

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.619 of 2014

1. Shalu Kumari D/o Late Vijay Lal
2. Aanchal Kumari D/O Late Vijay Lal
3. Anshu Kumar S/o Late Vijay Lal All minor daughters and son are residing under Guardianship, of her uncle Sanjay Lal and all are resident of Village/Mohalla- Dumari Chatti, P.S.- Fatehpur, District- Gaya (Bihar).

... .. Appellant/s

Versus

The Union of India represented through The General Manager, East Central Railway, Hajipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Adv.

For the Respondent/s : Mr. Ashok Kumar Keshari, Sr. Railways Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 19-06-2019

Heard the parties.

2. This appeal has been filed for setting aside the judgment and order dated 09.01.2014 passed by Railway Claims Tribunal, Patna Bench, Patna in Claim Application No. OA 0273/2006 by which the claim application of appellant for grant of compensation has been dismissed as having been abated.

3. Briefly stated, the claim of original applicant, who was widow of deceased, is that on 23.10.2006 after purchasing a



valid 2nd class train ticket bearing No. 21014 from Paharpur to Gaya Junction her husband Vijay Lal boarded train No. 8626 up (Hatia Saharsa Express) at Paharpur Railway Station for going to Gaya, however, due to heavy rush and intense jostling Vijay Lal accidentally fell down from the running train and died.

4. FIR being Gaya Rail P.S. bearing Case No. 66/2006 dated 23.10.2006 was registered and inquest report was prepared and postmortem done on 23.10.2006 at Magadh Medical College, Gaya and after investigation the I.O. submitted the final form in which it was found that deceased died in an untoward incident as he fell down from a running train and died leaving behind his widow Munni Devi and two minor daughters and one minor son.

5. Claim petition was filed on behalf of widow Munni Devi, however, the minor son and daughters were not made party and widow Munni Devi died on 27.11.2009. However, substitution petition was filed on 02.12.2013 to expunge the name of applicant Munni Devi and to substitute the names of her minor son and daughters in her place. Due to ignorance the legal heirs and representatives who are minor daughters and son of applicant could not inform their lawyer about the death of their mother, as such there was delay in filing the substitution



petition.

6. The claim petition was filed on 11.11.2006 and was taken up after much delay in the year 2013 and during pendency of this appeal the original applicant died.

7. Tribunal rejected the substitution petition and application for condonation of delay in filing substitution petition on the ground that original claimant died on 27.11.2009 whereas substitution petition is being filed on 03.12.2013 after much delay and hearing of the case began on 10.04.2013 and was further heard on 10.05.2013 and 26.09.2013 but substitution petition was filed on 03.12.2013 and as such dismissed the application for condonation of delay in filing substitution petition and dismissed the appeal as having been abated.

8. After hearing the counsel for the appellant and counsel for the railways, this Court finds that deceased died in railway accident on 23.10.2006 and his widow Munni Devi filed claim application on 11.11.2006 and during pendency of application she died on 27.11.2009 and the claim application was listed for the first time for hearing on 03.12.2013, as such, in all fairness, for reasons stated in application for condonation of delay of substitution petition on behalf of minor son and daughters of deceased claimant, ought to have been allowed



because there was undue delay by the tribunal itself to hear the claim application filed in the year 2006 and same was heard for the first time in the year 2013. Even otherwise in claim cases the approach of the tribunal and courts should be liberal and if the sufferer is entitled for grant of compensation whose bread earner has died in a railway accident then all endeavour should be made to decide the claim case on merit and not to dismiss on technical grounds.

9. For the reasons as stated above, this Court finds that the delay in filing substitution petition has been satisfactory explained by the legal heirs and representatives of deceased applicant, accordingly the application for condonation of delay in filing substitution petition as well as substitution petition is allowed and the name of deceased applicant Munni Devi is expunged from the records of application and the name of her legal heirs and representatives as detailed in the substitution petition is substituted in her place. The matter is remanded to the Railway Claims Tribunal, Patna to decide the matter within six months from the date of production/receipt of copy of order passed by this Court after giving opportunities of hearing to both the parties.

10. This miscellaneous appeal stands allowed.



11. Let lower court record be sent to the court concerned
immediately.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.07.2019
Transmission Date	N.A.

