



2026:DHC:730



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

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FAO 59/2020

PRIYANKA SHARMA & ORSAppellant

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

versus

UNION OF INDIARespondent

Through: Ms. Arunima Dwivedi CGSC with
Ms. Swati Jhunjhunwala, Ms.
Himanshi Singh and Ms. Monalisha
Pradhan, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 4630/2020 (delay of 690 days in filing the present appeal)

1. The present application has been filed under Section 5 of the Limitation Act, 1963, read with Section 151 of The Code of Civil Procedure, 1908 (CPC) on behalf of the appellant seeking condonation of delay of 690 days in filing the accompanying appeal.

2. *Mr. Rajan Sood*, learned counsel for the appellant, has submitted that after passing of the impugned judgment, the appellant could not file the



accompanying appeal in time on account of paucity of funds and the resultant inability to obtain timely legal advice.

3. At this stage, it is pertinent to mention the decision rendered by a Co-ordinate Bench of this Court in *Mohsina v. Union of India*¹; wherein a delay of 804 days in filing of the appeal was condoned taking into account poor economic status of the appellants/claimants. Relevant excerpt from the decision is reproduced hereunder:-

“4. The appellants are seeking condonation of delay of 804 days in filing the appeal on the ground that appellant no. 1 is an illiterate and poor lady; she lost her husband in the train accident; her father-in-law was pursuing the case before the Claims Tribunal; her father-in-law expired, whereupon her mother-in-law threw her out from the matrimonial home and she is residing with her father who is also handicapped; she was working as a maid servant to make both ends meet; her cousin came from abroad on 02nd May, 2013 and felt pity over her and made enquiries from the Claims Tribunal and thereafter, helped her in filing the appeal.

5. Considering the extreme poverty and illiteracy of the appellants, the application is allowed and the delay in filing the appeal is condoned subject to the condition that the appellants would not be entitled to interest for the delayed period of 804 days.”

4. In the present case, the appellants claim to be economically disadvantaged and were consequently incapacitated from filing the present appeal. It was further stated that due to paucity of funds, they were unable to seek legal advice in time or instruct a counsel to file the appeal. It is further stated that Appellants 2 & 3 are resident of District *Dholpur, Rajasthan*.

5. Considering the aforesaid facts and circumstances of the present case, as well as the import of the decision rendered by a Co-ordinate Bench of this

¹ (2017) SCC OnLine Del 10003



Court in *Mohsina(supra)*, the application is allowed and the delay in filing the accompanying appeal is condoned.

6. The application is disposed of accordingly.

FAO 59/2020

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987, on behalf of the appellants/claimants seeking setting aside of the judgment dated 07.12.2017 passed by the Railway Claims Tribunal, Principal Bench (hereinafter referred to as the "Tribunal") in Claim Application No. OA(IIu) 09/2017.

2. The appellants, who were the claimants before the Tribunal, are the family members of *Tara Chand Sharma* (hereinafter referred to as the "deceased"). Appellant no. 1, *Priyanka Sharma* is the wife of the deceased, Appellant no. 2, *Kamla Devi* is the mother of the deceased, and Appellant no. 3, *Ram Nath* is the father of the deceased.

3. *Vide* the aforesaid judgment, the Tribunal rejected the appellants' claim for compensation of Rs. 4,00,000/- along with the interest at the rate of 18% p.a., from the date of the accident, in respect of the death of the deceased. The case of the appellants' was that on 27.02.2016, at around 10:00 PM, the deceased was travelling in the *Jhansi-Hazrat Nizamuddin Taj Express* (Train No. 12279) from *Agra Cantt* Railway Station to *Hazrat Nizamuddin* Railway Station. When the train was approaching *Okhla* Railway Station, the deceased, who was standing near the gate of the compartment, lost his balance due to a sudden jerk of the train and heavy



passenger load, and fell down from the moving train at Km No. 1525/3, opposite *Harkesh Nagar Colony*, Delhi. The deceased sustained fatal injuries and died on the spot.

4. The Tribunal dismissed the claim, on the ground that the body of the deceased remained unnoticed on a busy railway route and was recovered around 7:25 AM on 28.02.2016, i.e., more than nine hours after the alleged incident. The Tribunal further noted that there was a delay in handing over of the tickets to police by the co-passenger and relative of the deceased, *Bhagwan Prashar* (hereinafter referred to as "co-passenger"), as the same were produced on 28.02.2016 in the afternoon, i.e., one day after the said incident. Accordingly, it was held that the deceased was not a bona fide passenger. It was also held that there was no "untoward incident" in the present case.

5. Learned counsel for the appellants has contended that the Tribunal erred in dismissing the appellants' claim on the ground as to why two separate tickets were purchased when the co-passenger and the deceased were relatives. The delay in producing the said tickets before the police was also taken as a ground for dismissal. While assailing the reasoning *qua* delayed production of the ticket, learned counsel has relied upon the decision of this court rendered in *Charan Singh Vs. Union of India*², wherein the factum of delay of six days in producing the ticket, in the facts of the case, was held insufficient to cast doubt on the status of the deceased as a bona fide passenger. It was further contended that the delay in discovering the

² (2023) SCC OnLine Del 597



body of the deceased on the railway track was also wrongly considered by the Tribunal while dismissing the said claim, and in this regard, he relied upon the decisions of this Court rendered in *Smt. Rinavati & Ors. Vs. Union of India*³, and *Sh. Surendra Prasad Verma & Anr. Vs. Union of India*⁴. It was also submitted that the deceased was travelling in an unreserved compartment of the said train and, due to a sudden jerk, he fell from the train and died on the spot. It was further submitted that the DRM had concluded that the death of the deceased occurred on account of a fall from the train. Lastly, it was submitted that the co-passenger had corroborated the sequence of events stated in the appellants' claim, in his statement recorded at P.S. *Hazrat Nizamuddin* under section 174 Cr.P.C., *vide* DD No. 8A, on 28.02.2016. It was, therefore, prayed that since the present case involves an "untoward incident" and the deceased was also a bona fide passenger, the present appeal be allowed.

6. *Per contra*, learned counsel for the Respondent, while defending the impugned judgment, submitted that the Tribunal had rightly dismissed the appellants' claim. Justifying the Tribunal's findings, she submitted that the alleged incident did not constitute an "untoward incident", but was a case of negligence and self-inflicted injury. She submitted that there was no evidence to indicate that the train was overcrowded. It was argued that train doors are ordinarily kept closed and that it was highly unlikely for the deceased to be standing near an open door on a cold winter night. She further

³ (2025) SCC OnLine Del 2976

⁴ (2014) SCC OnLine Del 2917



submitted that the natural course of action for the co-passenger would have been to pull the emergency chain to stop the train; however, he failed to do so and instead went to *Janakpuri*. Lastly, it was submitted that no ticket was recovered during the *Jamatalashi*. Therefore, it was contended that the deceased was not a bona fide passenger, and, consequently, the appellants were not entitled to any compensation.

7. I have heard the learned counsels for the parties and perused the material on record.

8. Appellant No.1, in her evidence affidavit, reiterated the sequence of events and the facts relating to the unfortunate incident. She also deposed regarding the deceased's journey with the co-passenger, his possession of a journey ticket, the accident arising from his fall from the train, and the removal of the deceased from the spot to the hospital for the purpose of conducting the post-mortem examination.

9. A perusal of the statement of the co-passenger, in essence, indicates that he met the deceased, his relative, at *Agra* Railway Station and thereafter purchased two journey tickets, one for himself and one for the deceased. He further stated that the deceased was standing at the gate of the train compartment and that, as the train was approaching *Okhla* Railway Station, the deceased fell down due to the rush of passengers and a sudden jerk of the moving train. Further, the co-passenger explained that he proceeded to *Janakpuri* due to urgent work stated that he was in contact with one *Pappi Sharma* (the uncle of the deceased), whom he had informed about the incident. Subsequently, *Pappi Sharma* informed him the following day that



Tara Chand Sharma had succumbed to the injuries sustained in the fall from the train. Upon receiving this information, the co-passenger went to the police station to hand over the train ticket.

10. The DRM report concludes that the death of *Tara Chand Sharma* was on account of falling from the train, it notes that the said accident was due to his own negligence, and the railway department was not responsible for the same.

11. Learned counsel for the appellant has relied upon the above-cited decisions rendered by this Court, wherein the claims were allowed, and compensation was granted despite delay in recovery of the dead body and production of the ticket. It was contended that the said precedents squarely apply to the facts of the present case.

12. In the present case, the appellants produced the alleged journey tickets and Appellant No.1, in her affidavit, reiterated the factual narrative surrounding the incident. It was contended on behalf of the appellants that the deceased was travelling in the train and that his death was caused due to a fall therefrom. It was further argued that, in these circumstances, the burden shifted to the Railways to rebut the presumption of bona fide travel, which, according to the appellants, was not discharged. The Hon'ble Supreme Court reiterated the said principle qua initial burden and bona fide nature of the passenger, in *Rajni v. Union of India*⁵ while following the precedent previously set by its decisions in *Doli Rani Saha v. Union of*

⁵ (2025) SCC OnLine SC 2182



India⁶, and Union of India v. Rina Devi⁷.

13. It is a trite law that the provisions pertaining to compensation in the Railways Act, 1989 (hereinafter referred to as the “Railways Act”) constitute beneficial legislation and must, therefore, receive a liberal and purposive interpretation, rather than a narrow and technical one. It is further well settled that the liability under Section 124-A of the Railways Act is one of strict liability, and in such cases, no proof of fault or negligence on the part of the Railways is required (Ref: Union of India vs. Prabhakaran Vijaya Kumar and Ors.⁸). Therefore, in the present case, the DRM’s conclusion attributing negligence to the deceased, as well as the Respondent’s defence based on the same, are legally unsustainable in light of the principle of strict liability under Section 124-A of the Railways Act. Furthermore, the Tribunal’s findings with respect to the manner of purchasing tickets (i.e., separate vs. combined tickets for relatives) are hyper-technical in nature and thus, erroneous. Further, the co-passenger stated that he had to go to *Janakpuri* on account of some urgent work and was not aware of the death of *Tara Chand Sharma* until the following day. Upon being informed of the same, he went to the police station and submitted the journey ticket.

14. Since the respondent has failed to discharge its burden of proving that the deceased committed an act that falls within the strict exceptions of Section 124A of the Railways Act, this Court is of the considered opinion that the death of the deceased occurred as a result of an “untoward incident”

⁶ (2024) 9 SCC 656

⁷ (2019) 3 SCC 572

⁸ (2008) 9 SCC 527



within the meaning of Section 123(c)(2) of the Railways Act.

15. Therefore, in the light of the settled law, I find that the adverse inferences drawn by the Tribunal against the appellants are legally untenable. The findings of the Tribunal are based on conjectures and surmises, being bereft of evidence and in ignorance of the above-cited catena of precedents governing with the compensation under the Railways Act. Consequently, the impugned judgment dated 07.12.2017 is set aside.

16. In view of the aforesaid, the appellants are held to be entitled to compensation.

17. Since the accident in the present case occurred on 27.02.2016, i.e., prior to the revision of statutory compensation under the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990, whereby the compensation payable in cases of death was enhanced from Rs. 4,00,000/- to Rs. 8,00,000/-, this Court has applied the principle laid down by the Supreme Court in *Union of India v. Rina Devi*⁹ for determining the quantum of compensation. In terms thereof, the amount payable would be the higher of the following two: (i) the pre-revision compensation of Rs. 4,00,000/- along with interest @ 12% per annum from the date of the accident till realization, or (ii) the revised statutory compensation of Rs. 8,00,000/- along with interest @ 12% per annum from the date of accident till realization.

18. The respondent shall release higher of the two amounts towards compensation to the appellants within a period of four weeks.

⁹ Rina Devi (*supra*) note 7.



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

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 29, 2026

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