
(2015) 03 RAJ CK 0046
In the Rajasthan High Court
Case No : Civil Misc. Appeal No. 3250/2010

Prabhati Devi and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 04-03-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34
Interest Act, 1978 — Section 3
Railways Act, 1989 — Section 124(A)

Citation : (2015) 4 ACC 562

Hon'ble Judges : Atul Kumar Jain, J.

Bench : Single Bench

Advocate : Ajay Shukla, for the Appellant; P.C. Sharma, Advocates for the Respondent

Final Decision : Allowed

Judgement

Atul Kumar Jain, J.—In this civil misc. appeal appellants/claimants Smt. Prabhati Devi and Ors. have challenged the award dated 17.03.2008 passed by Railway Claims Tribunal, Jaipur Bench Jaipur in Claim No. OA/11/29/1999 titled as Prabhati Devi and Ors. v. Union of India.

2. By the impugned award Rs. 4,00,000/- as compensation were ordered to be paid to the claimants in relation to death of Gyarsi Lal Meena in untoward incident on Railway premises on 28.10.1996 Tribunal has ordered that the respondents shall pay Rs. 4,00,000/- in the shape of a demand draft within two months from the date of the award of the claimants and in case of default they will also pay 7% simple annual interest on the award amount from the date of the award to the date of realization.

3. Appellants/claimants have argued in this appeal that the respondents should be directed to award interest on the compensation amount @ 18% per annum from the date of death of the deceased and in the alternative from the date of filing of the claim application till realization of the award.

4. Following rulings in this regard are relevant to my notice:--

1. Mohamadi and Others Vs. Union of India (UOI), - In this case two judges bench of the Apex Court on 05.04.2010 held that in a case of compensation under Section 124(A) of the Railway's Act 1999 interest would accrue on the compensation amount from the date of the claim application and not from the date of the judgment of the Tribunal. In this case Thazhathe Purayil Sarabi and Others Vs. Union of India (UOI) and Another--> was followed. It was further held in these cases that payment of interest is basically compensation for being denied the use of the money during the period which the same could have been made available to the claimants. It was further held in these cases that even if the appellants may not be entitled to claim interest from the date of the accident, we are of the view that the claim to interest on the awarded sum has to be allowed at least from the date of the application till the date of the recovery. Appellant cannot be faulted for the delay caused in disposal of the claim by the Tribunal. It was further held in these cases that even when there is no specific provision for grant of interest on any amount due, the Court and Tribunals are entitled to award interest in their discretion, under the provisions of Section 3 of the Interest Act and Section 34 of C.P.C.

2. Pratap Narain Singh Deo Vs. Srinivas Sabata and Another, - This was case under the W.C. Act 1923 and in this case compensation was awarded by the Commissioner with 6% simple annual interest on the award amount and 50% of the award amount was also ordered to be paid by way of penalty to the claimant. It was held by the Apex Court that the employer was supposed to pay the compensation as soon as the personal injury was caused to the respondent and it cannot be said that the compensation had not fallen due until it was settled by the award. So in the facts and circumstances Apex Court held that the Commissioner was fully justified in making an order for the payment of interest and penalty.

3. Kerala State Electricity Board and Another Vs. Valsala K and Another, - In this case it was held that if accident took place prior to amendment in W.C. Act then enhanced rates of compensation will not be applicable while awarding compensation. It was further held in this case that judgment of Larger Bench in Pratap Singh Deo case will prevail over two judge bench decision in E.N. Company v. V.K. Neela Kandan of Apex Court decided on 06.11.1996. It was held that the relevant date for determination of the rate of compensation under W.C. Act is the date of accident and not the date of the award.

4. Saberabibi Yakubbbhai Shaikh and Others Vs. National Insurance Co. Ltd. and Others, - In this case two judges bench of the Apex Court held that in cases under W.C. Act 1923 claimants will be entitled to claim interest on award amount from the date of the accident and not from the date of the award. The Oriental Insurance Company Ltd. Vs. Siby George and Others, of the Apex Court were followed and following decisions were held per incuriam-

- a. U.P.S.R.T.C. now Uttarakhand Transport Corporation Vs. Satnam Singh,
- b. National Insurance Co. Ltd. Vs. Mubasir Ahmed and Another,
- c. Oriental Insurance Co. Ltd. Vs. Mohd. Nasir and Another,

5. (2012) 2 CCR (Raj.) 888 Shakuntala Agarwal v. Union of India- In this case it was held that interest on the compensation amount under Railway"s Act 1999 in an accident claim should be made payable from the date of filing the Claim Petition and not from the date of the award.

6. Suresh v. Union of India S.B. CMA No. 1670/2009 decided on 02.07.2014 by RHC Jaipur. In this case also interest was held payable from the date of filing of the claim application before Railway Claims Tribunal.

7. Smt. Anita and Others v. Union of India S.B. CMA 1114/2004 decided on 03.08.2012 by RHC Jaipur - It was held that interest will be payable from the date of filing of the claim the application in cases decided by Railway Claims Tribunal.

5. Looking to the law propounded in the rulings it can be said that the appellants/ claimants are rightfully entitled to interest also on the compensation amount at least from the date of filing the claim application. Hence, it is hereby ordered that the appellants/claimants will be entitled to 7% simple annual interest also on the amount of compensation from the date of filing of the application till the date when award amount of Rs. 4,00,000/- had been paid or will be paid to the claimants.

6. This appeal stands allowed as above. Copy of this order be sent to the court below immediately by the registered post.