



C.M.P.Nos.28970 and 29211 of 2023

in

C.M.A.No.3050 of 2009

RMT.TEEKAA RAMAN,J.,

One Mr.A.Nagaraju died in the railway accident and the parents of the deceased namely A.Venkateswarlu and A.Adilakshmi filed O.S.No.109 of 2008 before the Railway Claims Tribunal, Chennai Bench at Chennai and the same was dismissed and hence they filed C.M.A.No.3050 of 2009.

2. After hearing both the parties, this Court by an order dated 12.01.2018 has allowed the CMA and ordered to pay a sum of Rs.8 lakhs as compensation along with 12% interest and further directed the respondent/railways to deposit a sum of Rs.8 lakhs within a period of six weeks from the date of receipt of a copy of the said judgment. Now, CMP No.28970 of 2023 has been filed by the Railways seeking modification of the order on the strength of the judgment of the Supreme Court in ***Union of India Vs. Radha Yadav reported in CDJ 2019 SC 097*** wherein at Paragraph No.10, it has been held as follows:-



"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 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/-. If, however, the amount of original compensation with rate of interest were to exceed to Rs.8,00,000/- the compensation would be in terms of figure in excess of Rs.8,00,000/-...."

3. Pending C.M.P, the claimants A.Venkateswarlu and

A.Adilakshmi died and hence their legal representatives namely the



appellants 3, 4 and 5 have filed C.M.P No.29210 of 2023 to implead themselves as appellants in the place of the deceased appellants 1 & 2 and the same was ordered on 05.01.2024. The appellants 3, 4 and 5 have also filed C.M.P.No.29211 of 2023 to direct the respondent/Railways to pay the compensation to them.

4. Heard the learned counsel appearing for the respondent/Railways as well as appellants/claimants.

5. After perusing the order of Hon'ble Supreme Court in *Rina Devi's* case, I find that the petition filed by the Railways has to be allowed as the said judgment squarely covers the decision to the facts of the present case. Accordingly, the order dated 12.01.2018 passed by this Court in C.M.A.No.3050 of 2009 is modified to the effect that since the date of the accident is 16.10.2007, they are not entitled for the amendment brought in Viz., G.S.R.No.1165(E), dated 22.12.2016 as it has come into effect on 01.04.2017.

6. By virtue of the judgment of the Hon'ble Supreme Court in *Rina Devi's* case, the legal heirs of the deceased person who died in the



railway accident are entitled to Rs.4 lakhs alongwith interest or maximum amount of Rs.8 lakhs, whichever is higher, as compensation. Since, a sum of Rs.8 lakhs is already awarded, the clause containing interest at the rate of 12% is not sustainable, as per the ratio laid down by the Hon'ble Supreme court in the judgment cited supra.

7. The learned counsel appearing for the respondent/railways submitted that the compensation amount of Rs.8,00,000/- has been deposited, if the same is not deposited, the respondent/railways is directed to deposit the compensation amount within a period of four weeks from the date of receipt of a copy of this order. The appellants 3 to 5 are permitted to withdraw the compensation amount equally among themselves by filing appropriate application before the Trial Court. On filing of such application, the same may be considered.

8. Accordingly, both the CMPs are allowed.

19.01.2024

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RMT.TEEKAA RAMAN,J.,



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