

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.**

REVIEW APPLICATION (CIVIL) NO.181 OF 2017

IN

FIRST APPEAL NO.168 OF 2016

Smt. Vimalbai w/o Ganesh Chitte & Others .. Applicants

Versus

Union of India, Through General Manager,
South Central Railways, Secundrabad
(Andra Pradesh) .. Respondent

...

Shri P.S. Agrawal, Advocate for Applicants
Shri M.N. Navandar, Advocate for Respondent

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CORAM : P. R. BORA, J.

Date : 17.01.2018

PER COURT :

1. Heard Shri P.S. Agrawal, learned Counsel appearing for the review applicants and Shri M.N. Navandar, learned Counsel appearing for respondent i.e. Railway Administration.

2. By filing the present review application, the applicants have sought modification in the order passed by this Court on 21st November, 2016 in First Appeal No.168 of 2016. The applicants had initially preferred an application before

Railway Claims Tribunal, at Nagpur bearing No. OA (IIU)/NGP/2013/0037 claiming compensation on account of the death of one Ganesh Chitte in a railway accident happened on 16.11.2012. The Tribunal, vide its Judgment and order passed on 06.11.2015 dismissed the claim petition, whereupon the aforesaid first appeal was preferred before this Court. Vide Judgment and order passed on 21st November, 2016 this Court had set aside the order passed by the Railway Claims Tribunal, at Nagpur and had consequently allowed the claim application filed by the applicants.

3. In the present application, it is the contention of the applicants that, the applicants were entitled for the interest on the amount of compensation from the date of filing application by them till the realization of the claim amount. Since this Court has not awarded any such interest, the present review application has been filed for modification of the said award to the extent of award of interest on the amount of compensation. The learned Counsel for the applicants has relied upon the Judgment of the Hon'ble Apex Court in the case of **Thazhathe Purayil Sarabi & Ors. Vs. Union of India & Anr, AIR 2009 Supreme Court 3098.**

4. Shri Navandar, Learned Counsel appearing for the Railway Administration opposed the prayer so made by the applicants contending that, no such request was ever made by the applicants and as such this Court has rightly not granted any such interest. The learned Counsel, therefore, prayed for rejecting the review application.

5. I have carefully gone through the Judgment of the Hon'ble Apex Court relied upon by the applicants. The Hon'ble Apex Court has held that, 'Even though there is no provision in The Railway Claims Tribunal Act, 1987 or in The Railways Act, 1989 for payment of interest on the sum awarded by way of compensation, the Court has power to grant interest referring to the provisions of the Interest Act, 1978 and the Code of Civil Procedure.'

6. The Hon'ble Apex Court after referring to relevant legal provisions in this regard has held that,

"Both the Tribunal, as well as the High Court, were wrong in not granting any interest whatsoever to the appellants, except by way of a default clause, which is contrary to the established principles relating to payment of interest on money claims."

After making such observations the Hon'ble Apex

Court allowed the appeal before it and modified the order of the High Court directing grant of 6% simple interest from the date of application till the date of award. In view of the law laid down by the Hon'ble Apex Court in the aforesaid Judgment, the present review application deserves to be allowed.

7. It is brought to my notice that, the claim application was filed by the applicants on 01.02.2013, and the amount of compensation as awarded by this Court has been paid to the applicants on 09.02.2017. Learned Counsel for the applicants and learned Counsel for the respondent were joint in submitting that, if at all any interest is to be awarded in view of the Judgment of the Hon'ble Apex Court, the same shall be awarded from the date of filing of the application i.e. 01.02.2013 till the date of payment of the amount i.e. 09.02.2017. In view of the above, the following order is passed.

ORDER

(i) Review Application is allowed.

(ii) The respondent is directed to pay interest to the applicants on the sum of Rs.4,00,000/- (Rs.Four Lakhs Only) at the rate of 6% per annum from the date of filing of the application i.e. 01.02.2013 till actual realization of the said

amount i.e. 09.02.2017.

(iii) The order passed by this Court in First Appeal No.168 of 2016 stands modified to the aforesaid extent.

[P.R. BORA]
JUDGE

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