

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4828 of 2017

Date of decision:- SEPTEMBER 08, 2017

HEMANT KUMAR AND ORS

....APPELLANTS..

VS.

UNION OF INDIA

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Upender Prasher, Advocate for the appellants.

None for the respondents.

JASPAL SINGH, J.

Aggrieved against the award dated 03.10.2016 passed by Railway Claims Tribunal, Chandigarh (for short; "Tribunal"), the appellants have preferred the instant appeal for modification of issue No.4. The Tribunal while allowing the claim held as under:-

"In the result, the claim application is allowed and an award for Rs.4,00,000/- (Rupees four lacs only) along with interest @ 9% per annum from the date of filing this claim application i.e. 11.07.2012 till payment, is made in favour of the applicants-awardees and against the respondent-railway. The amount of compensation shall be payable by the respondent-railways to the applicants in the manner that the applicant No.1, who is son of the deceased, shall get a sum of Rs.1,50,000/- (Rupees One lac fifty thousand only); applicant No.2, who is daughter of the deceased, shall get a sum of Rs.1,75,000/- (Rupees One lac seventy five thousand only) andn their sister, Sonu, shall get a sum of Rs.75,000/- (Seventy five thousand only).

The applicants are directed to furnish their bank details of a Nationalized Bank situated nearest to their house within a period of 15 days from the date of this order, to the Presenting Officer of this Tribunal and thereafter, the respondent-railways are allowed 45 days time to credit the compensation amount to their accounts under intimation to them failing which, the applicant-awardees shall be entitled to further interest @ 12% from the date of this award till realization of the same.

However, out of compensation amount awarded in favour of the applicant-awardees, initially, only 10% of the amount will be released to each of them in cash and the rest of the entire amount together with interest accrued thereon shall be kept in fixed deposits in their favour in the same bank, for a period of three years. However, after one year, 1/3rd of the amount will be released to the applicant-awardees. The another one third of the amount will be released in the second year and the remaining amount will be released after the completion of third year. However, the applicant-awardees are at liberty to move for the release of the amount in between and the same will be released in case they satisfy the Tribunal the necessity for the same”.

2. Learned counsel for the appellants contends that the order of releasing the compensation amount awarded in favour of appellants by way of instalments, is wrong and against the interest of the appellants, who are concededly, major/adult. Therefore, the order of releasing the amount of compensation in installments and in fixed deposit is wrong, illegal and unjust. Appellants cannot make to suffer by restricting the payment of compensation in instalments. In **“H.S. Ahammed Hussain vs. Irfan**

Ahammed” 2002(3) RCR(Civil) 563, Hon'ble Supreme Court held such an action to be wrong and illegal. To the similar effect are the observations made in case ***“Asraf vs. Motor Accidents Claims Tribunal, Gurgaon and others”*** Vol.CXLVII-(2007-3) PLR 692, ***“N.Parameswaran Pillai and another vs. Union of India and another”*** 2002 ACJ 841 and ***“Usha Rani and others vs. Union of India and another”*** 2005 ACJ 1611.

3. Further, while relying upon the dictum rendered in aforesaid judgments, this Court allowed the appeals bearing FAO No.3261 of 2008, titled as ***“Kailash Nath and another v. Union of India”***, decided on 15.01.2009, FAO No. 1262 of 2010 (O&M), titled as ***“Rameshwar Lal and others v. Union of India through General Manager, Northern Railway, Baroda House, New Delhi”***, decided on 11.05.2010 and FAO No. 1520 of 2017 (O/M), titled as ***“Suman Rani and others v. Union of India”***, decided on 07.03.2017, observing that the action or order of the court ordering the amount of compensation in Fixed Deposit and disbursement thereof by way of instalments to major/adult members is improper, unjust and illegal.

4. As a corollary of the aforesaid discussion and keeping in view the decision of the Apex Court as well as this Court, appeal is allowed and the order passed by Id. Tribunal dated 03.10.2016 is hereby modified to the extent the amount of compensation awarded to the claimants vide impugned award dated 03.10.2016 shall be paid to them in cash along with interest accrued thereon.

SEPTEMBER 08, 2017

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**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes/No