
(2019) 12 JH CK 0186

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 389 of 2017

Mamta Devi And Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Railways Act, 1989 — Section 123, 124, 124A

Citation : (2019) 12 JH CK 0186

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : Vijay Shanker Jha, Manish Kumar, Gautam Rakesh

Final Decision : Allowed

Judgement

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

The claimants are widow, minor son and parents of the deceased- Pintu Yadav @ Pintu Kumar, who have preferred this miscellaneous appeal for

enhancement of the award dated 19.08.2016 passed by Railway Claims Tribunal, Ranchi Bench in Case No. OA(IIU)RNC/2015/0058 whereby the

compensation has been awarded to the tune of Rs.4,00,000/- without any interest and if the amount is not paid within 90 days from the date of

judgment, simple interest @ 7.5% per annum, will be paid from the date of award till the date of actual payment.

Learned counsel for the appellants has submitted that simple interest ought to have been @ 7.5% per annum from the date of filing of the claim

application as held in the case of Union of India vs. Rina Devi, reported in 2018 SCC OnLine SC 507.

Learned counsel for the appellants has also produced photocopy of the two judgments passed by a co-ordinate Bench of this Court in M.A. No.222 of

2016 and M.A. No.91 of 2017 to buttress his argument.

Learned counsel for the respondent- Union of India has submitted that the appeal has been preferred by the claimant for enhancement of the award

after delay of 233 days, as such, this Court may consider this aspect while passing the order regarding the interest.

Learned counsel for the respondent- Union of India has further opposed the prayer on the ground that the present appeal is not maintainable as the

appellant has received the compensation amount on 24.05.2017 and thereafter the present miscellaneous appeal has been preferred on 14.07.2017, as

such, the present miscellaneous appeal is not maintainable.

Heard, learned counsel for the appellants and learned counsel for the respondent and perused the impugned award and also taken note of the

judgment of Supreme Court of India rendered in the case of Union of India vs. Rina Devi (Supra), whereby the Apex Court has taken view in paras

13 and 19 which are profitably quoted herein:-

â??13. We have anxiously considered the rival submissions. We consider it necessary to quote the relevant provisions of the 1989 Act:

â??123.Definitions.â?"In this Chapter, unless the context otherwise requires-

(a) â??accidentâ?? means an accident of the nature described in Section 124;

(b) xxxxxxxx

1(c) â??untoward incidentâ?? means-

xxxx xxxx xxxx xxxx

(2) the accidental falling of any passenger from a train carrying passengers.

S.124. Extent of liability.â?"When in the course of working a railway, an accident occurs, being either a collision between trains of which

one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether

or not there has been any wrongful act, neglect or default on the part of the Railway Administration such as would entitle a passenger who

has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the Railway Administration shall,

notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent

only for loss occasioned by the death of a passenger dying as a result of such

accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident.

S.124-A. Compensation on account of untoward incident.â?"When in the course of working a railway an untoward incident occurs, then

whether or not there has been any wrongful act, neglect or default on the part of the Railway Administration such as would entitle a

passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in

respect thereof, the Railway Administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to

such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such

untoward incident:

Provided that no compensation shall be payable under this section by the Railway Administration if the passenger dies or suffers injury due

to â?

(a) suicide or attempted suicide by him;

(b) self-inflicted injury;

(c) his own criminal act;

(d) any act committed by him in a state of intoxication or insanity;

(e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said

untoward incident.

19. 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 [Rathi Menon v.

Union of India, (2001) 3 SCC 714, para 30 : 2001 SCC

(Cri) 1311] and Kalandi Charan Sahoo [Kalandi Charan Sahoo v. South-East Central Railways, (2019) 12 SCC 387 : 2017 SCC OnLine

SC 1638] stands explained accordingly. The four-Judge Bench judgment in Pratap Narain Singh Deo [Pratap Narain Singh Deo v. Srinivas

Sabata, (1976) 1 SCC 289 : 1976 SCC (L&S) 52] 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.â??

Having heard learned counsel for the parties and gone through the materials on record and since the delay in preferring the appeal has already been

condoned earlier after hearing both the parties by a co-ordinate Bench of this Court vide order dated 02.05.2019 in I.A. No.8400 of 2017, as such,

such plea of the Union of India through the General Manager, Eastern Central Railway, Hajipur, P.O. & P.S. Hajipur, District Vaishali (Bihar) is not

sustainable, as such, Union of India is directed to pay the simple interest @ 7.5% on the awarded amount from the date of application i.e. from the

date of filing of the application till 24.05.2017 when the compensation award has been paid to the claimants by the Railway Claim Tribunal .

Accordingly, the present appeal is hereby allowed with aforesaid modification in the interest part.