



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

FIRST APPEAL NO. 1269 OF 2024

1. Sapna Dinesh Gupta, Aged 34 years, Occ: P. Service.
2. Niyati Dinesh Gupta, Aged 11 years, Occ: Education.
3. Tilak Dinesh Gupta, Aged 6 years, Occ: Nil.

(Appellant nos.2 and 3 through their natural guardian mother, the Appellant no.1-Sapna Dinesh Gupta)

All R/o Bajarang Chowk, Surendragarh, Nagpur.

4. Mahesh Shyamlal Gupta, Aged 56 years, Occ: Labour.
5. Maladevi Mahesh Gupta, Aged 52 years, Occ: Labour.

Both R/o Ramatliya, Linepar near Ram Mandir, Muradabad, Uttar Pradesh – 244001.

APPELLANTS

VERSUS

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

RESPONDENT

Ms Shilpa G. Barbate, counsel for the appellants.
Ms Ashwini Athalye, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 14, 2025

ORAL JUDGMENT

ADMIT. Heard finally with the consent of the learned counsels for the parties.

2. The appellants have challenged the order dated 05.10.2023 passed by the Railway Claims Tribunal, Nagpur rejecting the application for condonation of delay in filing the claim petition before the Railway Claims Tribunal and resultant dismissal of the claim petition.

3. The appellant no.1 is a widow, appellant nos.2 and 3 are children and appellant nos.4 and 5 are the parents of deceased Dinesh Mahesh

Gupta. Dinesh expired in a railway accident on account of alleged untoward incident dated 17.09.2018. It is the case of the appellants that on 17.09.2018, deceased Dinesh was traveling by Shalimar Express from Itwari Road to Bhandara Road with a valid journey ticket and during journey, the deceased fell down from the train at Kalamna Railway Station platform no.3 near KN1124-9 Line no.3 and in this accident he died on the spot. On 18.09.2018 the railway police station Itwari District Railway Nagpur has registered accidental death report no.21 of 2018 under Section 174 of the Code of Civil Procedure, 1973 in respect of accidental death of Dinesh. The police authorities informed the appellants about death of Dinesh. It is the case of the appellants that at the time of conduct of spot panchanama of the deceased a valid ticket from Itwari to Bhandara Road was found in the pocket of the deceased. On account of death of Dinesh in the alleged untoward incident, the dependents of the deceased i.e. wife, minor kids and parents who are appellants herein preferred application MA-NJP-35 of 2023 for condonation of delay in filing the claim petition for claiming compensation of Rs.8,00,000/- alongwith interest at the rate of 9% per annum from the date of accident. The respondent Railway Department opposed the application by filing a reply. By order dated 05.10.2023, the Tribunal rejected the application for condonation of delay and resultantly the appellants claim petition came to be dismissed. Feeling aggrieved by this order, the instant appeal under Section 23 of the Railway Claims Tribunal Act, 1984 is filed.

4. The learned counsel for the appellants submitted that the appellants have demonstrated sufficient cause for condonation of delay in their application by pointing out that the appellant no.1-widow of the deceased was pregnant at the relevant time and had given birth to the appellant no.3 and on account of sudden death of Dinesh, they were in mental shock. It is also stated that the appellant nos.4 and 5 are illiterate senior citizens residing in the remote village of Uttar Pradesh and they became aware about the provisions for filing claim petition in December-2018 and thereafter took steps to file the appeal. It is stated that in March-2019 they contacted a lawyer in Nagpur by name Advocate A.B. Bambal and handed over necessary documents which were collected from the police authorities. It is stated that the said advocate had expired in corona pandemic which fact was not known to the appellants after a long time and after getting knowledge about the same, they again collected necessary documents from police authorities and engaged a new lawyer, who ultimately filed the appeal along with application for condonation of delay. It is stated that during this process, the delay of 695 days occurred and they sought for condonation of this delay. It is submitted by the counsel for the appellants that the delay in filing the claim petition occurred on account of the reasons mentioned in the application for condonation of delay and it constitutes sufficient cause. In support of his submissions, learned counsel for the appellants placed reliance on the judgment of the Hon'ble Supreme Court in *Brahampal Alias Sammay & Another Versus National Insurance Company* [(2021) 6 SCC 512] and the judgment of the

Co-ordinate Bench of this Court in *Nishant Devrao Wasnik Versus Union of India* [First Appeal no.19 of 2020] and submitted that considering sufficient cause stated by the appellants in the application for condonation of delay, the Tribunal ought to have adopted a reasonable and pragmatic approach as the rejection of the application for condonation of delay results into dismissal of the claim petition and the appellants are deprived from their entitlements.

5. As against this Advocate Ashwini Athalye, counsel for the respondent-Union of India opposed the petition and submitted that the reasons mentioned in the application for condonation of delay do not constitute sufficient cause. She justified the order passed by the Tribunal and submitted that the reasons put forward for the condonation of delay are general in nature and the delay being inordinate the application deserved to be rejected.

6. Rival contentions thus fall for my consideration.

7. The challenge involved in the appeal is to the order rejecting application for condonation of delay resultantly rejecting the claim petition. The appellants who are dependents of deceased Dinesh are the residents of Uttar Pradesh and the accident had occurred at Kalamna Railway Station in Nagpur. While considering the reasons mentioned by the appellants in their application for condonation of delay about lack of knowledge to immediately file the claim petition cannot be brushed aside at the threshold. There is no reason to straightway disbelieve that the

appellant no.1 who is widow of deceased and was mother of two infants at the time of accident and the fact that the appellant nos.4 and 5, parents of deceased Dinesh being illiterate, the contention that they contacted a lawyer in March-2019 and the lawyer to whom the documents were submitted, had expired and therefore they were helpless and collected the documents again from the police authorities and engaged a new lawyer, also appears to be a reasonable explanation. The fact of death of Advocate A.B. Bambal during corona pandemic is not disputed. In view of totality of reasons mentioned by the appellants, there is no reason to completely disbelieve and brush aside the reasons. The reasons appear to be reasonable and genuine, particularly considering the fact that the appellants are illiterate and residing in remote village of Uttar Pradesh.

8. As regards the approach in dealing with the application for condonation of delay, while filing appeals seeking compensation, the position of law is settled in several judgments and considering the beneficial piece of legislation, the Tribunals are required to adopt a pragmatic and liberal approach. Reliance placed by the learned counsel for the appellants on the judgment in ***Brahampal Alias Sammay & Another*** (supra) is appropriate. Although this judgment is with respect to the claim petition under Motor Vehicle Act, 1988, the position of law as laid down needs to be applied even while considering a case for condonation of delay in filing appeal under the Railway Claims Tribunal Act, 1987. Relevant paragraph from the said judgment is reproduced below:-

“16. At this juncture, we need to interpret the term “sufficient cause” as a condition precedent for the granting of the discretionary relief of allowing the appeal beyond the statutory limit of ninety days. Although this Court has held that provisions of the Limitation Act, 1963 do not apply while deciding claims under the Motor Vehicles Act, but it is relevant to note that even while interpreting “sufficient cause” under the Limitation Act the courts have taken a liberal interpretation. This Court in Perumon Bhagvathy Devaswom v. Bhargavi Amma, observed that: (SCC pp.329-30, para 13).

“13. ... (I) The words ‘sufficient cause for not making the application with the period of limitation’ should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words “sufficient cause” in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant.”

9. The position of law with respect to an application for condonation of delay in filing appeal under the Railway Claims Tribunal Act, 1987 is also dealt with by the Co-ordinate Bench of this Court in ***Nishant Devrao Wasnik*** (supra) and relevant paragraph from said judgment is reproduced below:-

“26. A plain reading of Section 124-A indicates that an obligation is cast on the railway administration to pay the compensation prescribed to a passenger who has died or injured on account of an untoward incident in the course of working a railway. That the railway must fulfil its obligation to pay the compensation can also be gathered from the language of Section 125 of the Railways Act. Clause (b) of Section 125 of the Railways Act provides that an application may be made to the Claims Tribunal, even by any agent duly authorised by such person in this behalf apart from the other categories of person prescribed, obviously with the object that the victim or his dependents are entitled to the fruits of the compensation and that

the applicants/dependents should not be deprived from compensation merely on technicalities. The object obviously is that the compensation should reach the passenger or dependent of a victim in respect of such an untoward incident within the meaning of Section 124-A of the Railways Act.”

10. Having regard to the position of law that an obligation is cast upon the Railway Administration to pay the compensation to a passenger who died in an untoward incident and considering the beneficial nature of the provisions related to grant of compensation, the approach while considering the application for condonation of delay in claim petition has to be liberal. A pragmatic view is required to be taken while considering sufficiency of the cause since victims of railway accidents may belong to different strata of the society not necessarily having knowledge and awareness about taking diligent steps. In the instant case, the reasons for condonation of delay submitted by the appellants who are residents of remote place at Uttar Pradesh stating primarily that they were in mental shock and agony ought to have been considered in proper perspective. The appellants contentions that the lawyer to whom they had entrusted the papers, died during pandemic and consequent need to engage another lawyer to file the claim petition, in my opinion does not demonstrate any deliberate and intentional delay.

11. A perusal of the impugned order passed by the Tribunal shows that while considering the reasons for delay, the Court has observed that the reasons of ignorance, illiteracy and financial struggle are not at all convincing. As regards the reason about mental shock, the Tribunal has

observed that the applicants have not filed a single document or medical papers in support of this reason. Further, about the reason of death of the previous counsel and the requirement to search another counsel, it is rejected by observing that there is no documentary evidence in this regard. With these observations, the Tribunal has observed that the reasons are not convincing and by adopting a mechanical approach, the application for condonation of delay is rejected. As a result of rejection of the application for condonation of delay, the claim petition of the appellants is not registered and resultantly, they are deprived from raising any claim for compensation. In the facts and circumstances of this case, I am of the firm view that the approach of the Tribunal is improper. In the facts and circumstances of the case, the application for condonation of delay deserved to be allowed.

12. Having regard to the abovementioned factual and legal aspects, the appeal needs to be allowed. Hence, the following order is passed:-

- I. The first appeal is allowed.
- II. The impugned order dated 05.10.2023 passed by the Member, Railway Claims Tribunal, Nagpur is quashed and set aside.
- III. The delay in filing the claim petition before the Tribunal is condoned and the application for condonation of delay filed by the appellants is allowed.
- IV. It is made clear that this appeal does not deal with any contentions on merits of the claim. The issues about entitlement of the claimants to compensation and other issues are kept open for being decided by the Tribunal on their own merits.

13. The first appeal is allowed in the aforesaid terms and disposed of. In the facts of the case, there would be no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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