

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

I.A.No.1 of 2017 (CMAMP No.2168 OF 2017)

In/And

CIVIL MISCELLANEOUS APPEAL No.1214 OF 2017

COMMON ORDER :

C.M.A. No.1214 of 2017 is filed by the appellants/applicants, under Section 23 of the Railway Claims Tribunal Act, 1987, challenging the order, dated 21.02.2014, passed in O.A.A. No.259 2006, by the Railway Claims Tribunal, Secunderabad Bench at Secunderabad ('the Tribunal', for brevity), whereby, the claim application filed by the appellants/claimants seeking a compensation of Rs.4,00,000/- for the death of deceased - Somu Venkata Ramana, in an untoward incident of accidental fall from the running train, was dismissed.

2. I.A. No.1 of 2017 (CMAMP No.2168 of 2017) is filed by the appellants/applicants seeking condonation of delay of 1276 days in preferring the appeal.

3. The appellants herein are applicants in the aforesaid OAA and respondent is arrayed as such. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in OAA before the Tribunal.

4. The learned counsel for the applicants would submit that the Tribunal dismissed the claim application filed by the applicants, by order, dated 21.02.2014 in O.A.A. No.259 of 2006, mainly on the ground that the applicants have not filed any authenticated document,

such as family member certificate etc., to prove that they are the wife and children of the deceased and that the ration card filed by them does not reflect the name of applicant No.1 as wife of the deceased and that the names of applicant Nos.2 to 4 do not fully match with the names of applicants mentioned in the claim application. For the delay caused in preferring the present appeal, the learned counsel also submits that the applicants were informed that in similar circumstances, the Tribunal was reviewing its order; that accordingly they filed review petition vide R.P. No.3 of 2015 with a delay of 539 days; that as the Tribunal did not condone the said delay, their review petition was dismissed on 15.09.2016; that the applicants filed certified copy of order, dated 15.09.2016 on 26.09.2016 and the same was furnished on 17.10.2016; that the applicants are residing at East Godavari District; that applicant No.1, being head of the family, she could not contact her counsel for preferring the appeal; that as the applicants were pursuing their review application, they could not file the appeal immediately challenging the order, dated 21.02.2014; and thus, caused delay of 1276 days in preferring the present appeal, and ultimately prayed to condone the said delay permitting them to pursue the appeal.

5. On the other hand, the learned standing counsel for the railways would contend that there is abnormal delay of 1276 days in filing the appeal; that the applicants neither shown sufficient cause to condone the delay, nor filed documents to substantiate the grounds put

forth in the affidavit accompanying the petition, and ultimately prayed to dismiss the petition.

6. In view of the submissions made by both the sides, the point for consideration is:

Whether the applicants are able to show sufficient cause to condone delay of 1276 days in filing the present appeal?

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. The Tribunal dismissed the claim application in O.A.A. No.259 of 2006 filed by the applicants, by its order, dated 21.02.2014. There is delay of 1276 days in filing the present appeal against the said order passed by the Tribunal. The reasons assigned by the applicants are that after dismissal of the claim application before the Tribunal, the applicants filed review petition vide R.P. No.3 of 2015 with a delay of 539 days; that the said delay condonation petition was dismissed by the Tribunal; that since they were pursuing the review petition; that applicants are residing in East Godavari District and that applicant No.1 being the head of the family, the said delay of 1276 days was caused. Except the self-serving statement of applicant No.1, there is no other record to substantiate their case. The applicants were not diligent in prosecuting the case. Even the review petition was filed with a delay of 539 days. Under the circumstances, the applicants have not shown any cause, much less 'sufficient cause' to condone the delay of 1276 days. The petition is devoid of merit and the same is

liable to be dismissed. In view of the dismissal of the petition to condone the delay, the appeal stands rejected.

8. In the result, I.A. No.1 of 2017 (CMA MP No.2168 of 2017) is dismissed. Consequently, C.M.A. No.1214 of 2017 stands rejected. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous applications, if any, pending in the CMA stand rejected.

DECEMBER 19, 2018
Mgr

Dr. SHAMEEM AKTHER, J

