

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.118 of 2013

1. Rachni Devi D/o= Maharthi Mehta
2. Mithilesh Kumar, S/o- Late Surendra Mehta under Natural Guardian Rachni Devi

... .. Appellants

Versus

The Union Of India Through The General Manager, N.E. Railway, Gorakhpur
... .. Respondent

Appearance :

For the Appellant/s : Mr. Shiv Shankar Shambhuti, Advocate
For the Respondent/s : Mr. Anshay Bahadur Mathur, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

25 16-01-2023 Heard learned counsel for the appellants and learned counsel for the Department of Railways, Union of India.

This appeal is directed against the order dated 20.09.2012 passed by learned Member (Technical), Railway Claims Tribunal, Patna Bench in M.A. No. M.A./PNBE/10 of 2002.

Learned counsel for the appellants submits that by the impugned order, learned Member had dismissed the claim application in terms of Rule 17(1)(b) of the Railway Claim Tribunal Act, 1987. It is stated that the impugned order itself shows that the date of incident was 12.02.2001 whereas the claim application was preferred on 20.02.2002 which was registered on 04.03.2002.

Learned counsel submits that there is a period of limitation of one year for filing the application, in this case there was a delay of eight days approximately in filing of the application. It is pointed out that after registration of the application, it was listed only on one date i.e. 06.05.2002 but thereafter it was never listed, the



defect if any was never pointed out and the claimant being a helpless lady widow of the deceased remained waiting for hearing of the case. It is submitted that the cause list of the Tribunal would show that this case was not listed on 20.09.2012, therefore, it is surprising as to how this matter was taken up for consideration after more than ten years that too without any notice to the claimant.

Learned counsel submits that in all fairness, equity and justice when the matter was being taken up after more than ten years, the Tribunal should have ensured that the claimants have got due notice of the date fixed in the matter.

Mr. Anshay Bahadur Mathur, learned counsel for the Railways has though opposed this appeal but at the same time, is unable to show that any notice fixing date of hearing was given to the claimant or that this case was listed on the cause list on 20.09.2012.

Be that as it may, this Court is of the considered opinion that in these kind of matters which are coming up under the provisions of beneficial piece of legislation to provide succor to the dependants of the victim, the Tribunal must ensure that due notice of the date fixed in the matter be given to the claimants and the case should show on the cause list.

In this case, the matter has been taken up after ten years and it has been dismissed on the solitary ground that there was no petition for condonation of delay. In all fairness, the defect, if any in the matter was also required to be notified and only after giving an



appropriate opportunity to the claimants, the matter could have been taken up for consideration. For all these reasons, the impugned order cannot sustain test of reasonableness and the concept of fair play in action. The impugned order is, thus, bad in law and is liable to be set aside. It is accordingly set aside.

Let the matter be considered afresh by the Tribunal after giving an appropriate opportunity to the appellants to file an application seeking condonation of delay.

On the request of learned counsel for the parties, this Court directs that let the records of the Claim Case be placed before the learned Tribunal on 9th February, 2023 after publishing the same in the cause list.

Learned counsel for the appellants undertakes to appear before the Tribunal on the said date with an appropriate application seeking condonation of delay.

This appeal is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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