

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH AT NAGPUR**

FIRST APPEAL NO. 973 OF 2019

1) Sau. Manisha Wd/o. Sandip Patil,

Aged 34 years, Occ. Labour,

2) Dhruv S/o. Sandip Patil,

Aged 10 years, Occ. Nil,

3) Ku. Padmavati D/o. Sandip Patil,

Aged 4 years, Occ. Nil,

(Applicant Nos. 2 & 3 are under
the guardianship of his mother
applicant no. 1)

4) Shri Murlidhar S/o. Trambak Patil,

Aged 62 years, Occ. Labour,

5) Sau. Lilabai W/o. Murlidhar Patil,

Aged 61 years, Occ. Labour,

All are R/o. 122, Nandvel,
Taluka Muktai, Nagar Dist. Jalgaon,
Maharashtra 425306

... Appellants

.. Versus ..

Union of India

Through General Manager,
South Central Railway,
Secunderabad Andhra Pradesh.

...Respondent

Shri N.R.Mankar, Advocate for appellants.

Shri Nitin P. Lambat, Advocate for respondent sole.

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 19/08/2022

ORAL JUDGMENT

It appears that on 10/09/2011, the deceased Sandeep Murlidhar Patil along with others were going from Tirupati to Kolhapur. He was having valid railway ticket. During the course of journey, accidentally, he fell down from the train near Gooty Railway Station and died on the spot.

2. The applicant/claimant no.1 is the wife of deceased and applicant nos. 2 and 3 are minor children and applicant nos. 4 and 5 are parents of deceased. They are uneducated persons, doing labour work and therefore, they were not having any knowledge that they are entitled for any compensation. When they came to know about the said compensation in December, 2012, they applied for relevant documents and after collecting the same, handed over to the advocate. In this process, two years delay is caused.

3. It is submitted that the delay is neither deliberate nor intentional and as the deceased was bonafide passenger, they claimed for compensation which needs to be adjudicated. Therefore, the claimants filed application for condonation of delay along with claim petition, however, the learned Railway

Claims Tribunal, Nagpur dismissed the application for condonation of delay.

4. I have gone through the order passed by learned Tribunal. The learned counsel for the appellants relied upon the order passed by this Court in FA No. 119/2022, wherein delay of three years has not been condoned by the learned Tribunal and rejected the claim petition. However, this Court allowed the appeal and set aside the order passed by the Railway Claims Tribunal.

5. I have heard both the parties at length.

6. The learned Tribunal, without considering the fact that the wife of deceased is having newly borne child and she and other claimants are labourers by occupation and not having any knowledge about getting such compensation dismissed the application for condonation of delay filed by the claimants.

7. In fact, it is claimed that deceased was having valid railway ticket, however, only because, they were not having knowledge, there was delay in filing claim petition. This Court in First Appeal No. 119/2022 held that the object of grant of

compensation under the Railways Act, which is a beneficial legislation, is meant for providing compensation to the victims or the legal representatives of the victims of the Railway accident. In such matters, the learned Tribunal is not supposed to take a pedantic or hyper technical view but is expected to take humane and lenient approach. Its approach should be justice oriented.

8. As such, it would be appropriate to set aside the impugned order dated 07/12/2015 passed by the Member, Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No. MA/NGP/2014/0067. Accordingly, I proceed to pass the following order:-

ORDER

- (1) The appeal is allowed.
- (2) The impugned order is hereby set aside.
- (3) The delay in filing claim petition is hereby condoned.
- (4) The learned Railway Claims Tribunal is directed to register and to decide the claim application as per provisions of law and after granting due opportunity to both parties.

- (5) The parties to appear before Railway Claims Tribunal on 29/08/2022.
- (6) R & P be sent back immediately.

[SMT. M.S. JAWALKAR, J.]

B.T.Khapekar