

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.779 of 2013

1. Ram Prasad Madaiya @ Ram Prasad Munda, S/O- Late Kali Charan Madaiya
2. Dulari Devi, W/O- Ram Prasad Madaiya @ Ram Prasad Munda
Both are Resident of Village- Kathotia, P.O- Jagdishpur, P.S.- Barari,
Distt.- Katihar.

... .. Appellant/s

Versus

The Union Of India, Through The General Manager, East Central Railway,
Hazipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sarita Bajaj, Advocate
For the Respondent/s : Mr. Anil Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsel for the parties.

2. This appeal is barred by limitation of five months and eighteen days. The delay in filing of this appeal is explained in a petition filed under Section 5 of the Limitation Act to the extent that the claim case was registered before the Tribunal on 13.10.2009 and thereafter without fixing any date the impugned order dismissing claim petition was passed on 18.02.2013. Contention is that impugned order was passed without hearing the applicants.

3. After hearing the parties and considering the fact, reasonable cause for none filing of this appeal in time is explained. Hence, the delay in filing of this appeal is condoned.



While dismissing claim case the Tribunal recorded as follows in printed format:-

“ Delay more than 3 years – far too excessive. The reasons cited are not acceptable. If admitted, it will cause problem of records for the respondent. Hence, in terms of Section 17, the appeal is not admitted.”

4. A bare perusal of the impugned order would reveal that the Tribunal had not stated about the reasons for delay in filing of the claim case stated by the appellants. Hence, in one stroke it should not have been dismissed by saying reasons cited are not acceptable. Moreover, the problem of record would not come in the way of considering and deciding the merit of the claim case preferred by the appellants. Hence, the impugned order is set aside and the matter is remitted back to the Tribunal to decide according to law preferably within three months.

5. With the aforesaid, this appeal is disposed of.

Mkr./Banti-

(Birendra Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2019
Transmission Date	

