

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

First Appeal No. 1539/2019

Prabhakar Bala Jadhav & Anr. Vs. Union of India Through Central Railway

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C.A. Joshi, Advocate for appellants
Mr. P.S. Khubalkar Advocate for respondent

CORAM : MANISH PITALE, J.

DATED : SEPTEMBER 23, 2019

By this appeal, the original claimants are seeking relief of enhancement of compensation in terms of Notification dated 01.01.2017, issued by the Central Government, whereby the quantum of compensation has been increased from Rs.4,00,000/- to Rs.8,00,000/-. It is the contention of the learned counsel appearing for the appellants that the Railway Claims Tribunal erred in granting compensation only at Rs.4,00,000/- with 6% interest and in not granting the enhanced compensation in terms of aforesaid Notification dated 01.01.2017.

2. The question as to whether claimant would be entitled to benefit of the aforesaid notification when the accident in question has taken place prior to the said notification, is no more *res integra*, because the Hon'ble Supreme Court in the case of **Union of India**

Vs. Rina Devi, AIR 2018 Supreme Court 2362, while considering the said issue, held as follows :

“15.4 Accordingly, we conclude that compensation will be payable as applicable on the date of the accident with interest as may be considered reasonable from time to time on the same pattern as in accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (AIR 2001 SC 1333)(supra) and Kalandi Charan Sahoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (AIR 1976 SC 222) (supra) holds the field on the subject and squarely applies to the present situation. Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.”

3. In the present case, on a rough and ready calculation, the learned counsel appearing for the appellants submits that even if interest as granted by the Tribunal is calculated on the said amount of Rs.4,00,000/- from the date when the application was made by the claimants i.e. on 26.07.2012, it would still be less than Rs.8,00,000/-. Therefore, in terms of the position of law laid down by the Hon’ble Supreme

Court in the aforesaid judgment, in the facts of the present case, the appellants would be entitled to compensation of Rs.8,00,000/-.

4. Accordingly, the appeal is partly allowed and the impugned judgment and order of the Tribunal is modified to the extent that the respondent is held liable to pay amount of Rs.8,00,000/- towards compensation to the appellants.

5. The respondent shall deposit the enhanced amount of compensation in this Court within a period of four months from today, failing which they will have to pay interest @6% per annum on the said amount, from the date of this order.

6. Upon deposit of the amount by the respondent in this Court the appellants will be entitled to withdraw the same immediately.

JUDGE