

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

FAO 109/2022

Date of Decision : 18.04.2023

IN THE MATTER OF:

SMT KIRAN BALA & ANR. Appellants
Through: Mr. Ankur Mohan, Advocate

Versus

UNION OF INDIA Respondent
Through: Ms. Anurima Dwivedi, CGSC with
Mr. Aakash Patha and Ms. Pinky P., Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

CM APPL. 20959/2022 (Delay)

1. The present application has been filed under Section 5 of the Limitation Act read with Section 151 CPC on behalf of the appellants seeking condonation of delay of 83 days in filing the appeal.
2. Learned counsel for the respondent fairly does not oppose the prayer made in the present application.
3. For the reasons stated in the application, the same is allowed and the delay of 83 days in filing the appeal is condoned.
4. The application is disposed of.

FAO 109/2022

1. By way of present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter, referred to as '*the Act*'), the appellants/claimants have assailed the order dated 26.10.2021 passed by the Railway Claims Tribunal, Principal Bench, Delhi in Case No. O.A./II(u)/DLI/290/2020 whereby the claim petition filed on their behalf was dismissed.
2. The appellants contend that the Tribunal while dismissing the claim petition erred in not appreciating that the deceased *Ashok Kumar Sharma* was a holder of Monthly Season Ticket (MST) which entitled him to travel from Yamuna Nagar Jagadhari to Sarsawa and back.
3. Learned CGSC for the respondent while contesting the appeal has defended the impugned judgment. She submits that the body of the deceased was found on the opposite track which comes from Sarsawa to Yamuna Nagar Jagadhari.
4. The facts in a nutshell are that in the claim petition, it was claimed that on 28.09.2019, the deceased undertook a train journey from Yamuna Nagar Jagadhari to Sarsawa and when the train reached near Yamuna Bridge, Pole No.202/33-35, he accidentally fell from the train.
5. The information about the incident was received on 29.09.2019 through telephone from Sahajhanpur Chowki. As per the DRM Report submitted before the Tribunal, the incident was reported in the morning of 29.09.2019 by one Keyman Tirthpal Singh to Station Master Kalanaur

Mohan Singh at about 6:30 A.M. The body of the deceased was found hanging below the Up Line as his trouser was caught up with a sleeper.

6. During the proceedings before the Tribunal, the MST issued in the name of the deceased being MST No.04251989 was not only recovered from the person of the deceased but was also verified to be validly issued and subsisting on the date of the accident. The respondent has not disputed that the accident took place on the railway track on which the deceased was authorized to travel by virtue of his said Monthly Season Ticket (MST) pass. The sole contention raised before the Tribunal as well as in the present proceedings is that the body of the deceased was found near Up Line. Concededly the Tribunal has rejected the claim petition only on the aforesaid aspect.

7. In the considered opinion of this Court, the Tribunal failed to appreciate that the Monthly Season Ticket entitled the deceased to not only travel from Yamuna Nagar Jagadhari to Sarsawa but also from Sarsawa to Yamuna Nagar Jagadhari. Thus the body being found on the UP Line i.e., on the Sarsawa to Yamuna Nagar Jagadhari railway track, is immaterial.

8. Accordingly, the present appeal succeeds and the impugned order dated 26.10.2021 is set aside. Consequently, the matter is remanded back to the Tribunal for awarding the amount of compensation in terms of the Act. For which purpose, the matter shall be listed at the first instance before the Tribunal on 08.05.2023. Let the compensation amount be released to the appellants/claimants within two weeks thereafter.

9. The appeal is disposed of in the above terms.

10. The Registry shall communicate a copy of this judgment forthwith to the concerned Tribunal.

(MANOJ KUMAR OHRI)
JUDGE

APRIL 18, 2023

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