

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 626 OF 2015

Smt. Ranjita Manish Dhindhoriya and ors. ...Appellants

Versus

Union of India, through General Manager,
Central Railway ...Respondent

Ms. Rina Kundu, for the Appellants.

Mr. T. J. Pandian, a/w Dheer Sampat, for the Respondent.

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CORAM: N. J. JAMADAR, J.

DATED : 8th DECEMBER, 2021

PC:-

1. This appeal is directed against an order passed by the learned Member, Railway Claims Tribunal, Mumbai Bench, in Case No.MA/MCC/2013/0141, dated 16th July, 2014, whereby the learned Member dismissed the application preferred by the appellants – applicants for condonation of delay in lodging the claim for compensation in respect of the death of Manish Raju Dhindhoria, who died in railway untoward incident on 10th July, 2008, on the ground that the delay was of more than three years and the applicants being the residents of the Thane District were expected to be aware of the procedure for filing the application for compensation and the period of limitation.

2. Heard Ms. Kundu, the learned Counsel for the appellants and Mr. Pandian, the learned Counsel for the respondent. Having regard to the limited nature of the issue involved in the appeal, the appeal is taken up for final disposal at the stage of admission.

3. In the application for condonation of delay, the appellants - applicants averred that the applicant no.1 is the widow of late Manish and applicant nos.2 to 4 are the minor children of the deceased. Applicant no.1 is an illiterate lady. She was unaware of the provisions which entitled the dependants to claim compensation on account of death in a railway untoward incident and the procedure therefor. The learned Counsel for the appellants in the backdrop of the aforesaid cause ascribed by the appellants would urge that the learned Member took a very hyper technical view of the matter and non-suited the applicants.

4. Evidently, the sole reason ascribed by the learned Member is that the applicants were the residents of Thane District and the level of the awareness in the said region was quite good. It was further recorded that in public time-table, information about RCT and claim procedure is furnished. The learned Member has proceeded on a general premise. The sufficiency of

the cause ascribed by the applicants has not at all been adverted to. It seems overarching principle of advancing the cause of substantive justice so as to ensure that the procedure which is a handmaid of justice does not score a march over substantive justice, was not kept in view by the learned Member. Ordinarily, a litigant does not gain by coming to the Court belatedly. In the case at hand, the adverse social condition and poor financial position of the applicants and the cause assigned by the applicants for not preferring the application within the statutory period of limitation, ought to have entered the judicial verdict.

5. For the foregoing reasons, the impugned order deserves to be quashed and set aside and the matter is required to be remitted back to the Railway Claims Tribunal for determination afresh.

6. At this stage, Mr. Pandian, the learned Counsel for the respondents would urge that the applicants shall not claim interest for the period by which they preferred application belatedly. In the event the application is allowed, the Tribunal can legitimately direct that the applicants shall not be entitled to interest for the period by which the application was delayed.

7. With this clarification, the appeal stands allowed.

8. The impugned order stands quashed and set aside.
9. The application is restored to the file of the Tribunal.
10. The Tribunal shall decide the application afresh keeping in view the approach which is expected by the Courts and Tribunals while considering an application for condonation of delay.
11. The appeal stands disposed of.
12. No costs.

[N. J. JAMADAR, J.]