
(2024) 04 KL CK 0124
In the High Court Of Kerala
Case No : MFA (ECT) No. 12 Of 2018

Asees P

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 12-04-2024

Acts Referred:

Citation : (2024) 04 KL CK 0124

Hon'ble Judges : C.Pratheep Kumar, J

Bench : Single Bench

Advocate : V.Binoy Ram, K.C.Harish, K.R.Monisha, B.Rajesh, S. Biju

Final Decision : Dismissed

Judgement

C.Pratheep Kumar, J

1. This is an appeal filed by the applicants in O.A.(IIu)/ERS/12/2016 on the file of the Railway Claims Tribunal, Ernakulam Bench against the order dated 27.9.2017. The appellants filed the above OA before the Railway Claims Tribunal, Ernakulam claiming compensation on account of the death of Ms.Asbeena, aged 21, their daughter in an untoward incident. The deceased had boarded Mangalore-Nagercoil Ernad Express train from Thalassery railway station. While she was standing near the door, she had accidentally fallen down from the train and sustained serious injuries and succumbed to the injuries. The Railway Claims Tribunal awarded a compensation of Rs.8 Lakhs together with interest at the rate of 6% from the date of registration of the OA for a period of two months. The respondent was directed to deposit 85% of the total compensation in fixed deposits in a Nationalized Bank in the name of the appellants and ordered to release the remaining 15% of the compensation immediately. The award to the extent it denied interest from the date of the incident till the date of payment has been challenged by the appellants in this appeal. Now the point that arise for consideration is the following :

Whether the appellants are entitled to get interest for the compensation

awarded, from the date of incident till payment, over and above Rs.8 Lakhs awarded by the Tribunal.

2. Heard both sides.

3. The point : The fact that the deceased died in an untoward incident while falling down from Mangalore-Nagercoil Ernad Express train is not in dispute. It is also not disputed that the appellants are entitled to get a total compensation of Rs.8 Lakhs, as provided under Part-I of the Schedule to The Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 (in short, the Rules). The only dispute that remains for consideration is whether the appellants are entitled to get interest for the above Rs.8 Lakhs from the date of incident, till realization.

4. In support of the argument that the appellants are entitled to get interest from the date of incident, the learned counsel has relied upon the decision of the Hon'ble Supreme Court in Pratap Narain Singh Deo v. Srinivas Sabata & Anr., AIR 1976 SC 222 and Union of India v. Rina Devi, AIR 2018 SC 2362. On the other hand, the learned Standing Counsel for the Railways Sri.S.Biju relying upon the decisions of the Hon'ble Supreme Court in Union of India v. Radha Yadav, AIR 2019 SC 1410 and Kamukayi and Others v. Union of India and Others, 2023 SCC Online SC, 642, would argue that the appellants are not entitled to get interest for the compensation of Rs.8 Lakhs awarded, as in the instant case, the incident occurred on 13.4.2015 when the compensation payable under the schedule to the Rules was only Rs.4 Lakhs.

5. In the instant case, the untoward incident occurred on 13.4.2015 when the compensation payable under the schedule to the Rules was only Rs.4 Lakhs. The compensation payable for death was enhanced from Rs.4 Lakhs to Rs.8 Lakhs as per the Government notification dated 22.12.2016 and it came into force only w.e.f. 1.1.2017. Therefore, on the date of the incident involved in this case, the compensation payable was only Rs.4 Lakhs.

6. The mode of computation of the quantum of compensation in such cases was considered by the Hon'ble Supreme Court in the decision in Rathi Menon v. Union Of India, 2001 (3) SCC 714. In paragraph 15.4 of the above decision the Hon'ble Supreme Court held that :

"Accordingly, we conclude that 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 accident claim cases. If the amount so calculated is less than the amount prescribed as on the date of the award of the Tribunal, the claimant will be entitled to higher of the two amounts. This order will not affect the awards which have already become final and where limitation for challenging such awards has expired, this order will not by itself be a ground for condonation of delay. Seeming conflict in Rathi Menon (supra) and Kalandi Charan Sahoo (supra) stands explained accordingly. The 4-Judge Bench judgment in Pratap Narain Singh Deo (supra) holds the field on the subject and squarely applies to the present situation. 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 given.”

7. With regard to the rate of interest payable, the Apex Court held that interest can be awarded from the date of accident itself when the liability of the Railways arises upto the date of payment, without any difference in the stages. In paragraph 18 of *Rina Devi* (supra) the court held thus :

“.....We are of the view that in absence of any specific statutory provision, interest can be awarded from the date of accident itself when the liability of the Railways arises upto the date of payment, without any difference in the stages. Legal position in this regard is at par with the cases of accident claims under the Motor Vehicles Act, 1988. Conflicting views stand resolved in this manner.”

8. Later on, in the decision in *Radha Yadav* (supra), the Apex Court clarified the direction given in *Rina Devi* (supra) regarding payment of interest on the amount of compensation. In the above decision, the Calcutta High Court awarded the claimants compensation of Rs.8 Lakhs together with interest at 9% per annum from the date of presentation of the claim petition till payment is made. It was challenged in appeal. While disposing of the appeal, in paragraph 10 the Apex Court held that :

“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* AIR 2018 SC 2362 : 2018 SCR 417 : 2018 (7) SCALE 274 :: 2018 ICO 594 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 different 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/-, which was brought in by way of amendment, the claimant would be entitled to Rs.8,00,000/-. If however, the amount of original compensation with rate of interest were to exceed the sum of Rs.8,00,000/- the compensation would be in terms of figure in excess of Rs.8,00,000/-. The idea is to afford the benefit of the amendment, to the extent possible. Thus, according to us, the matter is crystal clear. The issue does not need any further clarification or elaboration.”

9. Thereafter in the decision in Kamukayi (supra), the Apex Court reaffirmed the decision in Radha Yadav (supra) and held that the claimants are entitled to get only compensation to the tune of Rs.4 Lakhs along with interest from the date of claim petition till realization. After applying the rate of interest if the final figure is less than Rs.8 Lakhs, then they are entitled to get a sum of Rs.8 Lakhs.

10. When the above dictum is applied in this case, it can be seen that even if interests at the rate of 6% ordered by the Tribunal is applied, the amount of compensation due to the appellants will come to only less than Rs.8 Lakhs. In the above circumstance, by applying the dicta in Rina Devi (supra) Radha Yadav (supra), the appellants are entitled to get a compensation of Rs.8 Lakhs alone. They are not entitled to get any further interest for the compensation amount of Rs.8 lakhs. Therefore, I do not find any merits in the appeal and as such, it is liable to be dismissed.

In the result, this appeal is dismissed.