

(2018) 11 PAT CK 0005

In the Patna High Court

Case No : Miscellaneous Appeal No.808 of 2014

Punam Devi @APPELLANT@Hash Union of India

Date of Decision : 01-11-2018

Acts Referred:

Railway Claim Tribunal Act, 1987 — Section 17

Citation : (2018) 11 PAT CK 0005

Hon'ble Judges : Prakash Chandra Jaiswal, J

Bench : Single Bench

Advocate : Anant Kumar, Naresh Dikshit, Brij Bihari Tiwari

Final Decision : Allowed

Judgement

Re. I.A. no. 5632 of 2017

Heard learned counsel for the appellant and learned counsel for the respondent. The appellant has filed the aforesaid interlocutory application for

condonation of delay of 99 days made in preferring this appeal with the case that her Claim Application no. OA/OC/MA No.-MA (OA)12/12 was

dismissed by the Member (Technical), Railway Claims Tribunal, Patna on 16.06.2014 as time barred rejecting the delay condonation petition filed by

her. Certified copy of the aforesaid order was received by her learned counsel on 20.06.2014, but as the appellant has been residing in remote village

at East Champaran, her learned counsel could not contact with her despite giving letter.

As the first letter was not received by her, he again sent letter in the first week of September, 2014 to the appellant. However, on receiving the

aforesaid letter by her and managing the money required to meet the necessary expenses in filing the appeal, the appellant contacted her learned

counsel in the second week of November, 2014 and got the appeal drafted and

filed in the court on 23.12.2014. She happen to be illiterate village lady and had no knowledge of dismissal of her case by the learned court below earlier and due to aforesaid reason and for want of money, she could not file the appeal within the stipulated period of limitation. There has been no deliberate and intentional laches on the part of the appellant in filing the appeal late.

Respondent has not filed any rejoinder against the said petition rather orally opposed the same. In the aforesaid facts and circumstances, finding sufficient cause the aforesaid delay made in filing the appeal is hereby condoned, and accordingly, the aforesaid interlocutory application is allowed.

M.A. no. 808 of 2014

On the request of learned counsel for the appellant and learned counsel for the respondent to hear this appeal today, heard both sides on this

miscellaneous appeal. This miscellaneous appeal has been preferred against the order dated 16.06.2014 passed by Member (Technical), Railway

Claims Tribunal, Patna in Claim Application no. OA/OC/MA No.-MA (OA)12/12, whereby the learned Tribunal rejecting the delay condonation

petition filed by the appellant dismissed the claim application as time barred.

It is submitted by the learned counsel for the appellant that she has filed the aforesaid claim case on account of death of her husband in the railway

accident in untoward incident. She was only bread earner of his family and due to untimely sad demise of her husband, the appellant was mentally

shocked and lost her sense. She happens to be very poor widow and illiterate village woman and after demise of her husband, she has been facing

acute financial crisis and moreover she had no knowledge of any limitation of filing the claim case.

Due to aforesaid reason, she could not file the claim case within the stipulated period of limitation. However, after contacting with her learned counsel

and anyhow managing money required for filing the claim application, she got the claim application prepared and filed before the learned Tribunal.

There has been no deliberate and intentional laches on the part of the appellant in not filing the aforesaid application within the prescribed period of

limitation. On the other hand, learned counsel for the respondent has submitted that the appellant has not filed the claim application within the

stipulated period of limitation and has also not filed any documents in

substantiation of her ailment as alleged by her and learned Tribunal finding no merit in her delay condonation petition, has rightly rejected the same and dismissed her claim petition finding it as time barred.

As per Section 17 of the Railway Claim Tribunal Act, 1987 the claim application ought to have been filed within one year of the date of occurrence.

However, the application may be entertained after the aforesaid period, if the applicant satisfies the Claims Tribunal that he had sufficient cause for

not making the application within such period. From perusal of record and submission of the appellant, it appears that the appellant happens to be

destitute hapless widow and is illiterate and gullible village lady and she is not presumed to have knowledge of limitation for filing the claim application

on account of death of her husband in untoward incident and naturally, after the sad demise of her husband, she must have been facing acute final

crisis. Thus, the appellant has shown the sufficient cause in not filing the claim application within the stipulated period of limitation as prescribed in

Section 17 of Railway Claim Tribunal Act, 1987.

It is settled principle of law that the justice should be done after hearing the parties and injustice should not be done merely on technicality by shutting

down the opportunity of hearing to the parties. In the facts and circumstances and in the interest of justice, the aforesaid order passed by the learned

Tribunal is set aside and the learned Tribunal is directed to dispose of the case on merit after giving opportunity of hearing to the parties in the case.

Accordingly, this miscellaneous appeal is allowed.