



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 1082 OF 2023

APPELLANTS :

(Or. Applicant on R.A.)

1. Baikunth s/o Lalmani Nag,
Aged about 70 yrs. Occu. Retired.
2. Sukanti w/o Baikunth Nag,
Aged abt 68 yrs. Occu : Home maker

Both R/o Diesel Colony, near Shiv
Mandir Bonda munda, Sundergarh,
Odisha : 770032.

V E R S U S

RESPONDENT :

(Ori. Resp. on R.A.)

Union of India,
through its General Manager,
South-East Central,
Bilaspur (Chattisgarh).

Smt. Priya Thakre, Advocate for appellants.
Shri C. J. Dhumne, Advocate for respondent-sole.

CORAM:- SANJAY A. DESHMUKH, J.
DATED : 22/07/2024.

ORAL JUDGMENT :

1. **Admit.** Heard finally with the consent of learned counsel appearing for the parties.
2. The appellants have prayed to condone the delay of 1120 days caused for filing the claim application. Perused the Appeal Memo and the impugned order of the Railway Tribunal along with the application for condonation of delay.
3. Learned advocate for the appellants submitted that appellants are illiterate and shocked by the incident of death.

Therefore, the delay was caused. He submitted that due to the pandemic also, the applicants could not approach the advocates to file claim application. He lastly submitted to take liberal approach and allow the appeal.

4. The learned advocate for the respondent has strongly objected to condone the delay. He submits that sufficient reasons are not mentioned in the claim application. Hence, the application is rightly rejected.

5. The reasons of the applicants are not accepted by the learned Railway Tribunal and held that sufficient cause for allowing the application is not given in the claim application.

6. The first and foremost ground to condone the delay is that the parents of the deceased Rajesh Baikunth Nag who died in the railway accident. They were shocked by the incident of death of Rajesh Baikunth Nag. They are illiterate persons. They could not approach the advocate for filing claim application within limitation period. There was pandemic. It was also not considered by the Railway Tribunal as sufficient ground to condone delay.

7. It is well settled that delay has to be condoned in appropriate cases and in the interest of justice liberally. The High

Court in the case of Nishant Vrs. Union of India, reported in (2022) 6 MhLJ 160 held that the delay has to be condoned with liberal approach.

8. The grounds mentioned in the application for condonation of delay are sufficient and probable. The delay is not caused intentionally. The strict proof is not necessary in such cases and Court has to consider the reasons and grounds of delay liberally as sufficient grounds to end the lis finally on merit. Considering the nature of the proceedings, the status of the claimants that they are poor, having no financial support and lack of legal knowledge as well as they suffered shock due to death of son of the appellants, the application ought to have allowed by the learned Tribunal in the interest of justice. The findings of the learned Tribunal are not found legal and correct. The impugned order deserves to be set aside. The appeal deserves to be allowed to end lis finally on merit. Hence, the following order :-

ORDER

- i] The appeal is allowed. The impugned order is set aside. Delay caused for filing the claim application before the learned Railway Tribunal is condoned.
- ii] The accident took place on 06/03/2017. The notification for awarding interest is of 1st January, 2017. Therefore, the appellants will not be entitled for

interest for delayed period of 1120 days if their application for compensation is allowed.

iii] Considering the old incident of death of son of the appellants, it would be proper to direct the Railway Claims Tribunal, Nagpur Bench, Nagpur to decide the claim application within six months from the receipt of copy of this Judgment. The appellants to produce copy of this Judgment before the Railway Tribunal forthwith.

iv] The appeal is disposed of accordingly.

[SANJAY A. DESHMUKH, J.]