

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
(JUDICIAL DEPARTMENT)

R.F.A no. 22/ 2014

Pakistan International Airlines (PIA) and another
versus
Janat-ul-Firdous and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
9	17.05.2022	Raja Ghazanfar Ali Khan, Advocate.

With reference to all the preceding orders in this case, and in view of the publication on 03.10.2016, the respondents are now ordered to be proceeded *ex parte* and, per the last order, this appeal is being decided on the basis of the available record in presence of the learned counsel appearing today.

2 The appellants in this R.F.A, Pakistan International Airlines Corporation and its Manager, Islamabad Airport (together referred to hereinafter as “PIAC”), appeal the judgment and decree dated 21.12.2013 awarding damages of Rs.500,000/- to the plaintiff (*Ms. Janat Ul Firdous*), an elderly lady who sued PIA and the Civil Aviation Authority (CAA) for injuries sustained on her fall from the escalator at Islamabad International Airport after checking-in and while on her way to the passenger lounge. It appears from the judgment that the CAA was proceeded against *ex parte* and the suit was contested by PIAC alone. The judgment awarded the damages against both PIAC and CAA.

3 The stance of PIAC throughout has been that its sphere of responsibility is limited to flight operations, whereas the management and maintenance of the airports and its facilities is the responsibility of the CAA. The learned trial Court did not address this distinction with clarity, and glossed over it by observing that “*All the defendants are having some control over the premises in the shape of either ownership or possession. Employees of both the defendants were admittedly present at the scene of occurrence. Maintenance and*

providing of proper working condition facilities was joint liability of all the defendants as premises was being owned by the defendant no. 3 and 4 and is utilized by the defendant no. 1 and 2 against valuable consideration received from the passengers.” The trial Court’s finding that the maintenance of the airport facilities and the proper functioning thereof was also the “liability” of PIAC jointly with CAA is not supported by any reasoning with reference to any evidence on record to explain how the learned trial Court came to the said conclusion, which is contrary to the ordinary course whereby the airport facilities are the responsibility of the airport authorities (in this case CAA) with the airlines only looking after the reservations, check-ins and flight operations. The mere utilization of the airports by PIAC and receipt of valuable consideration from the passengers, with profound respect to the learned trial Court, does not ipso facto entail the responsibility for proper functioning of the escalator. The airports are also occupied by other government agencies and such occupancy does not make them ipso facto liable for ensuring the proper functioning of facilities other than the ones for which they are responsible.

4 In order to find negligence, both duty of care and breach of that duty by negligence must be demonstrated. The impugned judgment does not show how the duty of care was owed by PIAC in respect of the escalator that was beyond PIAC’s pale or how PIAC was negligent in failing to ensure proper functioning of the escalator. Once the plea was taken by PIAC that the escalator maintenance was beyond its scope of responsibility and fell under CAA’s domain, it was incumbent on the learned trial Court to have gone further and found, if it were able to, any agreement or arrangement whereby PIAC was to carry the responsibility for the proper operation and maintenance of the escalator, and that it was negligent in carrying out that duty. This omission makes the judgment premised on an assumption unfounded by cogent evidence on record.

5 Resultantly, this appeal is **allowed**, and the impugned judgment is set aside only to the extent of PIAC. Parties are to bear their own costs.

(Sardar Ejaz Ishaq Khan)
Judge

Rana M. Y

Uploaded by IT Department, IHC