

IN THE HIGH COURT OF JUDICATURE AT PATNA

Kamini Devi @ Kamini Kumari & Ors

vs.

The Union of India

Miscellaneous Appeal No.248 of 2021

13 December 2022

(Hon'ble Mr. Justice Rajiv Roy)

Issue for Consideration

Whether the Railway Claims Tribunal was justified in directing that the compensation amount awarded to the widow and parents of the deceased be disbursed in installments through annuity schemes and fixed deposits, instead of releasing the entire amount immediately to the claimants?

Headnotes

Delay Condonation – I.A. Allowed- Delay of 210 days in filing the appeal condoned considering the grounds stated.

Railway Claims Tribunal Act, 1987 — Section 23 — Appeal against order of Railway Claims Tribunal — Disbursement of awarded compensation — Validity of directions for payment through annuity and fixed deposit — Scope of interference by appellate court — Held, Tribunal's direction to release compensation partly in installments through annuity schemes and to keep remainder in fixed deposits is not justified where such restriction causes undue hardship to dependents of deceased. Object of compensation is to provide immediate financial relief to dependents, not to withhold it through technicalities.

Compensation — Mode of disbursement — Annuity/Fixed Deposit vs. immediate payment — When widow and parents of deceased sought immediate payment of compensation on account of financial hardship, Court held that once the Punjab & Haryana High Court judgment (C.R. No. 3730 of 2019, decided 08-04-2021) allowing full release of compensation was affirmed by the Hon'ble Supreme Court (SLP(C) Nos. 20206–20221 of 2021, dismissed on 04-01-2022), the same principle applied. Hence,

direction of Tribunal restricting payment through annuity modified; compensation ordered to be released forthwith.

Precedents — Binding effect — Once judgment of Punjab & Haryana High Court allowing immediate disbursal of compensation was upheld by Supreme Court, its ratio is binding and applicable in similar matters before other High Courts.

Case Law Cited

Punjab & Haryana High Court dated 08.04.2021 in C.R. No.3730 of 2019, SLP(c) No.20206-20221 of 2021, (2019) SCC OnLine Del 11279

List of Acts

The Constitution of India

List of Keywords

Condonation of delay; Railway Claims Tribunal; Compensation; Disbursement; Immediate payment; Annuity scheme; Fixed deposit; Dependents ; Supreme Court affirmation; Modification of award.

Case Arising From

OA II (U) No.77 of 2018

Appearances for Parties

For the Appellant/s : Mr. Pravin Kumar Gupta, Advocate

For the Respondent/s : Mr. Ramadhar Shekhar, Advocate

Headnotes Prepared by Reporter: Mr. Ravi Raj, Advocate

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.248 of 2021

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1. Kamini Devi @ Kamini Kumari Wife of Late Amit Ranjan.
 2. Nirranjan Ray Son of Late Ram Sagar Ray.
 3. Rina Devi Wife of Nirranjan Ray.
 4. Divya Ranjan Daughter of Late Amit Ranjan Who is minor and under the guardianship of Kamini Devi @ Kamini Kumari.
All resident of Village- Samsa, P.O.- Samsa, P.S.- Nowkothi, District- Begusarai.

... .. Appellant/s

Versus

The Union of India Through the General Manager, E.C. Railway, Hajipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pravin Kumar Gupta, Advocate
For the Respondent/s : Mr. Ramadhar Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 13-12-2022

I.A. No.01 of 2021

The aforesaid I.A. has been filed for condonation of delay of 210 days in filing the present petition.

In view of the ground that have been taken in the I.A. No.01 of 2021 in filing the appeal, the delay is condoned.

I.A. No.01 of 2021 is allowed.

M.A. No.248 of 2021

Heard learned counsel for the parties.

2. The appeal is directed against the order dated 13.03.2020 passed by Shri Mukesh Kumar Gupta, Vice-Chairman (Judicial), RCT/Secunderabad on Circuit Bench at



Patna Bench, in OA II (U) No.77 of 2018, by which the payment has been made in following way:

Ordered

that the claim application of Applicants is hereby allowed, on contest, but without costs.

9) The Respondent is hereby directed to pay to Applicants a sum of Rs.8,00,000/-(Rupees eight lakhs only).

10) The amount of Rs.8,00,000/- shall be given in the following manner:

(i) A sum of Rs.1,50,000/- (Rupees One lakh fifty thousand only) is awarded to Applicant No.1. Out of said amount, a sum of Rs.30,000/- (Rupees Thirty thousand only) shall be released in her favour through ECS and remaining amount Rs.1,20,000/- (Rupees One lakh twenty thousand only) of applicant shall be invested in 24 annuity scheme of Rs.5000/- each. The concerned bank where this amount has to be transferred should be located nearby her residence and a sum of Rs.5000/- each shall be transferred through ECS in her bank account on monthly basis. Ultimate interest which may accrue on the rest of amount should also be dealt with in the same manner as observed hereinabove.

(ii) A sum of Rs.75,000/- (Rupees Seventy five thousand only) each is awarded to Applicant No.2 & 3 and the same shall be invested in 15 annuity scheme of Rs.5000/- each. The concerned bank where this amount has to be transferred should be located nearby their residence and a sum of Rs.5000/- each shall be transferred through ECS in their bank account on monthly basis. Ultimate interest which may accrue on the rest of



amount should also be dealt with in the same manner as observed hereinabove.

(iii) A sum of Rs.5,00,000/- (Rupees Five lakh only) is awarded to Applicant No.4 and the same shall be kept in fixed deposit for a period of 5 years or till the minor attains majority, whichever is later under the guardianship of her mother, applicant No.1. The concerned bank where this amount has to be deposited/ transferred should be located nearby her residence and the interest accrued on the fixed deposit shall be paid released in favour of applicant No.1 for maintenance of herself and applicant No.4.

(iv) Respondent is directed to deposit the amount with the Registry of this Tribunal within 90 days from the date of receipt of this order; if not paid, interest @9% p.a. after said period shall be payable by the Respondent.

(v) The applicants shall furnish details and documents relating to Aadhar Card, PAN Card, any other appropriate ID card, details of bank accounts of applicants near the place of their residence, two sets of photographs and their specimen signatures, bank pass book with endorsement that no cheque book/debit card is issued to the account holder.

(vi) The concerned Bank is also directed to accept form No.15G/15H, as the case may be to ensure that whatever amount is taxable, appropriate steps has to be taken by the concerned bank before releasing the amount through ECS.

(vii) The original fixed deposit shall be retained by the concerned bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by



bank to the applicant.

(viii) No loan, advance, withdrawal or premature discharge be allowed on the fixed deposits without permission of the Tribunal.

(ix) The concerned bank shall not issue any cheque book and /or debit card to applicants. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall debit card(s) freeze the account of the applicant(s) so that no debit card be issued in respect of the account of the applicant (s) from any other branch of the bank.

(x) Bank shall not create any charge, mortgage, or hypothecation on the said amount.

(xi) Railways as well as Applicants are required to submit compliance report on the action taken in terms of above noted directions as early as possible and not beyond 90 days from the date of receipt of this order.

11. In the facts and circumstances of the case, there is no order as to costs”

3. Learned counsel for the appellants submit that they have no problem so far as the direction that has been given for keeping Rs.5,00,000/- in the fixed deposit for a period of five years or till the minor attains majority under the guardianship of her mother the appellant no.1.

4. However, so far as the bar that has been put it in case appellant nos.1,2 and 3, the wife and the parents of the



deceased. His submission is that the amount so awarded should be fully paid to them instead of paying in installment as after the death of the bread earner, they are facing economic problem. It is his further contention that despite the order having been passed , not a single penny has been cleared till date, as per his construction.

5. In support of his case, he has provided an order of the **Punjab & Haryana High Court** dated **08.04.2021** in C.R. No.3730 of 2019 and analogous cases in which the learned Single Judge has observed as follows:

“Section 23 of the Act provides that an appeal shall lie from every order, not being an interlocutory order, of the Claims Tribunal, having jurisdiction over the place where the Bench is located. In the present revision petition, the petitioners do not challenge the very award itself or its insufficiency over grant of compensation to them. What is there in the present controversy is the denial by the Tribunal of disbursing the compensation so awarded immediately to the claimants, heirs of the deceased. The very wording of Section 23 of the Act provides that an appeal shall lie against final order and not an interlocutory order. The claim petitions have been finally disposed off and adjudicated and it is the very rider that has been placed therein that the claimants shall not get money immediately which is subject matter of anguish for the petitioners. One needs to be aware of the fact that every order in a suit cannot be regarded as a decided. Since the



proceedings have earlier culminated into passing of award which has been accepted by the petitioners and has become final and it is the very rider therein which needs to be adjudicated. More-so, the very aim and object of award of compensation is based on compassion for the betterment of the dependents and cannot so strictly be construed so as to defeat the very purpose of the award of compensation. The Tribunal had been magnanimous to award a meager compensation to the claimants which has not been challenged nor disputed. The part of the order paying the amount of compensation by way of FDRs is a stipulation which has serious ramifications on the future of the claimants. Some of the claimants are already senior citizens while the then minors have attained the majority, the widows who have to pull through their life without their bread earners certainly requires such compensation to assuage their feelings of wrong done and help them tide over the hard days in running the household and upbringing their children and so the old parents, the dependents who need money for their upkeep as well as nursing of ill health. So this Court in view of the previous views of this Court in Amarjeet Singh and another vs. Union of India, Manjinder Singh vs. Union of India, Sudesh Kumari vs. Union of India, Raj Kumar vs. Union of India, Sahjadi Khatoon and others vs. Union of India (supra) and feels that the Courts should not fall prey to such technical issues and it would be in furtherance of law and its very purpose, if the Court allows the present petitions and direct the concerned Banks to immediately release the amount along with interest that has accumulated thereon over a period of time to the legitimate claimants as per their share in the award amount upon



proper identification as per rules. All the revision petitions stand allowed accordingly.”

6. Aggrieved by the said order dated 08.04.2021, the Railways went in appeal before Hon’ble the **Supreme Court** vide **SLP(c) No.20206-20221 of 2021** which was heard and dismissed on **04.01.2022**.

7. In the aforesaid background, learned counsel for the appellants submit that without touching the fixed deposit (Rs.5,00,000) that has been kept for the minors the other amount i.e. Rs.1,50,000/-to appellant no.1, Rs.75,000/- each to appellant nos.2 and 3 be released forthwith.

8. The Railways on the other hand has brought on record an order of the **Delhi High Court** dated **06.11.2019** in **Geeta Devi vs. Union of India** reported in **(2019) SCC OnLine Del 11279** to show that the decision taken by ‘the learned Tribunal’ is perfectly justified and they have the authority to pass the order allowing payment in installment.

9. In the considered view of the court, once the order passed by the **Punjab & Haryana High Court** dated **08-04-2021** has been stamped by the **Hon’ble Apex Court** as stated above, it would be appropriate that the amount that has been awarded to the appellant nos.1,2 and 3 be released forthwith



instead of paying them in installment.

10. The order dated 13.03.2020 stands modified to the extent that the amount of Rs.1,50,000/- and Rs.75,000/- each be released to the appellant nos.1, 2 and 3 respectively within a period of 60 days in their respective Bank Accounts directly through R.T.G.S. process.

11. Any amount paid to them till date shall be deducted from the aforesaid awarded amount.

12. With the aforesaid observation, M.A. No.248 of 2021 stands disposed of.

(Rajiv Roy, J)

Prakash Narayan/
Ajay

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14.12.2022
Transmission Date	NA

