
(2013) 02 MP CK 0007
In the Madhya Pradesh High Court
Case No : M.A. No. 331 of 2013

Atar Bai (Smt.)

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 22-02-2013

Acts Referred:

Citation : (2013) ILR (MP) 1940

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Advocate : Hemant Kumar Chouhan, for the Appellant; Govind Patel, for the Respondent

Final Decision : Disposed Off

Judgement

N.K. Mody, J.—Heard on the application for condonation of delay of 1 day.

From perusal of the record, it is evident that the impugned order is dated 22/10/2012 of which copy was supplied to the appellant on 23/01/2012 while appeal is filed on 21/01/2013. Thus, the appeal is filed within 90 days, which is the limitation prescribed u/s 23(3) of the Railway Claims Tribunal Act. Hence, the objection raised is turned down.

Being aggrieved by the order dated 22/10/2012 passed by Railway Claims Tribunal, Bhopal in case No. OA/IIu/BPL/2012/0096 whereby claim petition filed by the appellant was dismissed, present appeal has been filed.

2. Short facts of the case are that appellant who is widow filed a claim petition alleging that she lost her son in a train accident which took place on 27/02/2007. The claim petition was filed on 18/02/2012 alongwith an application for condonation of delay as limitation of filing the claim petition is of one year. The application was contested by the respondent. After holding summary inquiry learned tribunal dismissed the application hence this appeal.

3. Learned counsel for the appellant submits that impugned order passed by

learned tribunal is illegal and deserves to be set-aside. It is submitted that appellant is illiterate lady and was not knowing that the appellant is entitled for compensation, therefore, claim petition could not be filed in time. It is submitted that appeal be allowed and impugned order be set-aside.

4. Learned counsel for the respondent opposes the prayer and submits that appeal be dismissed.

5. From perusal of record, it appears that there is an inordinate delay in filing the claim petition which is approximately four years. Under the Railway Claims Tribunal Act, 1987 claim petition is being filed u/s 13 of the Act and in case the claim petition is filed for compensation on account of injuries or death the limitation is prescribed u/s 17(1)(b) of the Act which is of one year and claim petition can be filed after expiry of one year alongwith the application for condonation of delay u/s 17(2) of the Act for which the appellant has to show the bonafide ground for the delay. In Motor Vehicles Act, 1988 as per Section 166(3) claim application was to be filed within six months and as per the proviso delay can be condoned on sufficient grounds which prevented the claimant to file the claim petition in the prescribed time. Provisions of Section 166(3) of Motor Vehicles Act was borrowed from Section 110A(3) of Motor Vehicles Act, 1939. Section 166(3) of Motor Vehicles Act, 1988 was deleted by way of amendment w.e.f. 14/11/1994, with the result in case of injuries or death in a motor accident claim petition can be filed at any point of time while it is not possible in relating to Railway Claims. However, keeping in view the aims and objects for deleting sub clause 3 of section 166 of Motor Vehicles Act whereby limitation for filing the claim petition for compensation on account of injuries or death was deleted, it is expected from the Railway Claims Tribunal to consider the application for condonation of delay liberally as by allowing the application for condonation of delay the claim petition is not allowed because the claimants have to prove their case for getting the compensation. The whole idea for deleting Section 166(3) of Motor Vehicles Act, 1988 was that no claim petition filed by claimant for compensation on account of injuries or by the dependents on account of death should not be dismissed on the ground of delay. Same principles applies when learned Railway Claims Tribunal deals with the application for condonation of delay. In view of this, this Court finds that learned tribunal was not justified in dismissing the application for condonation of delay specially in a death case where appellant is only survivor and lost her son. Thus, appeal filed by the appellant is allowed and the impugned order passed by the learned tribunal stands set-aside and case is remanded back to the learned tribunal to decide the case on merits. Parties are directed to remain present before the learned tribunal on 09/04/2013. With the aforesaid observations, appeal stands disposed of. C.C. as per rules.