

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9994 OF 2022

Arbaz Ansar Khan

...Petitioner

Versus

Union of India

Through Gen. Manager, Central Railway

...Respondent

...

Mr. Ashif Husain a/w Ms. Deepika Oswal for Petitioner.

Mr. J. S. Salvja for Respondent.

...

CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 12, 2023.

P.C.:

1. The challenge in the present Petition is to the order dated 6 May 2022 passed by the Railway Claims Tribunal rejecting Petitioners application for restoration of the Claim Application which was dismissed for default on 29 March 2022. Perusal of the order dated 6 May 2022 would indicate that the Petitioner's Claim Application was listed on numerous dates since the year 2017 but he failed to lead evidence. On account of failure of the Petitioner to lead evidence in support of the Claim Application, as well as non appearance on the part of his Advocate on 29 March, 2022 the Claim Application came to

be dismissed for failure to lead evidence. The Tribunal expected the Petitioner to lead evidence at least on 6 May 2022 when the application for restoration was listed for hearing. The tribunal noted the conduct of Petitioner in not filing the evidence even on 6 May 2022 and on that ground proceeded to reject the application.

2. I have heard Mr. Husain, the learned counsel appearing for Petitioner and Mr. Salvja, the learned counsel appearing for Respondent.

3. Perusal of the order passed by the Tribunal would undoubtedly indicate causal approach on the part of the Petitioner in pursuing the Claim Application. At the same time one must bear in mind the beneficial nature of legislation under which the compensation is claimed in respect of a railway accident. Considering the fact that the proceedings are filed for claiming compensation in respect of an incident which has resulted in death of the Petitioner's brother, I am of the view that one opportunity needs to be given to the Petitioner to prosecute the Claim Application by leading evidence.

4. In that view of the matter, the Petition succeeds. Order dated 6 May 2022 passed by the Railway Claims Tribunal is set aside. Claim Application No.585 of 2014 shall stand restored before the Tribunal.

Petitioner to file his affidavit of evidence within a period of two weeks from today. Failure to file the affidavit of evidence within the stipulated time would result in dismissal of his Claim Application. All contentions of the parties on the merits of the application are kept open.

5. With the above directions, Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)