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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 167/2013**

VIRENDER KUMAR Appellant

Through: Ms. Mrinalini Khatri, Advocate

Versus

**UNION OF INDIA THROUGH: ITS GENERAL MANAGER,
RAILWAY** Respondent

Through: Mr. Rajeshwar Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **24.04.2018**

This appeal impugns an order dated 25.10.2012 which dismissed the appellant's claim petition as barred by limitation. The reasoning was that section 17 of the Railway Claims Tribunal Act, 1987 (in short, 'the Act') prescribes a period of two years within which a claim petition could be filed; the date of the alleged accident was 02.09.2010 but the claim petition was filed on 10.07.2012; there was an inadvertent delay of 309 days. The appellant alleged that due to trauma and shock of loss of limb and amputation of his leg from the ankle, he was not able to engage a counsel and move an application under the Act within the prescribed time.

The impugned order observed that there was no explanation for the delay of 309 days, a numerical figure which was in any case filled in by the applicant later by hand; it went onto reason that the applicant and his wife, both being literate, could not be presumed to be ignorant of the law. It was

also reasoned that if the injured person was in anyway incapacitated, then his wife could have filed his claim petition before the Railway Claims Tribunal. The impugned order relied upon the judgment in ***P.K. Ramachandran vs. State of Kerala and another***, (2010) 8 Supreme Court Cases, which held that Courts have no power to extend the period of limitation on equitable grounds where the statute so prescribes.

In the present case the appellant states that the appellant was suffering from psychological shock due to the loss of his limb and he underwent phases of medical sedation. While convalescing he lost his employment as well. This sudden and drastic change in his life, lifestyle, mobility and the initial anxieties and apprehension of physical appearance, facing society, friends and relatives, can only be attempted to be fathomed. All these, collectively, would have for some time created a debilitating situation from thinking clearly for seeking compensation or searching for rehabilitative measures. Besides, in the present case, the periods for which he was under medical sedation cannot strictly be counted in the limitation period because he was not in a conscious state to take rational decision. Section 17(2) of the Act enables the Tribunal to entertain an application for compensation even after expiry of the prescribed period in sub-section (1), upon it being shown that there was a sufficient cause for the delay in filing the claim. The Court is of the view that the reasons mentioned above are sufficient in explaining the condonation of delay.

The Act being a socially beneficial legislation, a more accommodative interpretation enhancing the objective of Act, has to be accorded to its provisions. In the circumstances, the impugned order is set aside and the case is remanded to the Railway Claims Tribunal for adjudication of the

case on merits. Since the claim pertains to an accident having occurred on 02.09.2010, the Court would request the Claims Tribunal to endeavour to dispose-off the petition within eight months from the date of receipt of this order. The parties shall appear before the Railway Claims Tribunal on 10.05.2018. Trial Court Records be returned.

The appeal is allowed in the above terms.

NAJMI WAZIRI, J.

APRIL 24, 2018

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