

BEFORE THE RAILWAY CLAIMS TRIBUNAL
ERNAKULAM
MA/ERS/02/2023
Dated 15/05/2023

Bijoy & Another _____ Applicants

Union of India _____ Respondent

Application for condonation of delay.

Order: Dictated by Sh. Sanjiv Dutt Sharma. Judicial Member.

The present order, will dispose of an application, moved by the applicants through their advocate, seeking condonation of delay of 1042 days for filing the original application. The applicants - are the parents of the deceased, seeking compensation on account of death of their son in an untoward incident, which took place on 22/02/2019. It is averred that there is a delay of 716 days in filing the present claim application as it is filed on 30/12/2022. They have also mentioned in their application about the honourable Supreme Court orders which had given an exemption from limitation due to covid for filing the application between 15th March 2020 to 28th February 2022. It is specifically alleged, that due to untimely death of their son; they were in mental agony and were not in a position to file the application within time. As such, they have prayed to this Tribunal to condone the delay of 716 days in filing the application.

In reply, of the railways, received in the shape of an affidavit, the application is opposed. It is averred that the applicants had to file the claim application within one year from the date of the incident. It is further averred that the applicant had the option to file the application through electronic mail, directly in the office of the Registrar in the Tribunal, which she did not avail. It is further alleged that the reasons mentioned in the application are not convincing or reasonable or satisfactory, as such by mentioning one judgement of Hon'ble Madras High court, the respondent has prayed for the dismissal of the application. The Id. Advocate for

the respondent has also mentioned about the judgement of Hon'ble Madras High court on this point and has prayed for the dismissal of application.

I have also gone through the judgement cited by the Rly Advocate properly, but I feel that the same is not applicable in the present circumstances. In the judgement passed by the honourable Madras high court the circumstances shown in the application were different. I also feel, that there is no inordinate delay in filing the present application.

It is writ large that the Railway Claims Tribunal act, has been created to consider the claims of the victims or their dependents, who suffer because of the accidents and suffer other casualties happening in the railway establishments during day-to-day travelling's.

Railway Claims Tribunal Act, is a special act, enacted to help the poor and the needy victims and their dependent. As per the actual spirit of the act and principle behind the formation of this act, it is the duty of the railways, and also the efforts shall be made to decide the claims of the victims or their dependents on merits without getting involved in the technicalities.

Since, the railway claims tribunal act is a special act, as such a liberal condonation of delay should be permitted and to my mind this tribunal should adopt efforts to decide the matter on merit. The Id. advocate has argued that the applicants were not aware of the present act, that they could get any compensation from the railways. On the other hand, it is

argued that the ignorance of law is not an excuse at the sometime, I feel that actually the claimants in most of the cases are not aware of this act.

I have seen, even the law knowing people, even most of the lawyers at districts

level is not well conversant with the procedures of railway claims tribunal act, what to talk of general people or the travellers, who are mostly from villages, and travel in trains. It is also seen in many cases that these people come in contact with the advocates very late because of the ignorance of this particular law and on many occasions are deprived of compensation. We live in a democratic country, where a number of beneficial legislations are enacted for the welfare of the masses, so that a common man can get some help in the event of an untoward incident.

I feel, that the very purpose of this beneficial legislation will fail and many genuine people will be deprived of their claim, if the claims applications are dismissed on the ground of limitation or on some technical points.

Another point, which comes to my mind is that this is a special act and a beneficial legislation, enacted to help the victims of accident, as such there cannot be a same parameter, which is adopted, at the time of deciding the point of limitation in other civil cases like, in civil appeals etc. As discussed above, a liberal condonation of delay should be adopted by us, taking into consideration the spirit of the act, which is giving a clear

message again and again, that it is a beneficial legislation enacted for the poor victims of railway accident.

In view of my above discussion, I allow the present application and condone the delay of 1042 days in filing the present application. Let notice be issued to the railways to file written statement and DRM report on the next date of hearing already fixed.

(Sanjiv Dutt Sharma)
Judicial Member