

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL MISCELLANEOUS APPEAL No.1539 OF 2008

JUDGMENT:

This appeal is filed against the order dated 13.11.2007 in O.A.A.No.380 of 2002 on the file of Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

The appellants/applicants filed the said O.A.A. claiming compensation for the death of Smt.Ch.Govinda Mani, in an untoward incident occurred on 06.11.2002 at Parvathipuram Town Railway Station.

The respondent entered appearance and contested the matter. After evaluation of the documentary and oral evidence, the Railway Claims Tribunal held that the deceased was a *bona fide* passenger and she died in the untoward incident. It is also held that the dependants of the deceased are entitled to a compensation of Rs.4,00,000/-. However, while awarding compensation, the Tribunal gave 60 days for depositing the amount and put a rider stating that if the said amount is not deposited, it will carry interest at 6% per annum from the date of receipt of a copy of the judgment till realisation. It is this portion of the order that is now challenged in the appeal before this Court.

Hence, the only question that arises now is whether the order of the lower Court in awarding interest as it did is correct or not.

Heard Sri T.L.Krishna Prasad, learned counsel for the appellants. Despite opportunities, none appeared for the respondent. On 06.02.2018, learned counsel for the appellants completed his arguments. The matter was posted from then and

ultimately on 09.02.2018, one more opportunity was granted, but the counsel for the respondent not present. Therefore, the matter is taken up for deciding the question whether the Claims Tribunal is justified in granting interest only after 60 days.

It is an admitted position that neither the Railways Act nor the Railway Claims Tribunal Act makes a provision for payment of interest on the amounts awarded. Therefore, the Courts in India have invoked the powers available to them under the provisions of Interest Act and also Civil Procedure Code for awarding interest. Normally, award of interest should follow a money decree and it is only in exceptional circumstances and for reasons to be recorded in writing that interest is negatived. The very purpose of awarding interest is to compensate the decree-holder. A person who is deprived of the use of the money is entitled to interest. The Hon'ble Supreme Court in ***Tahazhathe Purayil Sarabi V. Union of India***¹ considered the provisions of the Railways Act, the Railway Claims Tribunal Act, etc., and came to a conclusion that interest is payable from the date of the application till the date of the award. The Hon'ble Supreme Court clearly held that both the Claims Tribunal and the High Court were wrong in not granting any interest to the appellants except by way of a default clause, which is contrary to the established principles relating to payment of interest. Therefore, the Hon'ble Supreme Court awarded interest at the rate of 6% per annum from the date of the application till the date of the award and thereafter at 9% till the date of payment.

This Court is bound to follow the Hon'ble Supreme Court. Hence, in this case this Court awards interest on the award

¹ 2009 ACJ 2444

amount of Rs.4,00,000/- as follows:- Interest at 6% per annum from the date of the application till the date of the award and thereafter at 9% per annum from the date of the award till the date of payment made by the railways.

With the above observation, the appeal is allowed. No costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 21.02.2018
ssp

