

(2011) 09 KAR CK 0169
In the Karnataka High Court
Case No : M.F.A. No. 653 of 2011

Sathya Kumari, Manjunath, Narendra Kumar and Seshadri	APPELLANT
Vs	
Union of India (UOI)	RESPONDENT

Date of Decision : 21-09-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34
Railways Act, 1890 — Section 123 (c) (2)

Citation : (2011) 09 KAR CK 0169

Hon'ble Judges : Aravind Kumar, J

Bench : Single Bench

Advocate : N.R. Raghavendra, for SRS Legal Solutions and R. Madan, for the Appellant; Abhinay, for N.S. Sanjay Gowda, for the Respondent

Final Decision : Allowed

Judgement

Aravind Kumar, J.—Though appeal is listed for orders, by consent of learned Advocates for parties, matter is taken up for final disposal

since a short point with regard to payment of interest, alone is involved in this appeal.

2. Facts in brief leading to filing of this appeal are:

On 12.12.2004, first Appellant and her husband were travelling from Bangalore to Kopergaun in Swarna Jayanthi Express and when said train

reached Kopergaun at Platform No. 1, said Jayaram was getting down from the train and due to sudden movement of the train he has slipped and

went under the wheels of the train on account of which he sustained grievous injuries and was shifted to N.P Hospital, Kopergaun for treatment by

Railway Police. However said Jayaram was declared brought dead. On account of death of said Jayaram his legal heirs namely wife and children

filed application before-Railway Claims Tribunal, Bangalore Bench, II U 07/2008. Said application was resisted by Respondent railways by

denying the averments made in the claim petition based on pleadings of parties, Tribunal framed following issues for its adjudication:

1. Are the Applicants sole dependants of the deceased Jayaram?
 2. Was deceased Jayaram a bonafide passenger travelling from Bangalore to Kopergaon in Dn Swarna Jayanti Express on 12.12.2004?
 3. Is the incident stated in para 6 of application covered u/s 123(c)(2) of Railways Act or as stated in para 2 of reply statement?
 4. Are the Applicants entitled to get compensation from the Respondent? If so how much?
 5. What order? What costs?
3. Claimant No. 2 namely one of the sons of deceased got himself examined as AW-1 and 7 documents Ex.A-1 to A-7 were got marked.

Respondents filed Divisional Railway Managers report and affidavit of Station Master, Kanhegaon as RW-1. On the basis of pleadings and

evidence tendered by parties and on its appreciation Tribunal allowed the application and-directed the Respondent to pay Applicants a sum of Rs.

4,00,000/- as compensation for the death of deceased and the incident in question was held to be ""Untoward incident"". Tribunal awarded interest

payable on the amount, awarded @ 9% p.a. from the date of order till date of actual payment.

4. In this appeal the award of interest from the date of order alone is assailed by Appellants contending that provisions of Railway Claims Tribunal

Act, 1987 though does not provide for payment of interest, Tribunal has ample powers to award interest on compensation awarded by it payable

from the date of petition till realisation, by contending that provisions of CPC in so far as trials are concerned has been made applicable Mutatis

Muntandis to trials before Tribunal and as such provision of Section 34 of CPC would be applicable to the claims before Tribunal and as such

interest on amount awarded by Tribunal is to be granted.

5. Per contra Sri Abhinay contends that when act does not provide for interest, question of awarding interest from the date of petition does not:

arise and as such he supports the order of Tribunal. The issue with regard to entitlement of interest from the date of petition till date of actual

payment and/or deposit is no more resintegra. Said issue is covered by judgment of Hon''ble Apex Court in the case of Tahazhathe Purayil Sarabi

and Ors. v. Union of India (UOI) and Anr. reported in judgment Today 2009 (S) SC 515 whereunder it has been held that, interest is payable

from the date of application till date of award at the rate of 6% and thereafter at the rate of 9% pa. i.e., till the date of actual payment or deposit.

Applying the ratio laid down by Hon''ble Apex Court, this Court in the case of Smt. Jayanthi and Ors. v. Union of India disposed of MFA No.

2099/2010 (RCT) on 22.08.2011 and has extended the benefit or the relief which was granted by Hon''ble Apex Court by awarding similar

interest. In view of the same, I am of the considered view that Appellants are entitled to interest as held by Hon''ble Apex Court in Sarabi case

referred to supra.

In the result, appeal is allowed. Impugned order is modified. Respondent is directed to pay interest on the compensation amount of Rs. 4,00,000/-

at the rate of 6% pa. from the date of application (13.01.2006) filed by the claimants before Tribunal till the date of order (20.03.2009) and @

9% p.a. from the date of order till date of payment or deposit whichever is earlier. The order assailed in this appeal on all other aspects remains

intact. No order as to costs.