
(2012) 05 DEL CK 0374
In the Delhi High Court
Case No : FAO 244 of 2011

Laxmi Devi and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-05-2012

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2012) 05 DEL CK 0374

Hon'ble Judges : Veena Birbal, J

Bench : Single Bench

Advocate : Aruna Mehta, for the Appellant; J.P. Sharma, for the Respondent

Final Decision : Disposed Off

Judgement

Veena Birbal, J.—Present is an appeal u/s 23 of the Railways Claims Tribunal Act, 1987 against the judgment dated 05.05.2010 passed by the Railway Claims Tribunal, Principal Bench, New Delhi, in O.A. No. 65/2004. By the aforesaid judgment, the Railway Claims Tribunal has awarded compensation of Rs.4 lakhs to the appellants along with interest therein @ 9% per annum from the date of order till realization of amount. The grievance of the appellants is that the Railway Claims Tribunal (hereinafter referred to as the Tribunal) ought to have granted interest from the date of claim application. In support of his contention, learned counsel for appellants has placed reliance on the orders passed by this court in FAO Nos. 125/2011 and 241/2011 wherein the respondents have been directed to pay interest from the date of filing of the claim application before the Tribunal.

2. The learned counsel for the respondent has submitted that in the present case interest is not awarded from the date of filing of the claim application because delay has been caused by the appellants in disposal of the claim application. It is contended that number of times amendment applications were moved by the appellants for making correction in the claim application and many times the appellants did not appear before the Tribunal as a result of which, delay has been

caused in the disposal of the claim application and for the said delay the respondents could not be held liable by paying interest to the appellants.

3. On the other hand, the counsel for appellants has contended that there has not been any deliberate delay on the part of the appellants and the amendment applications were moved twice and the amendments sought were necessary for the disposal of the claim application. It is further contended that no unnecessary adjournments had been taken by the appellants, as is alleged by the respondent, as such, interest be awarded from the date of filing of claim application. In support of his stand, the counsel for appellants has relied upon the judgment of the Supreme Court in *Tahazhathe Purayil Sarabi and Others Vs. Union of India (UOI) and Another*,

4. I have heard the counsel for parties and perused the record of the Tribunal.

5. In the present case, the claim petition was filed on 04.11.2004. The first amendment application was moved on 10.08.2005 when the matter was listed before the Tribunal for evidence of the parties. The said application was adjourned to 27.10.2005. On the said date, there was change in the Presiding Officer, as such, the matter was not taken up and adjourned to 16.01.2006. On the said date, the amendment application was allowed and the appellants were allowed to correct the date of journey and the departure time of train in the claim application and pursuant thereto the appellants had filed amended claim application. Thereafter, the second amendment application was filed on 29.01.2007 wherein also request was made for certain amendments in the claim application. The said application was rejected on 27.07.2007. Aggrieved with the said order, the appellants approached this court by filing CM(M) No. 1128/2007 and the amendments sought by the appellants were allowed by this court vide order dated 19.01.2009. While allowing the said CM(M), this court also observed that the application for amendment moved by the appellants was not frivolous application or was not filed by them to delay the trial, as such, the same was allowed.

6. I have also perused the complete order-sheets of the Tribunal. There is nothing on record to show that any unnecessary adjournments had been taken in the matter by the appellants, as is alleged. Rather the record shows that the respondent-Railways had taken few adjournments for leading their evidence.

7. There is nothing on record to show that there was any mala fide on the part of the appellants in seeking the amendment of claim application or there was any deliberate attempt on the part of the appellants to delay the disposal of the claim application. Rather, this court while allowing the amendments sought by the appellants in the claim application has observed that the amendments sought are not frivolous or an attempt to delay the trial.

7A. The Supreme Court in *Tahazhathe Purayil Sarabi and others vs. Union of India & another (supra)* where there was no delay on the part of claimants in making the claim has held that claimants are entitled to interest on the awarded amount

from the date of application. The relevant para of the judgment is reproduced below:-

The only question to be decided is since when is such interest payable on such a decree. Though, there are two divergent views, one indicating that interest is payable from the date when claim for the principal sum is made, namely, the date of institution of the proceedings in the recovery of the amount, the other view is that such interest is payable only when a determination is made and order is passed for recovery of the dues. However, the more consistent view has been the former and in rare cases interest has been awarded for periods even prior to the institution of proceedings for recovery of the dues, where the same is provided for by the terms of the agreement entered into between the parties or where the same is permissible by statute.

7B. This court in FAO 125/2011 and 534/2011 has also awarded interest from the date of filing of the claim application.

In view of above discussion, appellants are entitled to interest on the awarded amount from the date of claim application. Accordingly, the present appeal is allowed and it is directed that the awarded sum will carry interest @ 6% per annum simple from the date of application till the date of award and thereafter @ 9% per annum till the date of actual payment.

The appeal stands disposed of accordingly.