

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.937 of 2015

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 11.07.2014 in M.A. No.93 of 2012 in D.D.R. No.344 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 1018 days in filing the claim application for grant of compensation for the death of their daughter Sk. Karimunni (hereinafter referred to, as 'the deceased') in an untoward incident of accidental fall from running train No.156 EME passenger on 10.12.2008.

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 were not aware that an application can be filed before the Tribunal for compensation and they came to know about the same in November, 2009; that some delay occurred in obtaining records from police and other authorities; that there is 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 1018 days in filing the claim application before the Tribunal; that the accident said to have occurred on 10.12.2008; that the delay occurred after November, 2009, when the applicants came to know that an application can be filed for compensation, is not explained; that the railways will not keep records for more than 3 years; that there is no justifiable cause to condone the abnormal delay; that 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 1018 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 were residing in a remote place and they were shocked and disturbed mentally on the death of their daughter; that the applicants were not aware that an application can be filed before the Tribunal for compensation and they came to know about the same in November, 2009; that some delay occurred in obtaining records from police and other authorities, and in that process, a delay of 1018 days occurred which led to filing of the application to condone the delay. Even as per the case of the applicants, they came to know in November, 2009 that a claim application can be filed for compensation for the death of their daughter. The claim application was presented on

24.09.2012 along with a delay condonation application. Except the self-serving statement of father of the deceased i.e. application no.1, there is no other record to substantiate the delay occurred after November, 2009 when they got knowledge of the remedy available to them under law to claim compensation. Further, it is the specific case of the railways that the railway administration preserves the records for a limited period and at this stage it is difficult for them to defend the case. The applicants 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 elaborately and rightly dismissed the application assigning number of reasons. 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.

Dr. SHAMEEM AKTHER, J

28.11.2018
DRK

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