

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

MFA.No. 32 of 2008 (Y)

AGAINST THE ORDER/JUDGMENT IN OA 14/2005 of RAILWAY CLAIMS TRIBUNAL,
ERNAKULAM DATED 28-11-2007

APPELLANTS/APPLICANTS:

1. SASIDHARAN PILLAI,
THAZHATHADATHU KIZHAKKATHIL, MANAKKARA, SASTHAMCOTTA
KOLLAM DISTRICT.
2. SATHYAVATHI AMMA,
THAZHATHADATHU KIZHAKKATHIL, MANAKKARA, SASTHAMCOTTA
KOLLAM DISTRICT.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENT/RESPONDENT:

UNION OF INDIA,
OWNING SOUTHERN RAILWAY
REPRESENTED BY ITS GENERAL MANAGER, CHENNAI

BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 09-06-2015,
THE COURT ON 22-06-2015 DELIVERED THE FOLLOWING:

**P.N.RAVINDRAN &
ANU SIVARAMAN, JJ.**
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M.F.A.No.32 of 2008
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Dated this the 22nd day of June, 2015

JUDGMENT

Anu Sivaraman, J.

The only question which has been raised in this appeal filed by the claimants 1 and 2 in O.A.No.14 of 2005 against the award passed the Railway Claims Tribunal, Ernakulam Bench on 28.11.2007 is with regard to interest on the compensation awarded. The Tribunal had held that the son of the appellant died as a result of an untoward incident which occurred on 13.01.2002 and the dependants of the deceased are entitled to be paid compensation amounting to Rs.4,00,000/- in terms of the Schedule to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1997. The respondent was directed to pay Rs.4,00,000/- to the dependants of the deceased within 45 days of receipt of a copy of the award failing which they were held liable to pay interest @9% per annum from the date of default. In this appeal, the award of the interest from date of default alone is challenged and the appellant claims interest @ 9% per annum on the amount awarded as compensation from the date of the application.

2. Heard. Sri.B.Suresh kumar, learned counsel appearing for the appellant and Sri.James Kurien, learned Standing Counsel appearing for the respondent. The appellant's counsel relies on the decision of a Division Bench of this court in **Union of India v. Brigeet Chacko** (2007(3) KLT 603) wherein the Division Bench held, following the decision of the Apex Court, that even in the absence of a specific provision for grant of interest in Railway Accident Claims, interest at the rate of 6% per annum can be granted on the amount of compensation from the date of the application. The decision of the Bombay High Court to the effect that interest is payable only from the date of award was dissented from. We also notice that a Division Bench of this Court, to which one of us (P.N.Ravindran,J.) was a party, has in **Nalini v. Union of India** (2008(3) KLT 17) held that interest is payable from the date of application. The same view was reiterated in **Abdul Kareem v. Union of India** 2008(3) ILR 127 Kerala by the same bench.

In view of the binding decisions on the point, we are of the opinion that interest is to be granted on the amount of compensation at least from the date of the application. In the instant case, interest is awarded at 9% per annum taking the prevailing bank rate into account. We therefore modify the award and direct that the sum of

Rs.4,00,000/- awarded as compensation shall carry interest at the rate of 9% per annum from the date of the application till the date of deposit. The amount thus payable shall be deposited before the Tribunal for disbursement in terms of the award within one month from today less any amount already deposited and/or paid. The appeal stands allowed to the above extent. No costs.

P.N.Ravindran,Judge

Anu Sivaraman, Judge

sj