



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

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+ **FAO 441/2019**

SAMSUDDIN & ANR.

.....Appellants

Through: Mr. Rajan Sood, Ms. Ashima Sood,
Ms. Megha Sood, Advocates

versus

UNION OF INDIA

.....Respondent

Through: Ms. Pratima N. Lakra, CGSC with
Ms. Uparita S and Mr. Shalendra
Mishra, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 48962/2019 (seeking condonation of delay of 316 days in filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 316 days in filing the present 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.
3. It is noteworthy that in "Mohsina vs. Union of India¹", a Co-ordinate 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.

¹ (2017) SCC OnLine Del 10003



4. Considering the peculiar facts and circumstances of the present case, and guided by the principle laid down in the aforesaid decision, 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 316 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 441/2019

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 27.09.2018 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(U)/23/2018, titled as “*Shri. Samsuddin & Anr. vs. Union of India*”.

2. Vide the aforesaid judgment, the Tribunal dismissed the claim application filed by the appellants herein on the ground that the deceased was neither a *bona fide* passenger nor was the alleged incident an “untoward incident” as defined under the Railways Act, 1989 (hereinafter referred to as the “Act”).

3. The brief facts of the case, as stated in the claim application, are that on 31.10.2017, one Sh. *Shadab Khan* (hereinafter referred to as the “deceased”) was travelling from *Hapur* to *Delhi* on the strength of a valid second-class journey ticket. During the course of the said journey, while the train reached between *Delhi-Shahdara Jn.* and *Delhi* Railway Station, the deceased accidentally fell from the running train and sustained grievous injuries, resulting in his death at the spot.



4. Learned counsel for the appellants assails the impugned judgment by contending that the Tribunal has erred in dismissing the claim application despite clear and cogent material on record establishing that the deceased was a *bona fide* passenger and had suffered an accidental fall from a running train. It is submitted that a valid journey ticket was recovered from the possession of the deceased during *jamatalashi*, which conclusively establishes his status as a *bona fide* passenger. It is further submitted that the Tribunal has placed undue reliance on the DRM report, which is based on conjectures and was neither supported by any eyewitness account nor proved in accordance with law, while completely disregarding contemporaneous records including DD entries, recovery memo and medical evidence.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment by contending that the deceased was neither a *bona fide* passenger nor did the alleged incident qualify as an “untoward incident” under the Railways Act, 1989. It is submitted that the circumstances on record, particularly the Train Signal Register (TSR) and the sequence of train movements, clearly indicate that the deceased was not travelling by any train at the relevant time and had instead suffered injuries while crossing the railway track in an unauthorized manner. It is further contended that the nature and location of the body, as well as the absence of any report from the loco pilots of the preceding trains, rules out the possibility of a fall from a running train.

6. This Court has heard the arguments of both the parties and perused the material on record.



7. In the backdrop of the above facts, the two issues that arise for consideration are that whether the deceased was a *bona fide* passenger and whether the alleged incident was an “untoward incident” as defined under the Act.

8. The first issue which arises for consideration is whether the death of the deceased falls within the ambit of an “untoward incident” as defined under Section 123(c) read with Section 124-A of the Act. A perusal of the record indicates that the information regarding the incident was recorded *vide* DD No. 14 PP dated 31.10.2017, wherein it was reported that a dead body was found lying on the railway track towards the *Delhi* side of *Shahdara* Railway Station. The Station Master memo further corroborates the said position by recording that a PCR call was received regarding a dead body lying on the track of line No. 4 near K.M. pole 5/37, and in addition to the same, the inquest proceedings conducted thereafter also note the same location of occurrence, thereby establishing that the incident occurred in the course of railway operations and on railway premises.

9. Moreover, the assertion by the Tribunal that no eye-witness to the occurrence was found, and the conclusion sought to be drawn therein, is therefore not based on direct evidence but merely on an inference, there being no material on record, whether documentary or otherwise, to either establish the presence of any eye-witness or to substantiate such a conclusion. In the absence of any such evidence, the finding rests on conjecture rather than proof and cannot be sustained.

10. In this context, the law laid down by the Hon’ble Supreme Court in



“Union of India vs. Prabhakaran Vijaya Kumar²” is directly applicable, wherein it has been held that accidental falling of a passenger from a train, including while boarding or alighting, would squarely fall within the definition of an “untoward incident”, and that negligence of the passenger is immaterial for the purposes of Section 124-A. In the present case, the respondent has neither pleaded nor established any of the statutory exceptions, such as suicide, self-inflicted injury, intoxication or criminal act, and therefore the reliance upon alleged negligence is legally misconceived and unsustainable.

11. In view of the aforesaid, therefore, this Court is of the considered opinion that the death of the deceased occurred in the course of a railway accident and squarely falls within the definition of an “untoward incident”, and the contrary finding returned by the learned Tribunal cannot be sustained.

12. The next aspect which requires consideration is whether the deceased was a *bona fide* passenger at the time of the incident. The record placed before this Court unequivocally establishes that during the course of inquest proceedings conducted pursuant to DD No. 14 PP dated 31.10.2017, a railway journey ticket bearing No. 28912534, issued from *Hapur Jn.* to *Delhi* on 31.10.2017, was recovered from the person of the deceased. The said recovery is reflected in the inquest papers and has not been disputed by the respondent. The DRM report further fortifies this position by recording that the said ticket was issued at 18:58 hours on the date of the incident, thereby lending official corroboration to the factum of valid travel.

² (2008) 9 SCC 527



13. Moreover, the DRM report itself records that the deceased had travelled from *Hapur* towards *Delhi* and had reached *Shahdara* Railway Station, which is consistent with the recovery of the ticket and the place where the body was found. Thus, the respondent's own record establishes that the deceased was undertaking a journey as a rail passenger. In such circumstances, the presumption of *bona fide* travel clearly arises in favour of the deceased.

14. In terms of the law laid down by the Hon'ble Supreme Court in "*Union of India vs. Rina Devi*³", once a valid journey ticket is shown to have been recovered from the deceased, the burden shifts upon the Railways to disprove *bona fide* travel by leading cogent evidence. In the present case, no such evidence has been brought on record by the respondent. The finding of the learned Tribunal discarding the recovery of the ticket is thus contrary to the material on record and is based on a misappreciation of evidence.

15. Accordingly, this Court holds that the deceased was a *bona fide* passenger holding a valid journey ticket at the time of the incident.

16. In view of the aforesaid discussion, both the essential ingredients, namely, occurrence of an "untoward incident" and the status of the deceased as a *bona fide* passenger, stand duly established.

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 05.05.2026.

³ (2019) 3 SCC 572



2026:DHC:3283



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

APRIL 20, 2026

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