



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

FIRST APPEAL NO. 908 OF 2024

Ganesh Ramrao Daberao and one another
..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. P. U. Kavishwar, Advocate for appellants.
Ms. Neerja Chaubey, Advocate for respondent.

CORAM : SANJAY A. DESHMUKH, J.

DATED : 06th SEPTEMBER, 2024

1. This is an appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, read with Section 96 of the Code of Civil Procedure.
2. The appellants have challenged the order dated 02.05.2024, passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur in MA/NGP/05/2024 rejecting the application filed for condonation of delay 1113 days caused for filing application for compensation before the Railway Claims Tribunal, Nagpur.
3. The application was heard on merit and it was rejected by the Tribunal by an order dated 02.05.2024.
4. Heard learned Advocate for the appellants and the learned Advocate for the respondent.
5. Learned Advocate for the appellants pointed out the grounds mentioned in the application and submitted that the

reasons of the learned Railway Claims Tribunal are not legal and correct. He lastly submitted that Tribunal has took a strict view while dealing with the application for condonation of delay.

6. He is relying upon the judgment of this Court in the case of *Manoranjana s/o. Haripada Pradhan and another Vs. Union of India*, reported in *2017(1) Mh.L.J. 163* in which law is laid down that the substantial justice is the basis for deciding such application for condonation of delay. It is lastly prayed to allow the appeal.

7. Learned Advocate for the respondent Ms. Neerja Chaubey has strongly opposed the application and submitted that the delay is not properly explained. No sufficient cause is shown to allow the application for condonation of delay. The reasons and the findings given by the Railway Claims Tribunal are legal and correct. There is no illegality and perversity. It is lastly prayed to dismiss the appeal.

8. Perused the application as well as impugned order passed by the Railway Claims Tribunal.

9. The grounds of application are that the applicant No.1 is son of the deceased-Ramrao Daberao doing the labour work and another applicant No.2 is daughter being household lady. Due to untimely death of their father, they were deep sorrow and sad. The applicants are not aware about the legal procedure of claim therefore, they could not filed the claim within limitation. The untoward incident was took place on 20.12.2019. After the incident, there was lockdown since

23.03.2020 to 03.10.2021 and as per the order of Hon'ble Supreme Court in Misc. Application No.655/2021, dated 23.09.2021, the applicants were unable to file the claim within limitation. In view of that the applicants could not collect the required documents for filing the claim. Due to Covid-19 the applicants could not contact their Advocate for proceeding further for filing the claim application and delay of 2 years 3 months and 5 days was caused. The contention of the appellants is that in the condonation application delay of 2 years 3 months and 5 days was incorrectly mentioned, however, it ought to have 1 year 1 month and 4 days. The applicants have prayed that condoned the delay.

10. The applicants have lost their father in the alleged mishap. They are illiterate residing in the remote villages therefore, time was required to collect the documents. Thereafter, there was Covid-19. These are believable and sufficient reasons. The Tribunal has to take liberal view while dealing the application. Further, the Railway Act is social and beneficial legislation and it is meant for providing compensation to the victim. Thus, on the ground of delay the applicants cannot be deprived from their valuable rights to get compensation. There is no contrary evidence to show that delay was caused intentionally.

11. The record does not show that the delay is deliberately caused. The applicant No.1 poor and labour, applicant No.2 is married daughter and both are residing in rural areas. Therefore, the reasons given by the Railway Claims Tribunal are not found justifiable for rejecting the application for

condonation of delay. The Railway Tribunal failed to consider the application in its proper perspective and came to wrong conclusion by not exercising judicial discretion to condone the delay. Sufficient cause for condoning the delay are pleaded in the application. Therefore, the application deserves to be allowed in the interest of justice. The order passed by the Railway Tribunal deserves to be set aside.

12. Thus, the appeal is **allowed** and the delay of 1113 days caused for filing claim application, before the Railway Claims Tribunal, is condoned.

13. The application be registered accordingly.

14. The appellants shall inform the Railway Claims Tribunal accordingly.

15. The Railway Claims Tribunal is directed to decide the claim application as expeditiously as possible on merit.

16. The appeal stands disposed of

(SANJAY A. DESHMUKH, J.)