

In the High Court of Punjab and Haryana at Chandigarh

FAO- 1596 of 2017 (O&M)
Date of Decision: 15.10.2019

Chander Bhan

---Appellant

versus

Union of India

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. S.K.Rana. Advocate
for the appellant

Mr. Karminder Singh, Advocate,
for the respondent

Rekha Mittal, J.

The present appeal directs challenge against award dated 5.10.2016 to the limited extent that compensation assessed by the Railways Claims Tribunal, Chandigarh Bench, Chandigarh (in short “the Tribunal”) is not in consonance with the provisions of Railway Accident (Compensation) Amendment Rules, 1997 (in short “the 1997 Rules”).

Counsel for the appellant would argue that as the injured has been rendered 100% disable, in view of disability certificate produced on record, he is entitle to compensation under Rule 3 (2) of the 1997 Rules. It is further submitted that accident in question took place on 10.3.2015 and the award was passed on 5.10.2016 and at that time, admissible compensation under the aforesaid Rules was Rs. 4 lakh. It is further argued

that since award passed by the Tribunal had not attained finality and has been challenged in appeal, the appellant is further entitle to benefit of revised compensation in view of notification dated 22.12.2016 that came into force on the 1st day of January, 2017 whereby compensation has been enhanced from Rs. 4 lakh to Rs. 8 lakh. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Union of India vs. Rina Devi 2018 (3) RCR (Civil) 40.**

Counsel representing the respondent, on the contrary, has supported findings of the Tribunal that injury sustained by the victim is a scheduled injury mentioned at Sr. No. 20 of Part III of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, therefore, there is no justification for allowing additional compensation. It is further submitted that appellant cannot assert his claim for grant of compensation to the tune of Rs. 8 lakh by taking advantage of notification dated 22.12.2016.

Perusal of records would reveal that appellant placed on record disability certificate Ex. AW1/7. The Tribunal has relied upon disability certificate for the purpose of assessment of compensation. Perusal of disability certificate makes it evident that appellant has suffered 100% disability on account of amputation of left leg below knee with other disabilities recorded therein. The Tribunal had taken into consideration amputation of left leg below knee but did not consider the other part of disability rendering the appellant 100% disable.

The appellant appeared in the witness box and tendered into evidence his affidavit wherein he had stated that he accidentally fell down in between railway track and platform and received serious, grievous and multiple injuries on vital parts of body particularly left leg below knee was

amputated and received some hidden injuries on his body. He further stated that portion below the belly is totally dead. He can neither sit nor stand and is permanently bed ridden, thus, living at the mercy of others. Taking into consideration unrebutted and unchallenged testimony of the injured-victim coupled with disability certificate issued by the Medical Board, case of the appellant is covered under Rule 3(2) of the 1997 Rules, therefore, the appellant shall be entitle to a sum of Rs. 4 lakh towards compensation as was available at the time of passing of award in October 2016. The same shall carry interest @ 9% per annum from the date of accident till realization.

So far as plea of the appellant for payment of compensation of Rs. 8 lakh by relying upon judgment of Hon'ble the Supreme Court in **Rina Devi's case (supra)**, the same is not tenable. A relevant extract from para 15.4 of the judgment, reads as follows:-

“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 vs. Union of India*, 2001(3) RCR (Civil) 224 and *Kalandi Charan*

Sahoo vs. General Manager, South-East Central Railway, Bilaspur, Civil Appeal No. 5608 of 2017 decided on 25.4.2017 stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo vs. Srinivas Sabata (1976) 1 SCC 289 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.”

As in the present case, admissible compensation at the time of award was Rs. 4 lakh under Rule 3 (2) of the 1997 Rules, the appellant cannot derive benefit of notification dated 22.12.2016 that came into force on 1.1.2017.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.10.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No