



C.M.A.No.812 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.812 of 2023

1. Valliyammal
2. Gurusamy
3. Ganesh Kumar
4. Velmurugan
5. Padmini
6. Pandiarajan
7. Palani Kumar
8. Moorthi

... Appellants

Vs.

Union of India
Owned Southern Railway,
Rep. by its General Manager,
Chennai.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 23(1) of Railways Claims Tribunal against the order passed by the Railways Claims Tribunal, Chennai Bench in IA/MAS/08/2022 dated 27.09.2022.

For Appellants : Mr.S.Parthasarathy

For Respondent : Mr.M.Sathyan

JUDGEMENT



C.M.A.No.812 of 2023

WEB COPY This Civil Miscellaneous Appeal has been filed by the appellants, against the order passed by the Railways Claims Tribunal, rejecting to condone the delay of 1810 days in filing the claim petition for compensation before the Railways Tribunal.

2. On 14.04.2016, when the deceased namely Nagammal, who is the mother of the first and second appellants, was travelling in Guruvayur Express, when the said train reached Virudachalam Railway Station, the said Nagammal got down from the train for purchasing food and water bottle. After purchasing the things, while the deceased was attempting to board the train, at that time, the said train suddenly started moving, result of which, the deceased fell down from the moving train in between platform and track and she had succumbed to death.

3. The appellants, who are the legal heirs of the deceased, approached the Railway Tribunal for compensation and since there was delay, they filed an application in IA/MAS/08/2022, seeking to condone the same. By order, dated 27.09.2022, the Railways Tribunal, rejected the application.



C.M.A.No.812 of 2023

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Questioning the same, the appellants have come forward with the present appeal.

4. The learned counsel for the appellants submitted that, the accident had occurred on 14.04.2016 and the limitation period for filing an application before the Railways Tribunal comes to an end on 13.04.2017. However, the appellants filed an application before the Tribunal on 29.03.2022 and the same was rejected by the Railway's Tribunal on the sole ground that the delay has not been sufficiently explained. The learned counsel relied upon the directives of the Hon'ble Supreme Court issued during Covid-19 pandemic, by which, the period from 15.03.2020 till 28.02.2022 was excluded for the purpose of limitation and the remaining delay is quantified around three years. The learned counsel would contend that even though the appellants herein have assigned cogent reasons for the delay in filing an application, unfortunately, the Tribunal has not considered and erroneously rejected the application, which requires interference in order to render substantial justice to the parties.

5. According to the learned counsel for the appellants, the



C.M.A.No.812 of 2023

WEB COPY

appellants could not collect the vital documents, viz., Aadhaar Card, Pan Card, Smart Card, Bank Pass Book and other documents in time. After obtaining the death certificate of deceased Nagammal, the second claimant brother's wife namely Padmini approached Tashildar, Madurai West for getting Legal Heir Certificate of deceased Nagammal in the month of March 2017. Pursuant to which, the concerned Tashildar issued Legal Heir Certificate on 02.05.2017. However, in the said legal heir certificate, the first appellant's sister status was not mentioned as died on 12.04.2010. Therefore, the said Padmini, again approached District Revenue Officer, Madurai on 22.12.2017, who in turn directed the concerned Tashildar to conduct enquiry and cancel the Legal Heir certificate and directed to issue fresh Legal Heir Certificate. After the receipt of the order from the District Revenue Officer, the concerned Tashildar issued fresh Legal Heir Certificate on 27.09.2018. After the receipt of the above Legal Heir Certificate, on 03.01.2019, the second appellant approached the Railways Police, Virudachalam to get the relevant documents pertaining to the accident, but, they have not given proper reply, and finally the appellants obtained the documents on 21.06.2021 through RTI Act. However, as the documents received from the Police are not clearly visible, the second appellant approached the Deputy



C.M.A.No.812 of 2023

Superintendent of Police and got the same in the month of February 2022.

Hence, the learned counsel would submit that the delay is neither willful nor wanton, but due to the authorities providing the documents belatedly.

6. Heard the learned counsel for the appellant and perused the materials available on record.

7. On perusal of the records, the reasons assigned by the appellants towards delay are that right from the demise of first and second claimant's mother, the appellants have been consistently approaching the authorities to collect the documents and there happened considerable delay in getting the documents. Further, owing to Covid-19 pandemic, the Hon'ble Supreme Court has issued directives to all the statutory authorities and legal forums to exclude the period 15.03.2020 till 28.02.2022 for the purpose of limitation. Therefore, this Court is of the view that the appellants have satisfactorily explained the reasons for the delay and accordingly, this Court is inclined to condone the delay while setting aside the order passed by the Railways Tribunal.

8. In similar circumstances, this Court in the case of “*Sultana vs.*



C.M.A.No.812 of 2023

WEB COPY

The Union of India owing Southern Railway, rep. by its General Manager” (C.M.A.No.2124 of 2015 dated 04.12.2017) and also in the case of “*Adhilakshmi vs. The Union of India owing Southern Railway, rep. by its General Manager*” reported in 2016(3) CTC 268, has condoned the delay of 2738 and 1826 days respectively.

9. Accordingly, the order dated 27.09.2022 passed in IA/MAS/08/2022 is set-aside and the application in IA/MAS/08/2022 stands allowed. The Railway Claims Tribunal/respondent is directed to number the appeal and proceed with the matter in accordance with law.

10. With the above observations, this Civil Miscellaneous Appeal is allowed. No costs.

04.03.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. Union of India
Owned Southern Railway,



C.M.A.No.812 of 2023

Rep. by its General Manager,
Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras.



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C.M.A.No.812 of 2023

Krishnan Ramasamy,J.,

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C.M.A.No.812 of 2023

04.03.2024