

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 879 OF 2012

DHARMENDRA MADHUKAR NALTE
VERSUS
UNION OF INDIA

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Advocate for Appellant : Mr. Agrawal Pavankumar S.

Advocate for Respondent : Mr. M.N. Navandar

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CORAM : V. K. JADHAV, J.
DATED : 16th JANUARY, 2017

PER COURT:-

1. Being aggrieved by the judgment and award dated 11.1.2012 passed in Misc. application No. 123 of 2007 in Original application No. 26 of 2007 passed by the Railway Claims Tribunal, Mumbai Bench at Mumbai, the original claimant filed the present first appeal to the extent of grant of interest.

2. Brief facts giving rise to the present appeal are as follows:-

On 28.10.1996, the appellant claimant was travelling by 1094 Mahanagri Express from Allahabad to Manmad. He accidentally fell down from the train and as a result of it, his both legs were amputated. The appellant claimant approached the Railway Claims Tribunal for grant of compensation of Rs.2,00,000/- by filing Original Application No. 26 of 1997. By judgment and award dated 8.10.1998, the

Railway Claims Tribunal granted compensation of Rs.2,00,000/- as claimed by the appellant. On 7.1.2003, the appellant original claimant filed M.A. No. 123 of 2003 before the Railway Claims Tribunal, Mumbai for enhancement of compensation from Rs.2,00,000/- to Rs.4,00,000/- on the ground that the Railway Accident and Untoward Incident (Compensation Rules) 1990 were amended and the same came into force on 1.11.1997 and in terms of the said amended Rules, the compensation for amputation of both legs is required to be awarded at Rs.4,00,000/-. The Railway Claims Tribunal by its judgment and award dated 11.1.2012 allowed the said M.A. No. 123 of 2003 and enhanced the compensation from Rs.2,00,000/- to Rs.4,00,000/-. However, the learned Member of the Tribunal has directed the respondent to pay applicant the aforesaid compensation within a period of two months from the date of order, failing which it is directed that the respondents to pay simple interest at the rate of 9% p.a. from the date of default till realization. Hence, this appeal is preferred by the original claimant to the extent of grant of interest.

3. Learned counsel for the appellant original claimant submits that the Tribunal has committed error in not granting interest from the date of application. Learned counsel submits that the said finding is contrary to the law laid down by the Supreme Court in the case of

Thazhathe Purayil Sarabi and Ors. vs. Union of India and another, reported in AIR 2009 SC 3098 and also in view of the provisions of section 3 of the Interest Act 1978 r.w. Section 34 of Civil Procedure Code 1908.

4. Learned counsel for the respondent submits that Original application No. 26 of 1997 was disposed of by the Tribunal by judgment and award dated 8.10.1998 and the respondent is directed to pay compensation of Rs.2,00,000/-. On 7.1.2003, the appellant claimant approached the Tribunal by filing M.A. No. 123 of 2003 and accordingly the Tribunal has awarded further compensation of Rs.2.00,000/- with interest at the rate of 9% p.a. from the date of default till realization. Learned counsel submits that the respondent should not be saddled with interest from the date of award in the original proceeding i.e. dated 8.10.1998.

5. On consideration the ratio laid down by the Supreme Court in the case of ***Thazhathe Purayil Sarabi and Ors. vs. Union of India and another, (supra)*** relied upon by learned counsel for the appellant and in view of the fact that the claimant had again approached the Tribunal in the year 2003 belatedly by filing M.A. No. 123 of 2003, it would be just, reasonable and proper to grant interest at the rate of 6% p.a. from the date of filing of M.A. No. 123 of 2003

i.e. from 7.1.2003 till the date of decision of the Tribunal i.e. 11.1.2012 and thereafter at the rate of 9% p.a. till realization of the said amount of Rs.2,00,000/-. Hence, I proceed to pass the following order:-

O R D E R

- I. The appeal is hereby partly allowed.
- II. The order passed by the Railway Claims Tribunal, Mumbai, Bench at Mumbai dated 11.1.2012 is modified to the extent of interest and the respondent is hereby directed to pay interest at the rate of 6% p.a. from the date of application of M.A. No. 123 of 2003 till the date of decision of the Tribunal i.e. 11.1.2012 and thereafter at the rate of 9% p.a. till its realization.
- III. First appeal is disposed of.

(V. K. JADHAV, J.)