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

% Reserved on : 09.10.2026
Pronounced on : 20.11.2026
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 # CNR No. DLHC010338492020

+ FAO 235/2020

KAUSHALYA DEVI .....Appellant

Through: Mr.Yogesh Swaroop, Ms. Avni Kumar, Ms. Shahnoor Fatima, Ms. Shivangi Singh and Mr. DivyanshBaveja, Advocates

versus

UNION OF INDIA .....Respondent

Through: Mr.Vedansh Anand, SPC with Mr. Kush Garg, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 32498/2020 (Seeking condonation of delay of 301 days in filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 301 days in filing the appeal.

2. Learned counsel for the appellants submitted that the appellant, is a poor and illiterate woman, and belongs to an economically weaker section and, due to paucity of funds, was unable to get in contact with a counsel and obtain timely legal advice.

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3. At this stage, 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.

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 301 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 235/2020

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 09.10.2019 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/228/2018, whereby the claim application filed by the appellantseeking compensation on account of the death of her son, *Dheeraj Bisht* (hereinafter referred to as the "deceased"), came to be dismissed.

2. The case set up by the appellant before the Tribunal was that on 09.08.2018, the deceased was travelling from *Shivaji* Bridge Railway Station to *Ghaziabad* Junction by a local train after purchasing a valid journey ticket. Owing to heavy rush in the compartment, when the train was passing near the *Anand Vihar* railway line, he accidentally fell from the moving train and sustained fatal injuries. His dead body was subsequently found in the

[1](2017) SCC OnLine Del 10003

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bushes adjoining the railway track on 12.08.2018. During the inquest proceedings, a purse containing a railway journey ticket, Aadhaar Card, Voter ID Card and other articles was recovered from his person.

3. *Vide* the impugned judgment, the Tribunal dismissed the claim, principally relying upon the CDR and TSR. Since the CDR reflected an outgoing SMS at 17:18 hours from the tower location at *Jagriti* Enclave, the Tribunal inferred that the deceased could not have fallen from the said train. It also drew an adverse inference from the condition of the body, the place of its recovery and the condition of the articles found in the purse.

4. Learned counsel for the appellant contends that the Tribunal failed to take into account that the journey ticket bearing No. UAC26044154 was recovered from the deceased and its issuance from *Shivaji* Bridge Railway Station at 15:59 hours on 09.08.2018 was duly verified by the railway authorities. It is further submitted that the Tribunal wrongly treated the outgoing SMS recorded at 17:18 hours as proof that the deceased was alive at that time, despite the fact that his mobile phone was never recovered. The location and condition of the dead body, according to learned counsel, could not have been treated as conclusive proof against an accidental fall.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment and submits that the CDR, when read with the TSR, contradicts the appellant's version. Reliance is also placed upon the post-mortem report and the circumstances in which the dead body was recovered to contend that the death was not attributable to an "untoward incident" within the meaning of the Railways Act, 1989 (hereinafter referred to as the "Act").

6. This Court has heard learned counsel for the parties and perused the record.

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7. Insofar as the question whether the deceased was travelling as a *bona fide* passenger is concerned, the railway journey ticket was recovered from the purse of the deceased during the inquest proceedings. The seizure memo records the recovery of ticket No. UAC26044154 for the journey from *Shivaji* Bridge to *Ghaziabad*. Its issuance was also verified by the railway authorities, who confirmed that it had been issued from counter No. 5 of *Shivaji* Bridge booking office at 15:59 hours on 09.08.2018. The Tribunal, however, doubted the ticket on the ground that it was torn and blood-stained, whereas the other articles recovered from the same purse were not similarly stained.

8. In "*Union of India v. Rina Devi*"[2], the Supreme Court held that the initial burden of establishing *bona fide* passenger status rests upon the claimant, which can be discharged by placing the relevant facts on record, whereafter the burden shifts to the Railways to rebut the claim. The aforesaid principle has also been reiterated in "*Lata v. Union of India*"[3]and "*SukhabhaiNanjibhai Makwana &Anr. v. Union of India*"[4].

Applying the same to the present case, the recovery of the verified journey ticket sufficiently establishes that the deceased was travelling as a *bona fide* passenger. The mere fact that the name or number of the train was not mentioned in the claim application cannot, by itself, be treated as sufficient to disbelieve the claim of *bona fide* passenger status. Equally, the fact that the ticket was found in a torn and blood-stained condition would notdiscredit its recovery or its genuineness. The same has to be appreciated along with the other circumstances brought on record.

[2](2019) 3 SCC 572
[3]2026 INSC 715
[4]2026 INSC 1056

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9. The next question is whether the death of the deceased occurred in an "untoward incident" within the meaning of Section 123(c)(2) of the Act. The Tribunal has primarily relied upon the CDR showing an outgoing SMS at 17:18 hours from a tower location at *Jagriti* Enclave. It correlated the said entry with the TSR, which showed that Train No. 64032 had departed from Shivaji Bridge at 16:55 hours and crossed the 'B' panel at 17:11 hours. On this basis, it concluded that the deceased could not have fallen from the train as it had already crossed the relevant section before the last recorded mobile transaction. The aforesaid reasoning overlooks an important circumstance. The mobile phone of the deceased was never recovered. The CDR establishes that an outgoing SMS was recorded against his mobile number at 17:18 hours, however, it does not establish that the transaction was necessarily made by the deceased himself. The Tribunal rejected the possibility of the mobile phone having been taken away by another person on the ground that the body was found at a secluded location. In the absence of recovery of the handset, the identity of the person who operated it could not have been conclusively determined. Consequently, the last recorded transaction could not, by itself, be treated as proof that the deceased was alive and personally using his phone at 17:18 hours.

10. As regards the TSR, the fact that Train No. 64032 was the first local train after the purchase of the ticket and had crossed the 'B' panel at 17:11 hours is not in dispute. However, the conclusion that the deceased could not have fallen from a train rests upon the further assumption that the outgoing SMS at 17:18 hours was necessarily sent by him. Once the said assumption is found to be unsupported by conclusive evidence, the correlation drawn between the CDR and TSR cannot, by itself, rule out the possibility of an

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accidental fall. The claim application also did not specify any particular train number, and the Tribunal could not have treated the movement of the first available train as conclusive of the actual train boarded by the deceased.

11. The Tribunal has further drawn an adverse inference from the fact that the body was found in bushes, approximately 2-3 metres away from the railway track, in a decomposed and mutilated condition. The post-mortem report records extensive crush and lacerated injuries, however, the said report does not establish that the injuries were caused by an act of foul play or any occurrence unconnected with railway travel. The respondent's suggestion that the deceased was murdered and his body subsequently thrown near the railway line is also not supported by any independent material. The nature of the injuries and the condition of the body, therefore, could not have been treated as sufficient to exclude the possibility of an accidental fall.

12. The Tribunal also considered it improbable that the body would have remained unnoticed between 09.08.2018 and 12.08.2018, particularly in view of the regular patrolling of the railway track. However, the body was found in bushes at a secluded location and there is no material to establish that it was necessarily visible to the railway staff or the Loco Pilots of passing trains. The mere fact that no earlier report was made by the railway staff cannot establish that the deceased had not fallen from a moving train. SI *Manish Kumar*, the Investigating Officer, was also examined as CW-1 and deposed regarding the recovery of the body, the articles found on his person and the investigation conducted.

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13. In "*Union of India v. Prabhakaran Vijaya Kumar*"[5], the Supreme Court reiterated that Section 124-A of the Act embodies the principle of no-fault liability and is intended to provide compensation in respect of "untoward incidents". The evidence in the present case, when considered on the touchstone of preponderance of probabilities, supports the appellant's case of an accidental fall.

14. 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 07.12.2026.

15. The appeal is allowed and disposed of in the above terms.

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

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 20, 2026
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[5](2008) 9 SCC 527

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