

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 522/2023
IN FIRST APPEAL STAMP NO 3421/2023

Puja D/o Raju Dhoran And Others

Vs

Union Of India, Through General Manager, Central Railway, Csmt, Mumbai

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms Sumesha Chaudhari, Advocate for the applicants/appellants

Ms N.G. Chaubey, Advocate for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/02/2023.

1. Heard.
2. By preferring this application, the appellants are seeking condonation of delay in preferring this appeal against the judgment and award passed by the Railway Claims Tribunal,
3. Issue notice to the respondent, returnable after four weeks.
4. Ms N.G. Chaubey, learned Advocate waives service of notice on behalf of the respondent.
5. Ms. Sumesha Chaudhari, learned advocate for the appellants submitted that the present application is filed for condonation of delay. In fact, both the appellants have lost their father in an untoward incident which took place on

24/03/2012. Therefore, they approached to the Railway Claims Tribunal for grant of compensation.

6. The compensation was granted by the learned Railway Claims Tribunal by passing judgment and award on 17/03/2017. However, compensation was granted as per the old schedule. The Railway Claims Tribunal has not taken into consideration, the new notification which came into effect on 01/01/2017.

7. As per the said notification, the appellants are entitled to receive the compensation of Rs. 8,00,000/- and therefore, the appellants have preferred this appeal for enhancement of the compensation.

8. She further submitted that at the relevant time when the application was decided, both the claimants were minors and their uncle was looking after the appellants as well as the Tribunal proceeding. Therefore, the appellants were not knowing about the legal provisions and therefore, they could not approach for enhancement of the compensation. When they got knowledge that they are entitled to receive the compensation of Rs. 8 Lakhs, they filed the review application but the same was rejected as not filed within limitation.

9. It is submitted that the tribunal did not consider the fact that the appellants who are minors are entitled to receive the compensation under the provisions of the Railway Compensation Act which is a beneficial legislation. As the

appellants have lost their father, they have no earning source. They are staying at the mercy of their relatives. Therefore, they be permitted to litigate the cause on merits. As per the statutory provisions they are entitled to receive compensation which is the higher amount. Merely on technical grounds, their right cannot be taken off and they cannot be deprived from claiming the said right.

10. The said application is strongly opposed by the learned Advocate Ms. Chaubey, on the ground that the delay is not properly explained, and hence the application deserves to be rejected.

11. Heard both sides. Perused the application.

12. It is apparent that when the claim was decided, at the relevant time both the appellants were minor. The said application was filed by them, initially, through their mother who also died during the pendency of the application. Thereafter their uncle was looking after the proceedings.

13. Considering that both the applicants were minors, at the relevant time they could not take the decision of preferring the appeal as they were dependent upon the decision of their uncle. Thus, the reasons mentioned in the application appears to be just and proper. Admittedly, the delay is huge one but it is properly explained.

14. In view of the circumstances, the application deserves to be allowed subject to the waiver of the interest. In view of

that delay condonation application is allowed, subject to the waiver of interest if the appellants succeed in appeal and the amount of compensation is enhanced.

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1. Call for record and proceedings.
2. After receipt of record and proceedings, appellants to file private paper book within a period of eight weeks.
3. After private paper-book is filed so also after its verification place the matter for final hearing, as per its turn.

JUDGE