

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Miscellaneous Appellate Jurisdiction)

M.A. No. 62 of 2015

Smt. Radhiya Devi & Anr.

..... Appellants

Versus

The Union of India through the General Manager, East Central Railway, Hazipur, P.O. & P.S. Hazipur, Bihar

.....Respondent

**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**

For the Appellants

: Mr. Ashok Kr. Singh, Advocate  
Mr. Hardeo Pd. Singh, Advocate

For the Respondent-Railway

: Mr. Vijay Kr. Sinha, Advocate

**04/Dated: 07/07/2020**

Heard, learned counsel for the parties.

The appellants have preferred the instant appeal for enhancement on account of interest from the date of filing of the application i.e. 04.02.2004 till the date of decision i.e. 23.09.2014.

Learned counsel for the appellants has submitted that the instant appeal has been preferred on several grounds including these two grounds:-

*“(IV) That the learned Tribunal has failed to appreciate that the claimants cannot be made to suffer for the unification and non-performance of another person/authority/officer.*

*(V) For that the aforesaid wrong finding of learned Member Technical is solely based on surmise and conjecture”.*

From perusal of the record, at this stage no ground has been made out to suggest that there was delay on the part of the Railway Authority rather it appears that delay is because of conduct of the appellants in pursuing the appeal as the accident took place on 15.09.2003 and the claim application was filed on 04.02.2004.

Learned counsel for the appellants, Mr. Ashok Kumar Singh arguing on virtual court from Bokaro, has submitted that issue was framed on 05.09.2012 and the application was allowed by paying compensation of Rs.4,00,000/- to the claimants-Smt. Radhiya Devi and Sri Piyari Gope, mother and father of the deceased-Kaleshwar Yadav on 23.09.2014. This Miscellaneous Appeal was filed on 09.02.2015. It was listed before the Joint Registrar (Judicial) on 10.03.2015 to remove the defect, though nobody appeared on behalf of the appellants. On 16.06.2015, the appeal was listed before the Lawazima of Registrar General where also nobody appeared. It appears that the appeal is still defective for non-filing of limitation petition for condonation of delay of 37 days and attestation of the appellant no.1 is also missing on the vakalatnama.

Today, the case has been listed before this Bench on office note regarding defects, which has still not been removed.

Under the aforesaid circumstances, as prayed by learned counsel for the

appellants, Mr. Ashok Kumar Singh, two weeks time is granted to remove the same.

Learned counsel for the appellants may file Supplementary Affidavit before this Court, explaining how delay can be attributed upon Railway because of delay in disposal of claim application.

Learned counsel for the respondent has submitted that question of interest has been decided recently by the Hon'ble Apex Court in the case of *Union of India vs. Radha Yadav*, reported in *2019 (3) SCC 410*.

Put up this case after three weeks.

**(Kailash Prasad Deo, J.)**