

(2026) 08 DEL CK 4435

In the Delhi High Court, Principal Bench, New Delhi

Case No : FAO 268/2024

Dilshad Bano & Ors.

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23
Railways Act, 1989 — Section 124-A

Citation : (2026) 08 DEL CK 4435

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Mr. Rajan Sood, Ms. Ashima Sood, Ms. Megha Sood, Mr. Chiranjiv Kumar, Mr. Mukesh Sachdeva, Mr. Dipanshu Gaba

Judgement

CM APPL. 47717/2024 (seeking condonation of delay of 335 days in filing the appeal)

1. By way of the present application, the applicant/ appellant seeks condonation of delay of 335 days in filing the appeal.
2. Learned counsel for the appellant submits that after passing of the impugned judgment, the appellant was unable to file the appeal within the prescribed time as the certified copy was received by the appellants only on 20.07.2023. It is further submitted 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 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 335 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 268/2024

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)/DLI/181/2022, titled as "*Smt. Dilshad Bano & Ors. vs. Union of India*".

2. Briefly stated, the claim application came to be filed in context of the death of one Sh. *Zaheer Ahmad* (hereinafter referred to as the "deceased"), who, on 20.02.2022, was travelling from *Rampur Maniharan* to *Saharanpurby* Train No. 74021 (*Delhi-Saharanpur* Passenger Train). It was averred that during the course of the said travel, while the train reached *Jandhera Samaspur*, he accidentally fell from the train on account of excessive crowd and jerk and died on the spot. It was further pleaded that the journey ticket carried by the deceased was lost in the course of the accident itself.

3. Learned counsel appearing for the appellants contended that the documents prepared at the first instance, including the *panchnama* and the police papers, consistently record the occurrence as one involving a "fall from a train". It was further submitted that the Tribunal erred in treating the non-recovery of the ticket as conclusive proof that the deceased was not a *bona fide* passenger, despite the settled legal position that mere non-recovery of a ticket is not sufficient to deny compensation under the Railways Act, 1989 (hereinafter referred to as the "Act"). It was argued that the entire finding that the deceased was attempting to board the train from the "off side" is unsupported by any direct evidence and rests solely upon assumptions drawn from the place where the body was found.

4. *Per contra*, learned counsel for the respondent contended that no journey ticket was recovered from the person of the deceased and the statement regarding purchase of the ticket by the deceased's son cannot be completely relied upon as the son was neither produced as a witness nor did he find any mention in the original claim. It was further submitted that the body having been found on the off side of the railway track and the nature of injuries sustained indicate that he was attempting to board a moving train from the "off side" and, therefore, the incident was not an untoward incident within the meaning of "untoward incident" under the Act.

5. Upon consideration of the material placed on record, the Tribunal dismissed the claim application holding that the deceased was not a *bona fide* passenger as no journey ticket was recovered during *jamatalashi* and also held that the alleged incident did not fall within the ambit of an "untoward incident" as defined under the Act.

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 principally declined the claim on the ground that no journey ticket was recovered during the *jamatalashi* and the plea that the ticket had been purchased by the deceased's son was taken for the first time during the cross-examination of Smt. *Dilshad Bano*/AW-1.

9. It is well settled that the mere non-recovery of a journey ticket cannot, by itself, lead to the conclusion that the deceased was not a *bona fide* passenger.

The principle laid down in "*Union of India v. Rina Devi*"³ continues to hold the field 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 onus shifts upon the Railways to rebut the same by cogent evidence. The same has been reiterated in the recent ruling of the Supreme Court in "*Lata v. Union of India*"⁴.

10. Tested on the aforesaid principles, this Court finds that the material placed on record supports the appellants' case. Right from the claim application, it has been the consistent stand of the appellants that the deceased was travelling from *Rampur Maniharan* to *Saharanpur* and that the journey ticket was lost in the course of the accident. The entire defence proceeds only on the premise that since no ticket was recovered during *jamatalashi*, the deceased could not be treated as a *bona fide* passenger and such an inference is contrary to the settled position of law.

11. The Tribunal has discarded the appellants' case solely because AW-1 stated during her cross-examination that the ticket had been purchased by her son and the son was not examined as a witness. This reasoning is misplaced. AW-1 was admittedly not travelling with the deceased and could only depose on the basis of the information received after the incident. The fact that the source of the ticket was disclosed during cross-examination does not, by itself, render the case doubtful, particularly when the respondent has failed to produce any evidence to rebut the appellants' case or discharge the burden that had shifted upon it.

In view of the aforesaid discussion, it is held that the deceased was a *bona fide* passenger at the time of the incident.

12. Coming next to the manner of occurrence of the incident in question, a perusal of the contemporaneous record prepared immediately after the accident

would show that the case was investigated throughout as one involving a "railway accident".

The Station Master memo was recorded on the basis of information received from the Guard of Train No. 04402 regarding a body lying near Km. No. 137/05 close to *Jandhera* Halt. Pursuant thereto, the police reached the spot and conducted the inquest proceedings. Significantly, in the *panchnama* prepared during the inquest, the *Panch* witnesses recorded the cause of death as a fall from a train and none of the documents records that the deceased had committed suicide, trespassed upon the railway track or sustained injuries while crossing the railway line. The earliest official record, therefore, lends support to the appellants' case rather than to the defence sought to be projected by the respondent.

13. The Tribunal has, however, discarded the aforesaid material primarily on the basis that the body was found on the "off side of the railway track" and the lower portion of the deceased's body had suffered severe injuries. The DRM Report records that the deceased was attempting to board the train from the "off side" and there was no eye witness to the incident.

14. Equally significant is the fact that the statements of the Loco Pilot of Train no. 04401 and Guard of 04402 do not advance the respondent's case. Sh. *Sanjay Kumar*, who was the Loco Pilot of Train No. 04401 (UP) merely stated that he neither had any information about the alleged incident nor was he informed by any other loco pilot or traveller about the same.

Similarly, Sh. *Subhash Chand*, the Guard of Train No. 04402 (DN) also stated that he noticed a body lying near the said location and informed the Station Master. Neither of the two witnesses claim to have witnessed the occurrence or states that the deceased was attempting to board the train from the off side. Their statements are confined to noticing the body after the incident had already taken place and, therefore, cannot be relied upon to establish the manner in which the accident occurred. Thus, there is no direct evidence on record to establish that the deceased was attempting to board the train from the off side or that he had not fallen from the train while travelling therein.

15. The Tribunal has also placed reliance upon the nature of injuries to conclude that such injuries could not have resulted from an accidental fall from a train. In the absence of any medical or expert evidence regarding the manner in which the injuries could have been caused, the Tribunal could not have substituted its own opinion and concluded that the injuries necessarily ruled out an accidental fall from a train.

16. The respondent has also sought to draw support from the site plan and the location where the body was found. However, the mere fact that the body was recovered on one side of the railway track does not, by itself, establish the manner in which the accident occurred. The site plan only indicates the place where the body was recovered and does not establish as to how the deceased

was travelling.

17. At this stage, it is apposite to note the decision rendered in "*Guruvachan Singh v. Union of India*"⁵, wherein it was held that the place where the body is recovered cannot, by itself, determine the manner of the incident unless supported by cogent evidence.

18. Tested on the touchstone of the aforesaid, this Court finds that the respondent has failed to produce any cogent evidence to establish that the deceased's case falls within any of the exceptions contemplated under the proviso to Section 124-A of the Act.

19. Accordingly, 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 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 21.08.2026.

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

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

FOOTNOTES

1. 1(2017) SCC OnLine Del 10003
2. FAO 25/2022
3. (2019) 3 SCC 572
4. 42026 SCC OnLine SC 1350
5. 52026 SCC OnLine Del 2351