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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 13th February 2025*

+ **FAO 32/2025**

BRAJ MOHAN GOEL & ANR.

.....Appellants

Through: Mr. Ambuj Tiwari and Ms.
Muskan Nagpal, Advs.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Farman Ali, SPC with Ms.
Vidhi Gupta, GP and Ms. Usha
Jamnal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T (O R A L)

RAVINDER DUDEJA, J.

CM APPL. 8595/2025(exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 8596/2025 (delay 627 days in filing of appeal)

1. Appellants have filed the First Appeal under Section 23 of the Railway Claims Tribunal Act, 1987 [“**Act**”] against the impugned judgment dated 17.02.2023, passed by the Railway Claims Tribunal Principal Bench [“**The Tribunal**”] in OA/II(U)/DLI/131/2022, titled “Brij Mohan Goyal & Anr. Vs. Union of India”



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2. As per the brief narration of facts, the appellants filed a Claim Application before the learned Tribunal, seeking compensation under Section 16 of Act for the death of their son Kapil Goel in an untoward incident on 18.05.2022. As per averments in the Claim Application, Kapil Goel was undertaking journey from Shahjahanpur to Dehradun in an express train and the accident had occurred between Rampur and Munda Pandey Stations.
3. Learned Tribunal dismissed the Claim Application of the appellant.
4. Feeling aggrieved, the appellants have preferred the present appeal, challenging the impugned judgment dated 17.02.2023.
5. Section 23 of the Act provides a period of 90 days for filing the appeal from the date of the order appealed against.
6. Learned counsel for the appellant has submitted that appellants were not aware of the impugned order dated 17.02.2023 for almost about three months and they came to know about the same only in the month of May 2023. Upon receipt of the said order, the appellants, who are the residents of District Khiri, Uttar Pradesh, made efforts to find an Advocate in Delhi but for a long time, they could not find any Advocate who can file an appeal on their behalf. It is further submitted that appellants are poor persons and due to lack of proper legal advice or for want of resources, they could not arrange the funds and take legal advice, which resulted in delay in filing the appeal.



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7. It is submitted that appellants have a very good case on merits and shall suffer an irreparable loss in case the delay is not condoned.

8. The application has been vehemently contested by the learned counsel for the respondent submitting that there is an inordinate delay of 627 days in filing the appeal and appellants have failed to explain the sufficient cause for not filing the appeal within the statutory period of limitation and therefore the application is liable to be dismissed.

9. The object of prescribing limitation is to compel a person to exercise his right of action within a reasonable time as also discourage and suppress stale, fake or fraudulent claims. In **Collector, Land Acquisition, Anantnag & Anr. Vs. Vs. Mst. Katiji & Ors., (1987) 2 SCC 107**, the Hon'ble Supreme Court pointed out various principles for adopting liberal approach in condoning the delay. Such principles are reproduced as under:-

“(1) Ordinarily a litigant does not stand to benefit by lodging an appeal late.

(2) Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

(3) 'Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

(4) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

(5) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides . A litigant does not stand to benefit by resorting to delay. In fact he



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runs a serious risk.

(6) It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

10. In the latest decision, the Supreme Court in the case of **Pathapati Subba Reddy (died) by L.Rs. v. The Special Deputy Collector (LA), 2024 SCC OnLine SC 513**, observed as under:-

"16. Generally, the courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag v. Katiji, this Court in advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act."

11. Upon evaluating the submissions made by the learned counsel for the petitioner and the pleas which have been raised, this Court feels constrained to observe that the grounds pleaded in the application seeking condonation of delay fall short of being called good grounds for condoning the delay. The impugned judgment was passed on 17.02.2023. The appellant's claim is that they became aware of the same only in the month of May 2023 and tried to put



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blame on the head of the previous counsel for not informing them about the judgment. Time and again, the Supreme Court and High Courts have observed that there is a growing tendency on the part of the litigants to blame lawyer's negligence and carelessness. Even if the Court assumes for a moment that the concerned lawyer was careless or negligent, this by itself cannot be a ground to condone long and inordinate delay as the litigants also owe a duty to be vigilant of their own rights and the pending judicial proceedings initiated at their instance. Litigants should not be permitted to throw the blame on the previous advocate and thereby disown him at any time and seek relief on that ground.

12. Even assuming that there was negligence on the part of the previous counsel, appellants came to know about the impugned judgment in May 2023, still it is a case of inordinate delay, inasmuch as, the appeal has been preferred in February 2025. The argument that the appellants are the residents of Uttar Pradesh and are poor persons with limited means due to which they could not get proper legal advice which resulted in delay in filing the appeal, does not constitute sufficient cause. The Legal Service Authority provides free legal aid and assistance to the poor people, not having sufficient means to afford the services of private advocates. The appellants could have availed the service of the Legal Aid Counsels.

13. In my view, there is no plausible and acceptable explanation coming forth from the appellants. The reason assigned that appellants



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have a very good case on merits, is not a sufficient cause to condone the delay.

14. So viewed from any angle, I do not find any merit in the application. The application for condonation of delay of 627 days in filing the appeal is dismissed.

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Since the application for condonation of delay has been dismissed, the appeal having not been filed within the statutory period of limitation of 90 days is held to be time-barred and is accordingly dismissed.

RAVINDER DUDEJA, J.

February 13, 2025

RM/(F/I/R)