

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.263 of 2019

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Shatrughan Sau S/o Anakshdev Sau Resident of Village- Bhawanipur, P.O.
and P.S.- Deo, Distt.- Aurangabad, (Bihar).

... .. Appellant/s

Versus

The Union of India Through the General Manager, East Central Railway,
Hazipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate
For the U.O.I. : Mr. Anwar Karim (CGC)

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

CAV JUDGMENT

Date : 07-08-2024

Heard learned counsel for the appellant as well as
learned counsel for the respondent.

2. The instant appeal has been filed for setting aside
the impugned judgment dated 10.01.2019 passed in Review
Application No. 37 of 2018 by the learned Rail Claim Tribunal,
Patna (hereinafter referred to as 'R.C.T.') whereby and
whereunder the said review application filed by the Railway to
reduce the rate of awarded interest on awarded compensation
amount has been allowed.

3. The brief facts in this case are that on 01.06.2014,
Bipul Sao after purchasing a valid second class train ticket from
Anugrah Narayan Road Railway Station for going to destination
point at Gaya Junction, had boarded the Train No. 53608 Down



at Anugrah Narayan Road Railway Station and the moment, the deceased had boarded the train, he accidentally fallen from running train due to intense jostling of passengers at Anugrah Narayan Railway Station. Due to falling down from the running train, Bipul Sao (son of original applicant) sustained grievous injuries. He was brought to Sadar Hospital, Anugrah Narayan where he succumbed to his injuries during medical treatment. The applicant filed a claim petition before the Railway Claim Tribunal, Patna Branch being O.A. No. 00311 of 2015 claiming compensation on account of death of his unmarried son, to the tune of Rs. 4 lakh with interest @ 12% *per annum*. The appellant/ Union of India through Railway contested the claim petition by filing their written statement. After hearing the parties, the claim petition was allowed and the Railway was directed to pay Rs. 4 lakh along with simple interest @ 10% *per annum* from the date of registration of the application, i.e. 22.05.2015 within 60 days from the date of submission of Bank account details/ mandate by the applicant, otherwise the entire amount of compensation will attract simple interest 2% *per annum* more, from the date of registration of the application till its realization. It was also directed that Rs. 2 lakh each along with proportionate interest shall be paid to the applicant,



namely, (i) Shatrughan Sau (father of the deceased) and (ii) Smt. Malti Devi (mother of the deceased).

4. The review application filed before the Railway Claim Tribunal, Patna Branch by the Railway on the point of rate of interest and the period for which the interest is payable on the amount of compensation awarded in the impugned judgment. Sixteen review applications have been decided having the common question involved in the said review applications. The learned R.C.T., vide its judgment/ order dated 10.01.2019, disposed of all the review applications with directions that in respect of award passed before 01.01.2017, the Railway to pay simple interest @ 6% *per annum* on the principal amount from the date of registration till the date of award and 9% from the date of award to the date of payment. The learned R.C.T. relied upon the judgment of R.C.T., Patna, pronounced by a Division Bench of learned R.C.T. in bunch of 46 review applications (*E.C. Railway Vs. Santosh Kumar and 45 other review applications*) dated 02.11.2018. The learned R.C.T. considered the decision of Hon'ble Supreme Court in *Thazhathe Purayil Sarabi & Ors Vs. U.O.I.* reported in **2009 SC 3098** and *Union of India Vs. Rina Devi* reported in **(2018) 2 PLJR (SC) 447**.



5. Aggrieved by the said impugned judgment/order, the original applicant/ appellant has filed this appeal.

6. Learned counsel for the appellant has submitted that the review application was heard along with batch of cases on 10.01.2019 which was time barred and without considering the material available on record the impugned judgment/ order was passed ignoring the land-mark decision rendered by the Hon'ble Apex Court in ***Union of India Vs. Rina Devi*** (*supra*). He has further submitted that since the new rate came in existence on 01.01.2017 the appellant is entitled to higher amount i.e. 8 lakh as held by the Hon'ble Apex Court in the case of ***Rina Devi*** (*supra*). Learned counsel for the appellant has lastly submitted that the original judgment/order dated 25.05.2016 and the impugned judgment/order dated 10.01.2019 are liable to be modified in view of the settled law and in the interest of justice.

7. *Per contra*, learned counsel for the respondent/ Railway has submitted that untoward incident pertained to period before 01.01.2017 and the higher amount of compensation was awarded and following the case of ***Thazhathe Purayil Sarabi Vs Union of India*** (*supra*), the R.C.T. providing for different rates of interest, namely, 6% from



the date of registration of application till the date of award and 9% from the date of award to the date of payment. Learned counsel has further submitted that a gazette notification was issued by the Ministry of Railways dated 22.12.2016 for death, the amount has been increased from Rs. 4 lakh to 8 lakh that came into force w.e.f. 01.01.2017. It is finally submitted that in compliance of the impugned order in review application of the learned R.C.T., Patna, Railway has already deposited the compensation amount of Rs. 4 lakh with interest Rs. 1,18,948/-, i.e. total amount of Rs. 5,18,948 with the R.C.T. Lastly, it is submitted by the learned counsel for Railways that the appeal has no merit and is liable to be dismissed.

8. Having heard the learned counsels for the parties and considering the submissions made by them, it appears that there is no dispute with respect to the liability of Railways to the appellant, however, the dispute is with respect to the amount of interest and the total amount payable in view of the principle laid down in ***Rina Devi*** case (*supra*).

9. The Hon'ble Supreme Court in the case of ***Union of India Vs. Rina Devi*** reported in ***2018 (2) SC 447*** after considering the various judgments held that rate of interest has to be reasonable rate at par with accident claim and interest can



be awarded from the date of accident upto the date of payment without any difference in the stage.

In paragraph 18 of the said judgment it was held as under:-

“Re: (iv) Rate of Interest

18. As already observed, though this Court in Thazhathe Purayil Sarabi (supra) held that rate of interest has to be at the rate of 6% from the date of application till the date of the award and 9% thereafter and 9% rate of interest was awarded from the date of application in Mohamadi (supra), rate of interest has to be reasonable rate at par with accident claim cases. We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises upto the date of payment, without any difference in the stages. Legal position in this regard is at par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner.”

10. In **Union of India Vs. Dilip & Ors.** reported in **2019 SCC Online SC 2119** the Hon’ble Supreme Court granted interest @ 7.5% per annum.

11. It is brought to the notice that after the date of accident and filing the claim application, Railway Accident and Untoward Incidents (Compensation) Rules, 1990 were amended w.e.f. 01.01.2017. In **Rina Devi (supra)**, the Hon’ble Supreme Court observed that whenever it is found that the



revised amount of applicable compensation as on the date of award of the Tribunal is less than the prescribed amount of compensation as on the date of accident with interest, higher of the two amounts ought to be awarded on the principle of beneficial legislation. The Hon'ble Supreme Court concluded 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 the accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of award of Tribunal, the applicant will be entitled to higher of the two amounts. It was further held that this order will not affect the award 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.

12. The said judgment was further explained by Hon'ble Supreme Court in *Union of India vs. Radha Yadav* reported in *(2019) 3 SCC 410* and the said view was also affirmed by the Hon'ble Supreme Court in *Union of India vs. Dilip & Ors.* reported in *2019 SCC OnLine SC 2119* and *Kamukayi & Ors. vs. Union of India & Ors.* reported in *2023 SCC OnLine SC 642*.



13. The Co-ordinate Bench of this Court in the similar case of ***Smt. Sapna Sharma Vs. Union of India*** (Misc. **Appeal No. 116 of 2018**) vide order dated 12.12.2022 in paragraphs 6 and 7 held as follows:-

“6. However, learned counsel for the Railways concedes on the point that in view of gazette notification issued by the Ministry of Railways dated 22.12.2016 for death, the amount has been increased to Rs. 8 lakh and as such to end the confusion on the interest point, the amount can be enhanced to Rs. 8 lakh if the amount so calculated is less than the amount awarded in view of the Apex Court decision in Union of India Vs. Dilip & Ors. reported in 2019 SCC OnLine SC 2119.

7. Taking into account the aforesaid facts, the order dated 21.11.2016 as also the order dated 21.12.2017 are modified to the extent that the appellant shall be entitled to Rs. 8 lakh if the amount is awarded with interest is less than it.”

14. Considering the aforesaid facts and settled law, the judgment/ order dated 25.05.2016 in O.A. No. 311/2015 and judgment/ order dated 10.01.2019 in Review Application No. 37/ 2018 are modified to the extent that the appellant shall be entitled to Rs. 8 lakh in view of the fact that admittedly the amount of compensation awarded with interest vide the impugned judgment/ order dated 10.01.2019 is less than it. The amount of compensation be satisfied by the respondent/ Railways within a period of two months from the date of



receipt/ production of a copy of this order.

15. With the aforesaid observations and modification
in the impugned order, this appeal is disposed of.

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	15.07.2024
Uploading Date	07.08.2024
Transmission Date	

