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

FIRST APPEAL NO. 212 OF 2024

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

//VERSUS//

RESPONDENT : Tukaram S/o. Loton Choudhari, Age 30 years, Occ. - Printing Press, R/o. House No. 708, Marathe Galli, Bajrang Chowk, Dharangaon, Tq. Dharangaon, Dist. Jalgaon – 425105.

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Ms. Neerja Chaubey, Advocate for the Appellant.

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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 16th March, 2018, passed by the Railway Claims Tribunal, Nagpur Bench, Nagpur, whereby the claim application filed by the respondent/claimant was allowed.

02] Learned advocate for the appellant-Railway submits that the respondent though served in delay condonation application,

has failed to appear before this Court. Learned advocate submits that, on merits, the appellant-Railway is not challenging the judgment and order. Learned advocate submits that challenge is to the order whereby the interest was granted on the amount of Rs.3,20,000/- out of compensation of Rs.6,40,000/- awarded pursuant to the amended provisions of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, w.e.f. 1st January, 2017 in the Schedule. Learned advocate submitted that this Court may maintain the judgment on merits and modify part of the order whereby interest has been awarded.

03] The Tribunal, by judgment and order dated 16th March, 2018, awarded total compensation of Rs.6,40,000/- on account of the injury sustained by the respondent in an untoward incident. The Tribunal, in view of the amended provisions stated above, awarded the compensation of Rs.6,40,000/-, but at the same time directed the appellant-Railway to pay the interest on the amount of Rs.3,20,000/- which was payable to the respondent in terms of the provisions before amendment w.e.f. 1st January, 2017 as per the Schedule. Learned advocate submits that this order is not in accordance with the law.

04] In order to substantiate this submission, learned advocate has placed reliance on a decision 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 an old claim after the notification dated 1st January, 2017, the claimant shall be entitled to get compensation of Rs.8,00,000/- without interest if the compensation provided earlier with interest is less than Rs.8,00,000/-. It is to be noted that injury claim would also be covered by this decision. In my view, the submission is fully supported by the law laid down in the case of ***Radha Yadav*** (supra).

05] Accordingly, the judgment and order awarding the compensation of Rs.6,40,000/- is required to be maintained. However, part of the order awarding interest on a sum of Rs.3,20,000/- from the date of filing of the claim application is required to be set aside. It is, accordingly, **set aside**. The respondent/claimant is entitled to get compensation of Rs.6,40,000/- (Rupees Six Lakhs Forty Thousand Only) without interest. The order is modified to this extent.

06] The appellant-Railway shall deposit the amount of compensation within three months from today, if it is not already deposited.

07] It is made clear that if the amount is already deposited, then the amount with accrued interest be paid over to the respondent/claimant.

08] 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