



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

FIRST APPEAL NO. 69 OF 2025

Mrs. Rajibai @ Rajimbai w/o Rajkumar Banjare
Aged about 37 years, Occ. Labour,
R/o. Gram Khari, Post : Salouni,
Tah. Palari, Dist. Baloda Bazar
(C.G.)

}

... Appellant

Versus

Union of India
Through its General Manager,
South Eastern Central Railway,
Bilaspur (C.G.)

}

...Respondent

Mr. Azmat I. Shah, Advocate for appellant.

Ms. Neerja G. Chaubey, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.
DATE : 12.02.2025.

ORAL JUDGMENT:

Heard finally by consent of both the learned counsel for the parties.

(2) The present appellant have filed a claim petition under Section 16 of Railway Claims Tribunal Act, 1987 seeking compensation on account of sad demise of her daughter late Ms. Kranti d/o Rajkumar Banjare, who died in an untoward railway accident on

15.12.2012. The said application came to be dismissed for want of prosecution vide order dated 28.03.2016. Since the application was dismissed for want of prosecution a restoration application was filed, in which, there was a delay of around 2 years 4 months and 9 days. A separate application was filed seeking condonation of delay. The application for condonation of delay was registered as No.NA/NGP/0062/2018 and the application for restoration was registered as Restoration Application Nos.RES/NGP/0005/2018. The application for condonation of delay in filing restoration application is rejected vide order date 28.09.2018 against which the present appeal is filed.

(3) The applicant has stated that after the claim petition was filed in August 2013, her husband Rajkumar Bisram Banjare had left the residential house somewhere in January 2014. He was not found for a considerable period of time and not even heard by person, who would normally have heard about him or seen him. She had lodged a missing report with the concerned police station on 11.09.2017 vide Missing Person No.72/2017. She states that she is an ill-literate woman residing in a remote village in Chattisgarh, which is

a distance of around 600 kilometers from Nagpur. She contends that there was a communication gap between her and her Advocate, as a consequence of which, she could not the persons be appraised about the steps to be taken in the matter for prosecution in the claim petition and for the same reason, she was also not aware about the dismissal of the claim petition in default.

(4) The learned counsel submits that the applicant is a poor, destitute and illiterate lady who has lost her daughter and her husband is also missing and is not seen or heard for a period of around ten years. She, therefore, submits that the application for condonation of delay in filing restoration application should have been construed liberally and the delay in filing restoration application ought to have been condoned. She also submits that the compensation awarded in railway accident cases is a meagre amount of compensation and since, the death of daughter of the applicant is occurred prior to 01.01.2017, the applicant will also not be entitled for interest on the amount of compensation. He therefore, places reliance upon the judgments of this Court in the matter of *Sulochana w/o Rajkumar Katre Vs. Union of India*, reported in *2018 (4) Mh.L.J. 758, Manoranjan Pradhan and*

Ors. Vs. Union of India, reported in **2016 (6) ALL.M.R. 561** as well as the judgment of the Hon'ble Supreme Court in SLP (Civil) No.24443/2024 in the matter of ***Kumari Sahu vs. Bhubananada Sahu and others, dated 31.01.2025***, to contend that the delay should be condoned in the interest of justice.

(5) *Per contra*, Ms. Chaubey, learned counsel for the respondent strongly opposes the application. Referring to the order passed by the learned Tribunal, she points out that the case was posted for evidence of the applicant on 12.09.2014 and thereafter, the learned Tribunal has granted accommodation, liberally by placing the matter for evidence of the applicant from time to time on 23.01.2015, 16.06.2015, 12.10.2015, 12.01.2016. She contends that despite so many chances granted to the applicant did not lead evidence in the matter, as a consequence of which, the application was dismissed in default on 28.03.2016. She, therefore, contends that the appeal is without any substance and deserves to be dismissed.

(6) I have given consideration to the rival submissions. I find that the applicant is an illiterate lady residing in the remote area in the State of Chhattisgarh, which is at a distance of approximately

600 kilometers from Nagpur, where the claim was being prosecuted. The applicant has lost her daughter, who was around 11 years old at the time of her accident. The husband of the applicant has also gone missing and is not found. In such circumstances, although the action by the learned Tribunal of dismissing the matter for want of prosecution be said to be wrong, in my considered opinion, when the applicant finally intends to prosecute the matter, she should have been given an opportunity to prosecute the claim. The judgments relied upon by the learned counsel for the applicant deal with a similar situations. The delay has been condoned in the judgments relied upon by the learned counsel, having regard to the social status and poverty of the applicant seeking condonation of delay in those cases. The present case is of a mother seeking compensation of account of sad demise of her daughter. The compensation to be awarded is a fixed amount of compensation without any interest. It is obvious that the applicant has not benefitted in any manner whatsoever on account of the delay in filing restoration application is willful or benefitted. Therefore, having holistic approach to the controversy involved in the matter, delay caused in filing application for restoration of the claim petition needs to be condoned in the interest of justice.

(7) With the result, the impugned order dated 28.09.2018 passed by the learned Railway Claims Tribunal, Nagpur Bench, Nagpur in Claim Application No.MA62/2018 in Claim Application No.244/OA-II-RCT-NGP/2013 is quashed and set aside. The Claim Application No.MA62/2018 in Claim Application No.244/OA-II-RCT-NGP/2013 is allowed. The parties are directed to appear before the Railway Claims Tribunal on 05.03.2025. Parties to take note that fresh notice will not be issued for appearance since date of appearance is already fixed. The learned Railway Claims Tribunal, Nagpur is directed to decide the Restoration Application No. RES/NGP/0005/2018 within a period of four months from date of appearance of the parties. The appeal is disposed of accordingly. No order as to costs.

[ROHIT W. JOSHI, J.]

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