

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.10 of 2013**

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Upendra Singh and Anr.

... .. Appellant/s

Versus

The Union Of India Through The General Manager

... .. Respondent/s

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**Appearance :**

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| For the Appellant/s  | : | Mr. Gautam Kumar Kejriwal, Adv.<br>Mr. Alok Kumar Jha. Adv.<br>Mr. Rahul, Adv,<br>Mr. Atal Bihari Pandey, Adv. |
| For the Respondent/s | : | Mr. Anil Singh, Adv.                                                                                           |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL ORDER**

7      12-04-2019                      Heard Sri Gautam Kumar Kejriwal learned  
counsel for the appellant and Sri Anil Singh learned counsel  
for the respondent (Railway).

The present Miscellaneous Appeal has been  
filed for setting aside the decision dated 09.10.2012 passed  
by learned Member (Technical) Railway Claim Tribunal,  
Patna Bench in Execution Case No. EX/PNBE/2012/20  
(arising out of OA No. 00079/2001) by which Tribunal has  
rejected the execution of original order dated 24.10.2011  
passed by the Tribunal.

Appellant had initially filed claim application  
before the Tribunal being O.A. Case No. 00079/2012 for  
payment of compensation on the ground that on 08.10.2000  
the son of appellant no.1 namely Sanjay Kumar Singh had  
boarded Train No. 209 (Up- Howrah Darbhanga Passenger)



from Dumari Halt for Hatidah Station which was very crowded and her son lost his balance and fell down on the railway track and was run over by the train accordingly her son met accidental death which is covered by Section 123 (C)(2) of the Railways Act, 1989. The claim of appellant was contested by Railways that occurrence was not covered by section 123 of (A)(a) to (e) of the Rail (amendment) Act 1994 or by its exception.

The learned Tribunal framed the issues involved in the claim case and on the basis of evidence furnished by the parties decided the original application by its order dated 24.10.2011 directing the respondent to pay by way of compensation a sum of Rs. 4 lacs to the appellants within a period of 2 months from the date of making available the Bank Account details by the appellants and also a direction to the respondent to pay interest @ 9 % per annum from the date of filing of the claim application till the date of payment. The appellant submitted the details of Bank Account vide letter dated 04.03.2012 to the Chief Commercial Manager, Eastern Railway Kolkata. The respondent Railways did not pay any amount to the appellants in compliance of order of Tribunal for which appellants approached learned Tribunal



in Execution Case No. EX/PNBE/2012/20 which was filed on 04.06.2012 i.e. after one month of expiration of the period of two months from payment as directed by the Tribunal. Respondents took steps for payment of principal amount of compensation for a sum of Rs. 4 lacs to the appellants on 29.08.2012 but no interest was paid. The respondent was issued notice in the Execution Case but they did not appear before the Tribunal and did not contest the execution case. However, the learned Member (Technical) dismissed the execution petition by impugned order that appellants were negligent in furnishing the bank account details and, as such, appellants were not entitled for payment of interest as directed in the order dated 24.10.2011. Aggrieved by said order appellants have preferred this appeal.

Learned counsel for the appellant, relying on a judgment of the Apex Court, reported in **(2009) 7 SUPREME COURT CASES 372 (THAZHATHE PURAYIL SARABI AND OTHERS- Versus- UNION OF INDIA AND ANOTHERS)**, submits that law on the point has been settled that in such claim cases, interest is required to be calculated from the date when application for



compensation was filed.

The proposition of law, which has been settled by the Apex court in **Thazhathe Purayil Sarabi's** case (Supra) was not disputed by Sri Anil Singh, learned counsel for the respondent/Railway, but he submits that as per the judgment of the Apex Court, rate of interest would be 6% per annum from the date of filing of the claim case till the date of award.

In view of the facts and circumstances, particularly; the law laid down by the Apex Court, there is no reason to deny the prayer of the appellant.

This appeal stands allowed.

In the facts and circumstances of the present case as appellant has already received compensation amount of **Rs. 4,00,000 (four lacs)**, as directed by the Tribunal, the claimant shall be entitled to get interest on the compensation amount from the date of filing of the claim petition till the date of payment, which would be at the rate of 6% per annum.

Accordingly, the appeal stands allowed with a direction to the respondent/Railway to calculate the amount of interest, as indicated above, and pay the same within a



period of three months from the date of receipt/production of  
a copy of this order.

**(S. Kumar, J)**

Rajiv/-

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