

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

**FAO-5678-2018 (O&M)
Date of Decision: April 22, 2021**

Union of India

...Appellant

Versus

Shahida & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Karminder Singh, Standing counsel,
for the appellant.

Mr. Deepak Gupta, Advocate,
for the respondents.

ARUN MONGA, J.(ORAL)

CM-19276-CII of 2018

For the reasons mentioned in the application, same is allowed
and delay of 02 days in re-filing the appeal stands condoned.

FAO-5678-2018

Impugned herein is the judgment dated 09.04.2018 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.
26.08.2015 till the date of the impugned award.

2. The claim arose out of an untoward incident dated 06.06.2015
resulting into the death of Nafis, who was husband of respondent No.1, son

and father of respondents No.2 and 3 respectively.

3. Learned counsel for the appellant argued that the Tribunal erred in holding that the appellant was negligent and liable to pay compensation. According to him, the deceased was not a bonafide passenger as he was not having any valid ticket for the journey; 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 appellant failed to substantiate its plea of ticketless passenger and it was under obligation to indemnify the claimants on account of death of Nafis in the railway accident. 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 26.08.2015. Impugned judgment was rendered on 09.04.2018. 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 26.08.2015 (the date of registration of the claim application) as awarded by the learned Tribunal or even from 06.06.2015, 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 in 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 26.08.2015 (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 to the respondents in equal shares as apportioned by the Tribunal 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 22, 2021
Jiten

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