

\$~

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

%

Date of Decision: 9th March, 2018

+ **FAO 192/2014**

BHATERI & ORS

..... Appellants

Through: Mr. Raj Kumar Rajput, Mr. Ajit
Rajput, Mr. Bhupender, Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Dr. Kumar Jwala, Advocate for
Railways.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The appellant has challenged the impugned order dated 5th March, 2014 whereby the Railway Claims Tribunal has dismissed the appellants' application for compensation on the ground of inordinate delay.
2. The appellants filed an application for compensation before the Railway Claims Tribunal on 21st January, 2013 claiming compensation on the ground that late Jagbir left Delhi Railway Station for Indore on 6th April, 2005 and he died as a result of a railway accident at Tarana Railway Station, District Ujjain (M.P.) on 8th April, 2005. According to the appellants, the deceased slipped from Sabarmati Express as a result of sudden movement/jerks of the train. The appellants received the intimation about

the accident from Railway Police on 24th May, 2005. The police registered DD No.6/05 at Maxi Police Force (GRP), District Ujjain (M.P.) and the post-mortem was conducted at the Government Hospital. The appellants filed an application for condonation of delay along with the application for compensation on the ground that the relevant documents like death certificate, medical etc. were with the brother-in-law of appellant No.1 who did not handover the same to appellant No.1 till 2011 and appellant No.1 was in the state of shock and she lost control of her mental balance and remained sick and was under medical treatment. Appellant No.1 also claimed ignorance of the procedure for claiming compensation on the ground of illiteracy and poverty.

3. The Railway Claims Tribunal held that the delay of more than six years has not been sufficiently explained. The Railway Claims Tribunal observed that nothing has been placed on record to support the appellants' claim of the relevant documents being with the brother-in-law and even the name of brother-in-law was not disclosed. The appellants claim to have received the documents from the brother-in-law in 2011 but no reason or explanation has been given for not filing the application till January 2013. The Railway Claims Tribunal did not believe the appellants claim of being under shock and grief for more than six years. The Claims Tribunal further observed that the plea of illiteracy and poverty could have help the appellants to explain delay for a reasonable length of time but not a delay which is more than six and half years. The Claims Tribunal was not satisfied that there was sufficient cause for condonation of delay.

4. Learned counsel for the appellants urged at the time of the hearing that the appellants have shown sufficient cause for condonation of delay. It

is further submitted that the appellants No.2 to 5 were minor at the time of the accident and therefore, the period of limitation would start after they have attained majority. Learned counsel for the appellants further submitted that the deceased was travelling by Sabarmati Express and he fell down at Tarana Railway Station as a result of sudden movement/jerks of the train and the accident is an untoward incident. It is submitted that the deceased had a valid ticket which was lost during the course of the accident.

5. According to the record of the Railways, the deceased was run over by Sabarmati Express on 8th April, 2005 at Tarana Railway Station by Sabarmati Express and the body of the deceased was cut into two pieces at the chest level.

6. This Court is of the view that accidental fall from a running train because of sudden movement/jerks of the train would not result in the body being cut into two pieces. A person falling from a running train because of its sudden movement/jerks is likely to suffer head injuries or abrasions all over the body or even the legs may be mutilated or cut, but not cut into two pieces at the chest level.

7. This Court is of the view that the appellants have failed to make out a sufficient cause for condonation of delay. That apart, the appellants also have no case on merits. This Court is of the view that the deceased was not a *bonafide* passenger and the accident is not an untoward incident. The appellants' plea that he slipped out of the train is not believable considering that the body has been cut into two pieces at chest level. In FAO 46/2015 titled '*Devkala Devi v. Union of India*' decided on 28th August, 2017 this Court held that the cutting of the body into two pieces is possible only when a person either commits suicide or is run over.

8. The appeal is dismissed.

MARCH 9, 2018
dk

J.R. MIDHA
(JUDGE)

