



2026:DHC:1810



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

% Reserved on : 04.02.2026
Pronounced on : 27.02.2026
Uploaded on : 27.02.2026

+ **FAO 31/2026**

SHIV KUMAR

.....Appellant

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

versus

UNION OF INDIA

.....Respondent

Through: Mr. Farman Ali, CGSC for UOI with
Mr. Rahul Bhajkar, GP and Ms. Usha
Jamwal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL 7614/2026 (Exemptions)

1. Allowed subject to all just exceptions.
2. The application is disposed of accordingly.

CM APPL 7613/2026 (Seeking condonation of delay of 65 days in filing the present appeal)

1. By way of the present application, the applicant/appellant seeks condonation of a delay of 65 days in filing the present appeal.
2. Learned counsel for the appellant submits that after the passing of the judgment/order dated 04.09.2025 (hereinafter referred to as the "impugned

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judgment”), the appellants were unable to file the appeal within the prescribed period. It is submitted that the delay is *bona fide* and neither intentional nor deliberate. It is further submitted that the appellants belong to an economically weaker section and, due to paucity of funds, were unable to obtain timely legal advice.

3. Learned counsel for the respondent, on the other hand, opposes the present application.

4. It is noteworthy that in Mohsina v. Union of India¹, 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 appellants/claimants.

5. 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 appellant has been able to show sufficient cause for the delay in filing the present appeal.

6. Accordingly, the application is allowed and the delay of 65 days in filing the present appeal is condoned.

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

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1. The present appeal is filed under Section 23 of the Railway Claims Tribunal Act, 1987, assailing the judgment dated 04.09.2025 passed by the Railway Claims Tribunal, Delhi, in Case No. OA(IIu) No. 106/2025 titled as, “Shiv Kumar Maheshwari v. Union of India”.

¹ (2017) SCC OnLine Del 10003.



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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 accident an “untoward incident” as defined under the Railways Act, 1989 (hereinafter referred to as “Act”).

3. The brief facts of the case, as stated in the claim application, are that on 11.10.2024, one *Yash Maheshwari* (hereinafter referred to as the “deceased”) was travelling from *Ghaziabad* to *Aligarh* on the strength of a valid mail/express railway ticket. On the intervening night of 11/12.10.2024, when the train reached near *Mehrawal* Railway Station, the deceased, who was standing near the gate of the compartment, fell from the train and died. Thereafter, he was taken to Government Hospital, *Aligarh*, where the post-mortem was conducted.

4. The learned counsel for the appellant assails the impugned judgment by contending that the deceased was a bona fide passenger and the alleged accident took place as a result of an accidental fall from train, thereby constituting an “untoward incident” under the Act. It is submitted that a mere non-recovery of the ticket is not fatal to the bona fide status of the deceased when the affidavit of AW-1, *Shiv Kumar*, the father of the deceased, categorically stated that the deceased was travelling after purchasing a valid journey ticket, which is sufficient to discharge the initial burden of proof cast upon them. It is further submitted that the injuries in question, as recorded in the post mortem report, are commensurate with the injuries sustained in such incidents. It is also submitted that the conclusion arrived at by the Tribunal

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that the deceased had been run-over by a train is based on surmises and conjectures, and overlooks the beneficial object of the legislation involved in the instant case. Reliance in this regard is placed on the decision of Supreme Court in Rajni and another v. Union of India².

5. *Per contra*, learned counsel for the respondent supports the impugned judgment by reiterating that neither the deceased was a bona fide passenger nor the alleged incident was an “untoward incident”. Reliance in this regard is placed on the DRM report, Station Master Memo, and oral accounts of the eye-witness, Keyman, *Ajit Kumar*, to contend that the accident had taken place on account of a run over.

6. This Court has heard the arguments addressed on behalf of both parties and has perused the material on record.

7. In the backdrop of the above facts, the two issues that arise for consideration before this Court are whether the deceased was a bona fide passenger of the train in question and whether the alleged accident was an “untoward incident” as defined under the Act.

8. Concededly, no journey ticket was recovered in the present case. Before the Tribunal, the appellant examined the father of the deceased, *Shiv Kumar*, as AW-1. A reading of the deposition would show that the witness was not accompanying the deceased at the time of travel undertaken and thus falls short of discharging the initial burden of stating material facts in terms of decision in Rina Devi³. In other words, AW-1 did not witness the

² 2025 INSC 1201.

³ (2019) 3 SCC 572



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deceased purchasing a journey ticket. The testimony of AW-1 is evidently hearsay in nature and pertains to the usual weekend visits of the deceased to his home by train. In view thereof, this Court observes that the Tribunal was justified in holding that the *bona fide* status of the deceased was not proved.

9. Having concluded so, the second issue does not require to be gone into. Although on appreciation of facts, this Court finds that the body of deceased was discovered by the keyman *Ajit Kumar*, lying between *Aligarh* and *Mehrawal* Stations at KM No. 1331/24 of the down and up lines, who subsequently informed the railway authorities. The Station Master Memo and the TSR recorded thereafter are based on his narration and state that the incident was a case of MRO. There is no evidence in the form of statement of any loco-pilot to the effect that the deceased was run over. In light of the same, the inference drawn by the Tribunal that the alleged incident was not an “untoward incident” is legally unsustainable.

10. Considering the foregoing discussion and in view of the conclusion that the deceased was not a Bonafide passenger, the appeal is dismissed.

11. The present appeal stands disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

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