

**(2024) 03 KL CK 0226**  
**In the High Court Of Kerala**  
**Case No : MFA(RCT) No. 86 Of 2017**

Anna Rayni Jude

APPELLANT

Vs

Union Of India

RESPONDENT

**Date of Decision :** 27-03-2024

**Acts Referred:**

**Citation :** (2024) 03 KL CK 0226

**Hon'ble Judges :** C.Pratheep Kumar, J

**Bench :** Single Bench

**Advocate :** Anil S.Raj, Anila Peter, K.N.Rajani, Radhika Rajasekharan P.,  
S.Sudheesh, Sajen Thampan, Dinesh Cherukat

**Final Decision :** Allowed

## Judgement

C.Pratheep Kumar, J.

1. This is an appeal filed by the claimant in O.A. (IIu)/ERS/2016/0039 on the file of Railway Claims Tribunal, Ernakulam Bench against the judgment dated 8.6.2017.

2. While the appellant was travelling with a valid ticket in train No.16307 from Aluva to Kozhikode along with her relatives and when the train stopped at Kuttippuram station, she got down from the train for taking water. While re-entering the train with the bottle of water, her leg slipped and she fell into the railway track and the wheels of the compartment ran over her left leg and she sustained crush injury. Her left leg above knee was to be amputated. The following are the three major injuries sustained by her:

"(1) above knee amputation of left lower limb;

(2) Fracture of metacarpal of ring finger and crush injury of little finger;

(3) fracture of superior and inferior ramus of pubis."

3. Based on the above injuries sustained by the appellant, the Tribunal found

that the appellant is entitled to get a total compensation of Rs.6,80,000/-, while the claim was Rs.8 Lakhs. Aggrieved by the above judgment, reducing the compensation claimed, the appellant preferred this appeal raising various contentions.

4. Now, the point that arise for consideration is the following:

Whether the impugned order passed by the Tribunal is liable to be interfered with, in the light of the grounds raised?

5. Heard both sides.

6. The point:

For injury No.(1) namely, amputation of left lower limb above knee, the Tribunal assessed the compensation at Rs.5,60,000/- under item No.18 of the Schedule attached to Railway Accidents and Untoward Incidents (Compensation) Rules, 1980. With regard to the above compensation for injury No.1, there is no dispute.

7. For injury No.2, "fracture of metacarpal of ring finger and crush injury of little finger, the Tribunal awarded only Rs.40,000/- on the ground that the said injury is also not scheduled in the Rules.

8. The Sub-rule (3) of Rule 3 to Railway Accidents and Untoward Incidents (Compensation) Rules, 1980 reads as follows:

"3. Amount of Compensation-(1).....

(2).....

(3) The amount of compensation payable in respect of any injury (other than an injury specified in the Schedule or referred to in sub-rule (2) resulting in pain and suffering) shall be such as the Claims Tribunal may after taking into consideration medical evidence, besides other circumstances of the case, determine to be reasonable:

Provided that if more than one injury is caused by the same accident, compensation shall be payable in respect of each such injury:

Provided further that the total compensation in respect of all such injuries shall not exceed rupees one lakh sixty thousand."

9. In the light of the above provision, the learned counsel for the appellant would argue that for injury No.2, maximum compensation of Rs.1,60,000/- is to be provided and that Rs.40000/- awarded by the Tribunal is too meager and disproportionate.

10. Since there is fracture to metacarpal ring finger as well as crush injury of little finger, the compensation of Rs.40,000/- awarded to injury No.2 is inadequate and I hold that for injury No.2 a compensation of Rs.80,000/- will be reasonable.

11. Injury No.3 was brought under item 32 of the Schedule and a compensation of Rs.80,000/- was allowed. The appellant has serious dispute about Rs.80,000/- awarded for injury No.3. It was argued that injury No.3 will come under item No.29 of the Schedule ie., fracture of hip-joint and in that case the appellant will be entitled to get a compensation of Rs.1,60,000/- for the above injury. Item No.32 of the Schedule is fracture of pelvis not involving joint. Here, injury No.3 is fracture of superior and inferior ramus of pubis, which is not the one mentioned in item No.32. Therefore, the compensation of Rs.80,000/- awarded for injury No.3, bringing it under item No.32 is not correct.

12. It was argued by learned counsel for the respondent that injury No.3 cannot be brought under any other items in the schedule. However, according to the learned counsel for the appellant, it can be brought under item No.29.

13. Item 29 in the Schedule provides compensation for fracture of hip-joint. Injury No.3 is fracture of superior and inferior ramus of pubis. Hip-joint is the junction where the hip joins the leg to the trunk of the body. It is comprised of two bones: the thighbone or femur, and the pelvis, which is made up of three bones called ilium, ischium and pubis. Since the appellant sustained fracture of superior and inferior ramus of pubis, and her left leg above knee was to be amputated, I hold that, injury No.3 can be brought under item No. 29 of the Schedule and as such she is entitled to get a compensation of Rs.1,60,000/- for that injury. Therefore, the appellant is entitled to get a total compensation of Rs.5,60,000/- +1,60,000/- +80,000/- =Rs.8,00,000/-.

14. The Tribunal has granted interest @ Rs.6% per annum only from the date of application till the date of the order and thereafter @9% per annum till payment. Relying upon the decision of the Hon'ble Supreme Court in *Rathi Menon v. Union of India* [2001 (2) KLT 12 (SC)], the learned counsel for the appellant would argue that the appellant is entitled to get interest @ 12 per annum from the date of the award. However, learned counsel for the respondent would argue that interest awarded by the Tribunal @ 9% is quite reasonable.

15. In the decision in *Union of India v. Rina Devi* [2018 (2) KHC 920] it was held that the applicants are entitled to get interest for the amount of compensation from the date of the accident. In this case, the Commissioner has granted interest only from the date of application. Therefore, considering the entire facts, I hold that in this case, the appellant is entitled to get interest for the amount of compensation from the date of the incident ie., on 6.5.2016. Considering the facts, I hold that interest @ 9% all along from the date of the incident till the date of payment will be a reasonable one.

16. Therefore, this appeal is liable to be allowed, re-fixing the quantum of compensation at a sum of Rs.8,00,000/- (Rupees Eight Lakhs only). For the said amount, the appellant is also entitled to get interest @ 9% per annum from the date of the incident on 6.5.2016 till the date of payment. The point answered accordingly.

In the result, the appeal is allowed, re-fixing the quantum of compensation at a sum of Rs.8,00,000/- (Rupees Eight Lakhs only). For the said amount, the appellant is also entitled to get interest @ 9% per annum from the date of the incident on 6.5.2016 till the date of payment.