



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1879 OF 2013

Bhimavva Thippanna Tumkur & Anr.Appellants

Versus

M/s. Surya Cargo Carriers & Anr.Respondents

WITH
CIVIL APPLICATION NO. 859 OF 2018
IN
FIRST APPEAL NO. 1879 OF 2013

Bhimavya Thippanna TumkurApplicant

IN THE MATTER OF

Bhimavva Thippanna Tumkur & Anr.Appellants

Versus

M/s. Surya Cargo Carriers & Anr.Respondents

Mr. T. J. Mendon for the Appellants.

Mr. D. R. Mahadik for the Respondents.

CORAM : JITENDRA JAIN, J.
DATED : 15th APRIL 2026

P. C. :

1. **Admit.** By consent of the parties, the appeal is taken up for final hearing.

2. This appeal is filed by original applicant (parents of the deceased), challenging an order of the Commissioner for Workman's Compensation dated 08th July, 2013, whereby, the application filed by the parents of the



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deceased came to be dismissed on the ground that the applicants have not established the relationship with the deceased.

3. I have heard learned counsel for the appellants/original applicants (parents) and learned counsel for the Insurance Company.

4. It is made clear that the present order is restricted only to the original application filed by the parents of the deceased and the same should not be construed as deciding the rights of the alleged widow, who had filed separate application.

5. The only issue which arises for my consideration is whether the Commissioner was justified in dismissing the application filed by the parents of the deceased on the ground that the relationship with the deceased has not been proved without framing any express issue.

6. It appears that, though, the issue was framed with respect to the dependency, but no issue was framed with respect to proving relationship and, therefore, the parents did not enter into the witness box.

7. In my view, the parents ought to have entered the witness box to prove the dependency by proving the relationship. However, on account of some confusion, they did not enter the witness box. Since this is a social welfare legislation, it would be in the interest of justice, if the impugned order dated 08th July, 2013 is remanded back to the Commissioner for Workman's Compensation for deciding the relationship between the original claimants-parents of the deceased and the deceased.

8. The learned Commissioner would frame a specific issue to that effect and the parents would lead evidence to prove the relationship. The contention of the Insurance Company that they should not be saddled with



interest because of the error committed by the original applicants is kept open, to be raised before the Commissioner.

9. In view of above, the impugned order dated 08th July, 2013 to that extent is set aside. The original application filed, namely, Application (WCA) No.142/B/34 of 2012 is restored back to the file of the Commissioner to be adjudicated afresh. All contentions of all the parties are kept open.

10. Parties to appear before the Commissioner on 27th April, 2026 at 11.00 a.m., so that the matter can be proceeded further.

11. Appeal is disposed of in above terms. Consequently, civil application for amendment does not survive and is disposed of accordingly.

12. It is once again made clear that Ms. Bharati-widow has not challenged the order of the Commissioner and, therefore, this order is not applicable to her.

[JITENDRA JAIN, J.]