

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.813 of 2014

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Ramjot Devi, W/o. Late Raja Ram yadav, R/o. Morkahi, P.S.- Khagaria, District-Khagaria.

.... Appellant/s

Versus

The Union of India, through the General Manager, E.C. Railway, Hajipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Hare Krishna Prasad

For the Respondent/s : Mr. Anil Singh

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 11-09-2018

Re.: I.A. 5834 of 2018

Heard learned counsel for the appellant and respondent.

The aforesaid I.A. has been filed for condoning the delay of 2 years 4 months and 15 days in preferring this appeal with the case that earlier the appellant had filed a writ application bearing C.W.J.C. No. 12842 of 2013 against the order dated 18.01.2013 passed by the Railway Claims Tribunal, Patna Bench, Patna (hereinafter in short referred to as the 'Tribunal') in M.A. (04) 00004/07, which was placed before the National Lok Adalat on 06.12.2014 and by the Lok Adalat appellant was directed to file a miscellaneous appeal before this Court for redressal of her grievance and the learned counsel for the respondent had agreed not to oppose the limitation matter if the appeal is filed within one month and now, in pursuance of the order of the Lok Adalat, the appellant has preferred this appeal.



In the facts and circumstances of the case and in the interest of justice, the delay in filing this appeal is hereby condoned and the aforesaid I.A. is accordingly allowed.

M.A. No.813 of 2014

On the consensus of the parties, heard learned counsel for the appellant and learned counsel for the respondent on this appeal for final disposal at this stage itself.

Appellant has preferred this appeal against the order dated 18.01.2003 passed by the learned Tribunal whereby the learned Tribunal refused to admit the claim case of the appellant finding it barred by 2 years 9 months.

The factual matrix of the case is that the appellant had filed Claim Case No. M.A. (04) 00004 of 2007 on account of death of her husband Raja Ram Yadav allegedly in an untoward incident taken place on 17.05.2003. The aforesaid application was filed on 08.02.2007. Though as per Section 17 of the Railway Claims Tribunal Act, 1987 (hereinafter in short referred to as the 'RCT Act') the aforesaid application ought to have been filed within one year of the occurrence of the accident. Hence, the learned Tribunal refused to admit the claim application being barred by limitation. Being aggrieved and dissatisfied with the aforesaid refusal by the learned Tribunal, the appellant has preferred this appeal.



It is submitted by the learned counsel for the appellant that there is limitation of one year for filing of the claim application under Section 17 (1) (b) of RCT Act. But as per Section 17 (2) of the RCT Act an application may be entertained after the period specified in sub-section (1) if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period. But, the learned Tribunal without considering the facts and circumstances of the case and taking sympathetic view in the matter, has refused to entertain the claim application.

Learned counsel for the respondent has submitted that in R.C.T. Act there is limitation of one year for filing the claim application from the date of occurrence of the accident but the appellant has filed the claim application by delay of 2 years and 9 months without showing any sufficient cause, which is barred by limitation, hence the learned Tribunal rightly refused to admit the claim application.

From perusal of the record, it appears that the appellant has filed the aforesaid claim case on account for death of her husband in the railway accident. Appellant happens to be helpless widow of rural background and illiterate person. She is not expected to be versed with the provisions of limitation for filing application for compensation. Appellant has also taken aforesaid plea in her claim



petition. But ignoring the same the learned Tribunal has passed the impugned order. Under Section 17(1) of the RCT Act. There is specific provision for filing application within one year of the occurrence of the accident. But as per sub-section (2) of the said section an application may be entertained after the period specified in sub-section (1) if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period. The appellant has shown sufficient cause for not filing the application within stipulated period of limitation. It is settled law that the justice should be done after hearing the parties and injustice should not be done merely on technicality by shutting down the opportunity of hearing to the parties.

The Hon'ble Apex Court in the case of **Shakuntala Devi Jain v. Kuntal Kumari** reported in (1969) 1 SCR 1006 and **State of W.B. v. Administrator, Howrah Municipality** reported in (1972) 1 SCC 366 has been pleased to rule that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. It has further been pleased to observe that it must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is



not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor. The Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate.

In the facts and circumstances of the case and in the interest of justice, the impugned order passed by the learned Tribunal is hereby set aside and this appeal is allowed.

(Prakash Chandra Jaiswal, J)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	NA
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