

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO-4802-2018 (O&M)
Date of Decision: April 20, 2021**

Union of India

...Appellant

Versus

Saina Devi and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sanyam Malhotra, Advocate,
for the appellant.

Mr. Deepak Gupta, Advocate,
for the respondents.

ARUN MONGA, J.

Impugned herein is the judgment dated 05.04.2018 passed by the learned Railway Claims Tribunal, Chandigarh Bench, Chandigarh (hereafter referred to as 'the Tribunal'), directing the appellant to pay to the respondents a compensation of Rs. 8 lakhs proportionately with simple interest @ 6% per annum from the date of filing claim application, i.e. 17.12.2015 till the date of the impugned award.

2. The claim arose out of an untoward incident dated 20.12.2014 resulting into the death of Ashok Kumar Dhiman, who was husband of respondent No. 1 and father of respondent No. 2.

3. Learned counsel for the appellant argued that the Tribunal erred in holding that the appellant was negligent and liable to pay compensation; that against the claim for compensation of Rs. 4 lakhs, as per the norms prevailing at the relevant time, the Tribunal wrongly awarded

compensation of Rs. 8 lakhs and that it also erred in further awarding interest on the compensation amount.

4. Learned counsel for the respondents has defended the award.

5. I have heard the learned counsel for parties with their able assistance gone through the record.

6. The order of the learned Tribunal contains cogent and convincing reasons based on record, for holding that the untoward incident occurred due the negligence of the appellant. On perusal of the record, I am also inclined to agree with the said finding.

7. Admittedly, the schedule to the Railway Accidents and Untoward, Incidents (Compensating) Rules, 1990 fixing the amount of compensation was amended with effect from 01.01.2017, revising the amount of compensation in such cases from Rs. 4 lakhs and to Rs. 8 lakhs.

8. In Union of India v. Rina Devi 2018(3) RCR(Civil) 40, the Hon'ble Supreme Court of India held as under:

“15. We now propose to deal with the following issues seriatim:

(i) Whether quantum of compensation should be as per the prescribed rate of compensation as on the date of application/incident or on the date of order awarding compensation:

xxx xxx

Re(i) Quantum of compensation

xxx xxx

15.4 Accordingly, we conclude that the 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 orders has expired. This order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sahoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (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 beneficial legislation, if compensation as provided on the date of the award of the Tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be given.

xxx xxx”

9. It is obvious that at the time of passing the judgment in Rina Devi (supra), the Hon’ble Apex Court took into account the element of past interest, while extending the benefit of revised higher compensation in those cases also which pertained to the period prior to 01.01.2017, but were then pending or had not attained finality, and which would otherwise attract the unrevised lower rate of compensation.

10. In present case, the claim application was registered on 17.12.2015. Impugned judgment was rendered on 05.04.2018. In the meantime, the amended schedule came to effect from 01.01.2017, revising the amount of compensation in such cases from Rs. 4 lakhs and to Rs. 8 lakhs. If interest @ 6% from 17.12.2015 (the date of registration of the claim application) as awarded by the learned Tribunal or even from 20.12.2014, the date of untoward incident is added to prescribed rate of compensation of Rs. 4 lakhs in the unrevised schedule, the total would be

less than Rs. 8 lakhs. This being the situation and in view of the judgment ibid, I am of the opinion that the learned Tribunal rightly awarded the compensation of Rs. 8 lakhs. Merely because in the claim application, the claimants had sought compensation of Rs. 4 lakhs is inconsequential.

11. However, for the reasons stated above, I am of the opinion that the learned Tribunal erred in further awarding interest on Rs. 8 lakhs from 17.12.2015 (the date of registration of the claim application) till the date of the impugned order.

12. None-the-less, it is necessary in the interest of justice that appropriate provision be made by the Court to ensure expeditious payment of compensation amount to the respondents. Section 34 of the Code of Civil Procedure contains general provision for future interest in money decrees.

13. As a result, it is directed that the amount of compensation of Rs. 8 lakhs be paid in equal shares to the respondents within two months from the receipt of certified copy of the order, otherwise the same shall bear interest @ 9% per annum from the date of this order.

14. The impugned order/award is modified and appeal is disposed of accordingly.

15. Pending applications, if any, stand also disposed of.

(ARUN MONGA)
JUDGE

April 20, 2021
Pkapoor

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO