



2026:DHC:1395



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

% Reserved on : 14.01.2026
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+ **FAO 153/2019**

KALLU & ANRAppellants

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

versus

UNION OF INDIARespondent

Through: Ms. Amrita Prakash, CGSC with Mr.
Vishal Ashwani Mehta and Ms. Anju
Kaushik Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 16046/2019 (Seeking condonation of delay of 237 days in filing the present appeal)

1. By way of the present application, the applicants/appellants seek condonation of delay of 237 days in filing of the accompanying appeal.
2. Learned counsel for the appellants submits that after the passing of the judgment/order dated 12.04.2018 (hereinafter referred to as “impugned judgment”), the appellants were unable to file the appeal within the

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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 weak section and due to paucity of funds, could not obtain timely legal advice.

3. It is worthwhile to note that in “Mohsina v. 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 status of the appellants/claimants.

4. Considering the facts and circumstances of the present case, and guided by the principle laid down in the aforementioned decision 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 caused in filing of the accompanying appeal.

5. Accordingly, the application is allowed and the delay of 237 days in filing is condoned.

6. The application is disposed of in 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/order dated 12.04.2018 passed by the Railway Claims Tribunal, Principal Bench, Delhi, in Case No. OA (Ilu) No. 96/2017 titled as ‘Shri Kallu & Anr. v. Union of India’.

¹ (2017) SCC OnLine Del 10003



2. Vide the aforesaid judgment, the Tribunal dismissed the claim application of the appellants'/claimants' on the grounds that the deceased was not proved to be a bona fide passenger and that the alleged incident was not an "untoward incident" as defined under Section 123(c)(2) of the Railways Act, 1987 (hereinafter referred to as "Act").

3. Briefly stated, the facts of the case, as set out in the claim application are that on 25.08.2016, one *Ishwar Deen* (hereinafter referred to as "deceased") was traveling with his uncle, *Bhaiya Ram* from *Rohtak* to *Shakur Basti*, on the strength of valid second-class journey tickets bearing No.(s) 56113432 and 56113433, worth Rs.15/- each. While the deceased and his uncle were trying to de-board the train at *Shakur Basti* Railway Station, the train suddenly jerked, as a result of which the deceased fell down and died on the spot, while *Bhaiya Ram* sustained injuries. Thereafter, the deceased was removed to Aruna Asaf Ali Hospital, where his post-mortem was conducted, and *Bhaiya Ram* was taken to Acharya Bhikshu Hospital.

4. Learned counsel for the appellants assails the impugned judgement by contending *firstly*, that the deceased was a bona fide passenger and *secondly*, that the alleged incident qualifies as an "untoward incident". It is submitted that the tickets in question were valid, having been purchased for Rs.15/- each, and had been duly handed over by *Bhaiya Ram* to the investigation agency, which was subsequently verified. It is further submitted that the mere fact that the body of the deceased has been found beyond the intended destination station does not affect his bona fide passenger status. *Lastly*, it is



submitted that the body of the deceased was proved to have been found lying at KM No.9/1 Down line, instead of KM No.9/1 Up line, which falls on the track line followed by the train in question. In this regard, it is submitted that the statements of *Krishan Kumar* and *Amit Kharkhodia*, and the Station Master's Memo, alleging the cause of incident to be a run over, are not credible inasmuch as they were not proved before the Tribunal.

5. *Per contra*, learned counsel for the respondent supports the impugned order by reiterating that the deceased was not a bona fide passenger and the alleged incident was not an “untoward incident” as defined under the Act. Reliance in this regard is placed on the oral accounts of *Amit Kharkhodia* and *Krishan Kumar*, Station Master Memo and the DRM Report to contend that the death in question was caused on account of a run-over by train no.64915, running from *Delhi* to *Rohtak* on Up line, where the body of the deceased came to be found.

6. In the backdrop of the above facts, the Tribunal framed two issues for adjudication, namely, whether the deceased was a bona fide passenger at the relevant time, and whether the alleged incident amounts to an “untoward incident” as defined under the Act.

7. As regards the first issue, it is noted that while two journey tickets bearing no.(s) 56113432 and 56113433, each worth Rs.15/- from *Rohtak* to *Shakur Basti* had been produced by the appellants, the same were verified. Even if the accompanying person, *Bhaiya Ram*, was not examined before the



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Tribunal, the verification of the ticket itself is sufficient to draw the inference that the deceased was a bona fide passenger.

8. Insofar as the second issue regarding whether the alleged incident was an “untoward incident” is concerned, this Court finds that the appellant has claimed that the deceased and his uncle could not deboard the train at the destination point and fell from moving train. Pertinently, the location of the body of the deceased was found on the KM No. 9/1 Up line. Further, *Amit Kharkhodia*, who was working as a *Khallasi* in Signal and Telecommunication, in his statement had clearly stated that he was an eye-witness to the alleged incident, having seen two persons, including the deceased, walking close to the railway track of the Up line towards the *Shakur Basti* Railway Station from *Punjabi Bagh* flyover side and being run over by train No.64915, which runs from *Delhi* to *Rohtak*, i.e. on the Up line as per the Station Working Rules and in an opposite direction to the train in question. He further stated that upon noticing the same, he immediately shouted and informed *Krishan Kumar*, East Cabin man, who corroborated his statement, finally leading to registration of the Station Master Memo, which records that one passenger was run over by Train No. 64915.

Notably, Train No.64915 (*Delhi - Rohtak* MEMU) by which the deceased was hit, is a train which runs from *Delhi* to *Rohtak* and hence cannot be the train by which the deceased and his uncle had undertaken the journey from *Rohtak* to *Shakur Basti*. Both the trains run in the opposite direction.



9. Furthermore, the report of the Inspector In charge also records that the alleged incident had occurred near *Punjabi Bagh* flyover, which is ahead of *Shakur Basti* Railway Station towards *Delhi*. This reveals, as noted by the Tribunal, that the deceased and his uncle had already completed their journey from *Rohtak* upto *Shakur Basti* and while they were walking close to the Up Line Railway track, they got hit and were run over by Train No. 64915, coming from *Delhi* side towards *Shakur Basti* Railway Station. A perusal of the *Naksha Moka* placed on record also corroborates the oral accounts of the said witnesses. Likewise, the DRM report, premised on the said material, also concludes that the appellants' version was found to be inconsistent with the spot of the incident, as *Shakur Basti* Railway Station is located at Km. No. 10/08 whereas the occurrence took place at Km. No. 09/01. The investigation, therefore, concluded that the deceased was hit by the train due to his own negligence while crossing the railway line.

10. This Court concurs with the Tribunal and finds no perversity in its reasoning. The version in claim application stands belied and countered by the narration of eye witness and the contemporaneous documents on record. The uncle injured in the incident, who could have countered the eye witness account, was not even examined. The place of recovery was more than 1.5 kms away from the destination station towards the *Delhi* end, which renders the appellants' version, in the facts of the case, inherently improbable.



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11. The material produced above, when considered cumulatively, is sufficient to negate the appellants' case that the death was caused by an accidental fall from train.

12. Considering the foregoing discussion, this Court finds no infirmity in the impugned judgment. Accordingly, the appeal is dismissed.

MANOJ KUMAR OHRI
(JUDGE)

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