

2. The present appeal is preferred against the judgment and order passed by the Railway Claims Tribunal at Nagpur in Claim Application No.MA/NGP/2014/0040 on 18.06.2015. The appellants had preferred the aforesaid claim claiming the

compensation on account of the death of one Sunil Icchapurkar alleging the same to have been caused because of the untoward incident involving the railway. The aforesaid claim application however has been dismissed vide impugned judgment on the ground of delay. The separate application for condonation of delay was filed and the same has been rejected by the Tribunal and consequently the claim application has also been dismissed. Aggrieved by, the original claimants have preferred the present appeal.

3. Shri Mukul Kulkarni, the learned counsel appearing for the appellants who are hereinafter referred to as the claimants submitted that the delay of one year, six months and eight days occurred in filing the claim application before the Tribunal. The learned counsel submitted that at the time of filing of the application before the Tribunal one of the claimant was minor. The learned counsel further submitted that claimant no.1 Smt. Nalinibai is a rustic lady not having knowledge of the legal provisions and more particularly the period of limitation etc. It is further contended that in collecting the documents,

approaching the lawyer and filing the petition the time was consumed. The learned counsel further submitted that the delay was unintentional and for bonafide reasons. The learned counsel in the circumstances, prayed for setting aside the impugned judgment.

4. Shri Navandar, the learned counsel appearing for the respondent supported the impugned order. The learned counsel submitted that the Tribunal has passed a well reasoned order based on the law laid down by the Hon'ble Apex Court. The learned counsel has therefore prayed for rejecting the appeal.

5. I have gone through the impugned judgment. It is true that the learned Tribunal has referred the judgments of the Hon'ble Apex Court on the issue and has ultimately reached to conclusion that the delay was not liable to be condoned. However, after perusal of the judgment, it is apparently revealed that the Tribunal has adopted a too technical approach and forgotten the spirit of the Act under which the petition was filed which has resulted in miscarriage of justice. Similar issue

was before this Court in the case of **"Manoranjan s/o Haripada Pradhan and Anr Vs. Union of India, 2017(1) Mh.L.J. 163"**. In the said matter also the claim petition was rejected by the Railway Claims Tribunal on the ground of delay. This Court while allowing the appeal filed against the said judgment has held as under:

"9. On perusal of the impugned judgment, it is noticed that the Tribunal has adopted a hyper technical approach and has failed in appreciating and realizing the plight of the claimants who have faced all such difficulties as are mentioned in the application for condonation of delay. Merely because the claimants did not provide the particulars as to which Police Station they had visited for getting documents, that who was the Advocate who kept pending file with him for two years, that who was the relative who suggested the name of the said Advocate and that, who was the friend of the claimants who ultimately properly guided the claimants for filing the petition before the appropriate Court, no such inference can be drawn that the claimants have come out with a false justification and that whatever reasons are assigned by the claimants, are false or bogus. The claimants were not going to be benefited because of delay in filing the claim petition. It is, thus, evident that the delay caused was not

deliberate, or intentional or for malafide reasons. This aspect seems to have been completely lost sight of by the learned Tribunal.

10. It is true that illiteracy, poverty, want of funds, ignorance of law cannot be, as of right, held to be sufficient cause for condonation of delay, however, as has been time and again ruled by the Honourable Apex Court, it is imperative for the Courts or the Tribunals that in the proceedings where rights of illiterate, poor, down-trodden are involved, a more humane approach has to be adopted and it should not be the endeavour of the Courts or the Tribunals, or the authorities to dismiss applications or petitions merely on technicalities without looking to the merits of the case. The Railways Act is a beneficial legislation meant for providing compensation to the victims or the legal representatives of the victims of the Railway Accidents. As such, in such matters, the Tribunal is not supposed to take a pedantic or hyper technical view but is expected to adopt a humane and lenient approach. Its approach should be justice oriented. Acceptance of explanation furnished should be a normal course in such matters unless there is some contrary evidence imputing the intention or the bona fides of the claimants making delay in approaching the Court.

11. The material on record shows that the deceased was a bona fide passenger and valid

Railway ticket was found in his pocket at the time of inquest panchnama prepared by the Police machinery. Prima facie material is also there on record showing that the deceased suffered death in an untoward incident. When there is a prima facie merit in the application or appeal, the Courts or the Tribunals shall not shut the doors of justice only on the technical ground of limitation. Delay in respect of such cases has to be liberally condoned where there is a prima facie merit in the case brought out before the Court or the Tribunal. Substantial justice must be the criteria in disposing of the application under section 5 of the Limitation Act and liberal view has to be taken so as to advance substantial justice.

In view of the above, the impugned judgment and order deserves to be quashed and set aside and it is accordingly set aside.

For the reasons stated in the application for condonation of delay and more particularly having considered the material on record evidencing that the deceased was a bona fide passenger and that there is reason to believe that he suffered death in an untoward incident, the delay caused in filing the application deserves to be condoned and is accordingly condoned."

6. It appears to me that for the reasons recorded in the aforesaid judgment, the present

(7)

appeal also needs to be allowed and is accordingly allowed. In the result, the following order is passed:

ORDER

- i) The impugned judgment and order in Claim Application No.MA/NGP/2014/0040 dated 18.06.2015 is set aside.
- ii) The delay caused in filing the claim application is condoned.
- iii) The Tribunal is directed to consider the application on its own merits.
- iv) The appeal is allowed in the aforesaid terms.
- v) The parties shall appear before the Railway Claims Tribunal at Nagpur on 11.03.2019

(P.R. BORA, J.)

Mujaheed//