

GAHC010015732015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MFA/30/2015

UNION OF INDIA
REPRESENTED BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON,
GUWAHATI, DIST. KAMRUP, ASSAM.

VERSUS

M/S SHREE GOPAL ENTERPRISES
H.M. MARKET, FANCY BAZAR, GUWAHATI-1, ASSAM.

Advocate for the Petitioner : SC, NF RLY, MS.U CHAKRABORTY,MS.S P DAS,MS.M
CHATTERJEE

Advocate for the Respondent : MR.K P MAHESWARI, MR. DIVYANSH RATHI,MR.A
GOYAL,MS.M SHARMA,MS.S T BOKTH

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 21.05.2026

- 1.** Heard Ms. U. Chakraborty, learned senior Railway counsel for the appellant. Also heard Mr. D. Rathi, learned counsel for the respondent.
- 2.** This appeal under Section 23 of the Railway Claims Tribunal Act, 1987 has been filed by the Union of India impugning the judgment and order dated

13.03.2015, passed by the Railway Claims Tribunal, Guwahati Bench, in Claim Application No. O.A.-I/GHY/2002/0035 (New) by the Railway Claims Tribunal, Guwahati Bench, Guwahati.

3. Mr. D. Rathi, learned counsel for the respondent has pointed out that since in this case the impugned judgment was delivered by Member (Technical) Railway Claims Tribunal sitting singly, it is covered by the earlier judgment of this court in this regard wherein it has been observed that unless an authorization under Section 4(4) of the Railway Claims Tribunal Act, 1987 is there, the Member (Technical) cannot dispose of claim cases under Section 4 of the Railway Claims Tribunal Act, 1987 sitting singly.

4. The learned Senior Railway Counsel has submitted that on an earlier occasion also the present appellant approached this Court being aggrieved with the judgment and order dated 16.08.2010 passed by the Railway Claims Tribunal in the above mentioned original claim application. The said appeal was registered as MFA No. 296/2010. However, after hearing both the sides, this Court was pleased to remand back the matter to the Railway Claims Tribunal for passing fresh judgment after affording adequate opportunity to both sides for leading evidence. She submits that in compliance with the aforesaid direction, the present appellant produced documentary evidence before the Railway Claims Tribunal.

5. She further submits that the point of lack of jurisdiction of the Member (Technical) sitting singly delivering the judgment in the instant case was not raised on the earlier occasion. She, therefore, submits that this appeal may be heard on merit.

- 6.** I have considered the submissions made by learned counsel for both sides.
- 7.** It appears that in the case of "*Union of India Vs. M/s Jain Enterprise*" (MFA No. 38/2013) and in some of other cases, this court has already taken a view that unless an authorization under Section 4(4) of the Railway Claims Tribunal Act, 1987 is there by the Chairman of the Railway Claims Tribunal to any of the Member to function as a bench consisting of a single member, the Member (Technical) cannot decide the claim cases filed under the aforementioned Act sitting singly.
- 8.** It also appears that in the instant case, no general or special order has been produced by the railway authorities in terms of Section 4(4) of the Railway Claims Tribunal Act, 1987.
- 9.** Since, in earlier cases on similar facts, this court has remanded back the case to the Railway Claims Tribunal for complying with the provisions of Railway Claims Tribunal Act, 1987 and to pass a fresh judgment, a different view cannot be taken by this court in the instant case, as in the instant case also, the impugned judgment was passed by Member (Technical) of Railway Claims Tribunal, Guwahati Bench sitting singly.
- 10.** Since, the statute clearly provides for the contingency in which a single member of Railway Claims Tribunal can take up the cases for adjudication, however, the said provision, namely, Section 4 (4) of the Railway Claims Tribunal Act, 1987 has not been complied with in the instant case, the impugned order is liable to be set aside on the ground of lack of jurisdiction by a single member of the Railway Claims Tribunal. Same is accordingly done. The impugned judgment

is accordingly set aside. The case is again remanded back to the Railway Claims Tribunal, Guwahati Bench with a direction to constitute a bench in terms of Section 4 of the Railway Claims Tribunal Act, 1987, and to dispose of the matter again after affording the opportunity of being heard to both the parties.

11. Since, this is also a very old pending case of the year 2002, the Railway Claims Tribunal, Guwahati Bench is directed to dispose of the matter as expeditiously as possible preferably within six months from the date of receipt of a copy of this order.

12. The Registry shall immediately send back the records of Original Application requisitioned in connection with this appeal along with a copy of this order to the Railway Claims Tribunal, Guwahati Bench for compliance.

13. This appeal is accordingly disposed of.

JUDGE

Comparing Assistant