

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

CIVIL APPLICATION (CAF) NO.2037 OF 2021
IN
FIRST APPEAL STAMP NO.3810 OF 2021

Kusumbai wd/o Onkar Singh Thakur

Vs.

The Union of India, General Manager Central Railway, CSMT, Mumbai

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 h/f Mr. M. S. Chaudhari, Advocate for the
appellant.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/03/2023

1. This application is filed for condonation of delay which is caused in preferring the appeal against the Judgment and Award passed by the Railway Claims Tribunal, Nagpur.
2. As per the contention of the appellant, she has lost her son who was the earning member in the family in an untoward incident. She filed application for grant of compensation. However the Railway Claims Tribunal had not considered that deceased died in an untoward incident and rejected the application.
3. Being aggrieved with the same, the present appeal is preferred. However, delay of 524 days is caused in preferring the appeal.

4. As per the contention of the appellant that there was communication gap between the counsel and the appellant, and therefore she could not approach to him for preferring the appeal, hence delay is caused. Appellant has claimed compensation under the provisions of beneficial legislation on technical ground, she cannot be deprived of getting the compensation, hence delay be condoned.

5. Learned Advocate Ms. Chaubey, appearing for the respondent raised objection on the ground that delay is not properly explained. Hence application deserves to be rejected.

6. Heard both the sides. Perused the application.

7. As per the contention of the appellant, she is illiterate widow and not aware about the legal provisions. Moreover, there was communication gap between her and her counsel, and therefore, she has not approached to her counsel for filing the appeal. The reasons mentioned in the application appears to be just and reasonable one. It is pertinent to note that she had claimed compensation under the provision of beneficial legislation, and therefore she cannot be deprived from claiming her right due to the technical reasons.

8. In view of that application deserves to be allowed. Delay of 524 days is condoned.

9. Appeal be registered.

10. Civil Application is disposed of.

FIRST APPEAL NO. OF

Admit.

Learned Advocate Ms. Chaubey, waives notice for respondent.

Call for record and proceedings.

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

Paper book is dispensed with.

(URMILA JOSHI-PHALKE, J.)

Sarkate