

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.966 of 2012

JUDGMENT:

1 This appeal is directed under Section 23 of the Railway Claims Tribunal Act, 1987 (for short 'the Act') challenging the Order dated 18.6.2010 passed in O.A.A.No.212 of 2004 on the file of the Railway Claims Tribunal Bench at Secunderabad, whereby and whereunder the Tribunal while granting compensation of Rs.4.00 lakhs to the appellant, awarded interest at 6% p.a. only from the date of the order till the date of actual payment.

2 The parties to this appeal will hereinafter be referred to as they were arrayed in the O.A before the Tribunal.

3 The facts which are necessary for disposal of this appeal, in brief, are as follows:

4 The applicant filed O.A.A.No.212 of 2004 on the file of the Railway Claims Tribunal Bench at Secunderabad claiming compensation of Rs.4.00 lakhs for the death of her husband stating that her husband accidentally fell down from the train No.7405 – Krishna Express between Madhira and Motamarri. The respondent filed written statement denying all the averments made in the application, inter *alia* contending that the death of the deceased will not fall within the ambit of 'untoward incident'. It is the case of the respondent that the deceased was not a *bona fide* passenger.

5 Basing on the above pleadings, the Tribunal framed four issues. During the course of trial, the appellant examined herself as A.W.1 and got marked Exs.A.1 to A.9. On behalf of the respondent no oral or documentary evidence was adduced.

6 Basing on the oral, documentary evidence and other material available on record, the Tribunal allowed the petition and awarded an amount of Rs.4.00 lakhs to the appellant as compensation with interest at 6% p.a from the date of order till the date of realization.

7 Feeling aggrieved by the order dated 18.6.2010 of the Tribunal the applicant preferred the present appeal for not granting interest from the date of filing of the application till the date of award.

8 The contention of the learned counsel for the applicant is that the Tribunal committed grave error while not granting interest from the date of filing of the application till the date of award. *Per contra*, the learned standing counsel submitted that it is the discretion of the Tribunal to award interest either from the date of filing of the application or from the date of award.

9 Now the point for consideration is whether the applicant is entitled to interest from the date of filing of application till the date of award or not?

10 For one reason or the other, the respondent did not file any appeal challenging the order of the Tribunal dated 18.06.2010. The finding of the Tribunal on the four issues became final in view of non-filing of the appeal by the respondent.

11 To substantiate the argument, the learned counsel for the appellant has drawn the attention of this Court to the following judgments.

***Tahazhathe Purayil Sarabi and others vs. Union of India*¹.**

As per the principle enunciated in this case, the applicants are

¹ 2009 ACJ 2444

entitled to interest at the rate of 6% p.a. from the date of filing of petition till the date of award.

Union of India vs. Rina Devi² wherein the Hon'ble apex Court held at para No.30 as follows:

As already observed, though this Court in ***Thazhathe Purayil Sarabi vs. Union of India*** {(2009) ACJ 2444} held that rate of interest has to be at the rate of 6% from the date of application till the date of the award and 9% thereafter and 9% rate of interest was awarded from the date of application in ***Mohamadi vs. Union of India*** {(2011) ACJ 2356}, rate of interest has to be reasonable rate at par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises upto the date of payment, without any difference in the stages. Legal position in this regard is at par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner.

12 Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the applicant is entitled to interest at 6% p.a. from the date of filing of the application till the date of award.

13 In the result the appeal is allowed, granting interest at 6% p.a. from the date of filing of the application till the date of award. The respondent is hereby directed to deposit the balance amount of interest within three months to the credit of the O.A.A, failing which the appellant is entitled to interest at 9% p.a. from today till the date of deposit. Consequently, miscellaneous petitions, if any, pending in this miscellaneous appeal, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 31st August, 2018.
kvsn

² 2018 SCC Online SC 507