

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

CIVIL APPLICATION (CAF) NO. 22/2021 IN
FIRST APPEAL STAMP NO. 20343/2019

Mr. Martand S/O Tarachand Sonawane And Others Vs Union Of India Through General Manager, Central Railway, Mumbai (C.S.T.)

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 appellants.
Ms Chaubey, Advocate for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/02/2023.

1. By preferring this application, the applicants/ appellants are seeking condonation of delay which is caused in preferring the appeal.
2. As per contention of the appellants, the son of the appellant No.1 and 2 died an untoward incident while travelling by the train. They have filed an application for compensation, however, the Railway Claims Tribunal rejected the same illegally and erroneously.
3. Being aggrieved with the same, they have preferred this appeal. However, delay of 553 days is caused in preferring the appeal.
4. As per contention of the appellants, they are residents of remote area and also illiterate persons. They are not aware about the legal provisions.
5. It is further submitted that, the appellant Nos. 1 and 2 have lost their earning son and therefore, they were

under trauma and pain and therefore, also they could not approached to their counsel for preferring the appeal.

6. Thus, the delay is caused due to the sufficient and reasonable cause. There valuable right is involved in this appeal and hence delay caused be condoned and they be permitted to litigate the cause on merits.

7. The said application is strongly opposed by the learned counsel for the respondent on the ground that delay is not properly explained. Hence, the application deserves to be rejected.

8. Heard both the sides. Perused the application.

9. Appeal is filed by the appellants against the judgment and award passed by the Railway Claims Tribunal. The appellant Nos. 1 and 2 have lost their earning son in an untoward incident which has taken place. However, the Railway Claims Tribunal rejected the claim on the ground that, claimants failed to prove the deceased was bonafide passenger and his death is caused an untoward incident. All the appellants are resident of Nandre Bk, Tq. Jalgaon, District Jalgaon, Maharashtra which is at a distance of more than 500 kms from the Nagpur.

10. On the affidavit, it is submitted all the appellants are the illiterate persons and not aware about legal provisions. Considering the reasons mentioned in the application, admittedly, they have lost their son in the

untoward incident. The appellants are entitled for compensation or not is the matter of evidence and evidence can be appreciated, after admitting the appeal and after giving an opportunity to the appellants. Appellants are claiming the compensation under the provisions of beneficial legislation to prefer an appeal is a statutory right of the appellants.

11. Merely for the technical grounds that, right cannot be taken away and appellants cannot be deprived of by filing the appeal. In view of the reasons mentioned in the application, it seems that, delay is not intentional one. There is justifiable grounds for condonation of delay. Moreover, it is well settled that while considering the delay condonation application, liberal approach is to be taken and not the pedantic approach.

12. In view of that, considering the compensation is claimed under the beneficial legislation which is denied by the Railway Claims Tribunal. Appellants be permitted to file an appeal, in view of that delay is condoned. Subject to waiver of the interest, if appellants succeed in the appeal.

Civil application is disposed.

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1. Appeal be registered.
2. Call for record and proceedings.
3. Private paper book is dispensed with.

4. After receipt of record and proceedings, place the matter after four weeks for final hearing.

JUDGE