



2026:DHC:9117



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

% Reserved on : 22.09.2026
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CNR No. DLHC010069302022

+ **FAO 33/2022**

MOHD ISHAAppellant
Through: Mr. Anshuman Bal, Advocate
versus
UNION OF INDIARespondent
Through: Ms. Pratima N. Lakra, CGSC
with Ms. Kanchan Shakya, Mr.
Shailendra Kumar Mishra and
Mr. Shivansh, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 7967/2022 (Seeking condonation of delay of 440 days in filing the appeal)

1. By way of the present application, the applicant/appellant seeks condonation of delay of 440 days in filing the appeal.
2. Learner counsel for the appellant submits that the Registry of this court was closed for filing fresh cases due to COVID-19. It is further submitted that the Supreme Court *vide* orders dated 23.03.2020, 23.09.2021, and 10.01.2022, in *SuoMotoWrit Petition (Civil) No.3/2020* had extended the period of limitation for filing of cases in view of the outbreak of the pandemic.



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3. Considering the peculiar facts and circumstances of the present case as well as the beneficial nature of the concerned legislation, this Court finds that the appellants have been able to show sufficient cause for the delay in filing the present appeal.
4. In view of the aforesaid, the application is allowed and the delay of 440 days in filing the appeal is condoned.
5. The application stands disposed of accordingly.

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1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 16.03.2020 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/GZB/066/2016.
2. Briefly stated, the case set up by the appellants before the Tribunal was that their son, *Mohd. Javed* (hereinafter referred to as the “deceased”) aged about 22 years, was travelling from *Mathura* Junction to *Faridabad* by an EMU passenger train on 13.01.2016. It was stated that, owing to heavy rush and a sudden jerk of the train, he accidentally fell from the running train near kilometre No. 1506/7-5 in the yard of New Town *Faridabad* Railway Station and sustained fatal injuries. His body was found on the following morning, i.e., 14.01.2016, at about 08:45 hours.
3. The Tribunal, upon consideration of the evidence, held that the appellants had failed to establish that the deceased was a *bona fide* passenger or that his death had occurred in an “untoward” incident within the meaning of the Railways Act, 1989 (hereinafter referred to



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as the “Act”). The claim application was accordingly dismissed.

4. Learned counsel for the appellant contended that the journey ticket recovered from the person of the deceased furnished sufficient evidence of his status as a *bona fide* passenger and that the Tribunal could not have rejected the same merely on the basis of the nature of the injuries or the location where the body was found. It is further submitted that there is no eyewitness or medical opinion establishing that the deceased was run over while crossing the railway tracks, and that the finding regarding the manner of death rests upon conjecture rather than cogent evidence.

5. *Per contra*, learned counsel for the respondent disputed both, the deceased’s status as a *bona fide* passenger and the claim that his death had occurred in an “untoward incident”. It was contended that there was no record of an accidental fall from an EMU train at the relevant place and time. Learned counsel further relied upon the location where the body was found, the time at which it was discovered, the nature of the injuries recorded in the post-mortem report and the statements recorded during the inquiry to contend that the deceased had been run over while crossing the railway tracks.

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

7. At the outset, it is necessary to examine the statutory definition of a “passenger” under Section 2(29) of the Act, which refers to a person travelling with a “valid pass or ticket”. In the present case, journey ticket No. G24650960, issued from *Mathura* Junction to *Faridabad* on 13.01.2016 at 16:17 hours, was shown as recovered



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from the person of the deceased during the *jamatalashi* proceedings. The recovery of the ticket, therefore, furnishes direct evidence in support of the claimants' case that the deceased had undertaken the railway journey in question. There is no finding that the ticket was forged, invalid or unrelated to the journey pleaded. In these circumstances, the deceased's status as a passenger could not have been rejected merely because his family members were unaware of his journey or because the nature of the injuries and the location of the body subsequently gave rise to a dispute regarding the manner of his death. Those circumstances may have a bearing on whether the death occurred in an "untoward incident", but they cannot, by themselves, efface the evidentiary value of the recovered ticket.

8. The approach adopted by the Tribunal is also contrary to the principles laid down by the Supreme Court in "Union of India v. Rina Devi"¹, and reiterated in "Lata v. Union of India"². In "Rina Devi" (*supra*), the Supreme Court held that the initial burden upon the claimants to establish *bona fide* passenger status may be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts to the Railways to rebut the claim by cogent evidence. The Court further clarified that even the non-recovery of a ticket does not, by itself, negate passenger status.

The present case stands on a stronger footing, inasmuch as the journey ticket was not merely asserted to have been purchased or subsequently lost, it was shown as recovered from the deceased

¹(2019) 3 SCC 572

²2026 SCC OnLine SC 1350



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himself. Once this material was available on record, the Tribunal was required to assess the deceased's status in its light, rather than allow its doubts regarding the manner of the occurrence to determine that separate issue. The recovery of the ticket, read with the circumstances of the case, sufficiently discharges the appellants' burden.

9. Having held that the deceased was a bona fide passenger, the question which remains is whether his death occurred in an "untoward incident" within the meaning of Section 123(c)(2) of the Act. The post-mortem report records extensive crush injuries, including injuries to the head and amputation of the left lower limb at the ankle. These injuries undoubtedly establish the violent nature of the death, however, they do not, by themselves, in the absence of any expert medical opinion, establish the precise manner in which the injuries were sustained. In the absence of any ocular or expert medical opinion that such injuries were inconsistent with an accidental fall from a running train, it would be equally unsafe to conclude that the deceased must have been run over while crossing the railway tracks. The manner of occurrence must be inferred from the medical evidence read with the contemporaneous records, the location of the body and the other circumstances proved on record and not merely by how they look on the face of it.

10. In "Rajendri Devi & Ors. v. Union of India & Anr."³, a Co-ordinate Bench of this Court considered a case in which the deceased's body had sustained extensive injuries, including crush injuries and amputation, while the Railways disputed that the death had resulted

³(2024) SCC OnLine Del 124



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from an accidental fall. The Court examined the post-mortem report alongside the contemporaneous railway records and the evidence regarding the occurrence, emphasising that the manner of death must be determined on the totality of the material and not by drawing an isolated inference from the nature of the injuries. Similarly, in *“Rinavati&Ors. v. Union of India”*⁴, the recovery of the deceased’s body was considered along with railway tickets and the Railways’ contention that the injuries and location indicated a run-over. The Court assessed the evidence cumulatively and declined to sustain the Tribunal’s rejection of the claim. These decisions reinforce the principle that the nature of injuries must be considered with the other evidence and cannot, without supporting material, be converted into a definitive finding regarding the manner of death.

11. Applying the aforesaid principles to the present record, the body was found between the down line and the third line in the New Town *Faridabad* railway yard on the morning of 14.01.2016. The fact that it was discovered the following morning does not, by itself, establish that the deceased had been run over, just as the location of the body does not conclusively rule out a fall from a moving train. The contemporaneous material records the recovery of the body and the articles found on the deceased, however, no eyewitness has been produced to establish that he was crossing the tracks or was struck by a train while doing so. Nor does the material referred to by the Railways disclose a medical opinion excluding the possibility of an accidental fall.

⁴(2025) SCC OnLine Del 2976



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In “*Surendra Prasad Verma &Anr. v. Union of India*”⁵ this Court cautioned against drawing conclusive inferences from the delayed discovery or location of a body in the absence of cogent supporting evidence.

12. On an overall consideration of the recovered ticket, the post-mortem report and the contemporaneous record, the inference that the deceased was necessarily run over while crossing the railway tracks is not supported by sufficient evidence. The possibility of an accidental fall has not been excluded, and the circumstances, considered cumulatively, support the appellants’ case on a preponderance of probabilities.

13. 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 19.01.2027.

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

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

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 13, 2026/na

⁵(2014) SCC OnLine Del 2917