

**THE HON'BLE SRI JUSTICE S. RAVI KUMAR**

**C.M.A No.27 of 2015**

-

**Date:26.03.2015**

**Between:**

Savaram Musalayya (died)

Savaram Meri Susila and another.

..... Appellants.

**AND**

The Union of India, rep by

The General Manager,

South Central Railway,

Secunderabad.

.....Respondent.

**The Court made the following :**

**THE HON'BLE SRI JUSTICE S. RAVI KUMAR**

## **C.M.A No.27 of 2015**

-

### **JUDGMENT:**

This appeal is preferred against order dated 05-02-2014 in OAA.No.503/2006 on the file of Railway Claims Tribunal, Secunderabad Bench, Secunderabad.

2. Appellants herein are the claimants and their grievance is that interest is not awarded from date of petition. Railway Claims Tribunal considered the application of the appellants and awarded a sum of Rs.4,00,000/- as compensation, but granted interest at 6% per annum from 12-09-2013 i.e., date of restoration of the claim application till date of order and thereafter at 9% till realization.

3. Heard both sides.

4. Advocate for appellants submitted that the claim petitioner was dismissed for default on 05-03-2013 and that the claimants filed application for restoration on 13-03-2013 and the same was allowed on 12-09-2013 on payment of costs of Rs.1,000/- and the Tribunal granted interest only from the date of restoration disallowing the interest from the date of application. He submitted that even the default period is very short i.e., from 05-03-2013 to 12-09-2013, but the Tribunal disallowed interest for the entire period i.e., from 2006 onwards, thereby, the appellants sustained grave injustice and the order of the Tribunal has to be modified only to the extent of payment of interest.

5. Advocate for Railways opposed and contended that the Tribunal rightly exercised its discretion in granting interest and that there are no grounds to interfere.

6. Now the point that would arise for my consideration in this appeal is whether the order dated 05-02-2014 in O.A.A.No.503/2006 on the file of Railway Claims Tribunal, Secunderabad Bench, Secunderabad is legal, proper and correct?

-

7. **Point:-** From the submissions of the Advocate for appellants, it appears that another OAA No.504/2006 is filed on the same day and the same Bench disposed of the said case No.504/2006, wherein interest is granted from the date of application, but in this case, on account of dismissal of the claim petition for default, interest was granted only from the date of restoration ignoring the earlier period. When the application was dismissed on 05-03-2013 and restored in the very same year on 12-09-2013 and when the Tribunal has considered the reason assigned for the absence of the claimants as satisfactory and allowed the application by imposing costs, it has to be treated that the said default period was already considered by the Tribunal and withholding interest from the date of application on the compensation amount, without giving any reasons is not a correct approach. As rightly pointed out by Advocate for appellants, the Tribunal failed in appreciating the fact that claim petition was pending from 09-06-2006 and only on one occasion, the claimant was absent and that absence was condoned by imposing penalty of Rs.1,000/- as costs and when it is restored it dates back to date of filing of application and from that date, the appellants are entitled for interest. For refusing interest from the date of application, reasons have to be given, but the Tribunal, without assigning any reasons, fixed the date for payment of interest unilaterally, therefore, that part of the order has to be modified.

8. For these reasons, the appeal is allowed modifying the payment of interest at 6% from the date of application till date of order and thereafter at 9% till realization.

9. Accordingly, appeal is ordered. No costs.

10. As a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand dismissed.

---

***JUSTICE S. RAVI KUMAR***

**Date:26.03.2015**

mrb