

Party Name : SUSHILA LALA Vs NITAI GOALA & ANR

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

There is delay of 1227 days in filing the appeal by the claimant-mother. The claimant-mother had filed a claim petition claiming compensation for the death of her son which took place on 30th January, 2010. The learned Motor Accident Claims Tribunal passed an award on 17.11.2011 awarding a sum of Rs.2,36,000/- alongwith interest from the date of filing of the claim petition in favour of the claimant. He, however, held that the owner alone was responsible to pay the amount. Even if that be so, if the claimant was dissatisfied with the amount awarded, the right to file an appeal accrued to her on the date of passing of the award.

A review petition was filed by the owner in which it was prayed that the award be satisfied by the Insurance Company. Even in those review proceedings the claimant did not claim any enhancement of compensation. One of the grounds given is that since her review petition was pending that period should be excluded.

I am not at all in agreement with such submission because the review petition had no concerned with the quantum of compensation. If the claimant wanted the amount to be enhanced she could have easily filed an appeal for enhancement of the compensation.

The matter does not end here. Even as per the averments made in the application for condonation of delay the review petition was disposed of on 29.05.2012. The appellant had notice of this review petition and by this review petition the Oriental Insurance Company was directed to deposit the awarded amount. It is not disputed that this order was passed on 29.05.2012, more than three years back. Thereafter the insurance company deposited the amount and that was withdrawn by the claimant-mother and this amount was withdrawn in the year 2013.

It is also pleaded that the claimant had decided in the month of April-2013 i.e. more than two years back that appeal have to be filed but very vague excuses has been given that either the counsel was not available or the claimant who are labourer had to go back to Jharkhand and therefore, appeal could not be filed.

This Court is normally very liberal in considering application for condonation of delay especially those filed by the claimants. However, this is a case where the claimant wants to re-open a matter decided and disposed of almost 4(four) years back. It is apparent that the story now set out is absolutely false. The claimant did not challenge the award or claim enhancement. Initially the claimant appeared in the review petition did not make a prayer for enhancement of compensation. Even after the review petition was decided almost 3(three) years back, no steps were taken to file the appeal.

In this view of the matter, I find no merit in the application for condonation of delay and the same is accordingly rejected.