

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.8241 of 2015 (O&M)

Date of decision : 27.07.2016

Taro Devi

...Petitioner

Versus

The Railway Claims Tribunal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Kulwant Singh Dhanora, Advocate for the petitioner.

Mrs. K.K. Kahlon, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Mr. Kulwant Singh Dhanora, learned counsel appearing on behalf of the petitioner submits that widow of deceased Suresh Kumar who unfortunately died in accident while travelling in train is aggrieved of the impugned order dated 07.08.2015, whereby claim petition has been dismissed in default for non-prosecution. An application for restoration alongwith application for condonation of delay of 8 days was filed on 15.09.2015 but the same has been rejected vide impugned order dated 18.11.2015 and thus urges this Court in case impugned order may kindly be set aside, as the purpose of compensation, the petitioner shall able to prove the case of the negligence of the railway.

Mrs. K.K. Kahlon, learned counsel appearing on behalf of respondent submits that claim petition was filed on 20.12.2013 but till the passing of the impugned order dated 07.08.2015 had taken many

adjournments. It appears that she was not interested in pursuing the matter, rightly so, claim petition was dismissed in default and, therefore, application for restoration of the claim petition has rightly been dismissed and thus urges this Court for affirmation of the findings.

I have heard learned counsel for the parties and appraised the paper book.

I have gone through the application seeking restoration of the claim petition. Counsel did not appear on the day and, therefore, claim petition was dismissed. It is settled law that particularly the cases of the claim on account of death in railway accident should not be made to suffer on lapse of counsel. This plea of mine is forfeited by ratio decidendi culled out by Hon'ble Supreme Court in *Himalayan Coperative Group Housing Society Vs. Balwan Singh*, 2015 (7) SCC 373.

In order to prevent mis-carriage of justice, I deem it appropriate to set aside the orders dated 18.11.2015 as well as 07.08.2015, in essence, application for restoration of the claim petition is allowed. Order dismissing in default is set aside. Claim petition is restored.

It is made clear that petitioner shall lead evidence by availing two effective opportunities.

Revision petition stands allowed.

27.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable:- Yes/No