



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

**FIRST APPEAL NO. 1073 OF 2025**

1. Smt. Dhanvarti Wd/o. Rajnath Ram,  
Aged about 46 years, Occ. Household
2. Ku. Punam D/o. Rajnath Ram,  
Aged about 26 years, Student,
3. Jayprakash S/o. Rajnath Ram,  
Aged about 24 years, Student,
4. Omprakash S/o. Rajnath Ram,  
Aged about 19 years, Student,
5. Ku. Aarti D/o. Rajnath Ram,  
Aged about 18 years, Student.

All R/o. Nasirpur Hamirchak, Tah.  
Saidpur, Dist. Ghajipur, U.P.

**. . . APPELLANTS**

**// VERSUS //**

Union of India through  
its General Manager,  
Central Railway, CST, Mumbai.

**. . . RESPONDENT**

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Shri S. B. Dhande, Advocate for appellants.  
Ms. Neerja Choubey, Advocate for respondent.  
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**CORAM :- M. W. CHANDWANI, J.**

**DATED :- 26.09.2025**

**ORAL JUDGMENT :-**

Heard.

2. **Admit.** By consent of the parties the matter is taken up for final hearing.

3. The appeal challenges the order dated 10.10.2024 passed by the Member, Railway Claims Tribunal, Nagpur Bench, Nagpur (for short, “the Tribunal”) in Case No. MA/NGP/34/2024 rejecting the application of the appellants for condonation of delay in preferring the application for restoration of the claim petition, which was filed before the Tribunal vide Case No. OA(llu)/NGP/2015/173. The said claim petition was dismissed by the Tribunal for non-prosecution vide order dated 07.04.2017.

4. The appellants, who are the dependents of deceased- Rajnath Ram, who died in a railway accident on 01.02.2013, filed an application before the Tribunal for condonation of 2555 days contending that they are residents of village Nasirpur, Tah. Saidpur, Dist. Ghajzipur in the State of Uttar Pradesh, which is almost 820 kms. away from Nagpur.

5. After filing of the claim petition, the appellants could not get any information about the pendency of the claim petition; therefore, the appellants and their relatives came to Nagpur on 09.05.2019 to meet their Advocate, but he was not found and

therefore, they went back to their hometown. It is also contended that thereafter, in the year 2020, the Covid-19 pandemic commenced. After the pandemic period was over, the appellants again came to Nagpur and met their Advocate, who informed them that their case was dismissed in default and assured them that he would get it restored; however, nothing was done.

6. In the month of April-2023, appellant no. 1 met one Radhe Sham Yadav from her village, who contacted Advocate Choudhary and the certified copy of the order was sought. Thereafter, the applications for condonation of delay and restoration of the appeal came to be filed. The Tribunal rejected the application for condonation mainly on the ground that there is a long delay and there is no explanation given by the appellants for the period excluding the pandemic period. The Tribunal has also recorded that though grant of compensation is a welfare legislation but there has to be sufficient reasons for condoning the delay. No sufficient cause was shown by the appellants for the delay in filing the application.

7. It appears that the Tribunal failed to consider the legal position that the length of delay is immaterial when there is sufficient cause that prevented the appellants from taking action in the matter. Evidently, the Tribunals in the entire State of Maharashtra are only

established at Nagpur and Mumbai. It is also worth mentioning that the appellants are residents of a small village called Nasirpur, Tah. Saidpur, Dist. Ghajzipur in the State of Uttar Pradesh. Appellant nos. 2 to 5 are children of deceased- Rajnath, who were minors at the time of the accident whereas appellant no. 1 is the widow of deceased- Rajnath and is illiterate. They have specifically mentioned in the application that they were dependent on their Advocate regarding the case.

8. Judicial note can be taken of the fact that in the proceedings before the Tribunal, parties are not required to attend each and every date and it is the Advocate who has to appear regularly before the Tribunal. It is also not to be forgotten that Covid-19 pandemic took many lives in the entire country. The appellants have mentioned in the application that appellant no. 1 is a helpless widow, who visited Nagpur all the way from Uttar Pradesh, not once but twice in connection with the case. On the first occasion, she could not meet the Advocate and on the second occasion, she was informed about the dismissal of the claim petition for non-prosecution with an assurance from the Advocate that he will get it restored but, that was not done.

9. The scheme of compensation to a dependent of a deceased, who died in an untoward incident is a beneficiary scheme.

Considering this, the person who is entitled for compensation under the scheme cannot be deprived of the same for some technical reasons. Therefore, considering the reasons mentioned in the application and other attending circumstances, a case is made out for condoning the delay in preferring the restoration application. So far as the delay part is concerned, the respondent cannot be put to loss therefore, the appellants shall not be entitled to the interest for the delayed period. Hence, I proceed to pass the following order:-

- i) The appeal is allowed.
- ii) The order dated 10.10.2024 passed by the Member, Railway Claims Tribunal, Nagpur Bench, Nagpur in Case No. MA/NGP/34/2024 rejecting the application of the appellants for condonation of delay in preferring application for restoration of the claim petition is set aside and the application is allowed.
- iii) The matter is remanded back to the Tribunal to consider the application of the appellants for restoration of the claim petition. Needless to mention that if the appellants succeed, they are not entitled for the interest on compensation for the delayed period.

(M. W. CHANDWANI, J.)