IN THE HIGH COURT OF JHARKHAND, RANCHI
M.A. No. 432 of 2015

The New India Assurance Co. Ltd. Address : Red Cross Building, opposite Gandhi Maidan, PO – GPO, Patna, PS – Gandhi Maidan, Patna, Bihar, represented through the Authorized officer Mr. Kapil Kispotta, S/o Late Matious Kispotta of New India Assurance Company, Division Officer, at Pee Pee Compound, PO – Chutia, PS – Hindpiri, District – Ranchi, Jharkhand **.... Appellant**

-- Versus --

1. The South Eastern Railway, through General Manager, 11 Strand Road, 8th Floor, Calcutta, PO and PS – Calcutta, 700007, W.B.
2. The Chief Commercial Superintendent, South Eastern Railway, 14, Strand Road, 8th Floor, PO and PS – Calcutta, Calcutta, 0700007, WB
3. Tenughat Vidyut Nigam Limited, registered office 258, Patliputra Colony, PO -GPO, Patna, PS – Patna, Pin – 8800013, Bihar
4. Tenughat Vidyut Nigam Limited, site office at Lalpania, PO – Lalpania, PS – Lalpania, District – Giridih, Pin – 815302, Jharkhand
5. Bharat Heavy Electricals Limited (A Govt. of India Undertaking), Power Group Construction Management, Eastern Region, PO – GPO, Giridih, PS – Giridih, District – Giridih, 815302, Jharkhand
6. Site Office at Bharat Heavy Electricals Limited Tenughat Thermal, Power Station, PO -GPO Giridih, PS – Giridih, District – Giridih, 815302, Jharkhand
7. Bharat Heavy Electricals Limited Eastern Region Power Station, 2nd Floor, 33 a Chowringhee Road, PO – GPO, Calcutta, Calcutta, 700007 **.... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant :- Mrs. Sunita Ojha, Advocate
For UOI :- Mrs. Leena Mukherjee, Advocate

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*16/**28.09.2026*** Heard Mrs. Sunita Ojha, learned counsel appearing for the appellant and Mrs. Leena Mukherjee, learned counsel appearing for the UOI.

2. This appeal has been preferred under Section 23 of Railway Claims Tribunal Act, 1987.

3. The appellant herein has preferred the present appeal against the judgment dated 13th April, 2015 passed by Member (Technical), the Railway Claim Tribunal Ranchi Bench at Ranchi, Jharkhand in TAC/RNC/1993/0012 old No. TTC.93012/93 whereby the learned Tribunal has been pleased to dismiss the claim on the ground of limitation and not allowed the claim of the appellant to the tune of Rs.1,84,940/-.

4. Learned counsel appearing for the appellant submits that Tenughat Vidyut Nigam Limited has invited the tender and Bharat Heavy Electricals Limited in response to the said tender got key contract from Tenughat Vidyut Nigam Limited to complete installation of their Thermal Power Station, Tenughat, and the appellant New India Assurance Co. Ltd. was dealing with the transit insurance business and marine services covering risk for supply of goods. She further submits that the appellant vide Policy No.44-52020052012 dated 01.11.1988 accepted their liability to cover risk for supply of goods and erection till completion of supply. She then submits that Bharat Heavy Electricals Limited, Bokaro booked consignment of boiler components from GOCB to BKSC vide R/R 497107 dated 22.03.1990. She next submits that South Eastern Railway, Bokaro Steel City good shed unloaded the consignment of boiler on 14.04.1990 and delivered loose boxes of boiler component to the Tenughat Vidyut Nigam Limited. She also submits that South Easterns Railway, Bokaro Steel City issued short and damage certificate on 17.05.1990 and thereafter Bharat Heavy Electricals Limited submitted claim bill and the

appellant herein has paid claim of Rs.1,84,940/- to Bharat Heavy Electricals Limited which has been received by South Eastern Railway. She next submits that for no fault of the insurance company the liability has been fastened and the appellant herein has paid Rs.1,84,940/-. In the aforesaid background, she submits that the claim application was filed before the learned Claims Tribunal which has been rejected only on the ground of limitation. She next submits that the learned Tribunal has wrongly held that the appellant herein has not filed any limitation petition to condone the delay of 3 months and 15 days. She next submits that limitation petition was separately filed, however, the learned Tribunal has wrongly held so. On these grounds, she submits that impugned order may kindly be set aside.

5. Learned counsel appearing for the Railway submits that the trial court record has been called by this Court by the earlier order and she has examined the trial court record. She further submits that there is no limitation petition filed by the appellant herein before the learned Tribunal for condoning the delay wherein Section 17 of the Railway Claims Tribunal Act stipulates the application for claim to be filed within three months from the date on which the goods in question were entrusted to the Railway Administration for carriage by railway. On these grounds, she submits that the learned Tribunal has rightly passed the order.

6. On perusal of trial court record, it transpires that at the time of issuing notice to the parties under Rule 12 of the Railway Claims Tribunal Rules, 1989 in Column 9 limitation is said to be there, however, condonation column is blank. On further examining the record, it

transpires that there is no separate petition for condoning the delay of 3 months and 15 days which clearly suggests that no limitation petition was filed before the learned Tribunal for condoning the delay of 3 months and 15 days.

7. Section 17(1)(a) of the Railway Claims Tribunal Act clearly suggests that application has to be filed within three years from the date on which goods in question were entrusted to the Railway Administration for carriage by railway and no petition has been filed for condonation. Further claiming of compensation and refund of overcharge, notice under Section 106 of Railway Act, 1989 is necessary and only after complying the same under Section 107 of the Railways Act, 1989 will come into play.

8. On perusal of trial court record, it transpires that even no notice under Section 78(B) or Section 106 of Railway Act has been served by the appellant herein upon the railway which is another mandatory provision not followed.

9. In view of the above in absence of any condonation petition, learned Tribunal has rightly passed the order of dismissing the said claim on the ground of limitation and the said application was barred by 3 months and 15 days and in light of provision within three years the claim is required to be filed, as such this insurance appeal is hereby dismissed.

10. Let the trial court record be sent back to the learned Tribunal forthwith.

(Sanjay Kumar Dwivedi, J.)

Dated 28.09.2026
Sangam/