



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

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+ **FAO 55/2021**

PRIYANKA AND ORSAppellants

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

versus

UNION OF INDIARespondent

Through: Mr. Chiranjiv Kumar and Mr. Mukesh
Sachdeva, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 4554/2021 (For condonation of delay of 255 days in filing the appeal)

1. By way of the present application filed under Section 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 (CPC), the appellants seek condonation of delay of 255 days in filing the present appeal.
2. Learned counsel for the appellants submits that after passing of the judgment/order dated 12.12.2019 (hereinafter referred to as the “impugned



judgment”), the appellants could not file the present appeal within the prescribed period. It is submitted that the delay is bona fide and was caused on account of paucity of funds.

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

4. It is noted that a substantial portion of the delay, being approximately 230 days falling between 15.03.2020 and the filing of the appeal, stands excluded in terms of the order passed by the Supreme Court in Suo Motu Writ Petition (Civil) No. 3/2020. It is also 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 poor economic condition of the appellants/claimants.

5. Considering the facts and circumstances of the present case, and guided by the principles laid down in the aforesaid decisions, the delay in filing the present appeal is condoned.

6. Accordingly, the application is allowed and disposed of.

FAO 55/2021

1. The present appeal is filed under Section 23 of the Railway Claims Tribunal Act, 1987, assailing the judgment/order dated 12.12.2019 passed by the Railway Claims Tribunal (hereinafter referred to as the “Tribunal”) , Delhi, in Case No. OA (Ilu) No. 222/2018 in “Smt. Priyanka & Ors. v. Union of India”.

¹ (2017) SCC OnLine Del 10003



2. Vide the aforesaid judgment, the Tribunal dismissed the claim application of the appellants on the grounds that neither was the deceased a bona fide passenger nor was the alleged incident an untoward incident as defined under the Railways Act, 1989 (hereinafter referred to as the “Act”).

3. Briefly stated, the facts of the present case, as set out in the claim application, are that on 17.12.2017, one *Sumit* (hereinafter referred to as the “deceased”) was travelling from *Boudaki* to *Delhi Shahdara*, holding a valid journey ticket. When the train was approaching *Shahdara* Railway Station, the deceased allegedly fell from the train and sustained grievous injuries. Information regarding the incident was later conveyed by an unknown person to the brother of the deceased, who reached the spot of the alleged accident. The deceased was thereafter taken to GTB Hospital, where he succumbed to the grievous injuries and was declared dead. The journey ticket date 17.12.2017 along with other items as noted in the *Fard* Articles were handed over to the ASI by the elder brother of the deceased.

4. Learned counsel for the appellants assails the impugned judgment by contending that the deceased was a bona fide passenger, traveling in the train on the strength of a valid ticket purchased by him for Rs.10/-, which had been handed over by the brother of the deceased. In this regard, it is submitted that the Tribunal erred in concluding that the deceased was not a bona fide passenger solely on the assumption that the train would have reached *Boudaki* at about 3:00 AM in the winter season and it was unlikely that someone would board the train at such an odd hour. The said finding is



based on conjecture rather than substantive evidence. It is submitted that the Tribunal wrongly rejected the case of accidental fall and instead accepted the respondent's theory that the deceased was crossing the railway track and came into the grip of an unknown train. The said finding is not corroborated by any direct evidence and rests primarily on presumptions rather than conclusive proof, thereby resulting in an erroneous conclusion that the incident was not an "untoward incident".

Further, The Tribunal's inference was based on the absence of any recorded fracture in the MLC, however, such absence, by itself, cannot negate the occurrence of an accidental fall

5. *Per contra*, the learned counsel for the respondent has supported the impugned judgment by reiterating that the deceased was neither a bona fide passenger nor was the alleged incident an "untoward incident". It is submitted that the deceased was a resident of *Vishwas Nagar, Shahdara*, which is near the Railway Station. It is also submitted that the appellants failed to furnish complete journey details of the deceased, and the ticket produced by them could not be treated as credible. It is further submitted that the deceased could not have accidentally fallen from the train, as his body was found lying on the North Line between KM 6/26 and 6/28, whereas the concerned train had arrived on Line No. 4 at Platform No. 4, which are not adjacent to each other. Reliance in this regard is placed on the DRM report to contend that the present case was that of an unauthorised crossing of the



Railway lines, which resulted in the injuries sustained by the deceased, and on that account, could not be said to amount to an “untoward incident”.

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

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

8. As regards the first issue, the Tribunal was of the view that the appellants had failed to disclose the journey details of the deceased in their claim application, and that since the train in question would have left *Bodaki* Railway Station at an “odd time” of around 3 A.M. during winter season, the deceased could not have been a bona fide passenger. The Tribunal also concurred with the respondent’s contention that the ticket in question was unreliable, being an ordinary 2nd class printed ticket and concluded that the ticket had been procured subsequent to the alleged incident. This Court is unable to agree with the said finding. Concededly, a ticket bearing no. 99026 statedly belonging to the deceased, was handed over by the brother of the deceased, to ASI *Soran Singh* after the alleged incident. Additionally, the affidavits of AW1 and AW2, placed on record, being the accounts of *Priyanka*, the wife of the deceased, and *Pankaj*, the brother of the deceased, also are to the effect that the deceased was undertaking the train journey after purchasing a valid journey ticket. In light of the same, a mere failure to



furnish complete journey details in the claim application does not imply that the deceased was not a bona fide passenger. Importantly, the TSR (Train Signal Record) mentions that Train No. 64101 had arrived on Platform No. 4 at around 4:57 AM on 17.12.2017, which corresponds to the early morning timing of the incident. The said timing, rather than discrediting the appellants' case, is consistent with the deceased having travelled on an early morning train from *Bodaki* to *Shahdara*. This Court is conscious of the admissions of the said witnesses that they were not an eye-witness to either the purchase of the ticket by the deceased or the alleged incident, however, the said material, when considered cumulatively alongwith the seizure of ticket, discharges the initial burden of proof on the appellants to prove the bona fide status of the deceased. The Tribunal's observation that the train would have left *Boudaki* Station at an "odd time", at which the deceased could not have boarded the train, is speculative, and unsupported by the record. It is not uncommon that people would undertake a night journey to reach early at their destination.

9. Insofar as the issue regarding whether the alleged incident qualifies as an "untoward incident" is concerned, the Tribunal was of the view that the deceased could not have accidentally fallen from the train and would have possibly come "into the grip of some train". Notably, the Tribunal relied upon the DRM report which concluded that the body of the deceased was found on the North Line between KM 6/26–6/28, whereas the train coming from *Khurja to Delhi* had arrived on Platform No. 4 on Line No. 4. The



Tribunal further observed, on the basis of the MLC, that no fracture had been recorded in the medical examination of the deceased and, therefore, doubted the claim of accidental fall.

10. Pertinently, the Post-Mortem report, however, records fracture-dislocation of ribs 1 to 8 on the left side as well as fracture of the pelvic bones, apart from multiple lacerations and abrasions. The cause of death has been opined as shock due to ante-mortem injuries to the head, chest, abdomen and pelvis caused by blunt force impact. The Tribunal's observation regarding absence of fractures is thus belied by the record, and the nature of injuries noted in the Post-Mortem report is *prima facie* consistent with high-impact trauma.

11. Further, the Tribunal placed reliance on the DRM report recording that the body of the deceased was found on the North Line between KM 6/26-6/28, as opposed to Line No. 4 at Platform No. 4, where the train concerned had arrived. However, this Court finds that the said DRM report is premised upon the *Naksha Moka*, which itself is undated and appears to have been prepared subsequently at the instance of the RPF. No independent witness was examined at the time of DRM proceedings or before the Tribunal to substantiate the said conclusion. The mere location of the body, even if accepted, does not, by itself, conclusively establish a case of run-over. Significantly, the deceased was found alive and was taken to the hospital for treatment. In such circumstances, the possibility of the deceased having moved towards the adjoining track after the fall cannot be ruled out.



12. Another reason for which the Tribunal denied compensation to the appellants was the alleged failure to establish the identity of the deceased. In this regard, it is observed that although there was no eye-witness to the incident, the information was promptly brought to the notice of the railway authorities upon an unknown person noticing the deceased at around 6:30 AM, as borne out from the DD entries. The MLC records the time of admission as 7:30 AM, thereby indicating timely reporting and immediate medical attention. The record further consistently reflects that the brother of the deceased was informed by an unknown person, whereupon he reached the spot and ensured that the deceased was taken to GTB Hospital, followed by the requisite legal proceedings. The omission of the specific time in the Station Master's memo, by itself, is not material so as to discredit the otherwise consistent sequence of events emerging from the record.

13. It is well settled that the provisions relating to compensation under Section 124A of the Railways Act constitute a beneficial piece of legislation and are required to be construed in a liberal manner. The Supreme Court has held that such provisions must receive a purposive interpretation so as to advance the object of providing relief to victims of railway accidents, rather than being defeated by hyper-technical objections. As held in Union of India v. Prabhakaran Vijaya Kumar², once the occurrence of an “untoward incident” is established and the case does not fall within the statutory exceptions, the liability of the Railways is strict. In the instant case, the

² (2008) 9 SCC 527



respondent has failed to establish that the death of the deceased falls within any of the exceptions carved out under the proviso to Section 124-A of the Act.

14. Considering the foregoing discussion, this Court is of the view that the Tribunal, in the present case, adopted an unduly rigid standard of proof, overlooking the beneficial object of the Act and the settled principle that proceedings thereunder are intended to provide prompt and efficacious relief to the victims of railway accidents.

15. In view of the above, the impugned judgment is set aside and this Court is of the considered opinion that the findings recorded by the Tribunal are based on conjectures and surmises and are contrary to the settled legal position.

16. Accordingly, the impugned judgment is set aside and the matter is remanded back to the Tribunal for awarding of compensation in accordance with the law. The matter be listed before the Tribunal at the first instance on 27.02.2026. The Tribunal is requested to ensure that the compensation is disbursed to the appellants/claimants within two months thereafter.

17. Accordingly, the present appeal is allowed and disposed of in the above terms.

18. A copy of this judgment be communicated to the concerned Tribunal.

MANOJ KUMAR OHRI
(JUDGE)

FEBRUARY 13, 2026/kb