

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 24-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3057 OF 2009

1.K.Baby
2.M.Lakshmi
3.J.Pungodi

... Appellants / Applicants

-vs-

Union of India,
owning Southern Railway,
rep.by General Manager.

... Respondent / Respondent

Appeal against the order, dated 31.07.2009, passed in I.A.No.24 of 2009 in O.A.No.44 of 2009, by the Railway Claims Tribunal, Chennai Bench.

For appellant : Mr.T.Rajamohan

For respondent : Mr.M.Vijay Anand,
Addl.Standing Counsel.

JUDGMENT

The appellants had filed an interlocutory application vide I.A.No.24 of 2009 before the Railway Claims Tribunal, Chennai, to condone the delay of 836 days in preferring the claim petition, for the death of their breadwinner, namely, husband of second appellant, in an untoward incident. An explanation was given for the delay. The second appellant is a widow and she does not have any support, literacy and legal knowledge, regarding entitlement of filing claim petition and has approached the Court at a belated stage. The Tribunal has dismissed the said application. The reason stated for dismissal of the application is that day-to-day delay was not explained properly by giving cogent and convincing reasons.

2. From the affidavit filed in support of the application to condone the delay, it is seen that the appellants were shattered and could not recover from shock they suffered by the death of the husband of the second appellant and after being advised by their well-wishers, they collected material documents from Egmore Railway Police and other documents, such as, Death

Certificate, Legal Heir Certificate, Final Report etc. Since they were unable to understand certain matters and the intervening circumstances, they could approach the Tribunal only with a delay of 836 days.

3. Learned counsel for the respondent-railway would submit that the reasons are not properly explained and there is no explanation for the delay caused, after obtaining Legal Heir Certificate.

4. It is well settled that in approaching the issues, the Courts should decide the matter on merits of the case to render substantial justice, rather than rejecting the same on technical grounds. When there are reasons, the Court shall exercise its discretionary power by approaching the issue liberally in the interest of justice and giving the benefit of beneficial legislation to the poor claimants, condoning the delay. However, I hasten to add that no interest is payable for the delayed period, in the event of awarding compensation.

5. Therefore, the order passed by the Railway Claims Tribunal in I.A.No.24 of 2009 in O.A.No.44 of 2009, dated 31.07.2009, is set aside; the delay is condoned; and the matter is restored to file. The Tribunal is directed to dispose of O.A.No.44 of 2009 on merits and in accordance with law. The railway is entitled to contest the matter on the point of limitation.

6. Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dixit

To

Railway Claims Tribunal, Chennai Bench.

+1cc to Mr.T.Rajamohan, Advocate, S.R.No.5345

C.M.A.No.3057 OF 2009

SR(CO)
RRK(25/04/2018)