



CRP.No. 2943 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

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

C.R.P.(PD).No. 2943 of 2017

Velugu Dharmayya

.. Petitioner

Versus

Union of India Owning Sourthern Railway
Represented by its General Manager
Chennai-600 003.

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order in I.A.No. 89 of 2016 in Dy.No.154 of 2016, dated 02.02.2017 on the file of Railway Claims Tribunal, Chennai Bench.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.M.Vijay Anand
Standing Counsel for respondent.



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ORDER

WEB COPY This Civil Revision Petition has been filed against the order dated 02.02.2017 passed in I.A.No. 89 of 2016 in Dy.No.154 of 2016 by the Railway Claims Tribunal, Chennai Bench and set aside the same.

2. The revision petitioner herein is the petitioner in I.A.No.89 of 2016 in Dy.No.154 of 2016 before the Railway Claims Tribunal, Chennai Bench.

3. The revision petitioner has filed claim petition in Dy.No.154 of 2016 before the Railway Claims Tribunal, Chennai Bench, seeking compensation on account of the death of the deceased due to untoward accident that had happened on 01.01.2013 on account of the negligence on the side of the Railway Authorities. As per memo issued by SS/Virudhunagar Junction, at **12.00** on 01.01.2013, when the body was lying near the Railway track, FIR No.01 of 2013 was registered by GRP/Tiruchi/Virudhunagar Police Station, based on the written complaint submitted by Melakottai Panchayat President. In respect of the alleged accident, it is seen that the deceased had started his journey from Godavari to Vijayawada based on journey ticket, dated 27.12.2012 and during the



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time, he died due to the untoward accident. The petitioner is the father of the deceased, who was aged about 76 years. After the demise of his son, the family suffered mental depression and his wife died on 01.06.2015, who was bed ridden and therefore, there had been a delay of 1058 days in filing the claim petition before the Railway Claims Tribunal in time. As per Section 17 (1) (b) of the Railway Claims Tribunal Act, 1987, such an application has to be made within one year of occurrence of the accident. But the petitioner has filed the claim petition after 105 days before the Railway Claims Tribunal and therefore, the revision petitioner is not entitled to the relief sought for in the I.A. Further, no proper reason was assigned by the petitioner in not filing the claim petition in time. After perusing the records, the trial Court dismissed the interlocutory application dated 02.02.2017. Aggrieved by the same, the present revision is filed by the father of the victim.

4. The Tribunal dismissed the delay condonation application holding that the "sufficient cause" for condoning the delay has not been shown by the petitioner and in paragraphs 4 and 5 of the impugned order, it has been held as under:-



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4. The Hon'ble Supreme Court in C.A.No.6974 of 2013, dated 22.08.2013 **Basavaraj & Another v. The Special Land Acquisition Officer** along with in C.A.No.6975 of 2013 between the same parties, had occasioned to adjudicate the term "sufficient cause",

9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be



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exercised judiciously. The applicant must satisfy the Court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: [Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.](#), AIR 1964 SC 1336; [Lala Matadin v. A. Narayanan](#), AIR 1970 SC 1953; [Parimal v. Veena @ Bharti](#) AIR 2011 SC 1150; and [Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai](#) AIR 2012 SC 1629.)

...

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “dura lex sed lex” which means “the law is hard but it is the law”, stands attracted in



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such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale.

According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment



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or what may have been lost by a party's own inaction, negligence' or laches.

(See: [Popat and Kotecha Property v. State Bank of India Staff Assn.](#) (2005) 7 SCC 510; [Rajendar Singh & Ors. v. Santa Singh & Ors.](#), AIR 1973 SC 2537; and [Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project](#), (2008) 17 SCC 448).

...

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever,



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amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

Ultimately, Hon'ble Apex Court dismissed Civil Appeals holding the same "lack merit". Law laid down in afore-noted judgment is fully applicable in the facts and circumstances of present case as we do not find sufficient cause to explain as to what precisely explained the term "sufficient cause" observed in para 12 of the said judgment which clearly provides that hardship or inconvenience to a party cannot be the guiding factor and the court has no choice but to enforce it giving full effect to statutory provision.

5. Law of Limitation has also been recently summarized very aptly by the Hon'ble Supreme Court in 2013 (5) CTC 547 (Esha Bhattacharjee v. Managing Committee of Raghunathpur, Nafar Academy and Others) whereby vide para 15, after considering 17 earlier judgments of Apex Court summarized the entire case law vide para 16 thereof, however, Hon'ble Court added some more guidelines which are required to be taken into consideration while considering the issue regarding limitation and condonation of delay in present day scenerio. Said Para 16 reads as under:-



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"(a) An Application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the Courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

(b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

(c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

(d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course within legal parameters."

5. Considering the ground raised by the petitioner that after the death of the petitioner's son, who is the only bread-winner of the family, his wife, suffered mental depression and consequently, the petitioner's wife died on



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01.06.2015 and thereafter, the petitioner applied for Legal Heirship Certificate on 01.09.2016 and after collecting all the relevant documents from the authorities concerned, the petitioner handed over the same to his counsel during November, 2016.

6. Without looking into the aforesaid factual aspects of the matter, the Railway Claims Tribunal erred in rejecting the application for condonation of the delay on the ground that "no sufficient cause" has been given by the petitioner. Therefore, this Court is of the view that the petitioner has given "sufficient cause" for the delay and this Court is also satisfied with the reasons for the delay set out by the petitioner in the application to condone the delay and accordingly, this Court is inclined to interfere with the order of the Tribunal. However, the petitioner will not be entitled to interest for the delay period.

7. Accordingly, the Civil Revision Petition is allowed and the impugned order of the Tribunal, dated 02.02.2017 passed by the Railway Claims Tribunal, Chennai Bench, is set aside. The Railway Claims Tribunal, Chennai Bench, is directed to number the claim petition and



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adjudicate the same in accordance with law, within a period of three months from the date of receipt of a copy of this order. Further, the petitioner is not entitled to interest for the delay period of 1058 days in filing the claim petition. There shall be no order as to costs in this Civil Revision Petition.

17.10.2022

msm

Index : Yes/No

Speaking Order : Yes/No

To

1. The Railway Claims Tribunal, Chennai Bench.
2. Union of India Owing Southern Railway
Represented by its General Manager
Chennai-600 003.
3. The Section Officer, V.R.Section
High Court, Madras.

T.V.THAMILSELVI, J.

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