

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

CIVIL APPLICATION (CAF) NO.202 OF 2023
IN
FIRST APPEAL STAMP NO.21142 OF 2022

Jyotsna wd/o Shamkant Patil

Vs.

Union of India through General Manager, Central Railway, CST Mumbai

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

Court's or Judge's orders

Mr. R. G. Bagul, Advocate for the appellant.

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

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/02/2023

1. By this application, the appellant is seeking 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 had filed the claim application on account of death of Bhushan Hiranman Patil in untoward incident, when he was travelling from Nashik road to Chalisgaon by obtaining the railway ticket. However, the Railway Claims Tribunal, Nagpur dismissed the claim, and therefore said order is challenged by the appellant in this appeal.

3. The appellant is a widower sister of the deceased and she was dependent on the deceased. She comes from poor strata of the society. She was not

aware about the legal provisions, and therefore she could not approach to the counsel and not filed an appeal within time. There is delay of 113 days in filing the appeal. The delay is not intentional one. It is further contention that due to the dismissal of the application for compensation, she has no source of income. She has also lost her brother who was earning member in the family. Considering the same, delay be condoned and she be permitted to litigate the cause on merits.

4. The said application is strongly opposed by learned Advocate Ms. Neerja Chaubey for the respondent on the ground that the delay is not properly explained. Hence, application deserves to be rejected.

5. Heard both sides. Perused the application.

6. It is apparent that appellant had filed claim application before the Railway Claims Tribunal, wherein also she has contended that she is the widower sister of the deceased. Deceased was the only earning member in the family who died in an untoward incident. Railway Claims Tribunal has dismissed the claim after recording the evidence and said award is under challenged in this appeal.

7. Appellant is the illiterate lady and not aware about the legal provisions. Moreover, the nature of the legislation under which she has claimed compensation is beneficial legislation.

8. Considering all these aspects, delay be condoned by permitting the appellant to litigate her

cause on merits. Moreover, it is well settled law that while considering the delay application liberal approach is to be taken. In view of that, delay of 113 days is condoned.

9. Appeal be registered.
10. Civil Application is disposed of.

FIRST APPEAL OF

1. **Admit.**
2. Learned Advocate Ms. Chaubey, waives notice for respondent.
3. Call for record and proceedings.
4. Appeal be placed for final hearing after receipt of the record and proceedings.

(URMILA JOSHI-PHALKE, J.)

Sarkate