

(2002) 04 KAR CK 0021

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 835 of 2000

Smt. Mahaboob Bee

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 17-04-2002

Acts Referred:

Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 1990 — Rule 3 (2)

Citation : (2003) ACJ 712 : (2002) ILR (Kar) 3001 : (2002) 5 KarLJ 146 : (2002) 3 KCCR 196 SN : (2002) 4 RCR(Civil) 751

Hon'ble Judges : V.G. Sabhahit, J

Bench : Single Bench

Advocate : Somanath Reddy, for the Appellant; N.S. Sreenivasan, for the Respondent

Final Decision : Allowed

Judgement

V.G. Sabhahit, J.—This appeal by the claimant in O.A. No. 51 of 1996 on the file of Railway Claims Tribunal, Bangalore Bench, is directed against the judgment dated 24-11-1998 wherein on a claim petition filed by the claimant-appellant herein claiming compensation towards the death of the husband of the petitioner-claimant (Rasool) while he was travelling by Train No. 1063 DN on 12-6-1996 averring that he fell down due to sudden jerk and succumbed to the injuries and died and applicant is also having six children and mother-in-law (the mother) of the deceased. The Tribunal after enquiry held that claimant Rasool was travelling by Train No. 1063 DN on 12-6-1996 and he sustained injury and succumbed to the injuries and died and wherefore, the applicant was entitled to compensation and as per the Schedule prevalent on the date of accident awarded compensation of Rs. 2,00,000/- and apportioned the compensation between the claimant and the children.

2. Being aggrieved by the said order, the claimant has preferred this appeal for enhancement.

3. The finding of the Claims Tribunal that Gulam Rasool was travelling by Train No. 1063 DN on 12-6-1996 and he fell down from the train and succumbed to the injuries and died and the claimants are entitled to compensation from respondents have become final as the same has not been assailed by the respondents and this appeal by the claimant is for enhancement of compensation contending that in view of the amendment of the Schedule to the Railway Accidents (Compensation) Rules, 1990, wherein the compensation to be awarded has been enhanced from Rs. 2,00,000/- to Rs. 4,00,000/-, the Tribunal ought to have awarded compensation of Rs. 4,00,000/-.

4. I have heard the learned Counsel appearing for the appellant and the learned Counsel appearing for respondent.

5. Having regard to the contentions urged, the point that arises for determination in this appeal is:

Whether the claimant-appellant is entitled to enhancement of compensation to Rs. 4,00,000/-?

and I answer the above point in the affirmative for the following reasons:

6. The finding of the Tribunal that the husband of the claimant (Gulam Rasool) while he was travelling in the train and that respondent is liable to pay compensation as per Railway Accidents (Compensation) Rules, 1990, Rule 3(2) has become final and the question is about the quantum of compensation to which the claimant is entitled to. The Schedule to the Railway Accidents (Compensation) Rules, 1990 was amended with effect from 1-11-1997. The order of the Tribunal is dated 24-11-1998. In the case of Rathi Menon Vs. Union of India, , the Hon"ble Supreme Court has observed as follows:

"19. Before the said amendment of the Rules and the Schedule which came into effect on 1-11-1997 the above amounts were respectively two lakhs (instead of rupees four lakhs) and 1.40 lakhs (instead of 3.20 lakhs) and one lakh (instead of two lakhs). Such amounts were raised by the Central Government in 1990. The revision of the rates was made after 8 years and thus the new rates were incorporated by amending the Schedule.

29. From all these, we are of the definite opinion that the Claims Tribunal must consider what the rules prescribed at the time of making the order for payment of the compensation".

7. In view of the above decision, it is clear that on the date of the order passed by the Railway Claims Tribunal on 24-11-1998 the above said amendment to the Railway Accidents (Compensation) Rules which has enhanced the compensation from Rs. 2,00,000/- to Rs. 4,00,000/- had come into effect and the compensation that ought to have been awarded by the Tribunal is Rs. 4,00,000/- and not Rs. 2,00,000/-. Mere fact that claimant had claimed only Rs. 2,00,000/- in the application before the Tribunal would not in any way deter the Tribunal or this Court from awarding the compensation prescribed as per the above said

rules on the date of the order. It has been held by this Court in National Insurance Co. Ltd. Vs. Vishnu, that it is the duty of the Court to quantify the compensation and the petition cannot be equated to a claim and wherefore, the mere fact that claimant had on the date of presentation of petition was restricted to Rs. 2,00,000/- as per law then in force would not disentitle the claimant from getting the compensation as per the rule on the date of the order as the claimant is entitled to just and reasonable compensation from the Tribunal as held by the Supreme Court in the above cited decision and accordingly, I answer the point for determination and pass the following order:

8. The appeal is allowed. The compensation awarded is enhanced from Rs. 2,00,000/- to Rs. 4,00,000/- and the apportionment of compensation shall stand enhanced in proportion to the enhancement made in this appeal. No costs in this appeal. The order of the Tribunal in all other respects remains unaltered. The compensation enhanced in this appeal shall be apportioned in the same proportion in which the Tribunal has apportioned the amount between the claimant and her children. However, so far as the claimant is concerned, the compensation enhanced in this appeal shall be disbursed to her without any need for depositing the amount and in respect of the minors the amount shall be deposited during their minority and if any of the children have attained majority, 50% of the enhanced in this appeal shall be deposited for a period of five years with liberty to draw interest accruing on the said deposit and the balance 50% of the compensation enhanced in this appeal shall be paid to the respective claimants who have attained majority. The enhanced amount shall be deposited within a period of three months from today failing which the respondent shall pay interest at the rate of 12% from the date of petition to the date of payment on the compensation enhanced in this appeal.