

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.449 of 2015

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Mina Devi

.... Appellant/s

Versus

The Union of India Through The General Manager East Central Railway
Hajipur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nagendra Pd. Yadav

For the Respondent/s : Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

02 20.07.2017 I.A. no. 9094/2015 has been filed for condonation of delay of one year two months twenty two days on the ground that certified copy of order dated 16.4.2014 could be collected by her learned counsel in September, 2015 as he was suffering from serious jaundice.

The present appeal has been preferred against the order dated 16.4.2014 passed by learned Railway Claims Tribunal, Bench, Patna in Claim case no. OA/OC/MA no. MA (OA15/2014 by which and wehereunder he refused to condone the delay in filing the aforesaid claim case.

Learned counsel appearing for the appellant submits that sufficient explanation had been given for condonation of delay in filing the claim case and unfortunately, on the date of hearing, learned counsel appearing for the appellant could not appear before the Railway Claims Tribunal as a result of which Railway Claims Tribunal dismissed the petition filed on behalf of the appellant for condonation of delay passing the impugned order.



Perusal of impugned order dated 16.4.2014 goes to show that appellant filed the aforesaid claim case on 27.12.2013 in respect of an accident which had taken place on 01.10.2012 and she gave reason of the aforesaid delay as she was not mentally fit on account of death of her husband in the aforesaid accident on 01.10.2012 but it appears from perusal of impugned order that Tribunal has not considered the aforesaid explanation of the appellant. However, it is well settled principle of law that claim of a person should not be thrown only on technical ground rather it should be decided on merit.

Therefore, in the aforesaid circumstances, delay in filing this Misc. appeal is condoned and accordingly, this misc. appeal stands disposed of on the admission stage itself setting aside the order dated 16.4.2014 passed by Railway Claims Tribunal in Claim case no. OA/OC/MA no. MA(OA15/2014 with direction to Railway Claims Tribunal, Bench, Patna to hear the claim of the appellant on merit after condoning the delay in filing the aforesaid claim case and pass afresh order after giving opportunity of hearing to adduce evidence in the aforesaid claim case.

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(Hemant Kumar Srivastava, J)

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