

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.426 of 2016

Shivajee Ram s/o late Nathun Ram, r/o Village Pothma, PO Berhna PS Barh,
District Patna.

... .. Appellant/s

Versus

General Manager, East Central Railway Hajipur Vaishali Near Railway
Crossing Hajipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sajal Kumar Sinha, Adv
For the Railways	:	Mr. Siddharth Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-04-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed on behalf of appellant for setting aside the order dated 04.12.2013 passed by Railway Claims Tribunal, Patna (hereinafter referred to as the ‘Tribunal’) in MA (OA) No. 0013 of 2013, by which the learned Tribunal has dismissed the petition for condonation of delay due to non appearance of his counsel as well as no satisfactory explanation and reasons have been assigned in condonation application to condone the delay.



3. Appellant had filed an application for grant of compensation under Section 124 of Indian Railway Act as he met an accident on 15.04.2011 while trying to board Train No. 13007 UP Toofan Express and due to sudden jerk he fell down and his left knee was seriously injured and two fingers of right hand were amputated. Appellant was a bonafide passenger and had boarded the train at Barh Station and was going to Patna on a General Ticket No. 48403084. The accident was reported by the Deputy Station Manager, Barh, East Central Railway as an untoward incident to GRP Barh on 15.04.2011. Appellant was sent to Sub Divisional Hospital, Barh, and investigation officer inquired into the incident and also made diary entry no. 282 dated 15.04.2011. Appellant was shifted to PMCH and was operated at Anup Memorial Orthopaedic Centre where his left leg was amputated and he was discharged on 21.10.2012 and disablement percentage is upto 70 per cent, and thereafter filed application on 13.02.2013 in prescribed format in the Railway Claims Tribunal, Patna, alongwith an application for condonation of delay.

4. From the claim application of Appellant, which has been enclosed as Annexure-3A, it appears that Appellant is a rickshaw puller and all material particulars and relevant



documents were enclosed along with claim petition in which Rs. 5 Lacs was claimed as compensation.

5. The claim petition along with application for condonation of delay to condone the delay in filing the claim application was listed before the claims Tribunal and was taken up on 04.12.2013 and from the order as contained in Annexure-1, it appears that although learned counsel for the respondent was present, however, there was no representation on behalf of claimant. The Tribunal has also found that there has been no representation on behalf of claimant on previous occasions also nor any time petition has been filed and accordingly, the Tribunal dismissed the application for condonation of delay as a result of which the claim petition stood dismissed. Subsequently, an application for review of order dated 04.12.2013 was filed being MA (review) (001/2015), which was heard on 02.03.2015 and same was opposed by the counsel for Railways that Review Petition can be filed within 30 days from the date of order but there is much delay in filing review petition and there is no application to condone the delay in filing review petition and accordingly, the review petition was dismissed on 02.03.2015 as contained in Annexure-2 of this miscellaneous appeal.



6. Although there is gross negligence and recklessness shown by the Appellant and as such the Tribunal had no option but to dismiss his petition when there was no one to press his application for condonation of delay in filing claim petition as same was filed after one year of the accident and there was delay of about 10 Months in filing claim petition and same was dismissed for non appearance as well as no satisfactory explanation was given to condone the delay. Appellant was made to suffer due to slackness and non seriousness shown by his counsel in dealing and pursuing his claim case.

7. After having heard the counsel for the appellant as well as counsel for the railways, this Court considering the status of appellant who is a rickshaw puller and having a meagre income, who had admittedly met a railway accident and the incident was reported to be an untoward incident by the GRP resulting in amputation of his left leg and finally he was discharged from the Hospital on 21.10.2012 and claim petition was filed on 13.02.2013, this Court finds that sufficient reasons have been assigned for delay of 10 Months in filing the claim application and accordingly, the order dated 04.12.2013 dismissing the application for condonation of delay is set aside and delay in filing claim application is condoned. Tribunal is



directed to hear the claim petition of Appellant on merit and decide the same within six months from the date of receipt/production of copy of the order passed by this Court.

The miscellaneous appeal is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.06.2019
Transmission Date	NA

