
(2003) 10 AHC CK 0133
In the Allahabad High Court

Union of India (UOI)	Vs	APPELLANT
Satyawati and Others		RESPONDENT

Date of Decision : 30-10-2003

Acts Referred:

Railways Act, 1989 — Section 127

Citation : (2005) 3 ACC 889

Hon'ble Judges : Pradeep Kant, J;M.A. Khan, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

Pradeep Kant, J.—Since the common question of law is involved in all these four appeals, the same are being disposed of by this common judgment.

2. These are the four appeals filed by Union of India challenging the award passed by Railway Claims Tribunal, Lucknow allowing interest to the claimants from the date of filing of the claim petition. The limited question which has been urged is that under the provisions of Railways Act, 1989, the Tribunal was having no power to award interest to the claimants from the date of application. The interest can be awarded from the date of determination of the amount of compensation i.e., the date of the award. Section 127 of the Act has been pressed into service in support of the submission that the rate of compensation payable in respect of any injury has to be determined by the Claims Tribunal. The argument is that unless such determination is made, no liability could be fastened for payment to the claimant nor any interest could be awarded on such an amount, which has not yet been determined.

3. Section 127 of the Railways Act, 1989 reads as under:

127. Determination of compensation in respect of any injury or loss of goods-

(1) Subject to such rules as may be made, the rate of compensation payable in respect of any injury shall be determined by the Claims Tribunal.

(2) The compensation payable in respect of any loss of goods shall be such as the Claims Tribunal may, having regard to the circumstances of the case, determine to be reasonable.

4. The matter regarding award of interest in a claim petition preferred under the Railways Act from the date of application or from the date of determination of compensation by the Tribunal came up for consideration before the Bombay High Court in the case of Union of India (UOI) Vs. Sanjay Sampatrao Gaikwad etc., . The question involved in the aforesaid case related to the provisions of Sections 123C, 124A and 127. However, since in the present appeals only the meaning, import and scope of Section 127 is involved and has been pressed, therefore, we confine our reasoning to the aforesaid provision only. The Bombay High Court by interpreting the provisions of Section 127 observed that the compensation claimed by the applicant has to be determined u/s 127 of the Act. It does not become payable as soon as the claim is lodged by the applicant-passenger. The claim for compensation is in the form of damages and till the damages are ascertained by the appropriate Forum, it cannot be said that it is an amount of compensation payable till it is determined or decided. It is not an existing right of the claimant to get whatever is claimed in his application. The amount of compensation becomes payable after it is determined by the Tribunal and if thereafter the Railways fail to pay, it can be directed to pay interest from " the date of the order of determination but it cannot be directed to pay interest before the claim is ascertained or decided or determined by the Tribunal. The liability of the Railway Administration would commence after the compensation amount is determined and not, therefore.

5. The pecuniary liability cannot be ascertained before the determination is made by the Claims Tribunal and in the absence of any such determination. It would be merely speculative to hold that interest can be awarded for a sum, which still remains to be quantified. Interest can be awarded only against the quantified damages and not in the absence of any such determination. It is also relevant to mention that under the Act and the rules, there is no provision for awarding interest straightaway.

6. The Apex Court had an occasion to consider the question as to whether the relevant date for determination of compensation amount would be the date of determination by the Tribunal or the date of incident hi the case of Rathi Menon Vs. Union of India, . This case has been cited by the learned Counsel for the respondent rebutting the argument of the learned Counsel for the appellant that interest cannot be awarded from the date of application and can be awarded only from the date of determination or award of compensation.

7. The Apex Court in the aforesaid case was considering the provisions regarding untoward incident under Railways Act, 1989 and has observed that the relevant date for determination of compensation amount would be the date of determination by the Tribunal and not the date of incident. In the aforesaid case the Tribunal had awarded compensation along with interest at the rate of 15%

per annum from the date of default. In appeal, the High Court had upset the award of the Tribunal but in appeal to the Supreme Court, the award of the Tribunal was upheld and the order passed by the High Court was set aside. The Supreme Court upheld the award of the Tribunal awarding interest from the date of default.

8. In our opinion, the aforesaid judgment, though cited by the respondents, does not in any way further the submission made by him in respect of date of determination of amount or award of interest from the date of application.

9. No other point was pressed.

10. In view of the aforesaid legal position, the impugned award passed by the Railway Claims Tribunal deserves to be modified inasmuch as that award of interest would be available to the claimants from the date of determination of award namely, from the date of default, till it is actually paid. The award is modified accordingly.

11. The appeals are partly allowed.