellant, who was the brother of the deceased and was aged about

seventeen and half years was added in the capacity of dependent of the deceased as well as the heir of the father of the deceased. The order of the Railway Claim Tribunal indicates that the evidence was fixed in the year 2011, and despite several opportunities, no evidence was led by the Applicant and that time was consumed in deleting the father's name and for bringing the heir on record. The Railway Claim Tribunal framed the necessary issues as under :

(i) whether deceased met with an untoward accident within the meaning of Section 123 (c)(2) of the Railways Act during his journey by the train

(ii) whether the Applicant was a bonafide passenger and

(iii) whether the Applicants are dependent of the deceased

3. The Railway Claims Tribunal though noted that the police report, inquest panchnama and the DRM report stated that the deceased had fallen down from local train, as no evidence was led, decided the issue against the Applicant. The Railway Claims Tribunal further held that the deceased was not a bonafide passenger as there was no recovery of ticket. In so far as the issue no. 3 is concerned, the Railway Claims Tribunal noted that the ration card indicated that the Applicants therein i.e. parents and brother are dependents of the deceased within the meaning of Section 123 (b) and decided the issue against the Applicant, as the Applicant did not led evidence and bonafides is not

established.

4. Learned counsel for the Applicant submits that despite the Appellant herein being impleaded as dependent of the deceased since he was a minor at the time of impleadment, was not permitted to lead evidence on the ground that subsequently during the hearing of the proceedings, the present Appellant had attained majority, and hence, was not considered as dependent of the deceased. He submits that the mother of the deceased, during the pendency of the proceedings before the Railway Claims Tribunal, was bedridden and opportunity ought to have been given to the present Appellant who was impleaded in his capacity as the dependent of the deceased as well as the legal heir of the dependent father of the deceased, and therefore, the matter be remanded for fresh consideration.

5. *Per contra*, learned counsel for the Respondents would point out that though the matter was listed for evidence in the year 2011 and almost 12 dates were fixed for giving an opportunity to the Applicants to lead evidence, the Applicants have not led evidence. He would further submit that the Railway Claims Tribunal has rightly considered that during the pendency of the proceedings, the present Appellant had attained majority, and therefore, he was no longer the dependent of the deceased and could not be permitted to lead evidence.

6. The only point which arises for consideration is whether the

claim could have been dismissed on the ground that no evidence has been led by the Applicant while refusing permission to the present Appellant to lead evidence in the matter. The issues have been answered against the present Appellant only on the ground that the evidence has not been led in support of the issues. It needs to be noted that upon the death of the father of the deceased, who was the dependent of the deceased, the Appellant herein who is the brother of the deceased and was aged about seventeen and half years, was impleaded in his capacity as the dependent of the deceased as well as the legal heir of the father of the deceased. The Railway Claims Tribunal committed an error in refusing permission to the present Appellant to lead evidence on the ground that during the pendency of the proceedings, the present Appellant had attained majority. The status of parties is crystallized at the date when the present Appellant had been impleaded at which point of time he was a minor and was therefore a dependent within the meaning of Section 123 (b) of the Railways Act, 1989. Further, the present Appellant being the legal heir of the dependent father would be entitled to lead evidence on behalf of the other dependents as any compensation which could have been granted by the Tribunal would have constituted the estate of the deceased-father to which the present Appellant would have been entitled. The impugned judgment answering the issues against the

Appellant is clearly unsustainable.

7. As no opportunity was given to the Appellant to lead evidence, a re-trial is necessary. It would be appropriate if the matter is remanded to the Railway Claims Tribunal to be decided afresh by permitting the present Appellant to lead evidence.

8. In light of the above, the following order is passed.

ORDER

(i) First Appeal is allowed.

(ii) The impugned judgment dated 27th October, 2014 is hereby quashed and set aside.

(iii) The claim application is restored to file of the Railway Claims Tribunal.

(iv) The present Appellant is permitted to lead evidence and the Respondent to cross-examine.

(v) After evidence of both parties is recorded, the Claim Application to be considered afresh.

[SHARMILA U. DESHMUKH, J.]