

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. 44 of 2008

AGAINST THE ORDER/JUDGMENT IN OA 8/2004 of RAILWAY CLAIMS TRIBUNAL,
ERNAKULAM DATED 30-10-2007

APPELLANT/APPLICANT::

M.S. BABU ISSAC, AGED 55 YEARS,
S/O. LATE M.V. SCARIA, MADATHIL VEETIL
PERUMBAVOOR P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.MARTIN G.THOTTAN

RESPONDENT/RESPONDENT:

UNION OF INDIA,
REPRESENTED BY THE GENERAL MANAGER, SOUTHERN RAILWAY
PARK TOWN P.O., CHENNAI-3.

BY ADV. SRI.JAMES KURIAN, SC RAILWAYS

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08.06.2015,
THE COURT ON 22-06-2015 DELIVERED THE FOLLOWING:

**P.N.RAVINDRAN &
ANU SIVARAMAN, JJ.**
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M.F.A.No.44 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 claimant in O.A.No.8 of 2004 against the award passed by the Railway Claims Tribunal, Ernakulam Bench on 30.10.2007 is with regard to interest on the compensation awarded. The Tribunal had held that the father of the applicant died as a result of an untoward incident which occurred on 17.08.2003 and the legal heirs 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 entitled to interest @6% 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 @ 6% per annum on the amount awarded as compensation from the date of the application.

2. Heard. Sri.Martin J Thottan, learned counsel 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. A 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 the application. The same view was reiterated in **Abdul Kareem v. Union of India** 2008(3) ILR 127 Kerala by the same Bench. As regards the rate of interest awarded also, it is now settled by a series of decisions rendered by the Honourable the Supreme Court that the rate of interest to be awarded has to be on par with the prevailing bank rates. In the above circumstances, we are of the opinion that 6% interest awarded by the Tribunal cannot be justified. This Court as well as the Supreme Court has been consistently awarding interest at the rate of

9% per annum in compensation cases arising under the Motor Vehicles Act, 1988. We find no reason to depart from the said practice in the case of Railway Accidents Claims also.

In view of the binding decisions on the point, we are of the opinion that interest at the rate of 9% per annum is to be granted on the amount of compensation at least from the date of the application. We therefore modify the award by directing 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 respondent shall deposit the said sum in the Railway Claims Tribunal for disbursement in terms of the award, within one month from today less any amount already deposited and/or paid. The appeal shall stand allowed to the above extent. No costs.

P.N.Ravindran,Judge

Anu Sivaraman, Judge

sj