



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ **FAO 171/2023**

PRAKASH CHANDRA & ORS.Appellants
Through: Mr. Rajan Sood, Ms. Ashima Sood
and Ms. Megha Sood, Advocates
versus

UNION OF INDIARespondent
Through: Mr. Rahul Kumar Sharma, GP with
Mr. Rajat Choudhary and Mr. R.N.
Sharma, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 36125/2025 (seeking condonation of delay of 120 days in filing the appeal)

1. By way of the present application, the applicant/ appellant seeks condonation of delay of 120 days in filing the appeal.
2. Learned counsel for the appellant submits that the appellant belongs to an economically weaker section, and due to paucity of funds, was unable to get in contact with a counsel and obtain timely legal advice. The delay is *bona fide* and unintentional.
3. It is noteworthy that in “*Mohsina vs. Union of India*”¹, a Co-ordinate

¹(2017) SCC OnLine Del 10003



Bench of this Court condoned a delay of 804 days in filing the appeal, taking into account the weak economic condition of the appellant/ claimant. Similarly, in “*Reshma vs. Union of India*”², this Court condoned a delay of 598 days in filing the appeal, keeping in view the beneficial nature of the legislation and the liberal approach required in such matters.

4. Considering the peculiar facts and circumstances of the present case, and guided by the principle laid down in the aforesaid decisions, as well as the beneficial nature of the concerned legislation, this Court finds that the appellant has been able to show sufficient cause for the delay in filing the present appeal.

5. In view of the aforesaid, the application is allowed and the delay of 120 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 171/2023

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 23.06.2023 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(U)/GZB/98/2019, titled as “*Sh. Prakash Chandra & Ors. vs. Union of India*”.

2. Briefly stated, the appellants’ case before the Tribunal was that on 14.11.2018, the deceased, *Rajeev*, had purchased a valid journey ticket for travel from *Dankaur* to *Ghaziabad* and was travelling by Train No. 64107 (*Dankaur-Delhi* EMU). During the course of the journey, while the train was between *Boraki Halt* and *Dadri* Railway Station, he accidentally fell from the running train, sustained fatal injuries and died. It was averred that

² FAO 25/2022



the journey ticket carried by the deceased was lost in the course of the accident itself.

3. The Tribunal, *vide* the impugned judgment, dismissed the claim application holding that the deceased was neither a *bona fide* passenger and nor did the alleged incident constitute as an “untoward incident” within the meaning of Sections 123(c) and 124-A of the Railways Act, 1989 (hereinafter referred to as the “Act”).

4. Learned counsel for the appellants assails the impugned judgment by contending that once the amendment correcting the train number and the direction of travel had been allowed by the Tribunal, the same could not have been used to doubt the appellants’ case. It is further submitted that neither the DRM Report nor the statements recorded during the inquiry establish that the deceased had come upon the railway track or was run over by an unknown train. The finding to that effect is based solely on inference and not on any direct evidence. It is also contended that the Tribunal erred in rejecting the claim merely because the journey ticket was not recovered, despite the consistent case of the appellants that the ticket had been lost in the accident.

5. Learned counsel for the respondent, on the other hand, supports the impugned judgment and submits that the Tribunal has rightly held that the deceased was neither a *bona fide* passenger nor a victim of an “untoward incident”. It is contended that the appellants had altered the train number and the direction of travel during the proceedings and that the timings reflected in the Train Signal Register (TSR), coupled with the non-recovery of the journey ticket and the nature of injuries recorded in the post-mortem report, establish that the deceased had not fallen from Train No. 64152 but had



come upon the railway track and died after being hit by an unknown train.

6. This Court has heard learned counsel for the parties and perused the material placed on record.

7. The first question which arises for consideration is whether the deceased was a *bona fide* passenger at the time of the incident.

8. The Tribunal has answered the aforesaid issue against the appellants principally on the ground that no journey ticket was recovered during the *jamatalashi* proceedings. It further observed that the amendments carried out in the claim application regarding the train number and the direction of travel rendered the appellants' case doubtful.

9. It is trite law that mere non-recovery of the journey ticket cannot, by itself, lead to the conclusion that the deceased was not a *bona fide* passenger. In "Union of India v. Rina Devi"³, the Supreme Court held that the initial burden upon the claimants is not an unduly onerous one and can be discharged by placing the attendant facts and circumstances on record, whereafter the burden shifts upon the Railways to rebut the same by leading cogent evidence. The aforesaid principle has recently been reiterated in "Lata v. Union of India"⁴.

Tested on the aforesaid principles, this Court finds that the appellants had consistently pleaded that the deceased was travelling by train and that the journey ticket had been lost in the course of the accident. Merely because the ticket could not be recovered during the *jamatalashi* proceedings, the Tribunal could not have rejected the appellants' case.

10. The Tribunal has also attached considerable significance to the

³(2019) 3 SCC 572

⁴2026 SCC OnLine SC 1350



amendments carried out in the claim application whereby the train number and the direction of travel were corrected. This approach, in the opinion of this Court, is erroneous as once the amendment had been allowed by the Tribunal, the amended pleadings formed the basis of adjudication. The veracity of the appellants' case thereafter was required to be tested on the basis of the evidence available on record and not by treating the amendment itself as a circumstance to disbelieve the claim.

11. Coming next to the manner of occurrence of the incident in question, the Tribunal has held that the deceased could not have fallen from Train No. 64152 as the train had departed from *Dadri* at about 10:36 a.m., whereas the body was first noticed only after the passage of a goods train at about 2:30 p.m. The Tribunal further observed that several trains had passed through the concerned section during the intervening period and, therefore, had the deceased fallen from Train No. 64152, the body would have been noticed much earlier.

12. It is well settled that the mere fact that the body of the deceased was discovered after some time of the alleged occurrence cannot, by itself, discredit the claim of accidental fall from a train. A reference in this regard, may also be made to the decision of “*Sh. Surendra Prasad Verma vs. Union of India*”⁵, wherein this Court held that delayed discovery of the body cannot be treated as determinative of the manner of occurrence, particularly in the absence of any evidence pointing towards a different cause of death.

Tested on the aforesaid principles, a perusal of the record would show that the respondent has not led any evidence to establish that the body was not lying near the railway track prior to the information furnished by Sh.

⁵(2014) SCC OnLine Del 2917



Pappu Kumar, Shuntman. Equally, none of the Loco Pilots of the trains which are stated to have passed through the concerned section during the intervening period were examined before the Tribunal to state that nobody was lying near the railway track. In the absence of any such evidence, the conclusion drawn by the Tribunal that the deceased could not have fallen from Train No. 64152 is founded merely on presumption.

13. The Tribunal has further accepted the conclusion recorded in the DRM Report that the deceased had come upon the railway track and died after being hit by an unknown train. A careful consideration of the DRM Report, however, would show that none of the witnesses examined during the inquiry had witnessed the occurrence. The statement of the Shuntman only records that after the passage of a goods train, he noticed a body lying near the Down Main Line and informed the Dy. Station Master. Similarly, the Guard of Train No. 64112 merely informed the Station Master regarding the body lying near the railway track. Neither the witness stated that the deceased was walking on the railway track or that he had been hit by any train. The conclusion recorded in the DRM Report is, therefore, not supported by any direct evidence.

14. It is also pertinent to note that the contemporaneous record prepared immediately after the occurrence does not support the aforesaid conclusion. The *Panchnama* records that the body was found lying near the railway line and the inquest proceedings were conducted under Section 174 Cr.P.C. Nothing in the *Panchnama* or the other documents prepared at the first instance records that the deceased had trespassed upon the railway track or that the incident was a case of run-over.

15. The Tribunal has also relied upon the nature of injuries recorded in



the post-mortem report to conclude that the deceased could not have suffered such injuries after falling from the train soon after its departure from *Dadri*. This finding is equally unsustainable as the respondent did not lead any medical evidence to establish that the injuries noticed during the post-mortem were inconsistent with an accidental fall from a running train. In the absence of any such evidence, the Tribunal could not have rejected the appellants' case solely on the basis of its own inferences drawn from the nature of injuries.

16. In view of the aforesaid discussion, this Court is of the opinion that the appellants have been able to satisfy this Court that the deceased was not *bona fide* passenger and that the incident in question did fall within the ambit of an "untoward incident" within the meaning of the Act.

17. In view of the above, the impugned judgment is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellant in accordance with law and direct the authorities concerned to disburse the same within two months from the receipt of a copy of this order. For this purpose, the matter be listed before the Tribunal at the first instance on 20.08.2026.

18. The appeal is allowed and disposed of in the above terms.

19. A copy of this judgment be communicated to the learned Tribunal.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 07, 2026

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