

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO. 536 OF 2023
IN FIRST APPEAL ST. NO. 3430 OF 2023
(Idris Khan s/o Goli Khan & Anr. Vs. Union of India)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Sumesha Chaudhari, Advocate for the applicants/
appellants.

Ms. Neerja Chaubey, Advocate for the respondent.

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CORAM : URMILA JOSHI - PHALKE, J.
FEBRUARY 23, 2023.

By this application, the applicants/
appellants are seeking condonation of delay which is
caused in preferring the appeal against the judgment and
award dated 28/4/2017 passed by the Railway Claims
Tribunal, Nagpur in Claim No. OAI(U)/NGP/40/2016.

2] Ms. Neerja Chaubey, learned Advocate
waives notice for the respondent.

3] As per the contention of the appellants,
they had filed the application for compensation on
account of incidental death of their son in an untoward
incident. The said application was decided by the Railway
Claims Tribunal on 28/4/2017. While deciding the
application, the Railway Claims Tribunal had not
considered the Notification issued by the Railways
granting compensation of Rs.8,00,000/- (rupees eight
lakh) on account of death in an untoward incident and
only granted Rs.4,00,000/- (rupees four lakh) and

therefore this appeal is filed by the appellants for enhancement of compensation. However, delay of 1309 days is caused in preferring the appeal. It is further submitted by the appellants that initially, they were not aware about the legal provisions regarding preferring of appeal. When this fact is brought to their notice, initially, they had filed Review Application which was rejected by the Railway Claims Tribunal and therefore they preferred this appeal. In view of that, delay of 1309 days is caused in preferring the appeal. There is just and reasonable cause for condonation of delay. Delay is not an intentional one. It is further submitted by the learned Advocate for the appellants that the appellants are from the weaker section of the Society. They are not aware about the legal provisions and therefore immediately they have not filed the appeal. It was for the Railway Claims Tribunal to consider that the appellants are entitled for compensation of Rs.8,00,000/- which was not considered and therefore the present appeal is preferred.

4] The said application is strongly opposed by the learned Advocate Ms. Neerja Chaubey for the respondent on the ground that delay is not properly explained. She submits that the reasons mentioned in the application is baseless and no ground is made out for condonation of delay and hence the application deserves to be rejected.

5] Perused the application and the submissions made on behalf of both the parties. It is apparent that the appellants had filed the application for

grant of compensation before the Railway Claims Tribunal. It is not in dispute that the Railway issued the Notification which came into effect from 1/1/2017. The Railways declared the schedule regarding the amount of compensation in different categories. In view of that, on account of death, the legal heirs are entitled to receive compensation of Rs.8,00,000/-. Admittedly, the application filed by the appellants was decided by the Railway Claims Tribunal after the said Notification. However, the Railway Claims Tribunal had granted amount of compensation of Rs.4,00,000/-. The appellants had claimed compensation under the beneficial legislation. However, the object of the beneficial legislation is not considered by the Railway Claims Tribunal and therefore the appellants constrained to prefer this appeal. It is apparent that before preferring the appeal, the appellants had preferred the Review Application which was also not considered by the Railway Claims Tribunal and therefore delay is caused in preferring the appeal. It is apparent that just and reasonable cause is mentioned by the appellants for condonation of delay. In view of that, the appellants are permitted to litigate their cause on merits.

6] Accordingly, the application is allowed. Delay of 1309 days caused in preferring the appeal is condoned subject to the waiver of interest on the revised amount of compensation if the appellants succeed in the present appeal.

7] The Civil Application is allowed and disposed of. Appeal be registered.

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8] Heard.

9] Admit.

10] Ms. Neerja Chaubey, learned Advocate waives notice for the respondent.

11] Call record and proceedings.

12] Filing of paper-book is dispensed with.

13] Appeal be placed for final hearing after receipt of record and proceedings.

(JUDGE)

Sumit