

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.M.A.NO.894 OF 2013

JUDGMENT:

This appeal is filed by the appellants/claimants against the order dt.15.07.2013 passed by the Railway Claims Tribunal Bench at Secunderabad in O.A.A.No.175 of 2006.

The case of the appellants is that they filed the above said application under Section 16 of the Railway Claims Tribunal Act, 1987 (for short 'the Act') for payment of compensation of Rs.4,00,000/- for the death of their son Khaja Basha (herein after referred to as 'the deceased') who died on account of the injuries sustained by him in an untoward incident of accidental fall from train No.405 while he was travelling from Gadwal to Kurnool and when the train reached Kurnool railway station on 18.03.2006 at about 11.30 p.m., and he was getting down from the train, accidentally fell down from the train and ran over by the train and died on the spot.

The respondent contested the claim by filing written statement.

Basing on the evidence of AW-1 and Exs.A-1 to A-7, the Tribunal granted a sum of Rs.4,00,000/- towards compensation

to the appellants with interest at the rate of 6% per annum from the date of restoration application i.e., 06.10.2010 till the date of award and thereafter at the rate of 9% per annum, till the date of realization. Aggrieved by the same, the present appeal is filed.

During the pendency of the appeal, the second respondent who is the mother of the deceased died.

The learned counsel for the appellant submits that the present appeal is filed by the appellants for non-grant of interest by the Tribunal from the date of filing of claim petition i.e., 12.04.2006 till the date of award and thereafter at the rate of 9% per annum from the date of order, till the date of realisation. He submits that the application filed by the appellants to set aside the dismissal order dt.26.08.2008 was allowed and the said O.A.A. was restored on 06.10.2010, on payment of costs. As such, interest cannot be denied for the period from the date of filing of the claim petition i.e., 12.04.2006 till the date of restoration i.e., 06.10.2010. In support of his contention, he relied on the decision of the Supreme Court reported in **THAZHATHE PURAYIL SARABI AND OTHERS VS. UNION OF INDIA AND ANOTHER**^[1].

On the other hand, Sri T.S.Venkata Ramana, learned counsel for the respondents submits that though the claim

petition is filed in the year 2006, the appellants have not pursued the said application and because of non-prosecution, it was dismissed for default on 26.08.2008 and the same was restored to file on 06.10.2010. He also submits that since the grant of interest is the discretion of the Tribunal, the Tribunal after going into the facts and circumstances, declined to grant interest from the date of filing of the claim petition. As such, the same cannot be interfered with. He also relied on a decision of a learned Single Judge of this Court passed in C.M.A.No.145 of 2010, dt.05.09.2011.

Since the issue is with regard to the grant of interest for the period from 12.04.2006 to 06.10.2010, the other facts are not required to be dealt with.

Admittedly, the claim petition was dismissed for default on 26.08.2008 and thereafter the said order was restored after a period of two years i.e., on 06.10.2010. It goes to show that the appellants are prosecuting the claim petition properly and granting of interest is the discretion of the Tribunal. After going into the facts, the Tribunal held that the claimants are not entitled to get interest from the date of application, but they are entitled to get interest from 06.10.2010 only, the date on which the case was restored and the same cannot be found fault

with. As far as grant of interest from 12.04.2006 to 26.08.2008 is concerned, the Tribunal has not given any cogent reasons that the appellants are not prosecuting the claim petition diligently. In view of the judgment of the Apex Court in **Thazhathe Purayil Sarabi** (Supra-1) the appellants are entitled for interest on the amount of compensation for the period from 12.04.2006 to 26.08.2008.

Since the quantum of compensation is not disputed by the appellants, the order of the Railway Claims Tribunal Bench at Secunderabad passed in O.A.A.No.175 of 2006, dt.15.07.2013 is confirmed and with regard to the grant of interest on the amount of compensation of Rs.4,00,000/-, the appellants are entitled to get interest at the rate of 6% per annum from 12.04.2006 to 26.08.2008.

The appeal is allowed to the extent indicated above.

Miscellaneous petitions pending, if any, shall stand closed.

No order as to costs.

A.RAJASHEKER REDDY, J

Dt.18.01.2016
TJS

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

-
C.M.A.NO.894 OF 2013

-

Dt.18.01.2016

[\[1\]](#)) (2009) 7 SCC 372