

(2020) 01 JH CK 0155

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 535 Of 2017

Kiran Devi And Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 13-01-2020

Acts Referred:

Railways Act, 1989 — Section 129

Citation : (2020) 01 JH CK 0155

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : Shashi Kant Thakur, Pandey Neeraj Rai

Final Decision : Dismissed

Judgement

Heard, learned counsel for the appellants and learned counsel for the respondent/
Railway.

Claimants are the appellants before this Court. They have preferred this appeal
for enhancement of the award dated 28.02.2017 in Case No.

OA(IIU)/RNC/2016/0010 whereby the claimants have been awarded
compensation to the tune of Rs.8,00,000/- payable within a period of 90 days

from the date of judgment i.e. 28.02.2017.

Learned counsel for the appellants has assailed the impugned award only on the
ground that the learned Tribunal has not granted any interest on the

awarded amount from the date of accident or from the date of filing of the
application rather only awarded interest @ 9% per annum after 90 days of

the award, if the compensation is not paid to the claimants.

Learned counsel for the appellants has submitted that this Court while passing
the order on 08.01.2020 in M.A. No.311 of 2018 has granted interest @

amounts has to be given.â??

Learned counsel for the respondent/Railway has submitted that initially before 01.01.2017, the compensation was fixed as Rs.4,00,000/- which was

enhanced after amendment as Rs.8,00,000/-. The Apex Court has taken such view in the case of Union of India Vs. Rina Devi (2019) 3 SCC 572 that

either Rs.4,00,000/- with interest or a sum of Rs.8,00,000/- whichever is more shall be given to the claimants but both cannot be granted i.e.

Rs.8,00,000/-along with interest cannot be granted.

Learned counsel for the respondent/Railway has submitted that the appellant has filed this Miscellaneous Appeal contrary to the judgment passed by

the Hon'ble Apex Court.

Learned counsel for the respondent/Railway has further submitted that the Apex Court held that 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 as rendered in the case of Union of India v. Radha Yadav, (2019) 3 SCC 410 of

which para 11 of which is profitably quoted hereunder:-

â??11. The issue raised in the matter does not really require any elaboration as in our view, the judgment of this Court in Rina Devi [Union

of India v. Rina Devi, (2019) 3 SCC 572] 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, 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 elaborationâ??

Learned counsel for the respondent/Railway has further submitted that the Miscellaneous Appeal has been filed under misconception by the appellant

and appellant does not deserve any enhancement of the interest on the award. Learned counsel for the respondent/Railway has further submitted that

in the case passed by this Court i.e. M.A. No. 311 of 2018 on 08.01.2020, this Court has only enhanced interest from 6% to 7.5%. There was

different question than what is the question in the present appeal. In the present appeal, the only question is whether a person who died before

01.01.2017 is entitled for claim of Rs.4,00,000/- with interest or Rs.8,00,000/- with interest or not? Considering the judgment passed by the Hon'ble

Apex Court in the case of Union of India Vs. Radha Yadav and Rina Devi (Supra) the position has been clarified by the Hon'ble Supreme Court that

either the claimant can claim interest on Rs.4,00,000/- from the date of filing of the claim application or the date of accident but cannot claim interest

on the enhanced amount by amendment with effect from 01.01.2017 to the tune of Rs.8,00,000/-, as such, the present appeal is fit to be dismissed.

Heard, learned counsel for the parties and perused the materials brought on record. Here it is a case where the deceased died on 21.02.2015 but the

claim application was filed on 16.12.2015. At that time the compensation was Rs.4,00,000/- which was subsequently amended on 01.01.2017 to be

Rs.8,00,000/-. The Hon'ble Apex Court in the aforesaid two judgments has held that the interest shall be given on Rs.4,00,000/- from the date of

application or the date of accident or Rs.8,00,000/- after amendment on 01.01.2017 whichever shall be higher in the benefit of the claimants. Since

amount of Rs.8,00,000/- has already been given to the claimants, claimants is not entitled for any interest in view of the judgment passed by the

Hon'ble Apex Court.

The learned Tribunal has further granted interest @ 9%, if the awarded amount

is not satisfied to the claimants within a period of 90 days. This Court is not interfering with the same, as the same is not assailed before this Court in the appeal by the Railways. As such, the impugned award of Rs.8,00,000/-shall be payable to the claimants within 90 days in terms of the order passed by the learned Tribunal. If not paid within 90 days then claimants are entitled for interest @ 9% on awarded amount.

At this juncture, learned counsel for the claimant has submitted that the award has been satisfied but it has been satisfied after four months without

9% interest. If it is so the claimants are entitled for interest as the same is not satisfied within 90 days, however, if the amount has been satisfied

within 90 days, this Court is not expressing any opinion.

Accordingly, the instant Miscellaneous Appeal stands dismissed.