



2026:DHC:7317



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

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CNR No. DLHC010338742019

+ **FAO 335/2019**

RAJESH & ANR.

.....Appellants

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

versus

UNION OF INDIA

.....Respondent

Through: Mr. Mukul Singh, CGSC with
Mr. Aryan Dhaka and Ms. Priyal
Goswami, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

**CM APPL. 37055/2019 (Seeking condonation of delay of 728 days
in filing the appeal)**

1. By way of the present application, the applicants/ appellants seek condonation of delay of 728 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.



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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, this Court in “*Brijesh Kumar and Ors. vs. Union of India*”², allowed the application, and a delay of 1326 days was condoned, considering the financial hardship of the appellants and the surrounding circumstances.

4. The Railways Act, 1989 and the Railways Claims Tribunal Act, 1987 arises out of beneficial and social welfare legislation intended to provide compensation to victims of railway accidents and untoward incidents. In such matters, a liberal and justice-oriented approach is required while considering applications for condonation of delay so that genuine claims are not defeated on technical grounds.

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

6. In view of the aforesaid, the application is allowed and the delay of 728 days in filing the appeal is condoned.

7. The application is disposed of accordingly.

FAO 335/2019

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated

¹(2017) SCC OnLine Del 10003

²(2026) FAO 49/2022 (04.04.2026)



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18.04.2017 passed by the Railway Claims Tribunal, Principal Bench, Delhi (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/209/2016 titled as “Sh. Rajesh & Anr. vs. Union Of India”.

2. The brief facts of the case, as set out before the Tribunal, are that on 29.04.2016, one Sh. Rohit (hereinafter referred to as the “deceased”) was travelling from *Bijwasan* to *Gurgaon* along with his uncle, Sh. *Saheb Singh*. It was the case of the appellants that due to heavy rush, they boarded different compartments of the same train and, when the train started moving, a sudden jerk caused the deceased to fall from the moving train at *Bijwasan* Railway Station, resulting in his death on the spot. The journey ticket was allegedly lost in the incident. The body of the deceased was found severely mutilated.

3. *Vide* the impugned judgment, although the Tribunal held that the alleged incident qualified as an “untoward incident” as defined under the Railways Act, 1989 (hereinafter referred to as the “Act”), it however dismissed the claim application on the ground that the deceased was not *bona fide* passenger.

4. Learned counsel for the appellants assailed the finding of the Tribunal and contended that the deceased was travelling on a valid journey ticket purchased by his uncle, however, the ticket was lost in the incident. In this regard, reliance is placed on the well settled law that mere non-recovery of the ticket does not negate the *bonafide* status, and the burden lies on the Railways to prove otherwise.

5. *Per contra*, learned counsel for the respondent submits that the no valid journey ticket was recovered. The evidence of his uncle, Sh.



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Saheb Singh, is unreliable as his versions about purchase of tickets and boarding are inconsistent, and it is unnatural that he would ignore a chain-pulling immediately after departure and walk away without enquiring. It was further contended that the very presence of AW-2 in the train was doubtful and that his subsequent conduct in continuing with the journey is inconsistent. Lastly it was submitted that having no authority to travel, the Tribunal was right in holding that the deceased was not a *bona fide* passenger.

6. At the outset, it may be noted that the Tribunal has already returned a categorical finding that the deceased died in an “untoward incident” within the meaning of the Act. The Tribunal was of the opinion that a fall while attempting to board the train, whether from the platform side or the offside, qualifies as an untoward incident. The place and manner of the fall were not in serious dispute and since the said finding has not been challenged by the respondent, it has, therefore, attained finality.

7. The controversy in the present appeal is, therefore, confined to the issue as to whether the deceased was a *bona fide* passenger at the time of the incident.

8. A bare perusal of the record would show that although no ticket was either recovered or produced, however, it is well settled that mere non-recovery of a ticket cannot, by itself, be treated as conclusive against the claim of *bonafide* passenger status(Ref: “*Union of India v. Rina Devi*”³). This principle was reiterated by the Supreme Court in

³(2019) 3 SCC 572



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“*Lata v. Union of India*”⁴, which further clarified that the initial burden of the claimant can be discharged by way of an affidavit, and that the mere absence of a recovered ticket does not alter the deceased’s status as a *bona fide* passenger.

Applying the aforesaid principle to the facts of the present case, AW-2/Sh. *Saheb Singh*, uncle of the deceased, who accompanied the deceased on the journey, has specifically deposed that he purchased two valid tickets for the journey from *Bijwasan* to *Gurgaon* and that he and the deceased boarded the train together. His testimony remains consistent on the material aspects and no material contradiction has been brought out in his cross-examination so as to render his version unreliable. The testimony of AW-1/Sh. *Rajesh*, father of the deceased also lends further corroboration to the aforesaid, as he in his affidavit, has stated that the deceased was travelling from *Bijwasan* to *Gurgaon*, after purchasing valid journey tickets, with his uncle(AW-2) and that, due to the sudden jerk of the train, he fell from the moving train and sustained fatal injuries.

9. This Court is of the considered opinion that the merely because AW-2 continued his journey after the train was pulled cannot, by itself, be regarded as unnatural or sufficient to discredit his testimony. Having been separated from the deceased due to the rush in the train and being unaware of the exact circumstances of his fall, it is plausible that AW-2 continued his journey towards *Gurgaon* and learnt of the incident only thereafter. Accordingly, any minor discrepancies in his evidence do not detract from an otherwise reliable testimony.

⁴2026 SCC OnLine SC 1350



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10. Accordingly, in view of the well settled law, the consistent testimonies of the appellant witnesses and the foregoing discussion, this Court is of the view that the testimony of AW-2 regarding the purchase of the journey ticket, coupled with the evidence of AW-1, establishes the deceased's *bona fide* passenger status.

11. 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 18.09.2026.

12. The appeal is allowed in the above terms.

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 31, 2026

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