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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.NO.3201 OF 2014

1. P.Baby Ammal
2. P.Ponnurangam

... Appellants

.Vs.

The Union of India,
Owning South Central Railway,
Rep. By General Manager,
Chennai.

... Respondent

PRAYER:-

Civil Miscellaneous Appeal (CMA) is filed under Section 23 (1) of the Railway Claims Tribunal Act 54 of 1987, appeal against the order dated 28.07.2014 passed by the Railway Claims Tribunal, Chennai Bench in I.A.No.76/2013 in O.A.Diary No.379 of 2013 be set aside and the delay in filing the claim application be condoned and the claim application be registered.

For Appellants : Mr.S.Umapathy

For Respondent : M/s.A.Shri Jayanthi

J U D G M E N T

The appellants herein are the petitioners in I.A.No.76 of 2013 and applicant in O.A.Diary No.379 of 2013. They filed the application before the Railway Claims Tribunal, Chennai Bench, as legal heirs claiming compensation for the fatal death of their only son deceased "Murugadoss". Due to an untoward incident, while he was travelling in the train accidentally he fell down between Mambalam and Park Railway stations and suffered fatal injuries and died on the spot on 28.12.2006. But they filed the application, with a delay of 2172 days and to condone the delay they filed an I.A.No.76 of 2013. But the said condone delay petition was dismissed. Aggrieved by the order they have preferred this appeal.



2. The Railway Authorities appeared and contested the appeal.

3. The question of law that arise for consideration is as to

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"whether the Tribunal was right in dismissing the application as the reason stated by the petitioner are not sufficient to condone the delay of 2173 days?"

4. The facts reveals that the appellants are the parents of the deceased Murugadoss who died due to untoward incident while travelling by train on 28.12.2006 near nungambakkam railway station. Due to the sudden death of their son, his parents were mentally upset and they were not able to approach the Court in time. On 11.08.2013 only, they received copies of the FIR and inquest final report, immediately, thereafter they filed the claim application before the Railway Tribunal with a petition to condone the delay of 2172 days.

5. The learned counsel for the Railway Authority objected the said application stating that reason for delay is not sufficient. On hearing both sides the Tribunal concluded that the reason stated by the applicants are not sufficient to condone the delay. Hence the petition was dismissed. Aggrieved that petitioner has preferred this CMA.

6. At the time of the arguments, the learned counsel for the appellants submitted that since their only son passed away his parents were illiterate and mentally upset, so they were not able to approach the Court within the reasonable time. But FIR was filed and inquest report was also filed in time and after obtaining copies of those documents they approached the Tribunal to claim compensation. So they prayed to condone the delay.

7. Considering the above facts and circumstances and on perusal of the records the only son of the appellants died in untoward incident while he was travelling in the train on 28.12.2006. As per the petition averments the son left the home to attend some interview for his job but he died on the way due to the Rail accident. However, the FIR was lodged as per the information given by the Railway staff and the case was registered in Crime No.688 of 2006 immediately.

8. But the appellants did not approach the Tribunal immediately to claim compensation. Since their only son passed away the parents are mentally upset and they were not able to approach the authorities in time. The facts differs from case to case and we cannot fix the time for recovery of the said mental



illness which caused due to sudden demise of their only son. In many cases, people not able to recover from such mental depression until their life time and they remains with the fond memories of the demised son. So also case in the hand, the parents recovered nearly after 2000 days and approached the authorities to claim the compensation.

9. The Tribunal not appreciated those facts and concluded that the reason stated by the applicants are not sufficient to condone the delay and dismissed the petition. But each case is to be decided on its own facts. Thus, facts and circumstances reveals that the poor parents were not able to recover from the mental shock immediately due to the sudden demise of their son. Even though, there is a delay, it should be condoned by considering the facts and circumstances as discussed above. Therefore, the findings given by the Tribunal Judge is set aside and considering the nature of the claim, the delay is condoned and the appeal is allowed and the appellants are permitted to proceed the claim application according to law.

10. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rri

1. The Railway Claims Tribunal,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.T.Rajamohan, Advocate, S.R.No.20942

C.M.A.NO.3201 OF 2014

RSV(CO)
PBS/11/08/2021