

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

135/18

FAO-1854-2021**Date of Decision : 25.10.2024****Sweety Soni****..... Appellant****versus****Union of India****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Atul Bhatia, Advocate
for the appellant.

Mr. Bharat Bhushan Sharma, Senior Panel Counsel,
for the respondent-UOI.

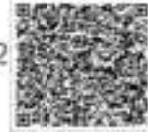
PANKAJ JAIN, J. (Oral)

1. The appeal is directed against award dated 02.02.2021 whereby the claim petition filed by the injured-claimant has been dismissed being barred by time.

2. Claimant filed claim application seeking compensation on account of injury/disability suffered by her on account of an untoward incident during her journey from Jind to Budlada while travelling in train No.54641 Delhi-Ferozepur Passenger. The claim petition was filed only on 21.07.2020 i.e. after delay of more than 06 years. The claim petition has been dismissed being barred by time.

3. Counsel for the appellant while assailing the impugned award submits that despite the fact that the delay was sufficiently explained in the claim petition, Tribunal erred in dismissing the claim petition without appreciating the grounds on which the delay was sought to be condoned.

He submits that for more than 05 years, statement of the claimant could



not be recorded by GRP Budlada, even though she was under regular treatment before the Government hospitals including Civil Hospital, Budlanda, Civil Hospital Mansa and PGIMER, Chandigarh. Her statement was recorded by GRP, Budlada only on 22.04.2019. After Investigating Officer, GRP Budlanda recorded the statement of the appellant, the same was verified by rapat roznamcha of the same day. However, Tribunal while dismissing the claim petition filed by the appellant has totally ignored the aforesaid pleadings.

4. *Per contra*, counsel appearing on behalf of UOI submits that there is inordinate delay of more than 06 years. Beyond 05 years, the record is not maintained and thus Tribunal has rightly dismissed the claim petition filed by the appellant being barred by time. In order to substantiate his plea, he relies upon judgment passed by this Court in ***Premo Devi vs. Union of India*** reported as **(2017) 5 RCR (Civil) 363**.

5. I have heard counsel for the parties and have carefully gone through the records of the case.

6. Limitation to admit an application for claim under the Railways Act is governed by Section 17 of the Railways Claims Tribunal Act, 1987. The same reads as under:-

“17. Limitation .-(1) The Claims Tribunal shall not admit an application for any claim-

(a) under sub-clause (i) of clause (a) of sub-section (1) of section 13 unless the application is made within three years from the date on which the goods in question were entrusted to the railway administration for carriage by railway;

(b) under sub-clause (ii) of clause (a) of sub-section (1) or, as the case may be, sub-section (1-A) of section 13 unless the application is made within one year of occurrence of the accident;



(c) under clause (b) of sub-section (1) of section 13 unless the application is made within three years from the date on which the fare or freight is paid to the railway administration: Provided that no application for any claim referred to in sub-clause (i) of clause (a) of sub-section (1) of section 13 shall be preferred to the Claims Tribunal until the expiration of three months next after the date on which the intimation of the claim has been preferred under section 78-B of the Railways Act.

(2) Notwithstanding anything contained in sub-section (1), an application may be entertained after the period specified in sub-section (1) if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period.”

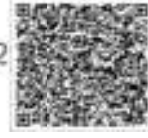
7. Though Section 17(1)(b) prescribes limitation of 01 year for filing application seeking compensation on account of occurrence of an accident, but the same is sub-servant to provision as contained under Section 17(2). Section 17(2) has an overriding effect over sub-section 1 and the same clothes claim Tribunal with the power to condone delay in filing the claim in case it is satisfied that the claimant has sufficient cause for not making the application within the period prescribed.

8. In view of above, the precise question that arises is:

(i) Whether the claimant has made out sufficient cause for condonation of delay or not?

9. The pleading raised in the claim petition reads as under:-

“That the applicant injured is a housewife. On 30.09.2012, the applicant was coming to her home from Jind to Budlada on train no. 54641 Delhi-Ferozepur passenger. She was travelling along with her brother Rahul. Rahul purchased the ticket from Railway Station Jind to Budlada and handed over the same to his sister Sweety Soni. There was a heavy rush in the train no.54641. When the train no.54641 UP Passenger reached at Railway Station Budlada then while de-boarding the train the foot of the applicant slipped due to which she fell down and her right leg got entangled between the platform and the train. And



on the spot her right leg received crushed injury. The family of the applicant got her admitted to Civil Hospital in Budlada. Thereafter she was referred to Civil Hospital Mansa and later on she was got admitted to PGI Chandigarh. Due to the incident right leg of the applicant got amputated below the knee. The journey ticket of the applicant and her brother which the applicant was carrying got lost in the incident due to the impact which applicant received after falling down from the train. The applicant kept undergoing treatment in PGI Chandigarh for many days. But no Information could be given to the GRP Police of Budlada that she was in PGI Chandigarh and hence her statement could not be recorded earlier by GRP Budlada. The applicant after many years came to know that she has the right of filing the claim application and on 22.04.2019 she narrated the whole incident to the GRP Budlada and the Investigating Officer, GRP Budlada went through the previous record of the case including the Rapat Roznamcha and also inquired from the applicant and verified that the applicant Sweety Soni is the same person who got injured in untoward incident on 30.09.2012. Consequently, the statement of the applicant Sweety Soni was recorded by the GRP Budlada on 22.04.2019.

The right leg of the applicant was amputated below knee due to crushed injury received in the untoward incident by falling down from the train. The applicant was a bona fide passenger and her journey ticket and journey ticket of her brother from Railway Station Jind to Budlada were lost in the incident due to the impact which applicant received after falling down from the train.”

10. Claimant was an 18 year old housewife who met with an untoward incident leading to amputation of her right leg below knee. She was continuously undergoing treatment at Civil Hospital, Budlada. Thereafter, Civil Hospital Mansa and thereafter at PGIMER, Chandigarh. She has specifically claimed that it was only on 22.04.2019 when her statement was recorded by GRP, Budlada that she came to know that she had a right to claim compensation.



11. Unfortunately, Tribunal while dismissing the claim petition filed by the claimant has not even looked at the aforesaid plea raised by the claimant. Chapter XII of Railways Act, 1989 is a piece of beneficial enactment. The purpose is to compensate the victims for the sufferings owing to railway accidents/untoward incidents while travel by railways. There is no third party interest that arises with the lapse of time. Thus, the Courts/Tribunal need to be more compassionate in dealing with the petition claiming compensation. Plausible explanation of delay needs to be accepted as a norm until there are malafides attributable to the claimant.

12. Finding that the ground pleaded by the claimant seeking condonation of delay was sufficient, the present appeal is allowed. The matter is remanded back to the Tribunal to adjudicate the claim petition filed by the appellant-claimant on merits. Parties to appear before the Tribunal on **25.11.2024**.

13. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

25.10.2024
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes