



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 05.05.2026
Pronounced on : 08.05.2026
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+ **FAO 227/2021**

ROSHNI & ORS.Appellant

Through: Ms. Vijay Laxmi, Advocate

versus

UNION OF INDIARespondent

Through: Mr. Vikrant N. Goyal, Mr. Vivek Nilesh Goyal, Mr. Yash Basoya and Mr. Inderpreet Singh, Advocates for UOI
Mr. Ranvir Singh, SPC with Mr. Vikas Kumar Singh, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL.34211/2021 (condonation of delay of 128 days in filing the appeal)

1. By way of the present application, the applicant/appellant seeks condonation of delay of 128 days in filing the appeal.
2. Learned counsel for the appellant has submitted that after passing of the impugned judgment, the appellant could not file the present appeal in time on account of paucity of funds and the resultant inability to obtain timely legal advice. It is further submitted that the delay is neither intentional nor deliberate.



3. In this regard, reference may be made to the decision of this Court in *Mohsina vs. Union of India*¹, wherein a delay of 804 days in filing of the appeal was condoned taking into account the socio-economic condition of the claimants.
4. Having considered the submissions made and in view of the decision in *Mohsina* (supra), and keeping in view the beneficial nature of the legislation, this Court is satisfied that the appellant has shown sufficient cause for the delay in filing the present appeal.
5. Accordingly, the application is allowed and the delay of 128 days in filing the appeal is condoned.
6. The application is disposed of in the above terms.

FAO 227/2021

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987, against the judgment dated 02.11.2020, passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/DLI/013/2020.
2. Vide the impugned judgment, the Tribunal dismissed the claim application primarily on the ground that the deceased was not a *bona fide* passenger and further held that the incident in question did not fall within the ambit of an “untoward incident” as defined under Section 123(c) read with Section 124-A of the Railways Act, 1989 (hereinafter referred to as “the Act”).
3. The brief facts of the case, as borne out from the claim application, are that on 25.05.2017, one *Vijay Kumar* (hereinafter referred to as the “deceased”) had gone to Village *Mundlana* and while returning to *Rohtak* by

¹ (2017) SCC OnLine Del 10003



passenger train no. 54050, he accidentally fell from the running train near *Rohtak* Railway Yard resulting in grievous injuries including amputation of both legs. The deceased was thereafter shifted to PGIMS, *Rohtak* where he succumbed to the injuries during treatment.

4. Learned counsel for the appellants submits that the Tribunal has failed to appreciate the official record in its correct perspective and has returned findings contrary to the material available on record. It is submitted that the statements recorded during the inquiry proceedings, the Station Master memo, GRP investigation and DRM/RPF inquiry proceedings consistently establish that the deceased had sustained injuries after falling from the running train while travelling from *Mundlana* to *Rohtak* and therefore the death of the deceased squarely falls within the ambit of an “untoward incident” under the Act.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment and submits that the deceased was not proved to be a *bona fide* passenger and no journey ticket had been recovered from the deceased. It is further submitted that the Guard and Loco Pilot of train no. 54050 had not noticed any “untoward incident” during the course of journey and therefore the Tribunal rightly dismissed the claim application.

6. This Court has heard learned counsels for the parties and perused the material available on record.

7. The earliest information regarding the incident emerges from the Station Master memo dated 25.05.2017, *Rohtak*, wherein information received from one *Sunny* was recorded to the effect that one person had sustained injuries after falling from train no. 54050 and had been admitted to PGIMS, *Rohtak*. The Death Report dated 26.05.2017 further records that the



injuries appeared to have been caused by railway train and specifically records the apparent cause of death as “due to slipping of foot from running train by railway accident”. The said information was recorded immediately after the occurrence in the normal course of railway functioning and there is nothing on record to suggest that the same was fabricated or subsequently introduced.

8. The statement of *Sunny* assumes considerable significance as he categorically stated that he had seen one person falling from the train near the railway line and after sustaining injuries, both his legs were amputated. He further stated that he had immediately called the PCR and the ambulance and got the injured admitted in PGIMS, *Rohtak* and had also informed the Station Master regarding the incident. Significantly, *Sunny* is an independent witness having no relation whatsoever with the deceased or his family members and there is nothing on record to discredit his testimony. The learned Tribunal has however, completely ignored the evidentiary value of the said independent witness while returning findings against the appellants. Furthermore, the statement of *Satbir Singh* further corroborates the case of the appellants, as he specifically stated that he had dropped the deceased at *Mundlana* Railway Station for boarding the evening train to *Rohtak*.

9. A perusal of the DRM/RPF inquiry proceedings shows that the inquiry initially proceeded on the version that the deceased had sustained injuries in connection with train No. 54050 and even the journey particulars were reflected as “*Mundlana-Rohtak* Ticket Lost”. However, despite the aforesaid material available during the course of the inquiry, the report accords that the deceased was “crossing the railway line” at the relevant time, though no witness has stated so during the inquiry proceedings. The



conclusion that the deceased was “crossing the railway line” is therefore not supported by any contemporaneous material or witness statements.

10. The learned Tribunal, while relying upon the aforesaid conclusion, failed to appreciate that the material on record clearly establishes that the incident squarely falls within the definition of an “untoward incident” within the meaning of the Act.

11. Coming to the aspect of the deceased being a *bona fide* passenger, it is well settled that mere non-recovery of the railway ticket in cases involving grievous injuries and medical treatment before death cannot by itself be treated as conclusive to disbelieve *bona fide* travel, particularly where the surrounding circumstances and evidence otherwise establish the railway journey of the deceased. It is well settled that in railway accident claim cases, strict proof of the manner of occurrence is not required and the case is required to be examined on the touchstone of preponderance of probabilities. (Ref: Union of India vs. Rina Devi²). The statement of *Satbir Singh* clearly records that he had accompanied the deceased to the *Mundlana* Railway Station, and the ticket was purchased by the deceased in his presence. The said testimony, coupled with the surrounding circumstances and contemporaneous record, sufficiently establishes that the deceased was as a *bona fide* passenger at the time of the incident.

12. Further, in Union of India v. Prabhakaran Vijaya Kumar & Ors.³, it was held that the provisions relating to compensation under Section 124-A are required to receive liberal and beneficial interpretation and once an “untoward incident” is established, the liability of the Railways becomes

² (2019) 3 SCC 572

³ (2008) 9 SCC 527



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strict unless the case falls within any statutory exceptions. There is absolutely no material available on record to suggest suicide, attempted suicide, self-inflicted injury, intoxication, insanity or commission of any criminal act by the deceased so as to bring the case within the exceptions carved out under the proviso to Section 124-A of the Act.

13. The impugned judgment passed by the learned Tribunal is therefore contrary to the evidence available on record and liable to be set aside.

14. Accordingly, the impugned judgment dated 02.11.2020 is set aside and the matter is remanded back to the Tribunal, which is requested to assess the amount of compensation payable to the appellants 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 18.05.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

MAY 08, 2026

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