**(2016) 05 P&H CK 0056**

**In the Punjab And Haryana At Chandigarh**

**Case No :** FAO No. 951 of 1999

Subhash Chand Sharma APPELLANT

Vs

Union of India RESPONDENT

**Date of Decision :** 19-05-2016

**Acts Referred:**

**Citation :** (2016) 4 RCRCivil 357

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

**Bench :** Single Bench

**Advocate :** Ashok Khubbar, Advocate, for the Appellant; Puneet Jindal, Sr. Adv, Varun Goel, Advocate, for the Respondent

**Final Decision :** Allowed

## Judgement

Sneh Prashar, J.—Assailing the judgment dated 13.10.1998 of the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (for short, "the Tribunal") in Case No.OA-II/22/1998, vide which the appellant was held entitled to a sum of Rs. 41,000/- as compensation from the respondent-Railways, the appellant preferred the instant appeal.

2. The appellant was travelling in Train No.2627 Dn Bangalore- New Delhi Express which collided with Train No.6317 Dn Kanya Kumari- Jammu Tawi Him Sagar Express at Faridabad railway station on 27.07.1997. During the said accident, the appellant suffered multiple grievous injuries on various parts of the body. He was hospitalized for a long time and incurred huge expenses on his treatment etc.

3. A petition claiming compensation to the tune of Rs. 5 lacs from the respondent-Union of India was filed by the appellant before learned Tribunal. The respondent contested the petition, however, considering the evidence adduced and submissions made on behalf of the parties, learned Tribunal allowed the petition and awarded compensation to the tune of Rs. 41,000/- in all to the appellant.

 

4. The submissions made by Mr. Ashok Khubbar, learned counsel for appellant and Mr. Puneet Jindal, learned senior counsel for respondent- Union of India have been heard and record perused.

5. Learned counsel for the appellant argued that the instant petition was decided on 13.10.1998. There was amendment in the Railway Accident and Untoward Incident (Compensation) Rules, 1990 (for short, "the Rules of 1990") which came into operation with effect from 25.10.1997. On the date of decision of the petition of the appellant, the amended Rules had already come into force.

6. In Rathi Menon v. Union of India, 2001(3) R.C.R. (Civil), 224 the question that arose was whether amendment to the Schedule was applicable to the cases arising out of the accidents which had taken place prior to the amendment. Hon''ble Supreme Court answered the question as ''Yes''. It was held that applicability of the Schedule providing amount of compensation comes into play on the date of awarding compensation. The amendments in the statutes providing for payment of compensation are made keeping in view changing money value in the market as also purchasing capacity of the money. The observations of Hon''ble Supreme Court are as under:-

"Why the Central Government decided to make such a vast variation in the amount of compensation while exercising the powers conferred by Section 129 of the Act. It cannot be conceived that the Government wanted to make a discrimination between those victims who suffered the accident prior to 1.11.1997 and those who suffered the identical injury in a similar accident on or after that date. The raison detre for making such variation is easily discernible. The Central Government wanted to update the compensation amount. Rupee value is not an unchanging unit in the monitory system. Students of economic history know that currency value remained static before the Second World War. But the post World War II witnessed the new phenomenon of vast fluctuations in money value of currency notes in circulation in each nation. When the U.S. Dollar has registered a steep upward rise, currencies in many other countries made downward slip. What was the value of one Hundred rupees twenty years ago is vastly different from what it is today. This substantial change has caused its impact on the cost of living also.

The Central Government while changing the figure in the compensation amount after an interval of a decade was only influenced by the desire to update the money value of the compensation. In other words, what you were to pay ten years ago to one person cannot be the same if it is paid today in the same figure of currency notes. It is for the purpose of meeting the reality that Central Government changed the figures."

7. It was proved on record that the appellant sustained right femur fracture and a large wound on left ankle joint and multiple other injuries on all over the body. The respondent-railway administration adduced no evidence to rebut the medical certificates produced by the appellant. Considering all aspects, learned Tribunal

 

awarded the maximum prescribed amount of compensation of Rs. 20,000/- under the Rules of 1990 to the appellant for the one scheduled injury i.e. fracture of right femur suffered by him. For the non scheduled injury for which a maximum of Rs. 40,000/- was prescribed under the Rules of 1990, Rs. 20,000/- as compensation was allowed to the appellant.

8. With all fairness to the appellant, learned counsel for the respondent stated that since the Railway Accident and Untoward Incident (Compensation) Amendment Rules, 1997 (for short, "the Rules of 1997") had come into force at the time of decision of the claim petition the appellant was entitled to compensation as per the said Rules for the one scheduled injury suffered by him. By way of amendment in the Rules, the amount of compensation for fracture of major bone femur or tibia of one limb is Rs. 40,000/-. As such, the compensation to the tune of Rs. 20,000/- awarded by learned Tribunal for the scheduled injury of fracture of right femur to the appellant is enhanced to Rs. 40,000/-. For other injuries i.e. the non scheduled injuries the maximum as per the amended Rules can be awarded upto Rs. 80,000/-. Learned Tribunal awarded Rs. 20,000/- to the appellant which is enhanced to Rs. 40,000/-.

9. Accordingly, the instant appeal filed by the appellant is allowed. The enhanced compensation of Rs. 40,000/- shall be payable to the appellant along with interest at the rate of 9% per annum with effect from 13.10.1998 i.e. the date of order passed by the Claims Tribunal.