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

\# **CNR No. DLHC010172482019**

\+ FAO 154/2019 &CM APPL. 16056/2019

SHARMILA & ORS .....Appellant

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

versus

UNION OF INDIA .....Respondent

Through: Mr. Ripudaman Bhardwaj, CGSC, Mr. Kushagra Kumar, Amit Kumar Rana and Mr. Anmol Ghai, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

O R D E R

% **29.10.2026**

CM APPL. 16056/2019 (condonation of delay)

1. By way of the present application, the applicants/appellants seek condonation of delay of 225 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.

3. At this stage, it is pertinent to note 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

[1](2017) SCC OnLine Del 10003

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appellant/ claimant. Similarly, in "*Reshma vs. Union of India*"[2],this Court condoned a delay of 598 days in filing the appeal, keeping in view the beneficial nature of the legislation and the liberal approach required in such matters.

4. Considering the peculiar facts and circumstances of the present case 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.

5. In view of the aforesaid, the application is allowed and the delay of 225 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 154/2019

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987, the appellants seek to assail the judgment dated 04.05.2018 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter, the "Tribunal") in OA (IIu) No. 10/2017, whereby the claim application filed by the appellants seeking compensation on account of the death of late Sh. *Ballu @ Jitender* (hereinafter, the "deceased") came to be dismissed.

2. The claim application was filed by the appellants in context of an accident suffered by the deceased, who was stated to be travelling from *Sultanpur Kaliawas* Halt to *Delhi* Cantt. Railway Station. His brother-in-law, Sh. *Sant Ram*, had accompanied him to the railway station and assisted him in purchasing a journey ticket. It was alleged that when the train reached *Delhi*Cantt. Railway Station, the deceased came near the gate to

[2] (2026) SCC OnLine Del 2704

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alight, but fell from the moving train and sustained fatal injuries. The journey ticket, which he had kept in his bag, was stated to have been lost in the incident.

3. The Tribunal, while considering the issues concerning the deceased being a *bona fide* passenger, the occurrence of an "untoward incident" and the applicability of the exception under Section 124-A of the Railways Act, 1989 (hereinafter, the "Act"), dismissed the claim. It observed that no journey ticket had been recovered from the spot and also took into consideration the Forensic Science Laboratory report dated 14.10.2016, which recorded the presence of ethyl alcohol in the deceased's blood at 58.6 mg per 100 ml.

4. Learned counsel for the appellants submits that the Tribunal failed to consider the testimony of AW-1/Sh. *Sant Ram*, who had categorically deposed that he had assisted the deceased in purchasing the journey ticket and had seen him board the train. It is contended that non-recovery of the ticket cannot, by itself, lead to the conclusion that the deceased was not a *bona fide* passenger. It is further submitted that the DRM report and the statements of the railway officials establish that the deceased had fallen from the train. On the question of intoxication, learned counsel submits that the respondent had not specifically pleaded the statutory exception under proviso (d) to Section 124-A. Mere presence of ethyl alcohol in the blood, it is argued, cannot be equated with a state of intoxication, particularly when the Act does not prescribe any permissible concentration of alcohol.

5. *Per contra*, learned counsel for the respondent refutes the aforesaid submissions and submits that the FSL report conclusively records the presence of ethyl alcohol in the deceased's blood. It is further pointed out

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that the Tribunal had also directed the Investigating Officer to obtain the opinion of the doctor who conducted the post-mortem examination. The respondent submits that the material on record, when considered in its entirety, attracts the exception under proviso (d) to Section 124-A of the Act.

6. Section 124-A of the Act provides for compensation in cases of death or injury resulting from an "untoward incident", irrespective of any wrongful act, neglect or default on the part of the Railway Administration. The liability, however, is subject to the exceptions contained in the proviso. Clause (d) thereof excludes liability where the death or injury is due to an act committed by the victim in a state of intoxication or insanity.

7. At the outset, it may be noticed that the DRM report records that the deceased fell while attempting to de-board the moving train at Delhi Cantt. Railway Station. Further, AW-1/Sh. *Sant Ram*deposed that he had assisted the deceased in purchasing the journey ticket. In view of the principles laid down by the Supreme Court in "*Union of India v. Rina Devi*"[3], non-recovery of a journey ticket, by itself, would not be sufficient to reject the claim. The evidence regarding the journey and the fall, therefore, has to be assessed in its entirety. However, even proceeding on the basis that the deceased was a *bona fide* passenger, the appellants must justify the statutory exception relied upon by the respondent.

8. In this regard, the FSL report dated 14.10.2016 bearing No. FSL-2016/C-6505is of significance. The report records the presence of ethyl alcohol in the blood sample of the deceased to the extent of 58.6 mg per 100 ml. This report was filed by the appellants themselves and upon placing the

[3](2019) 3 SCC 572

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report on record, they sought a further opinion from the doctor who had conducted the post-mortem examination. The subsequent opinion was obtained through the Investigating Officer.

9. The Act does not define the expression "state of intoxication". However, in the absence of any such definition, the permissible limit of 30 mg of alcohol per 100 ml of blood prescribed under Section 185 of the Motor Vehicles Act, 1988, can be taken as a relevant reference for appreciating the extent of alcohol present in the blood. In the present case, the alcohol content was found to be 58.6 mg per 100 ml of blood, which is substantially higher than the aforesaid limit.

10. It is also pertinent to note that in "*Yogesh Kumar Jaiswal & Ors. v. Union of India*"[4], this Court considered the applicability of proviso (d) to Section 124-A of the Act in the context of the alcohol content detected in the deceased's blood. The Court took into account the alcohol concentration reflected in the FSL report, along with the circumstances of the incident, while dismissing the claim.

11. In the present case as well, the FSL report establishes the presence of ethyl alcohol in the deceased's blood at 58.6 mg per 100 ml. This circumstance, considered along with the fact that the deceased attempted to alight from a moving train, leads this Court to hold that he was in a state of intoxication at the time of the incident. The case, therefore, falls within the exception contained in proviso (d) to Section 124-A of the Act. Consequently, the Railway Administration cannot be fastened with liability to pay compensation.

12. In view of the aforesaid, this Court finds no merit in the contentions

[4]FAO 192/2024, decided on 22.05.2026

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put forth by the appellants as well as in the averments made in the appeal.

13. The impugned judgment does not warrant any interference and the appeal is accordingly dismissed.

MANOJ KUMAR OHRI, J

OCTOBER 29, 2026
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