

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1026 of 2016

Manju Devi, Daughter of Late Sagar Samada @ Sada, Wife of Ghantul Sada,
Resident of Village-Bela Simri, P.O.-Bela Simri, P.S.-Khagaria, District-
Khagaria.

... .. Appellant/s

Versus

The Union Of India Through General Manager, West Central Railway,
Jabalpur

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 01-02-2023 This Miscellaneous Appeal has been filed for setting aside the order dated 31.05.2016 passed by the learned Member (Judicial), Railway Claims Tribunal, Patna Bench (hereinafter referred to as 'the Tribunal') in Restoration No.31/2015 whereby and whereunder the learned Tribunal has been pleased to reject the restoration application preferred on behalf of the appellant for restoration of O.A. No.27/2012.

It is the case of the appellant that she is an illiterate, poor and rustic lady. In course of filing of the claim petition when she approached the office of the Tribunal on 23.05.2012 well within the stipulated period of limitation, the registry of the Tribunal refused to accept the same in absence of bank details and family chart. Since the appellant had no bank account and family chart, she was advised to open a bank account and



obtained the family chart. This took some time and the application could be preferred only with some delay. For purpose of condonation of delay, she had filed an application with the claim petition. It is further case of the appellant that she had engaged a lawyer to appear in the case but unfortunately the said lawyer did not appear on 27.03.2014 and 25.04.2014 as a result whereof her application seeking condonation of delay was dismissed for non-prosecution and the whole case stood dismissed for default.

It is stated that the appellant had no money to come to Patna to file a petition for condonation of delay and again it took her some time in approaching her lawyer to file a restoration application. This time the delay was of one year four months. It is her case that by the impugned order the learned Tribunal has refused to condone the delay of one year four months and imposed a cost of Rs.5,000/-.

Mr. Anshay Bahadur Mathur, leearned counsel for the Railways has opposed this appeal on the ground inter-alia that the appellant is not vigilant in pursuing her remedy, therefore, the Tribunal is justified in dismissing the restoration application which was filed after one year four months.

In the given facts and circumstances of the case, this



Court is of the considered opinion that this being a case seeking compensation on account of death of the husband of the complainant in a rail accident, taking note of her statement that she is an illiterate lady and comes from a poor background, the Tribunal should have been alive to such situations and condone the delay. This Court, therefore, sets aside the impugned order dated 31.05.2016 passed by the learned Tribunal and restore the Case No. OA/OC/MA No.-Resto. No.-31/2015 to its original file.

Let the restoration petition be considered on its own merit after giving an opportunity of hearing to both the parties on a pre-notified date.

This appeal is allowed.

(Rajeev Ranjan Prasad, J)

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