



2026:DHC:6864



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

% Reserved on : 04.08.2026
Pronounced on : 18.08.2026
Uploaded on : 18.08.2026

+ FAO 243/2026

SAVITA DEVI & ORS.Appellants
Through: Ms. Amrita Singh, Advocate

versus

UNION OF INDIA THROUGH GENERAL MANAGER, NORTH
CENTRAL RAILWAYRespondent
Through: Mr. Vikram Jetly, CGSC for
UIO with Ms. Shreya Jetly,
Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 50808/2026 (Seeking condonation of delay of 883 days in filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 883 days in filing the appeal.
2. Learned counsel for the appellants submitted that the appellants, being residents of Village and Post *Samaspur, Khurja*, District *Bulandshahar (UttarPradesh)* 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. Additionally, the counsel of the applicant was contesting in the BCUP elections and was busy with the same,



2026:DHC:6864



hence, the appeal could not be filed in the prescribed time period.

3. 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. Similarly, this Court in “*Brijesh Kumar and Ors. vs. Union of India*”², allowed the application, and a delay of 1326 days was condoned, considering the financial hardship of the appellants and the surrounding circumstances.

4. The Railways Act, 1989 and the Railways Claims Tribunal Act, 1987 arises out of beneficial and social welfare legislation intended to provide compensation to victims of railway accidents and untoward incidents. In such matters, a liberal and justice-oriented approach is required while considering applications for condonation of delay so that genuine claims are not defeated on technical grounds.

5. Considering the peculiar facts and circumstances of the present case, and guided by the principle laid down in the aforesaid decisions, 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.

6. In view of the aforesaid, the application is allowed and the delay of 883 days in filing the appeal is condoned.

7. The application is disposed of accordingly.

¹(2017) SCC OnLine Del 10003

²(2026) FAO 49/2022 (04.04.2026)



2026:DHC:6864



FAO 243/2026

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 16.11.2023 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the “Tribunal”) in Claim Application No. OA/II(u)/ DLI/4/2021.
2. Briefly stated, the case of the appellants is that on 24.02.2019, one *Mahesh Kumar* (hereinafter referred to as the “deceased”) was travelling from *Sikandarpur* to *Aligarh* by an EMU train. It was averred that during the course of the aforesaid travel, he accidentally fell therefrom and sustained fatal injuries. His dead body was thereafter found alongside the railway track.
3. The Tribunal, vide the impugned judgment, held that the deceased was not proved to be a *bona fide* passenger and that his death was not shown to have resulted from an “untoward incident” as defined in the Railways Act, 1989 (hereinafter referred to as the “Act”).
4. Learned counsel for the appellants assails the impugned judgment by submitting that the Tribunal failed to appreciate the evidence of AW-2/*Danveer*, who had accompanied the deceased to *Sikandarpur* Railway Station and witnessed him board the train. It is further submitted that the *panchnama* itself records recovery of a blood-stained railway ticket from the deceased. Learned counsel submits that the Tribunal also erred in relying upon the subsequent RPF inquiry, particularly when AW-3/*Ram Babu*, who was relied upon as an eyewitness, denied the version attributed to him during



2026:DHC:6864



the inquiry and stated before the Tribunal that he had rather seen the deceased fall from the train.

5. *Per contra*, learned counsel for the respondent supports the impugned judgment. It is submitted that the Railway records did not show any EMU operating between *Sikandarpur* and *Khurja* after about 11:30 a.m., whereas the incident was reported around 2:00-2:30 p.m. Reliance has also been placed upon the RPF inquiry report, according to which the deceased was seen walking between the railway tracks and was run over by an unknown train.

6. This Court has heard the learned counsels for the parties and perused the material on record. Considering the peculiar facts and circumstances of the present case, the issues as to whether the deceased was a *bona fide* passenger and whether his death occurred in an “untoward incident” are being considered together, as both the issues are substantially interlinked.

7. A perusal of the proceedings would show that AW-2/*Danveer*, brother of the deceased, specifically deposed that he had accompanied the deceased to *Sikandarpur* Railway Station, witnessed him board the EMU train. His evidence, therefore, is not based on information received after the incident but on what he claims to have personally witnessed. This version also receives some corroboration from the *panchnama*, which records that a railway journey ticket smeared with blood was recovered from the person of the deceased.



2026:DHC:6864



8. The Supreme Court in Union of India v. Rina Devi³, (2019) 3 SCC 572, has held that mere absence of a ticket does not, by itself, negative the status of a *bona fide* passenger and that the initial burden may be discharged by the claimant through an affidavit and the surrounding circumstances, whereafter the burden shifts to the Railways. The principle has recently been reiterated in Lata v. Union of India⁴. In the present case, the appellants have placed before the Tribunal the specific testimony of a person who claims to have witnessed the purchase and boarding of the train, apart from the *panchnama* recording recovery of a blood-stained railway ticket from the deceased. The discrepancy regarding the subsequent non-production of the physical ticket, therefore, cannot by themselves be treated as sufficient to completely discard the appellants' version.

9. The question of the manner in which the deceased met his death is equally connected with the aforesaid evidence. The Railway seeks to establish that the deceased was not travelling by train but was walking between the railway tracks and was thereafter "run over" by an unknown train. For this purpose, substantial reliance has been placed upon the statement attributed to AW-3/Ram Babu during the RPF inquiry. He, however, when examined before the Tribunal, did not support that version. He stated that he had told the truth to the Enquiry Officer, but did not know what had actually been recorded by him and that the statement had not been read over to him. He further stated that he could not recollect whether the

³(2019) 3 SCC 572

⁴2026 SCC OnLine SC 1350



2026:DHC:6864



statement relied upon by the Railway even bore his thumb impression. Most importantly, he supported the appellants' case and categorically stated before the Tribunal that he had seen the deceased fall from the train.

10. The Enquiry Officer, who was the person best placed to explain what AW-3 had actually stated and whether the statement was correctly recorded and read over to him, was not examined. The Tribunal itself noticed this omission and further recorded that the Enquiry Officer had not examined the drivers of the trains which had passed the place of occurrence. Thus, the very material relied upon to establish that the deceased was walking on the track was not supported by the person who recorded it or by any independent railway official who had witnessed the occurrence.

11. The fact that the deceased's body was found alongside the railway line also does not, by itself, establish that he was "walking upon the track" and was thereafter "run over". In the present case, there is a direct account of AW-3 that the deceased fell from the train, whereas there is no witness who states that he actually saw the deceased enter or walk upon the railway track. The subsequent condition or location of the body may give rise to different possibilities, but cannot, without positive evidence, establish the particular manner of occurrence relied upon by the Railway.

12. The version regarding "walking upon the track" or being "run over" thereafter has not been supported by the Enquiry Officer, any Loco Pilot, Guard or other railway official who witnessed the occurrence. In these peculiar circumstances, the possibility



2026:DHC:6864



suggested by the Railway that the deceased was walking on the track and was run over cannot be treated as proof of that manner of occurrence so as to displace the evidence supporting the appellants' case.

13. The above conclusion also assumes significance in view of the nature of the statutory scheme. The liability under Section 124-A of the Act is one of strict liability. As held by the Supreme Court in Union of India v. Prabhakaran Vijaya Kumar⁵, negligence or contributory negligence on the part of the victim does not, by itself, defeat a claim arising from an "untoward incident". Here, the foundational allegation that the deceased was trespassing upon or walking along the railway track has itself not been established by cogent evidence. Rather, the evidence which has emerged before the Tribunal supports the occurrence of a fall from the train.

14. On an overall consideration of the evidence, this Court is of the view that the appellants have discharged the initial burden of establishing that the deceased was travelling as a *bona fide* passenger and that his death occurred as a result of an accidental fall from the train.

15. 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.

⁵(2008) 9 SCC 527



2026:DHC:6864



For this purpose, the matter be listed before the Tribunal at the first instance on 08.09.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 18, 2026

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