

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

CIVIL APPLICATION (CAF) NO. 3944/2019 IN
FIRST APPEAL STAMP NO.8494/2019

Mr. Navas S/O Late Mossa And Another **Vs** Union Of India Through General
Manager, Central Railway, Mumbai

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

Court's or Judge's Order

Mrs U.A.Bhattad, Advocate for the applicants/appellants.

Ms Anjali Agrawal, Advocate h/f Ms Athalye, Advocate for respondent.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/02/2023

1. Heard.
2. By this application, the applicants/appellants have challenged the judgment and decree passed by the Member, Railway Claims Tribunal, Nagpur, by which the claim of the claimant is dismissed by the Railway Tribunal along with the delay condonation application.
3. Issue notice to the respondent/non-applicant, returnable after four weeks.
4. Ms Agrawal, learned advocate h/f Ms Athalye, learned advocate waives service of notice on behalf of respondent/non-applicant.
5. As per the contention of the applicants / appellants, they are the poor persons and resident of Kerala and they could not get the knowledge of the

judgment and award passed by the Railway Tribunal, therefore, the delay is caused. The applicants have sustained loss due to death of their near and dear one. Hence, the delay be condoned, as the delay is not intentional one.

6. As such, the application is opposed by the non-applicant on the ground that, no sufficient and reasonable caused is mentioned for condonation of delay.

7. Heard both the sides.

8. Perused the application. The appeal is preferred for challenging the judgment and award passed by the Member, Railway Claims Tribunal, Nagpur. It is apparent that, the applicants have lost their son in the railway accident, however, the Railway Tribunal has dismissed the claim by observing that the deceased was not a bonafide passenger.

9. Admittedly, the claimants are residents of State of Kerala. The advocate for the applicants conveyed the judgment to them, however, as they are from poor financial background they could not managed to come to Nagpur and communicate with their advocate and therefore, the delay is caused. The reasons mentioned in the application appears to be just and genuine one.

10. In view of that, the delay of 17 days in filing the appeal is condoned.

Civil application (CAF) No. 3944/2019 is disposed of.

First Appeal Stamp No. 8494/2019

1. First Appeal be registered.
2. Ms Agrawal, learned advocate h/f Ms Athalye, learned advocate waives service of notice on behalf of respondent.
3. Call for record and proceedings.
4. The appellants to file private paper-book within a period of four weeks, after receipt of record and proceedings.

Stand over after **four weeks**.

JUDGE