
(2019) 06 BOM CK 0105
In the Bombay High Court
Case No : First Appeal No. 106 Of 2019

Tahera Wd/o. Raheman Shaikh, (Dead) And Anr	APPELLANT
Vs	
Union Of India	RESPONDENT

Date of Decision : 27-06-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Section 34
Interest Act, 1978 — Section 3

Citation : (2019) 06 BOM CK 0105

Hon'ble Judges : M.G. Giratkar, J

Bench : Single Bench

Advocate : S.K. Sable, V.M. Gadkari

Final Decision : Dismissed

Judgement

M. G. Giratkar, J

1. Heard.
2. Admit.
3. Heard finally with consent of learned Advocates appearing for the parties.
4. The present appeal is against the award of Railway Claims Tribunal, Nagpur dated 03.08.2017 in Review Application No. REV/NGP/2017/0010 in respect of death claim.
5. On 28.12.2013, the son of the appellant i.e. deceased, namely, Shaikh Irfan Shaikh Raheman was travelling from Bhopal to Nagpur. During the journey, because of jerk he fell down and died on the spot. The Claim Application was filed before Railway Claims Tribunal, Nagpur. It was allowed and compensation of Rs.4,00,000/Â was granted. The claimant filed Review Application in view of the recent Central Government Notification dated

22.12.2016, by which amount of compensation of Rs.4,00,000/Â is enhanced to Rs.8,00,000/Â. Accordingly, the Review Application was allowed and

claimant was granted compensation of Rs.8,00,000/Â? alongwith interest at the rate of 6% p.a. till the recovery of full amount.

6. The appellant has challenged the judgment only in respect of rate of interest. It is contended that the Railway Claims Tribunal should have granted

interest at the rate of 12% p.a. from the date of application till the recovery. Hence, the present appeal.

7. Heard learned Advocate Shri Sable for the appellant. He has submitted that claimant is entitled to interest at the rate of 12% p.a. from the date of

application till recovery of the whole amount.

8. Learned Advocate Shri Gadkari strongly objected the same on the ground that there is no provision in the Railways Act, 1959 to grant any specific

rate of interest.

9. As per provisions of Section 34 of the Civil Procedure Code, 1908 and Section 3 of the Interest Act, 1978, it is discretion of the Court to grant

interest.

10. Learned Advocate Shri Sable pointed out the decision of Hon'ble Apex Court in the case ofT ahazhathe Purayil Sarabi and others Vs. Union of

India and another, reported in 2009 ACJ 2444. The Hon'ble Apex Court has held that:

â??the payment of interest is basically compensation for being denied the use of money, interest allowed at 6 per cent per annum from the date of

application till date of award and thereafter at 9 per cent till payment.â??

11. In para no. 22, the Honâ??ble Apex Court has also held that:

â??22. In the instant case, the claim for compensation accrued on 13.11.98 when Kunhi Moosa, the husband of the appellant no. 1 died on account of

being thrown out of the moving train. The claim before the Railway Claims Tribunal, Ernakulam (O.A. No.68 of 1999), was filed immediately

thereafter in 1999. There was no delay on the part of claimantsÂ?appellants in making the claim, which was ultimately granted for the maximum

amount of Rs.4,00,000/Â on 26.3.2007. Even if the appellant may not be entitled to claim interest from the date of the accident, we are of the view

that the claim to interest on the awarded sum has to be allowed from the date of the application till the date of recovery....â??.

12. In the present case, there is no dispute that whole amount is recovered by the claimant/appellant. Hence, the respondent can not be directed to pay

amount of interest. Amount of interest at the rate of 6% p.a. was granted and it is recovered by the appellant alongwith the principal amount. Now

nothing is to be recovered. Therefore, appellant cannot claim further interest on the amount of compensation.

13. The decision in the case of Tahazhathe Purayil Sarabi (cited supra) is not applicable to the case in hand. In view of the observations of

Honâ??ble Apex court in para no. 22, there is not merit in the appeal.

14. Accordingly, appeal is dismissed with no order as to costs.