



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

CIVIL APPLICATION (CAF) NO. 3482 OF 2024

IN

FIRST APPEAL (ST) NO. 22030 OF 2024

Smt. Bhagarta wd/o Nango Mandhare and ors.

Vs.

Union of India, thru. Its General Manager, South East Central Railway, Bilaspur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.B. Dhande, Advocate for applicants.

Ms. Neerja Chaubey, Advocate for respondent.

CORAM : ROHIT W. JOSHI, J.

DATE : 12.02.2025.

The present applicants had filed a petition under Section 124-A of the Railways Act, seeking compensation on account of demise of their father in the railway accident. The petition has been rejected by the learned Railway Claims Tribunal vide judgment dated 19.01.2016. The applicants have filed appeal as provided under Section 23 of the Railways Claims Tribunal Act, 1987. However, there is a delay of 2414 days in filing the appeal. The present application is filed seeking condonation of the said delay.

2. The learned counsel for the applicants contends that the applicants are poor persons residing in remote areas. They were not appropriately advised in the matter to file appeal before this Court. They also contend that the copy of the judgment passed by the learned Tribunal was not supplied to them. The judgment was delivered on 19.01.2016. Going by the averments in the application, the applicants have contacted their counsel in the month of May 2024 i.e. after a period of over eight years making inquiries about the outcome of the claim petition. They allege that the Advocate did not inform about the decision of the case and after that, a certified copy of the impugned judgment was obtained in July 2024, after which, they approached the Advocate at Nagpur to file the first appeal.

3. The learned counsel for the respondent vehemently opposes the application. She contends that although the issue of delay is considered liberally, delay cannot be condoned merely for the asking. Referring to the averments in the application, she contends that the averments do not inspire confidence and it will be inequitable to condone the delay, in the light of such averments.

4. I am convinced with the submissions advanced by the learned counsel for the respondent that the delay is not properly explained. In any other matter of civil dispute, the application would have been certainly rejected in the light of reasons that are mentioned in the application. However, having regard to the fact that the present matter arises out of claim for compensation on account of sad demise of a person in railway accident, I am of the considered opinion that the appellants should not be deprived of right to file appeal. A fixed amount of Rs.8,00,000/- only is provided towards compensation under the Railway Claims Rules. Since, the accident has occurred prior to 01.01.2017, the applicants would also not be entitled for any interest on the amount of compensation, which by itself well balance the equities.

5. In that view of the matter, in my considered opinion, one opportunity should be granted to the applicants to enable them to assail the findings recorded against them by the learned Tribunal. The right of appeal is a substantive right, which should not be taken away. Although the delay is not properly explained, I am inclined to condone

the delay, having regard to the nature of proceedings, the delay is condoned.

6. The application is **allowed** by condoning the delay.

First Appeal (ST) No.22030/2024

Heard.

2. **Admit.**

3. Call for record and proceedings.

4. Ms. Chaubey, learned counsel waives notice of hearing on behalf of respondent.

5. Filing of private paper-book is dispensed with.

(ROHIT W. JOSHI, J.)