

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.414 of 2019

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Smt. Uttam Devi, aged about 40 years, Gender- Female, Wife of Late Rajkumar Gupta @ Raju Sah, Resident of Mohalla- West Mohan Bigha, Dehri, P.O. Dehri (Dalmiyanagar), P.S.- Dehri, District- Rohtas (Bihar).

... ..Respondent/s / Appellant/s

Versus

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

... ..Applicant/s / Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Mohan Murari, Advocate
For the UOI : Ms. Kanak Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV JUDGMENT

Date: 14-05-2025

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 27.11.2018 passed in Review Application No. 130 of 2018 by the learned Railway Claim Tribunal, Patna (hereinafter referred to as 'R.C.T.') whereby and where under the aforesaid review application filed by the respondent Railway at belated stage to reduce the rate of awarded interest on awarded compensation amount based on old rate on the basis of decision rendered by the Hon'ble Apex Court in *Tahazathe Purayil Sarabi & Ors. v. U.O.I* reported in *2009 ACJ 2444* has been allowed.

3. The brief facts, as alleged in the main original



application, are that on 20.07.2009, Shri Rajkumar Gupta @ Raju Sah (husband of the applicant) (hereinafter referred as deceased) along with his co-passenger Shri Gopal Sah after purchasing a valid second class train-ticket, from Anugrah Narayan Road Railway Station for going to destination point at Dehri-on-Sone Junction, had boarded the train No. 741 Up (Gaya-Mughalsarai Fast Passenger train) at Anugrah Narayan Road Railway Station. It is alleged that there was heavy rush of passengers in the general compartment of the train. Therefore, he was forced to travel by standing near the gate inside the coach of the train. It is alleged that due to sudden jerk of the train coupled with intense jostling of passenger, he could not maintain his balance and he had accidentally fallen down from the running train between Chiraila Pothu Halt and Sone-Nagar Junction.

4. The present appellant filed a claim application for the grant of compensation of Rs.4 Lacs on account of death of her husband before the learned court below vide OA0008 of 2010 which was decided on merit on 09.03.2016 in presence of both the parties granting compensation of Rs. 4 Lacs along with the interest @ 10% p.a. from the date of filing of the claim application within the period of 60 days from the date of



submission of bank mandate, failing which, additional interest @ 2% p.a. as penal interest shall be payable on the entire awarded sum from the date of filing of the claim application till the date of actual payment.

5. 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. Four 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 27.11.2018, 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 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*. The Division Bench of this tribunal in bunch of 46 review applications (E.C. Railway Vs. Santosh Kumar and 45 other review applications) has observed



in para- 10, 11 and 12 as under:

*“10. in most of the cases the untoward incidents pertained to periods before 01.01.2017 when higher amount of compensation was awarded. During all the time and up to decision of **Union of India Vs. Rina Devi**, we have already observed that the tribunals had been following **Sarabi Vs. Union of India** and providing for different rates of interest, namely, 6% from the date of registration of the application till the date of award and 9% from the date of award to the date of payment. This Tribunal itself has awarded interest from the date of application till the date of award and 9% from the date of award till date of payment. Since, we are told that the most of the cases were decided before 01.01.2017, when the old rate of compensation was existing, we will pass orders to accommodate two categories of cases (1) cases which were decided before 01.01.2017, which have remained unsatisfied and (i) cases which were decided after 01.01.2017 in respect of incidents that have taken place before 01.01.2017 that have remained unsatisfied in respect of enhanced claim from 4 lacs to Rs.8 lacs for death and injuries, following **Rathi Memon V Union of India (2001) 3 SCC 714** and **Union of India Vs Rina Devi (Supra)** in respect of the first category of cases decided before 01.01.2017 we will allow all review applications to apply rate of interest at 6% 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 In respect of awards passed after 01.01.2017 providing for enhanced compensation or double the amount over what was originally provided under the scheduled before 01.01.2017, the rate of interest shall be on the higher amount at 9% from the date of award till the date of payment in all the second category of cases, the application of interest is not done from the date of incident, only because on the date of incident when the case of action arose, the amount payable was enhanced and hence when we are providing for the higher amount of compensation by applying Rina Devi in the light of reasons contained in Para 19 of the said judgment.

Compensation as applicable on the date of the accident has to be given with reasonable interest and to give effect to the mandate of beneficial legislation, if compensation as provided on the date of award of the tribunal is higher than unrevised amount with interest, the higher of the two amounts has to be.

*11 The higher of the two amounts being the amount brought through the amended notification on the date of the award, the higher amount shall be given with interest on the date when the adjudication is made. The counsel, Shri K.M. Murari has referred to a citation, **Sureshchandra Bagmal Doshi and another Vs. New India Assurance Co Ltd and others in 2018 ACJ 1434** passed by two judges, allowed the award already made by the Tribunal where the interest was provided @ 12% in a Motor Accident claim it must be noticed*



*that the rate of interest was self not a point of discussion in the said judgment The decision in Sarabi, which was approved in Mohamad decided on the liability for interest only, but not the rate of interest The same way Suresh Chandra Bagmal Doshi (Supra) must be taken as having considered the ability for interest, not merely the rate. There are specific decisions of the Supreme Court that dealt with the rate of interest it was 12% interest from the year 1989 to early 2001 Some of the leading decisions where the rate of interest that could be awarded in motor accident claim at 12% were: (i) **Urmila Pandey V Khalid Ahmed (1994) 4 SCC 207**, (ii) **Haj Zainullah Khan V Nagar Mahapalika (1994) 5 SCC 667** and (iii) **United India Insurance Company V Narendra Pandurang Kadam and another (1995) 1 SCC 320**. The rate of interest fell to 9% in 2001 when due to fall in interest rates, the Supreme Court held that instead of 12%, only the reduced rate had to be provided for in **Kaushnuma Begum V New India Assurance Company Limited (2001) 2 SCC 9**. This reduced rate prevailed in **Supre Deo v National Insurance Co Lid (2001) 4 ACC 513**. Rates of interest men gradually fell further in the years after 2004, if we notice other decisions of the Hon'ble Supreme Court, such as. **United India Insurance Co Ltd. (2001) V Patricia Jean Mahajan (2002) 6 SCC 281** where the court reduced the interest awarded by the High Court to 8%. Stating that award of interest is compensation for forbearance or retention of money by the defendant, the rates of*



interest stood below 8%, viz, at 7.5% in many of cases, such as Abale Bezbaruah V Geological Survey of India (2003) 3 SCC 148, Now India Assurance Co Ltd V Charlie (2005) 10 SCC 720, New India Assurance Co V statender (2006) 13 SCC 60 TNSTC v Sripriya (2007) 13 SCC 641; APSRTC v Hemalatha and others (2008) 6 SCC 7 67. There were also cases where the interest granted was as low as 5% (Kamala Mangal Vayam V United India Insurance Co Ltd (2010) 12 SCC 488) and 6% in many cases (Arunkumar Agarwal v National Insurance Co Ltd (2010) 9 SCC 218), Ibrahim v Raju and others (2011) 10 SCC 634, Rekha Jain V United India Assurance Co (2013) 8 SCC 389. The upward swing to 9% took place only after 2013. It was not however consistent but sporadic. See Josephine James V United India Insurance Co Ltd. (2013) 6 SCC 711, Makela v Malathi (2014) 11 SCC 178 Sarala Devi v Royal Sundaram Insurance Co (2014) 15 SCC 450 and Jintendra Khimshankar Vs Kasam Devi (2015) 4 SCC 237. It fell to 8% (Dinesh Kumar V National Insurance Co Ltd. (2018) 1 SCC 750 but appears to have stabilized through two 3 member judgments at 9% (Jagdish v Mohan (2018) 4 SCC 571: Nishan Singh v Oriental Insurance Co Ltd (2018) 6 SCC 765. The preponderance of interest has been only 9% in motor accident cases since 2013 and that shall be the interest applied in all cases of the second category set out above. There are also cases where accidents/untoward incident have taken places after 01.01.2017, but we are not



addressing the said situation in any of the review application.

12. As regards the verification that is required to be made to ensure that the amounts awarded to reach the claimants, there shall be uniform application of the principle that the award is meant to the families of the deceased victim called the dependents or injured victims and only the fee is to the lawyer; it cannot be a reverse situation. A litigant, who is illiterate and who is drawn from distant places must have access or information that the amount has been credited to his or her account and he or she can reach the Bank only near the place of his/her residence”

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

7. Learned counsel for the appellant submitted that pursuant to order dated 09.03.2016, the appellant submitted bank mandate on 02.06.2016 but no payment of compensation amount as per order has been made and as such, an execution application on behalf of the appellant was filed on 21.10.2016 bearing no. 795 of 2016, after four months from the date of submission of bank mandate. He further submitted that respondent railway, despite acknowledge the bank mandate sat silent for a period of 22 months over the compliance of the order



dated 26.04.2016 and all of sudden, a review application was filed on 12.03.2018 before the learned court below on frivolous and baseless ground with malafide intention to harass the appellant from not getting the statutory compensation amount as per order. The review application was registered on priority basis vide no. 130 of 2018 and notices were sent to appear and file reply, if any, in the present subject matter and the review application was heard along with batch cases and allowed on 27.11.2018, without considering the material available on record, reducing the rate of awarded interest and accordingly, the respondent railway was directed to pay interest @ 6% p.a. on awarded sum from the date of filing of the claim application till the date of order and thereafter @ 9% p.a. till actual payment of the compensation amount and hence, this appeal.

7.i. Learned counsel further submitted that while passing the impugned order on 27.11.2018, a land mark decision of the Hon'ble Apex Court has come into force w.e.f. 09.05.2018, ***U.O.I. Vs. Rina Devi (supra)***, in which their Lordship have observed in paragraph-15.4

"that if the amount so calculated is less than the amount prescribed as on the date of award of the Tribunal, the claimant will be entitled to higher of the two amounts".



7.ii. In view of Hon'ble Apex Court decision, the appellant was entitled to Rs. 8 Lacs as prescribed amount on the date of impugned order under appeal since the proceeding of the review application filed by the railway is in continuation of proceeding of the execution case bearing no. 795 of 2016, arising out of original order dated 09.03.2016 passed in case No. OA0008 of 2010 but the learned tribunal without considering the very land mark decision rendered by the Hon'ble Apex Court allowed the review application filed by the respondent railway, reducing the rate of awarded interest which is not sustainable in the eye of law. As per impugned order under appeal, the respondent railway has paid a sum of Rs. 1,28,966/- (Rs. One Lac Twenty-eight Thousand Nine Hundred Sixty-six) each to the appellant and her children and thus, total amount paid to the tune of Rs. 6,44,830/- (Rs. Six Lacs Forty-four Thousand Eight hundred thirty) on 30.06.2020, as would evident from the paragraph 10 of the counter affidavit filed by the respondent railway, which is less than the amount prescribed in terms of the land mark decision of the Hon'ble Apex Court ***U.O.I. Vs. Rina Devi (supra)***. The amount of Rs. 8 Lacs is due on 27.11.2018, the date of impugned order and this amount carry further interest @ 6% p.a. in terms of decision of the Hon'ble Apex



Court, *Savitri Devi & Ors Vs. U.O.I.* dated 03.01.2025 in *SLP No. 11444 of 2022*.

8. Learned counsel at last contended that the learned court below has committed gross error not considering the land mark decision of the Hon'ble Apex Court while passing the impugned order, thus, the impugned order is liable to be set aside in the interest of justice. The respondent railway must be directed to pay the amount prescribed i e Rs 8 Lacs with further interest @ 6% p.a. in terms of the decision of the Hon'ble Apex Court, as referred to above and the amount so paid on 30.06.2020 will be deducted and the rest amount will be paid to the appellant in terms of order passed by the co-ordinate bench of this Hon'ble Court.

9. *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 lakhs 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 lakhs with interest Rs. 1,28,966/-, i.e. total amount of Rs. 5,28,966 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.

10. 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)*.

11. 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. 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.

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 lakhs 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 27.11.2018 are modified to the extent that the appellant shall be entitled to Rs. 8 lakhs if the amount is awarded with interest is less than it.”

14. Considering the aforesaid facts and settled law, the judgment/ order dated 09.03.2016 in O.A. No. 0008 of 2010 and judgment/order dated 27.11.2018 in Review Application No. 130 of 2018 are modified to the extent that the appellant shall be entitled to Rs. 8 lakhs in view of the fact that admittedly the amount of compensation awarded with interest vide the impugned judgment/order dated 27.11.2018 is less than it. The amount that has already been disbursed shall be deducted from Rs. 8 lakhs. 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.

16. Office is directed to send back the trial court records and proceedings along with a copy of this judgment to the trial court, forthwith, for necessary compliance, if any.

(Ramesh Chand Malviya, J)

Anand Kr.

AFR/NAFR	NAFR
CAV DATE	08.05.2025
Uploading Date	14.05.2025
Transmission Date	N/A

