
(2012) 01 MP CK 0034
In the Madhya Pradesh High Court
Case No : M.A. No. 3434 of 2009

Rishab Jain and Another

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 17-01-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34
Interest Act, 1978 — Section 3
Railway Claims Tribunal Act, 1987 — Section 16
Railways Act, 1989 — Section 124, 124A

Citation : (2012) ACJ 2344 : (2012) 2 TAC 796

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : M. Shafiqullah, for the Appellant; Sameer Beohar, for the Respondent

Final Decision : Allowed

Judgement

J.K. Maheshwari, J.—Being aggrieved of not granting interest on the amount of compensation so awarded by the Railway Claims Tribunal vide judgment dated 24th June, 2009 for the death of Bhagwan Das, father of the appellant no. 1, appellants have preferred this appeal. Shri M. Shafiqullah, learned Counsel appearing on behalf of the appellants fairly contends that under the provisions of the Railway Claims Tribunal Act, 1987 no specific provisions for grant of payment of interest has been made but the said issue has been decided by the Hon'ble Apex Court in the case of Thazhathe Purayil Sarabi and Ors. v. Union of India & Anr., AIR 2009 S.C. 3098. The Apex Court has directed that the interest may be awarded from the date of filing of the claim petition or it has been adjudged as the case may be, direction issued by the Claims Tribunal to award interest if the amount so adjudged has not been paid within 45 days is improper.

2. It is submitted by him that in the present case claim petition was filed on 6th August, 2007 for an incident took place on 20th July, 2007 because the Railway Claims Tribunal has not granted compensation for the death of the deceased. The

said case was finally decided on 24th June, 2009. However, in the facts of this case from the date of filing of the claim petition the interest may be awarded on the amount of compensation so directed to be paid by the Claims Tribunal.

3. Shri Beohar, learned Counsel representing the respondent has placed reliance on a judgment of Bombay High Court in the case of Union of India v. Sanjay Sampatrao Gaikwad etc., AIR 2002 Bom. 436 : 2002 (3) T.A.C. 776 (Bom.)/and contended that the interest from the date of the award may be directed because there is no fault on the part of the respondent. However, prayer is made to dismiss the appeal.

4. After having heard learned Counsel appearing on behalf of the parties in the said fact the law laid down is also required to be taken note of which is reproduce as under :

Admittedly, neither the Railway Claims Tribunal Act, 1987, nor the Railways Act, 1989, make provision for payment of interest on any awarded amount. While Section 16 of the 1987 Act prescribes the procedure for making an application to the Claims Tribunal, the right to receive compensation is contained in Sections 124 and 124A comprising Chapter XIII of the 1989 Act dealing with the liability of the Railway Administration for death and injury to passengers due to accidents. Even though there is no provision in either of the Acts for payment of interest on the awarded sum, there is no denying the fact that the right to claim compensation accrued on the date of the incident. In cases where the statute does not make any specific provision for payment of interest on any awarded sum, the power of the Courts to grant interest can also be referred to from the provisions of the Interest Act, 1978 and the Code of Civil Procedure.

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 for 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. Accordingly, the order of the Railway Claims Tribunal directing payment of interest on default of the payment of the principal sum within a period of 45 days would not be sustainable- When there is no specific provision for grant of interest on any amount due, the Court and even Tribunals have been held to be entitled to award interest in their discretion, under the provisions of Section 3 of the Interest Act and Section 34 of the Civil P.C.

5. In view of the foregoing, in the opinion of this Court judgment of Bombay High Court so relied upon is not required to be followed in the fact of this case. As per the judgment of the Apex Court the interest from the date of filing of the claim

petition till realization of the amount is liable to pre paid. Accordingly, the appeal filed by the appellant is hereby allowed. The appellants is held entitled to receive the interest on the amount of compensation so determined by the Claims Tribunal from the date of filing of the claim petition till realization of the said amount. In the facts and circumstances of the case parties are directed to bear their own cost.