

219

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

CR No. 1471 of 2017

Date of Decision: 03.04.2019

Mantar Kumari @ Mamta and another

-Petitioners

Vs

Union of India

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arun Takhi, Advocate,
for the petitioners.

Mr. Karminster Singh, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

1. Petitioners have preferred this revision petition against the order dated 10.02.2012 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh vide which claim petition was dismissed for non-prosecution. Petitioners have also assailed the order dated 04.01.2017 passed by the said Court vide which application filed by the petitioners for setting aside order dated 10.02.2012 was also dismissed.

2. Perusal of the record would show that on 16.08.2010, 25.10.2010, 18.01.2011, 01.04.2011, 27.05.2011 and 29.11.2011, there was no representation on behalf of the petitioners before the Tribunal.

3. The Tribunal had adopted liberal attitude keeping in view beneficial legislation and did not pass any adverse order against the claimants, but despite that there was no appearance on behalf of the petitioners.

4. On 10.02.2012, finding no alternative, the Tribunal had to pass order dismissing the claim petition for non-prosecution.

5. An application was filed after a period of four years from the date of dismissal of claim petition for non-prosecution. For want of sufficiency of reason for non-appearance, the same was also dismissed by the Tribunal on merits.

6. Learned counsel for the petitioners submitted that infact Mr. Kanwar Pal Singh Gogia and his wife were engaged by the petitioners for pursuing the claim petition before the Tribunal. The aforesaid Advocates did not appear before the Tribunal and the petitioners could not contact them as they were not found residing on the given address nor their presence in India could be located as there was no contact number in the Directory of Advocates.

7. Petitioner No.1 had all the apprehension that the aforesaid Advocates might have left the country without disclosing their exact address anywhere. Petitioners are widow and minor daughter of the deceased namely Anil Kumar.

8. Notice of motion was issued on 01.03.2017 and thereafter, opportunity was given to the petitioners to serve the respondent through Mr. Karminder Singh, Advocate who is Standing Counsel representing Union of India, Ministry of Railways before this Court.

9. After hearing learned counsel for the parties, I am of the view that though the petitioners have not taken any steps to represent their cause of grievance before the Tribunal on earlier occasions, but owing to the conduct of their counsel, indulgence can be granted by this Court keeping in view the present legislation being a beneficial legislation.

10. Petitioners are widow and minor daughter of deceased Anil Kumar. The claim petition was dismissed for non-prosecution on 10.02.2012 and the petitioners did not take any steps to get the same restored for a substantial period i.e. for about four years. The application was filed only on 16.02.2016.

11. By adopting liberal construction of the provision in condonation of delay in filing the application for restoration, I am of the view that the claim petition is liable to be restored. However, in case the Tribunal grants compensation in favour of the petitioners, they will not be entitled to any interest for the period from 10.02.2012 to 16.02.2016.

12. In view of above, claim petition No.OA-11/2010/146

before the Railway Tribunal is hereby restored with the aforesaid observation.

13. Consequently, this revision petition is allowed and the impugned orders dated 10.02.2012 and 04.01.2017 passed by Railway Claims Tribunal, Chandigarh Bench, Chandigarh are hereby set aside.

14. Both the parties are directed to appear before the Railway Tribunal on 29.04.2019.

03.04.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No