



2026:DHC:6248



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

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+ **FAO 17/2024**

SH. SANJEET MISHRA & ANR.Appellants

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

versus

UNION OF INDIARespondent

Through: Ms. Shubhra Parashar and Mr. V.P.S.
Charak, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 1744/2024 (seeking condonation of delay of 175 days in filing the present appeal)

1. By way of the present application, the applicant/ appellant seeks condonation of delay of 175 days in filing the present appeal.
2. Learned counsel for the appellants submits that the appellants belong 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 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/

¹(2017) SCC OnLine Del 10003



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 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 appellants have been able to show sufficient cause for the delay in filing the present appeal.

5. Accordingly, the application is allowed and the delay of 175 days in filing the present appeal is condoned.

6. The application is disposed of in the above terms.

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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 28.03.2023 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(U)/DLI/123/2022.

2. The facts in a nutshell are that on 28.04.2022, one *Abhishek Mishra* (hereinafter referred to as the “deceased”) was travelling from *Anand Vihar* to *Bapudham (Motihari)*, *Bihar* by Train No.12558, (*Suptakranti* Superfast Express), after purchasing a valid journey ticket. It was further averred that when the train reached near *Mundhapanday*, ahead of *Moradabad*, the deceased accidentally fell from the running train due to heavy rush and push and pull amongst passengers, sustained grievous injuries and was removed to the District Hospital, *Moradabad*, where he succumbed to the injuries.

² FAO 25/2022



3. Placing reliance upon the DRM Report and the non-recovery of the journey ticket, the Tribunal held that the deceased had failed to establish his status as a *bona fide* passenger. It further observed that there was no evidence to show that the deceased had suffered injuries in an untoward incident within the meaning of Section 123(c) of the Railways Act, 1989 (hereinafter referred to as the “Act”).

4. Learned counsel for the appellants contended that the appellants consistently pleaded, both in the claim petition and in the affidavits of Sh. *Sanjeet Mishra/AW-1* and Sh. *Ujjwal Mishra/AW-2*, that the deceased had purchased a valid journey ticket before commencing the journey and that the same was lost in the accident. It is further submitted that AW-2 specifically deposed that he had accompanied the deceased to *Anand Vihar* Railway Station, witnessed the purchase of the ticket and saw him board the train. The finding that the deceased was not a *bona fide* passenger merely because the source of purchase of the ticket could not be established is, therefore, wholly unsustainable.

5. *Per contra*, learned counsel appearing for the respondent supported the impugned judgment and submitted that no journey ticket was recovered from the deceased during *jamatalashi* and the commercial verification conducted by the Railway Administration revealed that *Gupta* Communication was neither an authorised railway ticket vendor nor had it issued any ticket from *Anand Vihar* to *Bapudham (Motihari)*. It is further submitted that no “untoward incident” was reported in the railway records and, therefore, the Tribunal rightly dismissed the claim.

6. This Court has heard the arguments advanced by both the learned counsels for the parties and gone through the material placed on record.



7. The first issue which falls for consideration is whether the deceased was a *bonafide* passenger at the time of the incident.

8. A perusal of the record would show that the appellants consistently maintained that the deceased had purchased a valid journey ticket before commencing the journey. In the claim application itself, it was specifically pleaded that the deceased had purchased the ticket for travelling by Train No.12558 from *Anand Vihar* to *Bapudham (Motihari)* and that the same was lost in the course of the accident. The said stand was reiterated by AW-1, the father of the deceased, in his affidavit. More importantly, AW-2, the brother of the deceased, categorically deposed that he had accompanied the deceased to *Anand Vihar* Railway Station, witnessed the purchase of the journey ticket and saw him board the train. Thus, the appellants discharged the initial burden resting upon them by leading consistent oral evidence regarding the journey undertaken by the deceased.

9. The aforesaid conclusion is in consonance with the settled legal position. In “*Union of India v. Rina Devi*”³, the Supreme Court held that the initial burden upon a claimant can be discharged by filing an affidavit setting out the relevant facts and that mere non-recovery of a journey ticket does not, by itself, negate the status of a bona fide passenger. Once such burden stands discharged, the onus shifts upon the Railway Administration to rebut the claim by leading cogent evidence. The said principle has also been reiterated in “*Lata v. Union of India*”⁴.

In the present case, the respondent has failed to discharge the burden that had shifted upon it.

³(2019) 3 SCC 572

⁴2026 SCC OnLine SC 1350



10. The respondent, on the other hand, failed to lead any affirmative evidence to establish that the deceased was travelling without a valid authority. The Tribunal proceeded to discard the appellants' evidence solely because AW-2 stated in his cross-examination that the ticket had been purchased from *Gupta Communication* and the commercial verification subsequently revealed that the said establishment was not an authorised railway ticket vendor.

Such material, at the highest, casts doubt on the source from which the ticket was purchased; it does not, by itself, establish that no journey ticket had ever been purchased or that the deceased was travelling unauthorisedly. The Tribunal, therefore, erred in treating the inability of the appellants to establish the source of purchase as conclusive proof of ticketless travel, particularly when the consistent evidence regarding the deceased having boarded Train No.12558 remained otherwise unrebutted.

11. Having held that the deceased was a *bona fide* passenger, the next question is whether the incident falls within the ambit of an "untoward incident" under the Act.

12. The Tribunal answered the issue in the negative primarily on the ground that no untoward incident was reported in the railway records, no eyewitness to the occurrence was available and the Guard had stated that no such incident came to his notice during the course of the journey. In the opinion of this Court, none of these circumstances is determinative.

13. The DRM Report itself records that the injured was found by the civil police near the railway track and, as per the police investigation, had sustained injuries after falling from a train. The DD entries and the contemporaneous medical record are also consistent with the deceased



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having been found in an injured condition near the railway line immediately after the occurrence. Merely because no information reached the Guard or the Station Master during the journey, or because no eyewitness was available, cannot by itself lead to the conclusion that the accidental fall never occurred.

14. Once the deceased is held to be a *bona fide* passenger, the burden shifted upon the respondent to establish that the case was covered by any of the exceptions contained in the proviso to Section 124-A of the Act. The conclusion in the DRM Report that the deceased suffered injuries in an “unknown incident” is founded only on the absence of a recovered journey ticket and the absence of any railway record, neither of which is sufficient to dislodge the appellants’ and the incident, therefore, constitutes an “untoward incident” within the meaning of the Act.

15. In view of the above, the appeal is allowed and 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 21.08.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 03, 2026/na