
(2013) 03 MP CK 0030
In the Madhya Pradesh High Court
Case No : M.A. No. 79 of 2013

M. Peetamber

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 06-03-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166, 166(3)

Railway Claims Tribunal Act, 1987 — Section 13, 17(1)(b), 17(2)

Citation : (2013) ILR (MP) 1107

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

Bench : Single Bench

Advocate : Manoj Patel, for the Appellant; Govind Patel, for the Respondent

Final Decision : Disposed Off

Judgement

N.K. Mody, J.—Being aggrieved by the order dated 09/10/12 passed by Railway Claims Tribunal, Bhopal in Case No. 0038/12 whereby the application for condonation of delay and consequently the petition filed by the appellant for compensation was dismissed on the ground of delay, present appeal has been filed. Short facts of the case are that the appellant filed a claim petition for compensation on account of injuries sustained in railway accident which took place on 28/08/05. In the claim petition it was alleged that the appellant was travelling in Puri-Ahmedabad Express for coming to Durg. It was alleged that because of heavy rush appellant fell down, with the result right hand of the appellant was amputated above the elbow and right leg of the appellant was amputated above the knee. It was further alleged that because of heavy bleeding appellant was brought to Durg and from where he was referred to Jawaharlal Nehru Hospital, Bhilai. It was prayed that the claim petition be allowed and compensation be awarded. This claim petition was filed on 13/01/2012, while alleged incident took place on 28/08/05. Since there was delay of five years four months and 15 days in filing the claim petition, therefore, an application for condonation of delay was filed, which was dismissed by the impugned order,

hence this appeal.

2. Learned counsel for the appellant argued at length and submits that the impugned order passed by the learned Court below is illegal, incorrect and deserves to be set aside. It is submitted that in the facts and circumstances of the case the approach of the learned Tribunal ought to have been liberal and application for condonation of delay ought to have been allowed. It is submitted that the appeal filed by the appellant be allowed and impugned order passed by the learned Tribunal be set aside.

3. Learned counsel for respondent supports the order and submits that the plea taken by the appellant for condoning the delay that the appellant was unaware about the position of Law is not available to the appellant as ignorance of law is no ground to condone the inordinate delay. It is submitted that no illegality has been committed by the learned Tribunal in dismissing the application, hence appeal filed by the appellant has no merits and the same be dismissed.

4. From perusal of record, it appears that there is an inordinate delay in filing the claim petition which is more than five 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 bona fide 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 110-A(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 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 being allowed as 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 CC as per rules.