

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 524/04

Bilaspur, this the 6th day of March, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. Asha Devi Yadav
Widow of Dayalal
R/o P.O.Nainpur
Distt. Mandla (M.P.)
2. Master Lokesh Yadav, Son, aged 10 years
3. Komita Yadav, Daughter, 8 years
4. Mashita Yadav, Daughter, 6 years

(By advocate Shri M.R.Chandra)

Versus

1. Union of India through
General Manager
S.E.C.Rly, Bilaspur.
2. The General Manager
S.E.C. Railway
Bilaspur.
3. The Divisional Railway Manager
S.E.C.Railway
Nagpur.

Respondents.

(By advocate Miss. Anjali Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following main reliefs:

- (i) Direct the respondents to make payment of ex-gratia lump sum compensation since her husband died in harness in the performance



of his bonafide official duties as per Government of India, Ministry of Railways (RB) letter dated 5th November, 1998.

- (ii) Direct the respondents to pay interest on the ex-gratia lump sum compensation amount till the date of its payment to the applicants by the Railway.

2. The brief facts of the case are that the applicant No.1 is the widow of Late Dayalal, Trolleyman, S.E.C.Railway and applicants 2 to 4 are the son and daughters of the deceased. The husband of applicant No.1 met with an accident and died on 14.7.99 while performing his official duties. As a mandatory duty and obligation, the respondent Railways deposited an amount of Rs.1,84,170/- with the Labour Court, Balaghat, as payment due to the legal heirs of the deceased. The said amount paid to the applicant was meager and inadequate in comparison to the amount of compensation legally due under the Railway Act, 1989. Applicant No.1 was only 24 years of age and with three minor children at the time of the death of her husband. After the death of her husband, there was no elderly person in her family and she was absolutely ignorant of her right as a widow. In the month of November, 2002, applicant No.1 came to know that she was entitled to an ex-gratia lump sum compensation of Rs. 5 lakh, which has been sanctioned by the Vth Central Pay Commission and accepted by the Government as also the Railway Board. Such compensation is admissible as per the circular dated 5th November, 1999 issued by the Railway Board (Annexure A1). Though the applicant served a legal notice for payment of the compensation amount, the applicant No.1 was informed by the Railways to wait till the new zonal office started functioning (Annexure A2). The respondents have not taken any action for payment of the compensation amount till now. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant No.1's husband died while performing his official duties and the respondent Railways suo motu deposited an amount of Rs.1,84,170/- with the Labour Court to disburse the same to the



dependent. Our attention is drawn towards an O.M. dated 11th September, 1998 issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi. Para 5 (a) of the O.M. reads as follows:

“(a) Death occurring due to accidents in the course of performance of duties Rs.5.00 lakhs.”

The learned counsel further argued that the alleged non-payment is arbitrary and improper. The vested right conferred by the Railway Board in the form of ex-gratia lump sum compensation cannot be appropriated under any circumstances. The applicant is also entitled for interest on the remaining amount of the ex-gratia compensation. Hence the OA deserves to be allowed.

4. In reply, the learned counsel for the respondents argued that an amount of Rs.1,84,170/- was paid to the applicant by the respondents as per the provisions of the Workmen's Compensation Act. The OA is barred by limitation. Late Dayalal died in an accident during the course of performance of his duties on 14.7.99 while the O.M. is dated 5th November, 1999. The applicant did not make any application for grant of ex-gratia lump sum compensation as per the said OM and only woke up in the year 2004 to file the present OA. Hence the action of the respondents is perfectly legal and justified and the OA deserves to be dismissed.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that it is an admitted fact that the husband of applicant No.1 died on 14.7.99 due to an accident while performing his official duties and the respondents Railways have paid a sum of Rs.1,84,170/- to the applicant, the legal heir of the deceased. We have perused the O.M. dated 11th September 1998 issued by the Government of India, Ministry of Personnel, Public Grievances & Pensions, New Delhi in which in para 5 (a) it is mentioned that “death occurring due to accidents in the course of performance of duties - Rs.5.00 lakhs.” We have also perused para 9 of the said O.M. which reads as under:




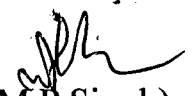
"9. The orders shall apply to all cases of death in harness occurring on or after August 1, 1997. In so far as cases of death which occurred prior to August 1, 1997 are concerned, these shall be regulated and finalized in terms of the orders and instructions in force prior to the issue of these orders."

Hence according to the above rules, the applicant(s) is entitled to get Rs. 5 lakh as ex-gratia lump sum compensation. So far as the delay in filing this OA is concerned, the applicant No.1 has mentioned in her OA that at the time of the premature death of her husband, she was only 24 years of age and with three minor children and there was no elderly person in her family and that only in the month of November, 2002, she came to know that she was entitled to receive an ex-gratia lump sum compensation of Rs.5 lakhs.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the applicants are legally entitled to get Rs. 5 lakhs as ex-gratia lump sum compensation from the respondents. Since the applicant No.1 has already received a sum of Rs.1,84,170/-, the respondents are directed to pay to the applicants the balance amount out of Rs.5 lakhs forthwith.

7. The OA is disposed of with the aforesaid directions. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

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पृष्ठान्कन सं ओ/न्या. जयलपुर, दि.
पत्तिलिपि जमा किया

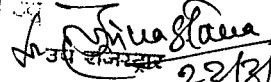
(1) सचिव, उच्च न्यायालय कोट अफ गिलगुट, जयलपुर

(2) आवेदक श्री/श्रीमती/कु को काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/कु को पठावेगल

(4) न्यायालय, कोट अफ गिलगुट, जयलपुर

सूचना एवं आवश्यक कार्रवाई के लिए


उप सचिव

M. R. Chandra 22/03/05

D. Benarjee

22/03/05

Issued
On 23.03.05
BS