
(2008) 04 MAD CK 0181

In the Madras High Court

Case No : C.M.A. No. 1091 and M.P. No. 1 of 2008

P. Rajeswari and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 29-04-2008

Acts Referred:

Railways Act, 1989 — Section 123

Workmens Compensation Act, 1923 — Section 4A(3)

Citation : (2009) ACJ 2726

Hon'ble Judges : S. Tamilvanan, J

Bench : Single Bench

Advocate : G. Ravindra Naidu, for the Appellant; T. Ravichandran, for the Respondent

Judgement

S. Tamilvanan, J.—This civil miscellaneous appeal has been preferred against the order dated 11.7.2007 passed in O.A. No. 84 of 2002 by the Railway Claims Tribunal, Chennai seeking 12 per cent interest per annum for the award amount from the date of accident till the date of claim.

2. It is not in dispute that the appellants-claimants herein had filed an application before the Railway Claims Tribunal seeking compensation of Rs. 4,00,000 for the death of one P. Purushothaman who died on 27.8.2001. While he was travelling in train No. 6669 from Chennai to Erode, he fell down and died in between Sevrur and Katpadi Railway Stations. There was no eyewitness to the occurrence. According to the respondent herein, the deceased accidentally fell down from the train and died due to his own negligence. The Claims Tribunal while deciding the application had framed the following issues:

(1) Whether the deceased was a bona fide passenger of the train on the crucial date as stated in the application?

(2) Whether the deceased died due to an untoward incident within the meaning of Section 123(c)(2) of the Railways Act, 1989?

(3) Whether the applicants are the dependants of the deceased?

(4) Relief?

3. In support of the claim of the applicants, AW 1 was examined apart from marking a copy of the F.I.R. with English version, copy of the inquest report with English version including the rough sketch of the place of occurrence. Death report and the post-mortem certificate have been marked as Exhs. A5 and A6. Copy of the train ticket, death certificate, family members certificate, copy of the letter of the appellant No. 1 MRO, Chittoor have been marked as documents Exhs. A7 to A10.

4. Considering the oral and documentary evidence adduced and the arguments advanced by both sides, Railway Claims Tribunal held that the deceased was a passenger while the accident had occurred as stated in the application and the claimants-applicants are the dependants of the deceased, as such, they are entitled to claim compensation. Accordingly the Tribunal directed the railway authorities to pay the compensation to the appellants as follows:

(a) Pay compensation of Rs. 2,00,000 to P. Rajeswari, the applicant No. 1 by making payment of 50 per cent thereof, viz., Rs. 1,00,000 by way of an accounts payee cheque drawn in her favour and the remaining 50 per cent thereof, viz., Rs. 1,00,000 by way of investment in fixed deposit for a period of 3 years, in any nationalised bank situated in the vicinity of the applicant No. 1 at her choice with the option to draw interest directly from the said bank;

(b) Pay compensation of Rs. 1,00,000 to P. Anusha, minor girl child of the deceased by making investment of the entire amount of Rs. 1,00,000 in fixed deposit until she attains majority in the name of the minor represented by her mother and natural guardian, the applicant No. 1, P. Rajeswari in any nationalised bank of her choice in the vicinity of the applicant No. 1 with the option to draw interest directly from the said bank periodically once in three months for the upkeep and maintenance of the minor girl child;

(c) Pay compensation of Rs. 1,00,000 by way of an accounts payee cheque drawn in her favour, viz., P. Sarojamma, applicant No. 4, mother of the deceased, as requested for by the learned Counsel for the applicants;

(d) The respondents are directed to make the payment in the manner above within 2 months from the date of order failing which the applicants are entitled to recover the amount together with interest thereon at 6 per cent per annum from the date of default till payment. The parties shall bear their own costs.

5. Thus, the point for determination is, "whether the appellants are entitled to claim interest as prayed for?"

6. Mr. G. Ravindra Naidu, the learned Counsel appearing for the appellants herein submitted that the appellant No. 1 being young widow and appellant No. 2 being minor daughter of the deceased, apart from the aged parents of the deceased

who have been arrayed as appellant Nos. 3 and 4, are entitled to claim interest at 12 per cent from the date of accident. In support of his contention, he has relied on the decisions reported in Pratap Narain Singh Deo v. Shrinivas Sabata 1976 ACJ 141 (SC); N. Parameswaran Pillai and Another Vs. Union of India (UOI) and Another, and Union of India (UOI) Vs. A. Janardhanan and Another, .

7. The Full Bench of the Hon''ble Apex Court has held in Pratap Narain Singh Deo's case 1976 ACJ 141 (SC), that under Workmen's Compensation Act, 1923, Section 4-A(3)(a), an employer was liable to pay interest on the compensation amount. However, as contended by learned Counsel for the respondent, the referred case relates to the Workmen's Compensation Act. As per the decision reported in N. Parameswaran Pillai and Another Vs. Union of India (UOI) and Another, , it was held that the claimants are entitled to 15 per cent interest per annum from the date of petition till the date of award. It has been held that awarding interest on the compensation is sustainable. However, the Hon''ble Apex Court decided that the appellants-claimants therein were entitled to 12 per cent interest per annum from the date of the petition. This court, in the decision reported in Union of India (UOI) Vs. A. Janardhanan and Another, , has held as follows:

(16) ...The Railway Claims Tribunal, Madras Bench, has passed the impugned award only on 30.6.1996, i.e., after two years from the date of accident. In such circumstances, the award of interest by the Tribunal is fully justified. I have already referred to Rule 44 which enables the Tribunal to pass such orders as may be necessary to meet the ends of justice. Here, by acceptable evidence, claimants, viz., parents have proved that their son J. Sunil had died in the railway accident which occurred on 1.6.1993 in Kurla Express at Samalpatti in Dharmapuri District. Their claim application was lingering for a period of two years before the Tribunal....

8. In the light of the decisions referred to above, it is clear that the appellants being the dependants of the deceased are entitled to claim interest from the date of their petition till the date of deposit being made by the authorities. However, considering the rate of interest provided by the nationalised banks and also the rulings of the Supreme Court in M.A.C.T.O.P. cases, at present the Motor Accidents Claims Tribunals allow only 7.5 per cent interest. The case on hand is also similar to that of M.A.C.T.O.P. cases. In the instant case, the sole breadwinner of the family died, therefore, the same analogy is applicable to the claimants of the case in getting the interest. Therefore, I am of the view that appellants are entitled to claim 7.5 per cent interest per annum from the date of petition till the date of payment being made by the respondent. This appeal is, accordingly, partly allowed. However, there is no order as to costs. Respondent is directed to pay the balance amount within 8 weeks from the date of receipt of a copy of this order.