



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

CIVIL APPLICATION (CAO) NO.1100 OF 2023

IN

MISCELLANEOUS CIVIL APPLICATION STAMP NO.13752 OF 2023 (Review)

IN

FIRST APPEAL NO.332 OF 2021

Union of India, Through it's General Manager, South East Central Railway, Bilaspur
Chattisgarh

Vs.

Nageshwar s/o Salikram Kirsan

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. A. S. Athalye, Advocate for applicant.
Mr. R. S. Charpe, Advocate for respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/01/2024

1. The application is for condonation of delay of 56 days which is caused in preferring the review application. It is submitted by the learned Counsel Ms. Athalye for the applicant that as the concerned officer of the applicant has to obtain the necessary approvals of the Superior which she could not obtained within time and therefore, delay of 56 days is caused. It is further her contention that when the judgment was passed her name was not reflected on the cause list and, therefore, she could not ascertain the information about the disposal of the matter and therefore, delay is caused.

2. The learned Counsel Mr. Charpe for the respondent raised objection that delay is not explained properly.

3. After hearing both the sides and after considering the reasons mentioned in the application, there are sufficient and reasonable cause for condonation of delay. In view of that, delay is condoned.

Civil Application No.1100/2023 is disposed of.

Miscellaneous Civil Application Stamp No.13752 of 2023
(Review)

1. The application is filed by the applicant on the ground that this Court has allowed the First Appeal No.332/2021 granting the compensation to the respondent (original appellant). However, in view of the judgment of the Hon'ble Apex Court in **Union of India Vs. Radha Yadav** reported in **(2019) 3 SCC 410**, the respondent is not entitled for interest and therefore, the judgment of this Court requires to be reviewed, as far as the interest part is concerned.

2. The said review application is also strongly opposed by the learned Counsel for the respondent on the ground that this Court has considered the aspect and granted the interest. There is no error apparent on

record and, therefore, the review application deserves to be dismissed.

3. After hearing the learned Counsel for the applicant and learned Counsel for the respondent, perused the grounds of review. Admittedly, the notification dated 22.11.2016 by which the Rules and the Scheduled was revised. In view of the Rules from dated 01.01.2017 the applicant is entitled for interest, if the alleged date of accident is after 01.01.2017. She further submitted that the issue clarified by the Hon'ble Apex Court in the case of **Union of India Vs. Radha Yadav** (supra) wherein the Hon'ble Apex Court observed that the issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in Rina Devi 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.

4. Admittedly, in the present case, the alleged incident occurred on 08.06.2015 i.e. prior to the date of the amendment. Therefore, the respondent is not entitled for interest and only entitled for payment of compensation of Rs.3,20,000/- as per the scheduled.

5. In view of this, review application deserves to be allowed by passing following order.

ORDER

(i) Review application is allowed.

(ii) The respondent (original appellant) is entitled to receive the compensation of Rs.3,20,000/- (Rs. Three Lakh Twenty Thousand) without any interest.

(iii) The applicant to deposit the amount within 60 days from the date of this order.

The review application is disposed of.

(URMILA JOSHI-PHALKE, J.)