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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 13th SEPTEMBER, 2019

+ **FAO 95/2015**

PITAM SINGH & ANR

..... Appellants

Through: Mr. N.K. Gupta, Advcoate

versus

UNION OF INDIA

..... Respondent

Through: Ms. Rashmi Malhotra, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. Deepak, eighteen years' old son of the appellants, was statedly travelling by a railway train (described as Satyagrah Express train) having boarded it from Delhi Railway Station on 02.02.2011 to proceed to Gajraula Railway Station as a bonafide passenger. Sometime before Gajraula Railway Station, allegedly due to jerk in the movement of the train, he fell down (out of the train) and suffered injuries as a result of which he died. An accident claim case under Section 16 of Railway Claims Tribunal Act, 1987 was presented by the parents (the appellants) on 27.06.2014 before the Railway Claims Tribunal, it being accompanied by an application under Section 17(2)

of the Railway Claims Tribunal Act, 1987 read with Section 5 of the Limitation Act seeking condonation of delay attributing the delay on account of non-availability of requisite inquest report till 25.06.2014, the applicants also pleading that they were poor and illiterate and had not had the benefit of advice or knowledge of the technicalities of law.

2. In terms of Section 17(1) such a claim is to be presented ordinarily within one year of the occurrence of the accident, it, however, being within the jurisdiction of the claims tribunal to condone the delay upon “sufficient cause” being shown to its satisfaction. The tribunal declined to condone the delay and dismissed the claim petition as time barred by order dated 06.01.2015.

3. Feeling aggrieved, the appellants approached this court by the appeal at hand.

4. There can be no two opinions about the fact that the statutory provisions contained in the Railways Act, 1989 and the Railway Claims Tribunal, 1987 are benevolent provisions. There is no contest to the fact that the appellants herein are residents of a village in District Jyoti Phule Nagar of the State of Uttar Pradesh, there also being no dispute raised as to their averment that they are poor and illiterate persons with meager resources in life. Going by the description of the deceased, it is clear that he was working as a manual labourer in Delhi at the relevant point of time, this further confirming that the claimants suffer from wants.

5. The claim petition was filed supported by copies of the relevant documents bearing attestation recorded by the Police Superintendent on 25.06.2014, the said documents having been obtained by the claimants in exercise of their right to information under the law. There is nothing indicated that the appellants had had the benefit of legal aid, assistance or advice well in time for a claim petition to be presented.

6. In sharp contrast to the limitation prescribed by Section 17 of the Railway Claims Tribunal Act, 1987, the law of torts as codified for purposes of motor vehicular accidents in the form of Motor Vehicles Act, 1988 is no longer subject to the rigor of limitation in as much as the period prescribed for claim petitions to be brought before the Accident Claims Tribunal under Section 165 of the said legislation has been done away with by repeal of Section 166(3) [see *Dhannalal vs. D.P. Vijayvargiya and Ors.*, AIR 1996 SC 2155].

7. It is also apposite to note here that in the case of motor vehicular accidents, there is a statutory obligation on the part of the officer in charge of the concerned police station by virtue of Section 158(6) of the Motor Vehicles Act, 1988 to submit a report (about the relevant facts gathered during investigation into the accident) to the claims tribunal within a period of thirty days. Interestingly, the provision contained in sub-Section (4) of Section 166 obliges the claims tribunal to treat such report, as is envisaged in Section 158(6), to be “an application for compensation” under the said law. Such

reports, as the practice has evolved over the period, have come to be called “detailed accident reports” (DAR).

8. It may be mentioned here that a learned single Judge of this court by a series of orders in matters arising from the jurisdiction under the Railways Act had made an attempt to adopt the procedure of DARs for purposes of claims of such persons as at hand as well. For illustration, reference may be made to order dated 24.05.2019 in *FAO 22/2015 Geeta Devi vs. Union of India* which appeal had also arisen out of orders of the Railway Claims Tribunal and was part of a batch of such appeals, the appeal at hand being also dealt with simultaneously for quite some time.

9. Unfortunately, there is no statutory prescription similar to the one provided by Section 158(6) read with Section 166(4) of the Motor Vehicles Act, 1988 for purposes of railway accidents. Whilst there is a need for such provision to be added to the law on railway accident claims which, of course, is a matter for the legislature to consider, what stands out from the above is that the plight of hapless citizens who do not have the requisite resources to take timely steps for bringing accident claims before the Railway Claims Tribunal will have to be factored in and a humane and practical view taken for appreciating the reasons for delay in presentation of their claims.

10. In the facts and circumstances of the case at hand, in the considered opinion of this court, the delay has been properly explained. The appellants being poor and illiterate parents of the deceased boy did not have the benefit of timely advice, and legal

assistance, for bringing their claim for compensation before the tribunal. The very fact that they had to eventually take resort to the law on right to information to secure the requisite documents, which were provided to them only in 2014, speaks volumes for the difficulties that they would have faced in initiating the proceedings for compensation before the tribunal. Unfortunately, the tribunal took a hyper-technical view of the matter in rejecting their claim at the threshold which approach cannot be approved of.

11. In the result, the impugned order declining the condonation of delay is set aside. The delay stands condoned. The claim case of the appellants is revived on the file of the Railway Claims Tribunal which is directed to examine it in accordance with law on merits. The parties are directed to appear before the tribunal on 15.10.2019.

12. The appeal is disposed of in above terms.

R.K.GAUBA, J.

SEPTEMBER 13, 2019

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