

BART settles last tube fire lawsuit

13 firefighters, 3 others share \$800,000

By Del Lane
The Tribune

The last of the lawsuits stemming from a disastrous January 1979 fire in BART's transbay tube was settled yesterday for \$800,000.

Thirteen firefighters who were injured while battling toxic smoke to quell the blaze and three ambulance attendants who were also injured will share the settlement.

They were among a total of 40 injured in the blaze, which also killed an Oakland firefighter.

The 16 plaintiffs in this suit had charged negligence on the part of BART, Rohr Industries (the builder of the train cars) and other firms involved in constructing the system.

The settlement, reached on the day jury selection was to

begin in the trial, was worked out during three weeks of conferences before Alameda County Superior Court Judge Joseph Carson.

But the plaintiffs had to win a legal fight just to get the right to go to court on their charges.

"It took two appellate court rulings and one state Supreme Court ruling to get this," said the plaintiffs' attorney, Lewis Van Blois.

The appellate rulings were required to bypass the so-called "fireman's rule" in state law, which holds that if a fire is caused by negligence, on-duty firefighters who are injured can't recover damages from the negligent parties.

But the appellate courts held that since there were negligent

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actions after the fire started that led to injuries, the injured parties were entitled to recover.

The fire started when a bolt on a switch cover worked loose and the cover fell to the tracks, eventually short-circuiting the power in the tube as a train passed.

The 40 passengers on the train were evacuated by a fully loaded Oakland-bound train and another train that was sent through the tunnel. Firefighters said the passage of those two trains sucked the deadly smoke over them.

A month after the accident, the California Occupational Safety and Health Administration cited BART for safety shortcomings that included the lack of proper self-contained breathing equipment.

A board of inquiry also found problems with BART communications and the ventilation system in the tunnel.

As a result of the fire, the tube was closed for several months, reopening that April.

The family of Oakland fire Lt. William Elliott, who died while fighting the blaze, won a \$500,000 settlement from BART last

May. The family also won damages from Rohr Industries and Westinghouse Electric Corp., but the amounts were not disclosed.

In 1982, a jury awarded electrician Donald Montgomery \$50,000 for injury to his psyche; a number of other passengers' lawsuits were settled out of court for small amounts.

Approximately \$500,000 of yesterday's settlement will be paid by BART, with the balance coming from the contractors.

Of that, the firefighters will share about \$600,000 and the ambulance attendants will divide about \$200,000.