



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

% Reserved on : 20.03.2026
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+ **FAO 151/2019**

KRISHNA DEVI & ORS

.....Appellants

Through: Mr. Navin Kumar and Mr. Pappu
Singh, Advocates

versus

UNION OF INDIA

.....Respondent

Through: Ms. Pratima N. Lakra, CGSC with
Ms. Uparita Suryadarshin, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 15935/2019 (seeking condonation of delay of 90 days in re-filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 90 days in re-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 arrange the required amount for getting the annexures typed and translated.
3. Considering the peculiar facts and circumstances of the present case, and guided by the beneficial nature of the concerned legislation, this Court finds that the appellants have been able to show sufficient cause for the



delay in re-filing the present appeal.

4. Accordingly, the application is allowed and the delay of 90 days in re-filing is condoned.

5. The application is disposed of accordingly.

CM APPL. 15936/2019 (exemption)

1. Allowed, subject to all just exceptions.

2. The application is disposed of.

CM APPL. 15937/2019 (seeking condonation of delay of 23 days in filing the appeal)

1. By way of the present application, the applicant/ appellant seeks condonation of delay of 23 days in filing the present appeal.

2. For the reasons stated in the application, the application is allowed and the delay of 23 days in filing the appeal is condoned.

3. The application is disposed of accordingly.

FAO 151/2019

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 09.08.2018 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(U)/295/2017, titled as “*Smt. Krishna Devi & Others. 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 16.02.2016, one *Sh. Purushotam* (hereinafter referred to as the “deceased”), along with his friend, was travelling from *Azadpur* to *Narela*, by EMU Train No. 64001, after purchasing a valid journey ticket, and while undertaking the said journey, he fell from the running train and sustained fatal injuries. He was then taken to *Babu Jagjivan Ram Memorial Hospital*, where he was declared as “brought dead”.

4. Learned counsel for the appellants assails the impugned judgment by contending that the Tribunal has erred in rejecting the claim application despite the contemporaneous material on record which clearly establishes that the deceased sustained fatal injuries in a “railway accident”. It is further submitted that mere non-recovery of journey ticket cannot, by itself, be treated as conclusive of the deceased not being a *bona fide* passenger. The DD entries recorded immediately after the incident, along with the MLC and post-mortem report, clearly demonstrate that the deceased suffered multiple grievous injuries consistent with a fall from a running train. It is contended that there is no eyewitness account to support the theory of trespass, and the reliance placed by the Tribunal on the DRM report is misplaced, as the said report is based on assumption and not on any direct evidence.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment by contending that the deceased was not a *bona fide* passenger as no journey ticket was recovered from the person of the deceased. It is submitted that the deceased has been described as a “pedestrian” in the Detailed Accident Report (DAR) which indicates that he had trespassed onto the railway track. It is further contended that the incident occurred due to the negligence of the deceased and does not fall within the ambit of an



“untoward incident” under the Act.

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. Coming first to the manner of occurrence, the contemporaneous evidence on record lends support to the appellants’ version. The earliest information regarding the incident, as reflected in the DD entry No. 21 PP, dated 16.02.2016, recorded at Police Post/ *Subzi Mandi* Railway Station, clearly notes that an “injured” person was found near the railway line near the *Azadpur* Bus Terminal. Pursuant thereto, the PCR removed the said person to *Babu Jagjivan Ram Memorial* Hospital, where he was declared as “brought dead”. The said record, prepared immediately upon arrival, establishes close proximity to the occurrence and constitutes an important piece of evidence which cannot be disregarded.

9. The contemporaneous material on record, including the DD entries, the MLC and the post-mortem report, consistently record the incident as a “railway accident”, and there is no material on record to suggest anything to the contrary.

10. The Tribunal has, however, relied upon the DRM report to conclude that the deceased “met with the above said accident due to his own negligence on account of entering the railway lines in an illegal manner” and proceeds on the basis of the said classification and attributes the incident to trespass, without any evidence. It is also borne out from the record that the



DRM report was prepared after a considerable lapse of time of 2 years after the incident, which further detracts its evidentiary value. The aspect of belated filing of a DRM report has been commented upon by this Court in “Bhola vs. Union of India”¹, the relevant extracts wherefrom are as under:

“2. There is a delay of 14 months in submitting the DRM Report...

4. The claim petition was filed on 27.07.2014, the DRM Inquiry was initiated thereafter and a report was filed 7 months later. The delay in initiating an inquiry is fatal to the facts of the case because what essentially needs to be gathered is what happened on the date of accident. The medical reports and the police records show that an accident happened on 08.10.2012 and the cause of the accident was, the appellant having been fallen from a moving train. The DRM Report does not address any of these aspects. On the contrary it says that since no ticket was produced to support the claim of the appellant, of him being a bona fide passenger, therefore by conjecture, he could have well suffered a self-inflicted injury while crossing the railway tracks. Reliance was placed upon the judgment of the Supreme Court in Kalandi Charan Sahoo and Anr. vs. General Manager, South-East Central Railways, Bilaspur in Civil Appeal No. 5608/2017.”

Furthermore, the description of the deceased as a “pedestrian” in the DAR is a post-incident classification which is set out without any evidence and thus, cannot be relied upon.

11. The statements of the driver and guard of the concerned train, as recorded during the inquiry, state that “no accident” was noticed during the journey, and no information regarding any “run-over” or crossing was received, and there is thus, no direct evidence on record to establish that the deceased was crossing the railway track.

¹ (2018) SCC OnLine Del 13486



12. The Tribunal has, therefore, erred in placing reliance on the DRM report and DAR while disregarding the contemporaneous record and medical evidence. Once it is established from the record that the deceased sustained fatal injuries in a railway occurrence, the incident would squarely fall within the definition of an “untoward incident” under the Act, unless the case falls within any of the statutory exceptions.

13. Insofar as the issue of *bona fide* travel is concerned, it is not in dispute that no journey ticket was recovered from the person of the deceased. It is, however, borne out from the record that no *jamatalashi* of the deceased was conducted. However, in view of the settled law in “Union of India vs. Rina Devi²”, the absence of recovery of a ticket cannot, by itself, be treated as conclusive. In the present case, the appellant has discharged this initial burden, as it has been specifically pleaded in the claim application that the deceased was travelling from *Azadpur* to *Narela* along with his companion after purchasing “valid” journey tickets. The Tribunal has, however, proceeded to reject the claim primarily on the ground of non-recovery of the journey ticket. The said approach does not take into account that no *jamatalashi* was conducted, and therefore, the absence of the ticket cannot be treated as determinative.

14. Equally significant is the fact that the respondent has failed to prove otherwise and no material has been brought on record to rebut the case set up by the appellants.

15. This Court, in view of the above, is of the considered opinion that the requirements laid down in Rina Devi (supra) stand duly satisfied in the present case, and the respondent has failed to rebut the presumption arising

² (2019) 3 SCC 572



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therefrom.

16. 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 30.04.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

APRIL 15, 2026

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