



2026:DHC:8297



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

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CNR No. DLHC010025362020

+ **FAO 52/2021**

RAJLA

.....Appellant

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

versus

UNION OF INDIA

.....Respondent

Through: Mr. Vikrant Nilesh Goyal and
Mr. Inderpreet Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 4546/2021 (seeking condonation of delay of 380 days in filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 380 days in filing the appeal.
2. Learned counsel for the appellants submitted that the appellants are poor and illiterate persons, and belong to an economically weaker section and, due to paucity of funds, were unable to get in contact with a counsel and obtain timely legal advice.



3. At this stage, it is pertinent to note that in “*Mohsina vs. Union of India*”¹, 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. 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 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.

5. In view of the aforesaid, the application is allowed and the delay of 380 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 52/2021

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 06.09.2019 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/126/2018, titled as “*Smt. Rajla vs. Union of India*” whereby the claim petition filed by the appellant seeking compensation on account of death of her son, *Gaurav Garg* (hereinafter referred to as the “deceased”), came to be dismissed.

2. The facts in a nutshell are that on 27.04.2018, the deceased was

¹(2017) SCC OnLine Del 10003

²(2026) SCC OnLine Del 2704



travelling from *Delhi Shahdara* to *Modi Nagar* by train on the strength of a valid journey ticket. It was pleaded that when the train reached near *VivekVihar* Railway Station, the deceased accidentally fell from the train and sustained fatal injuries. The dead body of the deceased was subsequently found near the railway line at the culvert of *Vivek Vihar* Railway Station. The claim of the appellant was that the deceased was a *bona fide* passenger and that his death had occurred in an “untoward incident” as defined in the Railways Act, 1989 (hereinafter referred to as the “Act”).

3. *Vide* the impugned judgment, the Tribunal, however, declined to accept the claim. It principally noticed that the railway ticket was not mentioned in the inquest report and that the memo regarding its recovery did not mention the time when it was prepared. The Tribunal also noticed that there was no eyewitness to the occurrence and that the precise train from which the deceased had allegedly fallen could not be ascertained. On these considerations, the Tribunal entertained doubt regarding the recovery of the railway ticket and ultimately declined to treat the deceased as a *bona fide* passenger.

4. Learned counsel for the appellant submits that the approach adopted by the Tribunal is contrary to the statutory scheme governing claims arising out of “untoward incidents”. It is submitted that the deceased was in possession of a valid journey ticket which was recovered during the investigation and was subsequently verified by the Railways themselves. It is further submitted that the contemporaneous DD record notices the recovery of the ticket and that the investigating officer did not find any material suggesting that the



deceased had been crossing the railway line. Learned counsel submits that the absence of an eyewitness to the precise moment of the fall cannot be treated as proof of an alternative manner of death.

5. Learned counsel for the respondent who objects to the averments made by the appellant, contends that the appellant has failed to establish the manner in which the deceased came to be on the railway line. It is contended that the omission of the ticket from the inquest proceedings and the absence of time in the recovery memo create a doubt regarding the alleged recovery. It is further submitted that there is no evidence identifying the train from which the deceased allegedly fell.

6. Before examining the evidence, it would be appropriate to notice the statutory scheme which governs the present factual matrix. Section 2(29) of the Act defines a “passenger” as a person travelling with a valid pass or ticket. Additionally, Section 123(c)(2) of the Act defines an “untoward incident” to include “the accidental falling of any passenger from a train carrying passengers”.

Thus, while Section 2(29) furnishes the ordinary statutory definition, Section 124-A operates within the distinct beneficial scheme governing compensation for “untoward incidents”.

7. The question of *bona fide* passenger status, therefore, cannot be examined by applying a standard which requires the claimant to produce direct evidence of every stage of the deceased’s journey. In “Union of India v. Rina Devi”³, the Supreme Court held that mere absence or non-recovery of a ticket from an injured or deceased

³(2019) 3 SCC 572



passenger does not, by itself, negative the claim of *bona fide* passenger. The initial burden on the claimant can be discharged by placing the relevant facts and attending circumstances on record, whereafter the burden shifts on the Railways to rebut the same. The same principle has also been recently reiterated in “*Lata v. Union of India*”⁴.

The aforesaid principle assumes greater significance in the present case because this is not a case of mere assertion of possession of a ticket by the claimant. The railway ticket bearing No.83896344 was recovered during the investigation and the Railways thereafter verified the ticket. The verification revealed that the ticket had been issued from *Delhi Shahdara* for the journey to *Modi Nagar* on 27.04.2018. The contemporaneous record also contains an entry recording the recovery of the ticket from the pocket of the deceased.

8. There is no finding that the ticket produced before the Tribunal was fabricated, unrelated to the deceased or incapable of connecting him with the journey in question. In fact, the Railway Administration itself verified the ticket.

9. The Tribunal discarded the recovery substantially because the ticket was not mentioned in the inquest report. In the considered view of this Court, such omission cannot, in the facts of the present case, be elevated into positive evidence that the ticket was not recovered. The inquest report records the articles found on or near the dead body and an omission in such a document may constitute a circumstance requiring consideration, but it cannot automatically displace the

⁴2026 SCC OnLine SC 1350



specific recovery recorded in the subsequent police proceedings, particularly when the ticket itself was thereafter verified by the Railways. Also, the question before the Tribunal was not whether the recovery memo contained every possible procedural detail, but whether, on a cumulative assessment of the contemporaneous material, the deceased was travelling as a *bona fide* passenger. A procedural omission in the recording of the recovery cannot be treated as substantive proof that the recovery itself was false.

10. The next substantial question, however, is whether the material on record warrants a conclusion that the deceased was not travelling by train and had instead come upon the railway track in circumstances falling outside the ambit of an “untoward incident”. In the considered view of this Court, the absence of an eyewitness to the precise moment of the fall, or the inability to identify the particular train, may leave the exact manner of the occurrence uncertain, but such uncertainty, by itself, cannot constitute positive evidence of a different manner of death. There is no material on record showing that the deceased was seen crossing the railway line or was otherwise present on the track for a purpose unconnected with his journey. Significantly, even the investigating officer, RW-1/Sh. *Satish Kumar*, stated that no material had surfaced during investigation to suggest that the deceased was crossing the railway line.

11. The Tribunal proceeded essentially from the absence of evidence as to the precise train and manner of the alleged fall and converted those gaps into a finding against the appellant. Such an approach, particularly in a claim governed by Section 124-A of the



Act, cannot be sustained. In “*Jameela&Ors. v. Union of India*”⁵, the Supreme Court has cautioned against defeating a claim under Section 124-A on the basis of speculative reconstruction of an unwitnessed railway accident. The absence of direct evidence as to how the accident occurred does not, in itself, take the occurrence outside the statutory expression of an “untoward incident”.

12. Thus, on a cumulative consideration of the material on record, the deceased stood established as a *bona fide* passenger and the circumstances of his death are sufficient to bring the occurrence within the ambit of an “untoward incident” under Section 123(c)(2) of the Act. The absence of direct evidence regarding the precise moment or manner of the fall cannot, in the facts of the present case, be used to supply an alternative version of the occurrence for which there is no affirmative evidentiary foundation.

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 28.10.2026.

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

⁵(2010) 12 SCC 443



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

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 24, 2026
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