

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

PRESENT: - THE HON'BLE JUSTICE SUBHENDU SAMANTA

FMA 1064 of 2017
Alla Rakha Shatkh @ Alla Rakha Sk. & Anr.
versus
Union of India
with

FMA 1066 of 2017
Saratanesha Bibi & Anr.
versus
Union of India

For the Appellants/Claimants : Mr. Jayanta Banerjee, Advocate.

For the Respondent : Ms. Ranjana Chatterjee, Advocate
in (FMA1064 of 2017)
: Mr. Subrata Santra, Advocate
in (FMA1066 of 2017)

Judgment on : 11 .07.2023

Subhendu Samanta, J.:-

Both the claim appeals were preferred against judgments passed by the Railway Claims Tribunal, Kolkata wherein the Claims tribunal has allowed the claim applications of the claimants and awarded the compensation but without any interest. The sole ground before this

appellate court is whether the interests shall be allowed with the compensation amount.

Learned advocate for the appellants submitted before this court that the claim amount was allowed by the Railway Tribunal but the compensation does not coupled with any interest. He submitted before this court that the tribunal has committed error for not passing the order of compensation alongwith interest. He again pointed out that the amount of Rs. 4,00,000/- was awarded in this case but by virtue of Notification of the Central Government No-877 dated 22nd December, 2016, which is come into force on 1st Day of January, 2004 the compensation amount should be Rs.8,00,000/-. In support of his contentions, he cited different decisions passed by the Hon'ble Apex Court and the judgment of this court; the reported judgments are **2018 (3) T.A.C. 26 (S.C.) Union of India Versus Rina Devi, 2019 (1) T.A.C. 731 (S.C.) Union of India Versus Radha Yadav, (2011) 1 WBLR (Cal.) 489, (2009) 3 WBLR (Cal.) 413.**

The learned advocate appearing on behalf of the Railway Authority has submitted that the impugned judgment passed by the learned tribunal has suffered no illegality. After passing the award the claimant has already received the awarded sum and the matter has already been settled there. Now by virtue of the amendment of the relevant provisions, the instant appeal has been preferred on the basis of principle of estoppel the appeal is not at all maintainable. The Notification of the Central Government was passed in the year 2016

and the instant award was passed prior to the Notification. Thus, the claimants are not entitled to get any extra amount by virtue of the said Notification.

Now after hearing both the parties, it appears that the Railway Claims Tribunal is statutorily not bound to award interests to the claimants alongwith compensation. It appears that Section 18 of the Railway Claims Tribunal Act, 1987 does not confer any provision of payment of interest thus the claim tribunal usually allowed the compensation to the claimants and the interest was only given on default clause.

The Division Bench of this High Court **(2019) 3 WBLR (Cal.) 413 (Moinura Bibi Vs. Union of India)** makes the position clear that though Section 18 of the said Act does not empower the tribunal to award interest but following the principle of natural justice, the claimants are entitled to the interest alongwith the award of compensation. The Hon'ble Division Bench has also makes it clear following the judgment of Hon'ble Apex Court in **Alok Shanker Pandey** that interest is not a penalty or punishment at all, but it is a normal accretion of capital.

The Division Bench of this High Court in **(2011) 1 WBLR (Cal.) 489 (Smt. Mitali Paul & Ors. Vs. Union of India)** has held that the Act in question is a beneficial legislation and it servers the social purpose. In following the principle of natural justice, the interest

should be granted from the date of filing of the claim application till the date of actual payment.

In the case **of Rina Devi** the Hon'ble Apex court has specified the quantum of compensation of Railway Tribunal and it has held that the tribunal must award the compensation alongwith interest.

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 (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 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.

In determining the question that whether the amended provision will be applicable in these cases when the tribunal has awarded the compensation much prior to the Notification of the Central Government; the issue was raised before the Hon'ble Supreme Court

in *Radha Yadav Case 2019 (1) T.A.C. 731 (S.C.)* wherein Hon'ble Supreme Court has held that:

10. The issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in the case of Rina Devi (supra) is very clear. What this Court has laid down is that the amount of compensation payable on the date of accident with reasonable rate of interest shall first be calculated.; if the amount so calculated is less than the amount prescribed as on the date of the award, the claimant would be entitled to higher of these two amounts. therefore, if the liability had arisen before the amendment was brought in, the basic figure would be as per the Schedule as was in existence before the amendment and on such basic figure reasonable rate of interest would be calculated. If there be any difference between the amount so calculated and the amount prescribed in the Schedule as on the date of the award, the higher of two figures would be the measure of compensation.; for instance, in case of a death in an accident which occurred before amendment, the basic figure would be Rs.4,00,000/-. If, after applying reasonable rate of interest, the final figure were to be less than Rs.8,00,000/-, which was brought in by way of amendment, the claimant would be entitled to Rs.8,00,000/-. If, however, the amount of original compensation with rate of interest were to exceed the sum of Rs.8,00,000/-the compensation would be in terms of figure in excess of Rs.8,00,000/-. The idea is to afford the benefit of the amendment, to the extent possible. Thus, according to us, the matter is crystal clear. The issue does not need any further clarification or elaboration.

Thus, after considering the ratio of Hon'ble Apex Court and this High Court it appears to me that the tribunal has committed error for not awarding the interest alongwith compensation. The position of law is very much clear that The Railways Act, 1989 and claim cases there under, compensation was awarded towards the fateful family

members of the deceased person which is a beneficial legislation. The Act serves for the society. The sole purpose of the Act would be frustrated if the compensation was awarded by the tribunal without interest. It is specifically pointed out that **the interest is not a penalty but it is a regular accretion of capital.**

Considering the same both the appeals are allowed.

The award of compensation passed by the learned tribunal shall carry interest @ 6% per annum from the date of accident of each case. On computing interest alongwith principal if it appears that the principal alongwith interest appears less than Rs.8,00,000/- then the compensation would be at least Rs.8,00,000/- and if it appears that the principal alongwith interest is more than Rs.8,00,000/- then the higher amount Rs.8,00,000/- would be payable.

The claimants have already received the awarded amount of Rs.4,00,000/- in each cases thus the respondent-Railway Authority is directed to pay the balance amount to the claimants through the office of the learned Registrar General, High Court, Calcutta within 12 (twelve) weeks from the date of passing of this order.

Accordingly, both the appeals are disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)