

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

RA CR-127 of 2020 (O&M)

Date of Decision: September 29, 2020

Union of Indiaapplicant/appellant.
Versus
Sonu and others .. Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mrs. Kulwant Kaur Kahlon, Advocate
for the applicant/appellant.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short the Tribunal) passed an award dated 05.04.2018 awarding compensation to the claimants on account of death of Smt. Rani Devi in an untoward railway accident.

Aggrieved over the award, the Union of India present co-applicant filed an appeal against the order bearing No. 4045 dated 2018 which stood disposed off vide judgment dated 13.01.2020. The present applicants are seeking review of these

findings of this Court Annexure A-1 in terms of order 47 Rule 1 CPC.

Upon hearing, Ms. Kulwant Kaur Kahlon, learned counsel for the applicant, the very ambit of Order 47 Rule 1 CPC is the rolling point involved in this controversy and to facilitate the same is reproduced as below to make the things more clear:-

“ 1. Application for review of judgment. - (1) Any person considering himself aggrieved -

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or

order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

Explanation.- The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

Furthermore, Section 114 CPC lays down the provision of review and which is reproduced as below to lay emphasis:-

114 Review.- Subject as aforesaid, any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon

as it thinks fit.

Simplicitor reading of the wording of Section 115 CPC in conjunction with Section 114(a) lays down that wherever a party or a person considers himself by a decision by way of decree or order from which an appeal is allowed by the Code of Civil Procedure vide which no appeal has been preferred may file a review. Admittedly the applicant had challenged the award by way of first appeal against order before this Court which stood disposed off by the judgment dated 13.01.2020 and, thereby, elucidates that the applicant has through the instant application actually invoked the provisions of appeal over the impugned findings and, therefore, to the mind of this Court a review as such is not permissible before this Court when it has already disposed off an appeal. Furthermore, to the similar effect is the spirit of wording of Order 47 Rule 1 CPC. The proviso ensures that only in the eventuality where either important matter of evidence was not within the knowledge of the party, i.e. applicant or could not be produced by him when the order was passed or an error apparent on the basis of the record or any sufficient reason and similar rider imposed by these provisions is where the party in spite of provisions for appeal does not choose to do so would be entitled to file a review but in this case does not so.

In stead of further challenging the order passed by

this Court in FAO by invoking jurisdiction of the next higher Court after more than 08 months, when the limitation had expired much prior thereto, had instead filed this review application. This Court seeks support from **Ratanchand Khimchand Vs. Damjit Dharsey** 1927 AIR (Bombay) 232 where similar proposition of law had arisen.

In the light of what has been detailed above, there is no merit in the present application, the same stands dismissed with special costs of Rs.20,000/- which shall go to 'BCPH Covid-19 Relief Fund'.

September 29, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No