

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

C.M.A.Nos.133 & 379 OF 2010

COMMON JUDGMENT:

Since the facts, the issues, the parties and the award under challenge in these two appeals are one and the same, both the appeals are being disposed of by way of this common judgment.

2. C.M.A.No.133 of 2010, under Section 23 of the Railways Claims Tribunal Act, 1987 is directed against the order, dated 14.12.2009, in OAA No.306 of 2004 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad, (for short, 'the Tribunal'), whereunder and whereby, the claim of the appellants/applicants under Section 16 of the Railway Claims Tribunal Act, 1987 read with Sections 124-A and 125 of the Railways Act, 1989 (for short, 'the Act') was allowed, granting compensation of Rs.4,00,000/- consequent on the death of the deceased Manthena Laxman in a railway accident that took place on 28.04.2004 with interest at the rate of 9% per annum from the date of the order till the date of actual payment of the same. Challenging the very same order, the Railways filed C.M.A.No.379 of 2010 seeking to set aside the said order.

3. Heard the learned counsel for both sides and perused the record. The parties are hereinafter referred to, as per their array before the Tribunal.

4. Learned counsel for the applicants would contend that the Tribunal ought to have awarded interest at the rate of 12% per

annum from the date of application till the date of realization and prays to allow C.M.A.No.133 of 2010.

5. On the other hand, learned Standing Counsel for the Railways would contend that the deceased Manthena Laxman did not succumb to injuries in an untoward incident of railway accident on 28.04.2004; that the deceased Manthena Laxman was not having a valid ticket at the time of the subject accident; that the applicants are not the dependants of the deceased Manthena Laxman and ultimately, prayed to set aside the impugned order.

6. In view of the submissions made by the learned counsel on either side, the points that arise for determination are:

- “1. Whether the order, dated 14.12.2009, in OAA No.306 of 2004 passed by the Tribunal is liable to be set aside? and***
- 2. Whether the appellants/applicants are entitled for interest at the rate of 12% per annum from the date of filing the claim application till the date of realization as prayed?”***

7. **POINT No.1:-** As per the evidence on record, the deceased Manthena Laxman died in Chakur Government General Hospital and number of documents are filed to prove that he succumbed to injuries in an untoward incident of railway accident on 28.04.2004. This aspect has been elaborately dealt with by the Tribunal. There is no infirmity in the impugned order and the same is liable to be confirmed.

8. **POINT No.2:-** Conflicting opinions existed as to the award of interest on the compensation amount awarded in the claim petitions presented under the Railway Claims Tribunal Act, 1987. One view was that the Tribunal has the discretion to stipulate the

date with effect from which the interest would accrue and that a claimant does not have the right to insist on award of interest from the date of presentation of the claim petition. In certain cases, it was observed that interest must be awarded from the date of presentation of claim.

9. The controversy or the difference of opinion has been set at rest by the Hon'ble Supreme Court through its judgment, dated 14.05.2009, in Civil Appeal No.3658 of 2009 (Arising out of SLP (C) No.26654 of 2008) in **TAHAZHATHE PURAYIL SARABI AND OTHERS VS. UNION OF INDIA AND ANOTHER¹**. It was held that the amount awarded as compensation by the Railway Claims Tribunal shall carry interest at 6% per annum from the date of presentation of the claim petition till the date of award and at 9% per annum from the date of award till the date of realization.

10. Following the same, the applicants are entitled to interest at the rate of 6% per annum from the date of presentation of the claim petition till the date of award and thereafter, at the rate of 9% per annum from the date of award till the date of realization.

11. Accordingly, C.M.A.No.133 of 2010 is partly allowed and C.M.A.No.379 of 2010 is dismissed. There shall be no order as to costs.

12. Miscellaneous petitions pending, if any, in these appeals shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 24.09.2018
AMD

¹ 2009 ACJ 2444

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