



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

FIRST APPEAL NO. 1362 OF 2018

APPELLANT : The Union of India, General Manager
Western Railway, Churchgate,
Mumbai.

//VERSUS//

RESPONDENTS : 1. Chandrakala Narendra Bisi, Aged 39
years, Occ. - Housewife.

2. Raju Narendra Bisi, Aged about 22
years, Occ. Labour.

3. Dipak Narendra Bisi, Aged about 20
years, Occ. Labour.

All R/o. Near Police Station,
Kolpewadi, Tah. Kopargaon, Dist.
Ahmednagar (Maharashtra – 423602).

Ms. Neerja Chaubey, Advocate for the Appellant.

CORAM : G. A. SANAP, J.

DATED : 14th FEBRUARY, 2024.

ORAL JUDGMENT

. In this appeal, filed under Section 23 of the Railway Claims Tribunal Act, 1987 (for short, “the Act of 1987”), challenge is to the judgment and order dated 28th March, 2018, passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur, whereby the claim filed by the respondents/claimants came to be

allowed.

02] At the outset, it is necessary to state that the learned advocate for the appellant has made a statement across the bar and confined her challenge to the part of the order passed by the Tribunal whereby the Tribunal has awarded the interest on the amount of Rs.4,00,000/- from the date of the application.

03] The claim application was filed by the respondents/claimants, contending that they are the dependents of the deceased Narendra. The deceased, after purchasing the railway ticket, was travelling from Lucknow to Manmad. On the way to Manmad, he fell from the moving train near Paldhi Railway Station and died. The respondents contended that the deceased was a *bona fide* passenger. The death was in an untoward incident.

04] The appellant-Railway denied the claim in *toto*. The Tribunal recorded a finding that the deceased was a *bona fide* passenger travelling with a valid journey ticket. The Tribunal also held that the death was in an untoward incident. The Tribunal awarded the total compensation of Rs.8,00,000/- but awarded the interest on part of the claim amount, i.e. Rs.4,00,000/- from the date of the application.

05] The respondents/claimants though served, have failed to appear before this Court. Learned advocate for the appellant has confined her challenge to the order, whereby the interest was awarded by the Tribunal. Learned advocate for the appellant submitted that in view of the amendment to Schedule under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, w.e.f. 1st January, 2017, the respondents/claimants would be entitled to get compensation of Rs.8,00,000/- but they would not be entitled to get interest on the said amount. In support of this submission, learned advocate has relied upon a decision of the Hon'ble Apex Court in the case of ***Union of India Vs. Radha Yadav [(2019) 3 SCC 410]***. In this case, the Hon'ble Apex Court has held that in case of a pending claim as on 1st January, 2017, the claimant would be entitled to get compensation as per the schedule but without interest. In my view, this submission made by learned advocate is fully supported by the decision in the case of ***Radha Yadav*** (supra). As such, I conclude that the Tribunal was not right in awarding interest on the part of the claim amount, i.e. Rs.4,00,000/- @ 6% per annum. In view of this, this part of the order needs to be set aside.

06] In view of this, the appeal is **partly allowed**. The order passed by the Tribunal awarding the interest on a sum of Rs.4,00,000/- @ 6% per annum from the date of the application, is set aside. The order is, accordingly, modified.

07] The respondents/claimants are held entitled to get compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only) but without interest.

08] The appellant-Railway is directed to deposit the amount of compensation within three months from today, if it is not already deposited. The amount of compensation deposited either in terms of the order of the Tribunal or in terms of the order of this Court be paid over to the claimants. The claimants are entitled to the share in the compensation as determined by the Tribunal.

09] The appeal is disposed of in the above terms. No order as to costs. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)

Vijay