

CASE NO.:
Appeal (civil) 2661 of 2002

PETITIONER:
N. PARAMESWARAN PILLAI & ANR.

Vs.

RESPONDENT:
UNION OF INDIA & ANR.

DATE OF JUDGMENT: 12/04/2002

BENCH:
R.P. Sethi & D.M. Dharmadhikari

JUDGMENT:

SETHI, J.

Leave granted.

Denying them the benefit of the amendment to the Railways Accidents and Untoward Incidents (Compensation) rules, 1990 as amended in 1997 and relying upon its earlier judgment in Union of India v. Thankaraj [1999 (3) KLT 320], the High Court refused to enhance the compensation for the death of P. Suresh Kumar in a train accident which had occurred on 17.7.1997. Relying upon a judgment of this Court in Rathi Menon v. Union of India [2001 (3) SCC 714] the appellants have prayed for setting aside the impugned judgment and for enhancement of the compensation.

The facts giving rise to the filing of the present appeal are that while travelling from Thiruvalla to Jamnagar in Train No.6334 on a valid ticket issued by the Southern Railways, the deceased was accidentally thrown out of the train on account of over-crowding near electric pillar at Km.134/4-5 between Chakarapalli and Penukonda Railway Stations. As a result of the fall, the deceased got injuries all over his body and ultimately died. A case as Crime No.38 of 1997 was registered and ultimately closed finding it as a case of accidental death. The appellants thereafter prayed for the award of compensation of Rs.4 lakhs which was disposed of by the Railway Claims Tribunal vide its judgment dated 29th October, 1998 holding the appellants entitled to the payment of Rs.2 lakhs by way of compensation for the untoward incident along with interest at the rate of 15% per annum from the date of default. In the appeal before the Division Bench of the High Court the order of the Tribunal awarding compensation was upheld and the appellants held entitled @ 12% per annum from 29.12.1997, the date of petition till 29.11.1998.

After hearing the learned counsel for the parties and perusing the record, we have no doubt in our mind that the claim of the appellants is squarely covered by the judgment of this Court in Rathi Menon's case (supra) wherein while setting aside the similar judgment of the Kerala High Court, it was held:

"The asinine consequence of accepting the interpretation placed by the Division Bench of the High Court can be demonstrated through an illustration. If a person sustained

injury as described in Rule 3(2) of the Rules, in an accident in a train on 30.10.1997, and another person sustains the same kind of injury in another accident in a train the next day i.e. 1.11.1997, when both persons made separate applications before the same Claims Tribunal for compensation, the Tribunal can award Rs.2 lakhs only in the first case and Rs.4 lakhs in the second case. What a woeful discrimination, if not a glaringly unfair differentiation. See the interval between the two accidents of identical features. It was only a few hours, but the difference in the compensation amount is enormously high. any court should avert an interpretation which would lead to such a manifestly absurd fallout, unless the court is compelled otherwise by any mandatory provision.

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 an injury in an accident prior to 1.11.1997 and those who suffered an identical injury in a similar accident on or after that date. The *raison d'être* 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 monetary 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 US Dollar 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 figures 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 the Central Government changed the figures.

The unjust consequence resulting from the interpretation which the Division Bench placed can be demonstrated in another plane also. If a person who sustained injury in a railway accident or in an untoward incident was disabled from making an application immediately and he makes the application a few years hence, is he to get the compensation in terms of the money value which prevailed on the date of the accident? Suppose a Tribunal wrongly dismissed a claim after a few years of filing the application and the claimant approaches the High Court in appeal. As it happens quite often now, some High Court could take up such an appeal only after the lapse of many years and if the appeal is decided in favour of the claimant after so many years, what a pity if the amount awarded is only in terms of the figure indicated on the date of the accident.

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."

In view of authoritative pronouncement made by this Court under similar circumstances, the present appeal has to be allowed by setting aside the impugned judgment of the High Court. Consequently we direct the Railway Administration to pay to the appellants a total sum of Rs.4 lakhs instead of Rs.2 lakhs as awarded within a period of three months from the date of this judgment with interest as awarded by the High Court. If the amount of Rs.2 lakhs as awarded by the Tribunal has already been paid, the appellants would be entitled to interest on the balance amount of Rs.2 lakhs from the date of the petition till the actual payment and not on the whole amount as awarded by us. The appeal is allowed accordingly.

.....J.
(R.P. Sethi)

.....J.
(D.M. Dharmadhikari)

April 12, 2002