

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.545 of 2012

JUDGMENT:

This appeal is filed under Section 23 of Railway Claims Tribunal Act assailing the order dated 05.04.2010 passed in O.A.A.No.190 of 2004 on the file of the Railway Claims Tribunal, Secunderabad Bench at Secunderabad (for short, 'the Tribunal'), wherein and whereby the application filed by the applicants under Section 16 of Railway Claims Tribunal Act was allowed by granting compensation of Rs.4,00,000/- with interest at the rate of 6% per annum from the date of the order till the date of actual payment of the same.

2. For the sake of convenience, the parties will hereinafter be referred to as they were arrayed in O.A. before the Tribunal.

3. The facts leading to filing of the present appeal are briefly as follows: The applicants filed the application under Section 16 of Railway Claims Tribunal Act (for short, 'the Act') claiming compensation of Rs.4,00,000/- from the respondents for the death of one N.C.Bose (hereinafter referred to as 'the deceased'). As per the averments made in the application, the deceased fell down from the train bearing No.2842 Chennai-Coramandal Express on 3/4-9-2003 and died.

4. Respondent No.1 filed written statement denying all the averments made in the application *inter alia* contending that the applicants are not entitled to claim compensation from the respondents. Hence, the application is liable to be dismissed.

5. Basing on the above pleadings, the Tribunal framed the following issues:

- (1) Whether the applicants are the dependants of the deceased?
- (2) Whether the deceased was a *bona fide* passenger?
- (3) Whether the deceased died on account of injuries sustained by him/her in an untoward incident of accidental fall from the train? and
- (4) To what relief?

6. To substantiate the case, on behalf of the applicants, A.Ws.1 and 2 were examined and Exs.A.1 to A.8 were marked. On behalf of the respondents, no oral evidence was adduced and Ex.R1 was marked.

7. Basing on the oral, documentary evidence and other material available on record, the Tribunal answered all the four issues in favour of the applicants and against the respondents, and consequently, allowed the appeal. The Tribunal awarded interest at the rate of 6% per annum from the date of the order till the date of actual payment of the same.

8. Feeling aggrieved by non-granting of interest from the date of the order, the applicants preferred the present appeal.

9. Heard the learned counsel for both the parties.

10. The point that arises for consideration in this appeal is:

Whether the applicants are entitled for interest at the rate of 6% per annum from the date of application till the date of award?

11. For one reason or other, the respondents did not choose to file an appeal assailing the order dated 05.04.2010 passed in O.A.A.No.190 of 2004. The findings recorded by the Tribunal became final in view of non-filing of the appeal by the respondents.

12. Learned counsel for the appellants submitted that the appellants are entitled for interest at the rate of 6% per annum from the date of application till the date of award. To substantiate the arguments, he has drawn the attention of this Court to **Union of India v Rina Devi**¹, wherein the Hon'ble Apex Court held at paragraph No.30 as follows:

30. As already observed, though this Court in *Thazhathe Purayil Sarabi v. Union of India*, (2010) TAC 420 SC 18, 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 v. 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.

13. As per the principle enunciated in the case cited supra, the applicants are entitled for interest at the rate of 6% per annum from the date of application till the date of award.

14. The facts of the case on hand are almost similar to the facts of the case cited supra.

15. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, this Court is of the considered view that the applicants are entitled for interest

¹ 2018 SCC Online SC 507

at the rate of 6% per annum from the date of application till the date of award.

16. In the result, the Civil Miscellaneous Appeal is allowed by granting interest to the applicants at the rate of 6% per annum from the date of application till the date of award. Respondent No.2 is directed to deposit the difference of interest amount within a period of three months from today, failing which the applicants are entitled to interest at the rate of 9% per annum from today till the date of deposit. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Appeal shall stand closed.

Date: 11.09.2018
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T.SUNIL CHOWDARY, J

