

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2267 of 2011

1. Chitra
2. Kishore(Minor)
3. Shobika(Minor)
4. R.Krishnamoorthy
5. R.Anjammal ... Appellants/Appellants
(Minor appellants 2nd and 3 are represented
by their mother the 1st appellant)
Vs.

Union of India,
Owning Southern Railway,
Represented by its General Manager,
Chennai. ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 23 of the
Railway Claims Tribunal, Act, 54 of 1987, against the order
dated 25.02.2011 passed by the Railway Claims Tribunal, Chennai
Bench, in I.A.No.60 of 2010 in O.A Diary No.224 of 2010.

For Appellants : Mr.T.Raja Mohan

For Respondent : Mr.M.Vijay Anand
Additional Standing Counsel

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the
order dated 25.02.2011 passed in I.A.No.60 of 2010 filed for
condoning the delay in filing the petition in O.A Diary No.224
of 2010 on the file of Railway Claims Tribunal, Chennai Bench.

2. The claimants are the appellants before this Court.
According to the 1st claimant/wife, she could not recover from
the shock due to the death of her husband and could not get a
legal heir certificate from the Tahsildhar's office due to some
family dispute. The co-applicant viz., father-in-law did not
hand over the legal heir certificate to her. Therefore, she
could not file the claim petition in time and there is a delay
of 973 days in filing the same. She filed a petition to condone

the delay of 973 days in filing the claim petition before the Railway Claims Tribunal.

3. The Tribunal after considering the hardship caused to the Railways in producing the records and for want of sufficient reasons on day-to-day basis, refused to condone the delay. The claim petition was rejected for not filing within the limitation period of one year as specified in the Act.

4. The learned counsel appearing for the appellants would contend that the 1st claimant as well as the co-applicants have filed an independent affidavit explaining reasons for the delay. When sufficient and convincing reasons have been pleaded before the Tribunal, the same should have been accepted by the Tribunal and the petition to condone the delay ought to have been ordered. On the other hand, considering the hardship caused to the respondent in maintaining the records, it was erroneously dismissed.

5. Per contra, the learned counsel appearing for the respondent would contend that the appellant was very much aware of the fact that the claim petition should be filed within a period of one year. But, deliberately filed after a period of three years without furnishing sufficient reasons for day-to-day delay. In the absence of any sufficient reasons, the finding of the Tribunal is correct and need not be interfered.

6. I have given my careful consideration to the submissions made before this Court.

7. It is a well settled principle by the Hon'ble Supreme Court that instead of dismissing the application on technicalities, it is always better to decide the same on merits to do substantive justice. The Tribunal could have taken delay as an issue and decided the matter on merits. The Railways' records should be retained whenever there is a claim made before the Tribunal. Considering the object of the benevolent legislation, this Court is inclined to set aside the order dated 25.02.2011 in I.A.No.60 of 2010 in O.A.Diary No.224 of 2010 passed by the Railway Claims Tribunal, Chennai Bench, rejecting the condone delay petition. The Railway Claims Tribunal is directed to number the claim petition. However, it is made clear that in the event of award of compensation, the claimants are not entitled to any interest for the delayed period.

8. In the result, this Civil Miscellaneous Appeal is disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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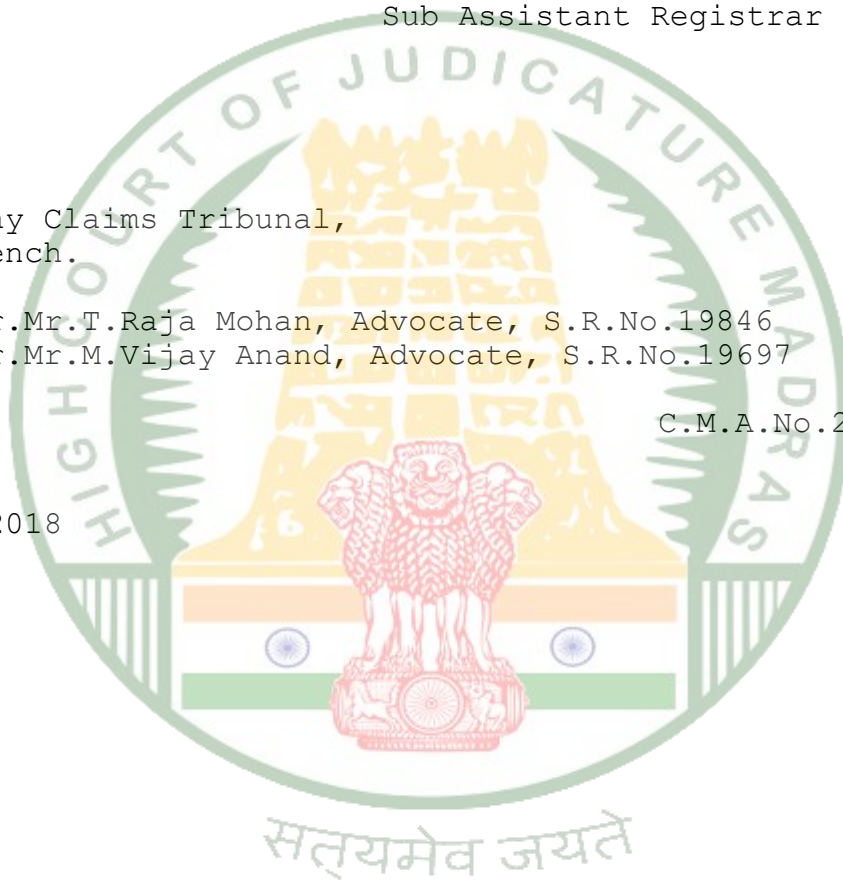
The Railway Claims Tribunal,
Chennai Bench.

+1cc to Mr.Mr.T.Raja Mohan, Advocate, S.R.No.19846

+1cc to Mr.Mr.M.Vijay Anand, Advocate, S.R.No.19697

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PVS (CO)
NR 10/05/2018



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