

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.539 of 2014

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Anil Kumar & Ors.

.... Appellant/s

Versus

The Union of India Through The General Manager, Eastern Railway,
Koilaghat Street, Kolkata

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gautam Kumar Kejriwal

For the Respondent/s : Mr. Mahesh Prasad

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 20-07-2017

This appeal has been preferred against the order dated 22.11.11 passed by Member (Technical) Railway Claim Tribunal Patna Bench in Claim Case No. O.A.-00037/2002 by which he has been allowed compensation of Rs. 4,00000/-. The appellant preferred this appeal with respect to the interest on the aforesaid amount from the filing of this case.

At the very outset, learned counsel for the Railway raised objection regarding delay in filing the instant appeal and no satisfactory explanation for delay has been assigned. Furthermore, it has also been submitted that now the amount has already been deposited and the same has been withdrawn by the claimant as such the prayer for condoning the delay is not tenable.

On the other hand, learned counsel for the appellant has submitted that sudden jerk of the train he was thrown out and died on the spot. It has further been submitted that on wrong



advice, he has filed execution case, before the Railway Claim Tribunal and once it is rejected, he has preferred Miscellaneous Appeal. However, vide order 29.08.2014 in M.A. 8 of 2013 appellant was directed to withdraw the appeal, with a direction to file fresh appeal on the merit.

It has also been submitted on behalf of the petitioner that in the light of the decision of the Hon'ble Apex Court reported in **A.I.R. 2009 Supreme Court 3098 (Thazhathe Purayil Sarabi & Ors. Vs. Union of India & Anr.)**.

He is entitled for interest pendente lite and the future interest also. Hence he filed the present appeal.

Considering the discussions made above, it appears that delay is on the ground of wrong advice, given to the appellant and latches is not on the part of the appellant and in view of observation of Hon'ble Court vide order 29.8.14 passed in M.A. No. 8 of 2013, he has preferred this appeal.

Further from the discussion made above, delay in filing this appeal is condoned.

Further in view of judgment cited by the learned counsel for the petitioner, he is entitled for the interest of 6 % pendente lite from the date of claim application, till the actual payment of amount already paid. The calculated amount to be paid



to the appellant within 60 days.

With the above direction, this appeal is allowed.

(Vinod Kumar Sinha, J)

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