

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO NO.19 OF 2021

From the Judgment/Order dated 28.02.2020 passed by the learned Railway Claims Tribunal in Case No.O.A.172 of 2017.

Kallu & Anr.

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Appellants

--: VERSUS :-

Union of India

::::

Respondent

**Appeared in this case by Video Conferencing Mode /
Hybrid Mode.**

For Appellants

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Mr. Sambit Das,
Advocate

For Respondents

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Mr. G. Mohanty
(for Respondent)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 27.04.2022:: Date of Order- 06.05.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Heard Mr. Sambit Das, learned counsel for the Appellants and Mr. G. Mohanty, learned Sr. Panel Counsel for the Respondent.

3. This appeal has been filed by the Appellants challenging inter alia the mode of payment passed by the learned Railway Claims Tribunal in its judgment dtd.28.02.2020 in case No.O.A.172 of 2017, so also the illegality committed by the learned Tribunal in not awarding interest on the compensation amount in view of the decision rendered by the Hon'ble Apex Court in the case of ***Thazhathe Purayil Sarabi Vs. Union of India.***

4. It is submitted by the learned counsel for the Appellants that learned Tribunal vide the impugned judgment while awarding compensation amount of Rs.8,00,000/- (Rs. Eight lakhs) in favour of the Claimants-Appellants directed for deposit of the major portion of the said award in fix deposit, which is not in conformity with the decision of this Court passed vide Judgment dt.09.09.2021 in FAO No.262 of 2020 and batch.

5. It is submitted that since both the Appellants are major, having no physical or mental disability, the direction of the learned Tribunal to keep major portion of the compensation in fix deposit is not only contrary to the decision of this Court as cited (supra) but also the provision contained in the amended Rule i.e. Railway accidents and onward incidents (Compensation Rules, 1990).

6. It is also submitted that as per the said amended provision though the Claimants-Appellants are eligible to get interest on the awarded compensation, which has been dictated by the Hon'ble Apex Court in the case of

Thazhathe Purayil Sarabi Vs. Union of India reported in ***AIR 2009 SC 3098*** but learned Tribunal did not award any interest on the compensation amount. Accordingly, Mr. Das, learned counsel for the Appellants seeks for interference of this Court with regard to the mode of payment as well as non-award of interest by the learned Tribunal in the impugned judgment.

7. Mr. Mohanty, learned Senior Panel Counsel appearing for the Respondent-Union of India while did not dispute the decision of this Court as well as of the Hon'ble Apex Court as cited (supra), but submitted that learned Tribunal has not committed any illegality in directing deposit of major portion of the share of the Appellants in fix deposit. Mr. Mohanty further submitted in view of subsequent decision of the Hon'ble Apex Court reported in ***AIR 2018 SC 2362***, the rate of interest is to be charged, without any difference in the stages.

8. Heard learned counsel for the Parties. Perused the materials available on record and the decisions of this Court as well as of the Hon'ble Apex Court as cited (supra). As per the decision of this Court in FAO No.262 of 2020 and batch, this Court has held that if the Claimants are major having no physical or mental disability, the direction to deposit major portion of the compensation amount in fixed deposit is not in consonance with the amended Rule. Similarly in view of the decision of the Hon'ble Apex Court in the case of ***Thazhathe Purayil Sarabi Vs. Union of India*** and subsequent decision in

the case of ***Union of India vs. Rina Devi***, the Appellants are entitled to get interest on the awarded compensation.

9. In view of such decisions of this Court as well as of the Hon'ble Apex Court, this Court while interfering with the impugned judgment direct the learned Tribunal to disburse the entire compensation amount in favour of the Claimants-Appellants by liquidating the fixed deposits, if any, to the claimants on proper identification, as expeditiously as possible preferably within a period of one month from the date of filing of an application along with certified copy of this order following due procedure of law.

10. This Court further held that the Claimants-Appellants are entitled to get interest @ 6% from the date of application till the date of payment.

11. Learned Tribunal is accordingly directed to pass appropriate order with regard to the claim of the Appellants to get interest on the awarded amount as held by this Court and direct the respondent to make payment of the same within a period of 8 weeks from the date of passing of such order.

13. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 6th May, 2022/Sneha