

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-13728-CII-2013 in/and
FAO No. 3234 of 2013 (O&M)
Date of Decision: 08.03.2017

MAMTA (MINOR)

... Appellants

VS.

**UNION OF INDIA THROUGH GENERAL MANAGER, NORTHERN
RAILWAY.**

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Subash Chander Sachdeva, Advocate,
 for the appellant.

 Mr. Karminster Singh,
 Standing Counsel for UOI-respondent.

KULDIP SINGH, J (ORAL)

CM-13728-CII-2013

The present application has been filed under Section 5 of Limitation Act read with Section 151 of CPC is for condonation of delay of 64 days in filing of the present appeal.

For the reasons enumerated in the application, the same is allowed. The delay of 64 days in filing of the present appeal is hereby condoned subject to all just exceptions.

Application stands disposed of.

FAO No. 3234 of 2013

This is the first appeal filed against the judgment dated 27.11.2012 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short “the Tribunal”) vide which the claim application filed by the appellant-claimant for grant of compensation was dismissed.

FAO No. 3234 of 2013 (O&M)

It comes out that the Tribunal vide aforesaid judgment dated 27.11.2012, dismissed the claim application of the present appellant-claimant, on the ground that neither evidence was led by appellant-claimant nor applicant-appellant appeared though the notice was issued to the claimant-appellant which was received back un-served and her counsel, Sh. Subhash Sachdeva also pleads no instructions and withdrew himself from the said case.

The alleged facts of the case show that the injured appellant-claimant is a minor and as a result of untoward incident, her left leg was got amputated. Therefore, she had filed the claim application for compensation before the Tribunal through her mother. The appellant-claimant being minor was unable to protect her interest. It appears that there was some miscommunication between the counsel and the appellant-claimant, therefore, the appellant-claimant could not appear for leading evidence and the learned counsel also pleaded no instructions.

However, keeping in view the nature of injury i.e. amputation of left leg of the minor appellant-claimant and in view of the statement of the counsel for the appellant-claimant that they want to contest the claim application before the Tribunal and want the decision on merit, it is appropriate that the matter be decided on merits after allowing appellant-claimant to lead evidence.

It being so, without further going into the controversy, the impugned judgment dated 27.11.2012 is set aside and the case is remanded back to the Railway Claims Tribunal, Chandigarh Bench, Chandigarh where both the parties are directed to put up appearance on 05.04.2017 at 11.00

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A.M. Thereafter, both the parties shall be given adequate opportunity to lead evidence and fresh judgement on merits shall be passed.

In view of the above, the present appeal stands allowed.

March 8, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	Yes	/	No
				✓
<i>Whether Reportable</i>	:	Yes	/	No
				✓