

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.374 of 2014

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 23 of the Railway Claims Tribunal Act, 1987, is filed by the appellants-applicants challenging the order dated 17.12.2013 in M.A. No.43 of 2012 in DDR No.122 of 2012 passed by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby the Tribunal dismissed the application filed by the appellants-applicants seeking to condone delay of 1728 days in filing the claim application for grant of compensation for the death of one P.Hanumantha Prabhakar Gupta (hereinafter referred to, as 'the deceased') in an untoward incident of accidental fall from running train No.2707 Tirupati-H.Nizamuddin A.P. Sampark Kranti Express on 22.06.2006.

2. Heard both sides. Perused the record.

3. For convenience, the parties are hereinafter referred to, as per their array before the Tribunal.

4. The learned counsel for the applicants would submit that the applicants handed over the case to Mr. G.V.L. Kishore, advocate, Narasaraopet, Guntur district, but he did not file the claim application before the appropriate Railway Tribunal; that having come to know that no application was filed, the applicants approached Sri N.P.Rao, Advocate and got filed the subject claim application with a petition to condone delay of 1728 days; that there are genuine reasons and sufficient cause for not filing the subject claim application in time; that the Tribunal erroneously dismissed the application to condone

the delay, and ultimately, prayed to set aside the impugned order and allow the delay condone petition.

5. On the other hand, the learned counsel for the railways would contend that there is abnormal delay of 1728 days in filing the claim application before the Tribunal; that the accident said to have occurred on 22.06.2006; that the railways will not keep records for more than 3 years; that there is no justifiable cause to condone the abnormal delay of 1728 days, and the Tribunal rightly dismissed the application and there are no grounds to interfere with the impugned order, and ultimately prayed to dismiss the appeal.

6. In view of the submissions made by both the sides, the point for consideration is whether there is sufficient cause to condone delay of 1728 days in filing the claim application by the applicants before the Tribunal ?

7. The word 'sufficient cause' is not defined under the Limitation Act, 1963. It means a cause which is beyond the control of the party invoking the aid of the said provision. It is the case of the applicants that they approached one Mr.G.V.L. Kishore, Advocate of Narasaraopet, Guntur district and handed over material papers to file the claim application. When they enquired with the said advocate after some time, he informed that the file was in process, and some times, he gave confusing replies. In the month of April, 2012, the applicants came to know that no claim application was filed. Thereafter, they took steps and got the subject claim application filed before the Tribunal, and in that process, a delay of 1728 days occurred which led to filing of the application to condone the delay. Except the self-serving statement of wife of the deceased i.e. application no.1, there is no other

record to substantiate the case. If really the said G.V.L.Kishore, Advocate was entrusted with the material papers and he did not file the claim application, the applicants have a right to lodge complaint to the authorities concerned. No such complaint is filed. Further, the applicants waited for more than 4 years to find out that no application was filed for compensation. They were not diligent in prosecuting the case. Under the circumstances, it is difficult to believe the averments of the application to condone the delay. No cause, much less sufficient cause, is made out to condone the delay. The Tribunal dealt with all the aspects and rightly dismissed the application. There is no infirmity to take a different view. The appeal is devoid of merit and is liable to be dismissed.

8. In the result, the appeal is dismissed. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.

06.11.2018
DRK

Dr. SHAMEEM AKTHER, J