

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1 of 2015

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Shambhu Sah S/o Late Umakant Sah resident of village- Bhagwanpur,
Kanhukanu Tola, PO Bhagwanpur, District Vaishali Bihar.

... .. Appellant/s

Versus

The Union Of India Through The G.m. East Central Railway, Hazipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Krishna Mohan Murari, Adv.
For the Respondent/s	:	Mr. Bindhyachal Singh, Adv.
	:	Mr. Manish Prakash, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 03-07-2019

I.A. No. 7064 of 2016

Heard the parties.

This interlocutory application has been filed for
condonation of delay of 49 days in filing the present appeal.

Sufficient reasons has been shown to condone the
delay in filing appeal, accordingly the Interlocutory application
is allowed and the delay in filing this appeal is condoned.

I.A No. 7064 of 2016 is disposed of.

M.A. No. 01 of 2015

This miscellaneous appeal is directed against order



dated 12.08.2014 passed in O.A. No. 000165 of 2010 by Railway Claims Tribunal, Patna Bench, Patna dismissing the claim application on the ground that appellant did not turned up on three consecutive dates and the documents enclosed are not certified copies.

2. Claimant/appellant has filed a claim case for grant of compensation on account of death of his son on 23.06.2009 in an untoward incident when his son was travelling by a train with a valid ticket and was a bonafide passenger and due to heavy rush and jostling of passengers in the railway compartment he fell down from the train and died on the spot.

3. In support of his claim case, claimant/appellant had enclosed copy of FIR, final report of U.D. case No. 27 of 2009, inquest report, postmortem report, report of station master and railway ticket which was recovered from the possession of his deceased son.

4. Claim case was filed in the year 2010 giving rise to O.A. No. 000165 of 2010, but no proceeding was initiated on their claim case and same remain pending and for the first time the claim case was listed on 16.12.2013, for which no prior notice was served upon the claimant/appellant or his counsel, as such he had no knowledge that the claim case will be taken up



before the Claims Tribunal on the said date as such he or his counsel could not appear on said dates.

5. Having heard learned counsel for the claimant/appellant and Railways, this Court finds that claimant/appellant has given sufficient reasons for his or his counsel's non-appearance before the Tribunal when the case was called after three years of its institution. In the claims Tribunal, the documents filed by claimant were public documents and its authenticity and genuinity cannot be doubted, as such on the ground that they were not the certified copies, the claim case ought to have not been rejected by the Tribunal. Evidence Act is not applicable in a proceeding before Claim Tribunal and claims have to be decided on the basis of evidence adduced by the parties.

6. For the reasons as stated, the order dated 12.08.2014 passed by Railway Claims Tribunal, Patna Bench, Patna, in O.A. No. 000165 of 2010 is set aside and the matter is remanded to the Claims Tribunal to decide the claim case of the appellant on merit in accordance with law for which the claimant shall appear before the Tribunal alongwith a certified copy of the order passed by this Court and thereafter Tribunal shall fix a date after giving information to the respondent-



railways and decide the claim case within six months.

7. The Miscellaneous appeal stands allowed.

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2019
Transmission Date	NA

