

FAO No. 469 of 2016 (O&M)

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

FAO No. 469 of 2016 (O&M)

Date of Decision: January 22, 2016

Union of India

...Appellant

Versus

Raj Kumar & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Chetna Rao, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.1405-CII of 2016

Prayer in this application is for condonation of delay of 20 days in re-filing the appeal.

For the reasons mentioned in the application which is duly supported by the affidavit of the Clerk of the counsel, the present application is allowed. Delay of 20 days in re-filing the appeal, stands condoned.

CM No.1406-CII of 2016

Exemption is granted from typed copy of impugned award dated 14.09.2015 passed by the Railway Claims Tribunal, Chandigarh and photocopy of the same is taken on record, subject to all just exceptions.

Application stands disposed of.

FAO No. 469 of 2016

Challenge in this appeal is to the award passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, dated 14.09.2015, whereby, the claim petition of the respondents for grant of compensation amounting to ₹4 lacs because of the death of Smt.Raj Rani, wife of Shri Raj Kumar, respondent No.1 herein, has been allowed.

It is the contention of the learned counsel for the appellant that the evidence which has come on record of the Guard of the train that he came to know about the fall of a lady passenger and thereafter, immediately the train was stopped and he saw a lady was injured. He further states that a lady came running and tried to board the train but came between the platform and the train which resulted in the said injury. Thereafter, an ambulance was called by the Station Master on duty and the further proceedings were taken by the GRP. He, on the basis of the statement of the Guard, asserts that the action of the deceased-Raj Rani would fall within the provision of Section 124-A of the Railway Act, 1989. He, thus, contends that the impugned award cannot sustain.

I have considered the submissions made by the learned counsel for the appellant and with his assistance, have gone through the impugned award.

A perusal of the impugned award shows that the Guard of train No.74646, Shri Parmod Kumar stated that a lady was seen

running and trying to board the train but came between the platform and the train and he immediately stopped the train and saw a lady was injured. However, as per the statement of respondent No.1, it has been stated that they had boarded the train from Jalandhar City Railway Station after purchasing four common computerized tickets for nine persons at about 4.38 hours, on 05.10.2013. When the train reached Doraha Railway Station, deceased alighted from the train to attend the nature call and when she was about to board the train, it started moving because of which, she slipped from the train and fell down in between the platform and track and died on the spot. This version as has been given by the claimants has not been challenged by the respondents, rather, an effort has been made to project as if the deceased-Raj Rani had tried to board the train while it was running, whereas, the position is otherwise in the light of the fact that the said statement of Raj Kumar has not been challenged and thus, not disputed.

The findings as recorded by the Railway Claims Tribunal are based upon the proper appreciation of the pleadings and the evidence brought on record, which cannot be faulted with.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

January 22, 2016

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