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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: September 02, 2016

+ **FAO 305/2015 & C.M.20173/2015**

GAURAV KARN Appellant
Through: Mr. Yogesh Swaroop and Mr. B.K.
Garg, Advocates
versus

UNION OF INDIA Respondent
Through: Mr. C.M. Goyal, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Alongwith present appeal, an application seeking condonation of delay of 133 days in filing the appeal has been filed. In the filing of the claim petition, there is delay of 600 days and the learned Tribunal vide impugned order of 11th December, 2014 has dismissed the claim petition as time barred.

Learned counsel for appellant submits that appellant could not contact the clerk of appellant's counsel and that after much efforts, through his maternal uncle, appellant could contact the clerk of the counsel and this resulted in delay in filing the accompanying appeal.

So far as the delay in filing of the claim petition is concerned, it is submitted by appellant's counsel that appellant was not aware that he

could claim compensation on account of injuries sustained by him due to fall from the train. It is submitted that appellant had to get his right thumb of toe amputated and had also suffered a fracture of his right forearm and that the learned Tribunal has ignored the medical documents and has proceeded to dismiss the claim petition in a mechanical manner and so, the impugned order deserves to be set aside and appellant's claim petition ought to be dealt with in accordance with law.

On the other hand, learned counsel for respondent supports the impugned order while submitting that there is no worthwhile explanation for the inordinate delay occasioned and so, the appeal deserves dismissal.

Upon hearing and on perusal of the impugned order and the trial court record, I find that appellant was a student of engineering when he had suffered injuries in the accident in question and so, he cannot be equated with an illiterate person. The medical document relied upon comprises of photocopy of *medico legal report* of the date of the accident which simply discloses that there was an incised wound on the right foot and abrasion on the right hand. It is pertinent to note that the appellant-injured was discharged from the hospital on the same day. Photocopy of subsequent medical prescription of 2nd September, 2012 does reveal that soft dressing was done on the surface of the right foot and appellant was told to follow up. There is no medical record to show that follow up treatment was undertaken by appellant. Whether there was amputation of right thumb of toe of appellant is not borne out from the medical record. Therefore, non-reliance upon medical record in the impugned order is of no consequence. Learned Tribunal has relied upon Supreme Court's decision in *Baswaraj and Another v. Land Acquisition Officer*, (2013) 14

SCC 81 to hold that the court has power to extend the period of limitation on equitable grounds and “*sufficient cause*” means existence of adequate reasons. The ratio of the decision in *Baswaraj (supra)* is that a party should not have acted in a negligent manner and should not have remained inactive.

After the accident in question, the appellant had gone to his native place in Nepal and had returned in July, 2014. This by itself shows that the appellant was not at all diligent and it reflects that casual attitude of appellant. In the considered opinion of this Court, ‘sufficient cause’ for the inordinate delay of 600 days is not shown and even the delay of 133 days in filing the appeal does not stand sufficiently explained. Thus, finding no fault with the impugned order, this appeal and the application stand dismissed.

(SUNIL GAUR)
JUDGE

SEPTEMBER 02, 2016

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