

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.1226 OF 2009

AND

CROSS-OBJECTIONS (SR) No.41070 OF 2010

COMMON JUDGMENT:

Heard Mrs. T. Bala Jayasree, learned counsel for the appellant and Sri T.L. Krishna Prasad, learned counsel for the respondents/cross-objectors.

2. Though elaborate arguments were advanced by the learned Standing Counsel for the Appellant, Mrs. T. Bala Jayasree, in regard to A.W.2's evidence, but, however, the Tribunal, being the Primary Authority, recorded a finding on fact believing the evidence of A.W.2 that the deceased purchased the ticket, but still finding that the deceased fell down from the train while getting down. The said finding does not warrant interference.

3. Of course, learned Standing Counsel for the appellant, though, initially contested it, but, however, has come up at a later stage in view of catena decisions on this aspect of the case holding in favour of the applicants rather than Railways.

4. So far as rate of interest is concerned in Cross-objections, the applicants sought for 9% interest p.a. from the date of petition. The Tribunal has awarded interest at 9% p.a. from the date of order. In the said context, learned Standing Counsel would place reliance on a decision of this Court in C.M.A. No.2003 of 2010, dated 6.10.2010 where interest was granted at 6% per annum from the date of petition

till the date of order, and the Tribunal would have been followed the ratio laid down by the Hon'ble Supreme Court in **Thazhathe Purayil Sarabi & others v. Union of India & Ors.**¹.

5. In such an event, certainly, Cross-objection has to be partly allowed awarding interest at 6% per annum from the date of petition till the date of order, while confirming the compensation awarded by the Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed and Cross-Objections are partly allowed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the Civil Miscellaneous Appeal shall stand closed.

Dt. 19.06.2018
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A.SHANKAR NARAYANA,J

¹ (2009) 7 SCC 372