
(2016) 06 P&H CK 0043
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 3654 of 2005 (O&M)

Ram Chander

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-06-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34
Railways Act, 1989 — Section 123(c), 124

Citation : (2016) 06 P&H CK 0043

Hon'ble Judges : Mrs. Sneh Prashar, J.

Bench : Single Bench

Advocate : Namit Sharma, Advocate, for the Appellant; Karminder Singh, Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Sneh Prashar, J.—Assailing the award dated 15.03.2005 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, "the Tribunal") in Case No.OA-II/77/2001, by virtue of which the claim application of the appellant was allowed and Rs. 4,00,000/- was awarded as compensation, the appellant preferred the instant appeal.

2. The submissions made by Mr. Namit Sharma, learned counsel for the appellant and Mr. Karminder Singh, learned standing counsel for respondent-Union of India have been heard and record perused.

3. In brief, the facts are that on 13/14.05.2000, Vijay Kumar son of the appellant was travelling in Ekta Express train on a valid second class monthly season ticket from Rohtak to Bhiwani. When he was coming out of the toilet, as the train lurched side ways, he lost balance and fell down from the moving train resulting in his death. Daily Diary Report No.629 dated 14.05.2000 was recorded with regard to his accidental death. The claim application filed by the appellant invoking the provisions of Section 123(c) read with Section 124-A of the Railways Act, 1989 (for short, "the Act") claiming compensation from the respondent-

railway was allowed by learned Tribunal passing the following order:-

"The claim application is allowed and an award for Rs. 4,00,000/- (Rupees Four lacs only) is made in favour of the applicant and his wife Smt. Krishna Sharma, to be paid by the respondent-railways in equal shares i.e. Rs. 2,00,000/- (Rupees Two lacs only) each.

The respondent-railways are allowed 60 days time to make the aforesaid payment failing which, the applicant-awardee shall be entitled to recover the compensation amount from the respondent-railways with interest @ 6% per annum from the date of this order till the payment is made."

4. The short contentious issue raised by the appellant is that learned Tribunal erred in law by not granting interest at the rate of 12% per annum from the date of filing of claim application till realisation of the awarded amount. The interest awarded at the rate of 6% per annum was also conditional as it was to be paid only if the respondent-railways failed to pay the awarded amount within 60 days of the order.

5. Relying on *Mohamadi and others v. Union of India*, 2011(4) RCR (Civil) 692, learned counsel argued that it has since been settled by Hon'ble Apex Court that the interest on the award amount is payable from the date of application and not from the date of judgment of the Tribunal. It was also settled that the interest in a railway claim would be payable at the rate of 9% per annum.

6. On the other hand, learned counsel for the respondent-railway though did not dispute the claim of the appellant to the extent that he is entitled to interest on the award amount, but resisted with vehemence the rate of interest claimed by the appellant. He argued that the rate of interest should not be more than 6% simple interest per annum from the date of application till the date of actual payment of the compensation amount. To fortify his argument, he relied upon *Tahazhathe Purayil Sarabi v. Union of India*, IV(2009) ACC 921 (SC).

7. In *A.A. Haja Muniuddin v. Indian Railways*, 1993 ACJ 235 (SC) while considering the applicability of the provision of Order 33 of the Code of Civil Procedure (for short, "the Code") to the proceedings of the Railway Claims Tribunal, the Apex Court held that although the Railway Claims Tribunal Act and the Rules made thereunder do not specifically provide for the application of Order 33 of the Code, but there is nothing in the Act or the Rules which precludes the Tribunal from following that procedure. Keeping in view the same principle, the interest is payable from the date of filing of the claim application by virtue of Section 34 of the Code.

8. In *Tahazhathe Purayil Sarabi's* case (supra), Hon'ble Apex Court modifying the award passed by learned Tribunal and the order of the High Court directed that the awarded sum will carry interest at the rate of 6% simple interest per annum from the date of application till the date of the Award and, thereafter, at the rate of 9% per annum till the date of actual payment of the same.

9. In Mohamadi and others" case (supra), Hon"ble Apex Court relying on Tahazhathe Purayil Sarabi v. Union of India, 2011(7) R.C.R. 27 held that the interest would accrue on the compensation amount from the date of the claim application. Also setting aside the order of the High Court, the order of the Tribunal directing that the compensation would carry interest at the rate of 9% per annum was restored.

10. As pointed out by learned counsel for the appellant, by way of judgment dated 17.07.2009 passed in FAO No.110 of 2009 case titled "Des Raj v. Union of India" and vide judgment dated 26.03.2014 passed in FAO No.4030 of 2013 (O&M) case titled "Parveen Kumari and another v. Union of India", this Court had granted interest on the awarded amount at the rate of 9% per annum from the date of claim application till its realization.

11. In the above premise, the appellant-awardee are held entitled to interest on the compensation amount awarded to them. The interest shall be payable from the date of filing of the claim application before the Tribunal till the date of actual payment of the award amount at the rate of 9% per annum. With modification to that extent in the award dated 15.03.2005, the instant appeal is allowed.