

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.990 OF 2012

JUDGMENT:

This appeal is filed by the appellant-applicant aggrieved by the Order, dated 02.07.2012, passed in M.A.No.10 of 2011 in DDR.No.66 of 2011 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad (for short, the Tribunal).

2. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the O.A.A.

3. The appellant/petitioner/applicant filed M.A.No.10 of 2011 in DDR.No.66 of 2011 under Section 44 of RCT (Procedure) Rules praying to condone the delay of 1221 days in filing the claim application. She stated that she approached one R.Srinivasa Rao, Advocate for filing her claim application and he agreed to file the same and on repeated enquiry, he had not filed the case and since he failed to file the claim application, she has approached Smt. S.Jhansi Lakshmi and Chennakesava Rao, Advocates and they told that there is a delay of 1221 days in filing the claim application.

4. The respondent/Railways filed counter denying the averments made in the petition and prayed to dismiss the same.

5. The Tribunal dismissed the above said petition by holding that the enormous delay in filing the application is not properly explained and the petitioner has not satisfied the Tribunal that

she has sufficient cause for not filing application within such period and the reasons put forth for condonation of delay cannot be accepted since the reasons stated are not sufficient. Aggrieved by the said order, the appellant/petitioner/applicant filed the present appeal seeking to allow the appeal by setting aside the impugned order.

6. Heard Sri N.Subba Rao, learned counsel appearing for the appellant and Sri T.S. Venkata Ramana, learned standing counsel appearing for the respondent/Railways. Perused the material record.

7. Since the Railways Act being a beneficial legislation, and almost always the Courts have been taking a sympathetic view to award compensation to alleviate the suffering that the tragedy has caused. The applicant is a rustic villager and illiterate and approached one R.Srinivasa Rao, who claimed to be an Advocate, for filing the claim application and he received the papers and since R.Srinivasa Rao is not an Advocate, he could not file the claim petition and thereafter, the applicant collected the papers from the said Srinivasa Rao and approached an Advocate and got the claim petition filed and hence, there was a delay in filing the claim application, as she was misguided by the said Srinivasa Rao, who is an Advocate's clerk.

8. Having regard to the facts and circumstances of the case, this Court feels that it would be just and proper if the impugned order is set aside.

9. Accordingly, the appeal is allowed setting aside the Order, dated 02.07.2012, passed in M.A.No.10 of 2011 in DDR.No.66 of 2011 by the Railway Claims Tribunal, Secunderabad Bench, at Secunderabad and the delay of 1221 days in filing the claim petition is condoned. The Tribunal shall consider the claim application said to have been filed by the appellant/applicant and proceed with the matter, in accordance with law, after affording reasonable opportunity to both sides, and decide the matter within a period of six (06) months from the date of receipt of a copy of this order. However, it is needless to observe that both parties shall co-operate with the proceedings before the Tribunal. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 10th January, 2020

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