

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.753 of 2012

1. Smt. Phoolwanti Devi, W/O Late Arun Kumar Dubey
 2. Paras Nath Dubey, S/O Late Arun Kumar Dubey
 3. Prem Nath Dubey, S/O Late Arun Kumar Dubey
 4. Kumari Manju, D/O Late Arun Kumar Dubey
- All are resident of village/mohalla Maharaj Hata, Ara, P.O. Ara, P.S. Nawada,
District Bhojpur.

... .. Appellant/s

Versus

The Union of India through the General Manager, Eastern Railway, 3 -
Koelaghat Street, Kolkata - 700001.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate
For the Respondent/s : Mr. Anil Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 07-01-2019

Heard the parties.

2. The appellants were applicants for grant of compensation of Rs.4,00,000/- (rupees four lacs) due to death of husband of appellant no. 1 and father of other appellants arising out of injuries sustained by the deceased in a railway accident on 31.03.1999.

3. The Claim Application No. OA 00051 of 2000 was heard by the Railway Claims Tribunal, Patna Bench and the respondent-railway was directed to pay compensation of Rs.4,00,000/- (rupees four lacs) to the appellants within two months from the date of order dated 03.12.2009, failing which the appellants would be entitled to get interest @ 9% per annum



from the date of filing till its realization. In paragraph 17 of the aforesaid order, the manner of distribution and deposit of the fraction of Rs.4,00,000/- (rupees four lacs) was indicated. In compliance of the aforesaid order, the railway paid compensation amount of Rs.4,00,000/- (rupees four lacs) on 12.05.2010.

4. Being aggrieved by non-payment of interest of 9% by the respondent from the date of filing of the application in pursuance of the aforesaid direction, the appellants filed Execution Case No. 22 of 2010 claiming interest of Rs.3,65,400/- (rupees three lacs sixty five thousand and four hundred). The said application was dismissed by the impugned order dated 27.07.2012. The learned Execution Court noticed that the order of the Tribunal dated 03.12.2009 could not have been complied in absence of bank details of the different appellants because there was direction for dividing the total compensation amount and deposit of the same in different accounts of different claimants in the manner indicated. The bank detail was provided only on 08.02.2010 by the appellants, therefore, the respondents were not at fault in not complying the order dated 03.12.2009 within time.

5. Submission of the learned counsel for the



appellants is that even after supply of the bank details, there was delay of 94 days and the delay was deliberate in spite of mandatory direction of payment of compensation amount within two months.

6. The learned Execution Court while rejecting the prayer of the appellants has observed that to his mind the dead line of two months issued by the Tribunal vide its order dated 03.12.2009 meant only that the payment should be made within a reasonable period of about two months. In the present case, the payment was made after 34 days beyond two months. Hence, the payment would be deemed to be within reasonable time.

7. Learned counsel for the respondent resisted the claim of the appellants, however, does not dispute that there is no reasonable explanation for delayed payment of the compensation amount even after furnishing of the bank details by the appellants on 08.02.2010.

8. In the circumstances of this case, I do not find any merit in the submission of the learned counsel for the appellants that this is case of a flagrant violation of the order of the Tribunal in non-payment of compensation amount within two months, rather this is a case of casual approach of the



Tribunal in making payment after 94 days from the date of furnishing of the bank account by the appellants, therefore, for substantial justice, the respondent-railway shall pay simple interest of 9% on total amount of Rs.4,00,000/- (rupees four lacs) for the period between 08.02.2010 i.e. date of furnishing the bank account by the appellants till 12.05.2010 i.e. the date when actual payment of compensation amount was made by the bank. The interest shall be paid within two months from today as this order has been passed in presence of the learned counsel for the railway, failing which the appellants shall be entitled for interest of 9% from the date of default till actual payment.

9. Accordingly, this appeal is partly allowed.

(Birendra Kumar, J)

Kundan/Rajan

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