

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1278 OF 2017

Shashikala Vasantryao Kulkarni

..... Appellant.

Vs.

Union of India

..... Respondent

Mr. M. R. Lad for Appellant.

Mr. T. J. Pandian for Respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 12, 2019

P.C.

1 Heard learned counsel for the parties.

2. By this First Appeal the Original Claimant is challenging the judgment and award dated 29th April, 2011 passed by the Railway Claims Tribunal, Mumbai Bench at Mumbai in case no. O.A. 512/2007 awarding a sum of Rs. 4,00,000/- by way of compensation with simple interest @ 6% p.a. from the date of application till the date of award. If there is delay more than 60 days for payment of compensation then interest will be calculated @ 9% p.a.

3. The learned counsel appearing on behalf of the Appellant/Original Claimant across the Bar made a statement that by this First Appeal

Appellant is challenging only the rate of interest. The Appellant is satisfied with the compensation awarded by that tribunal.

4. As the issue involved in the present First Appeal is only of rate of interest, the same can be decided at the stage of admission itself. For deciding rate the of interest, this Court does not require paper book and/or record and proceeding of the Trial Court.

5. Hence, by consent of both the parties, the matter is taken on board for final hearing at the stage of admission itself.

6. The learned counsel Mr. M. R. Lad appearing on behalf of the Appellant, submits that the Tribunal has failed to appreciate the fact that at the time of awarding compensation, interest should have been awarded more than 6% p.a. He submits that in the matter arising from Motor Accident Claims Tribunal, Claimants are awarded compensation with interest more than 6% p.a. Therefore, in the present proceedings the Tribunal ought to have awarded interest more than 6% p.a. Hence, the impugned order passed by the Tribunal is required to be modified to the extent of awarding the interest more than 6% p.a.

7. On the other hand, the learned Counsel Mr. Pandian appearing on behalf of the Respondent, vehemently opposed the present first appeal. He submits that first appeal filed by the Claimant itself is not maintainable only on the ground of interest. He further submits that

neither in Indian Railways Act, 1989 nor in the Railway Claims Tribunal Act, 1987 the rate of interest is fixed. He submits that in the present proceeding the Claimant filed claim application on 28th May 2007 and the same was decided on 29th April 2011. He submits that during this period, the bank interest rate was near about 6% p.a. Therefore, there is no question to entertain the present First Appeal.

8. Considering the submissions made by both the counsel, following issues arise for consideration of this court.

a. “Whether the Appellant/Original Claimant has made out a case for grant of higher rate of interest on the amount of compensation of Rs.4,00,000/-?”

9. It is to be noted that there is no specific provision in law, at what rate, interest should be awarded by Railway Claim Tribunal to the victim/claimant. In the present proceeding the Claimant had filed claim petition on 29th May, 2007 and it was decided on 29th April 2011. During this period, the bank rate was near about 6% p.a.

10. Considering this fact I am of the opinion that the Appellant/Original Claimant has failed to make out any case for higher rate of interest. The rate of interest awarded by the Tribunal is reasonable.

11. Hence, I do not find any substance to entertain the present First Appeal.

12. Hence, I pass the following order:

- a. First Appeal stands dismissed.
- b. No order as to costs.

(K.K.TATED, J.)