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

% Reserved on : 04.11.2026
Pronounced on : 17.11.2026
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\+ **FAO 165/2024**

MAZHAR KHAN .....Appellant

Through: Mr.Mohammad Sajid and Mr. Mohd Imran, Advocates

versus

UNION OF INDIA .....Respondent

Through: Ms. Uma Prasuna Bachu, SPC for UOI

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

CM APPL. 29582/2024 (Seeking condonation of delay of 747 days in filing the appeal)

1. By way of the present application, the applicants/ appellants seek condonation of delay of 747 days in filing the appeal.

2. Learned counsel for the appellants submitted that the appellant, being resident of *Faulad Pura, Deoband* (*Uttar Pradesh*)is apoor and illiterate persons, and belongs to an economically weaker section and, due to paucity of funds as well as the injuries suffered by him, 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. 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. 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 747 days in filing the appeal is condoned.

6. The application is disposed of accordingly.

FAO 165/2024

1. The present appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 against the judgment dated 28.02.2022 passed by the Railway Claims Tribunal, Principal Bench, *Delhi* (hereinafter referred to as the "Tribunal") in Claim Application No. OA/II(u)/GZB/73/2019, whereby the claim application filed by the appellant seeking compensation for injuries sustained in a railway accident was dismissed.

2. The facts, in brief, are that the appellant claimed to have undertaken a journey from *Deoband* to *Delhi* on 28.03.2018 by Train No. 19020 (*Mumbai-Bandra* Express), along with his father, after purchasing a

[1](2017) SCC OnLine Del 10003
[2](2026) FAO 49/2022 (04.04.2026)

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combined journey ticket for two passengers. His case was that, during the course of the journey, his father got down at *Muzaffarnagar* Railway Station while the appellant continued towards *Delhi*. At about 6:00 p.m., when the train was approaching *Meerut*, owing to the heavy rush in the compartment, the appellant lost his balance and fell from the train onto the adjoining railway track, where he was hit by another train. He was thereafter rescued by the Railway Police and taken to *Pyare Lal* Hospital, *Meerut*, from where he was referred to *SafdarjungHospital*, *Delhi*. In the accident, the appellant suffered grievous injuries resulting in amputation of one of his arms and one of his legs.

3. *Vide* the impugned judgment, the Tribunal noticed that the original journey ticket bearing No. M20960293, filed along with the claim application, had subsequently been verified by the respondent from the Chief Booking Supervisor, *Deoband*, and was found to have been issued from that station. It also relied upon the Station Diary, Train Signal Register and the statement attributed to Sh. *Karan Singh*, the Shunting Master, forming part of the DRM enquiry report, to conclude that the appellant had alighted from Train No. 19032 from the wrong side and was hit by the empty rake of Train No. 14512. Holding that the appellant had failed to establish either of the two issues, the Tribunal dismissed the claim application.

4. Before this Court, learned counsel for the appellant assails the impugned judgment, contending that the Tribunal failed to appreciate that the original journey ticket had been placed on record and was duly verified by the respondent from the issuing station. It is submitted that the mere fact that the ticket was not recovered at the spot could not be a ground to

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disbelieve the appellant, particularly when he had sustained injuries of such a grievous nature that one arm and one leg had to be amputated. Learned counsel further submits that the Tribunal placed undue reliance upon the statement attributed to Sh. *Karan Singh*, who was neither examined before the Tribunal nor subjected to cross-examination. It is also contended that the appellant was never confronted in his cross-examination with the specific case of the respondent that he had travelled by Train No. 19032 and had alighted from its wrong side.

5. Learned counsel for the respondent, on the other hand, submits that the appellant's version regarding the train by which he was travelling is inconsistent with the railway records. It is contended that Train No. 19020 had arrived at *Meerut* much before the time of the incident, whereas Train No. 19032 had arrived at about 20:05 hours. The respondent relies upon the DRM enquiry report and the statement attributed to Sh. *Karan Singh* to contend that the appellant had alighted from Train No. 19032 from the wrong side and was hit by the rake of Train No. 14512 during its placement. It is further submitted that no journey ticket was recovered from the appellant at the time of the incident.

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

7. The issue concerning the burden of proof to establish the status of a *bona fide* passenger, particularly in cases where the journey ticket is not recovered after an accident, is no longer res integra. In "*Union of India v. Rina Devi*"[3], the Supreme Court held that the mere absence or non-recovery

[3](2019) 3 SCC 572

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of a ticket from an injured or deceased person would not, by itself, negate the claim that such person was a bona fide passenger. The initial burden rests upon the claimant, which may be discharged by filing an affidavit setting out the relevant facts of the journey. Once such initial burden is discharged, the onus shifts to the Railways, and the matter is required to be considered on the basis of the evidence and attending circumstances.

Tested on the aforesaid principles, it is noticed that the appellant had consistently pleaded that he had undertaken the journey from *Deoband* to *Delhi* on 28.03.2018 along with his father and had purchased a combined journey ticket bearing No. M20960293. The said ticket was not merely produced by the appellant along with the claim application rather its issuance was also verified by the respondent from the Chief Booking Supervisor, *Deoband*. The Tribunal itself noticed this fact in the impugned judgment. The ticket was thus found to have been issued from the very station from which the appellant claimed to have commenced his journey. In these circumstances, the appellant had discharged the initial burden of establishing his status as a *bona fide* passenger.

8. The other circumstance which weighed with the Tribunal was the discrepancy regarding the train by which the appellant was travelling. The appellant had throughout maintained that he was travelling by Train No. 19020, whereas the statement attributed to Sh. *Karan Singh* in the DRM enquiry report refers to the arrival of Train No. 19032 at platform No. 2. The Tribunal also noticed from the Train Signal Register that Train No. 19020 had arrived at about 19:06 hours, while Train No. 19032 had arrived at about 20:05 hours and the empty rake of Train No. 14512 was being placed at

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around 20:00 hours. The Station Diary records the incident at about 20:25 hours.

9. However, the aforesaid discrepancy could not have been relied upon against the appellant without putting the respondent's specific case to him. A perusal of the appellant's cross-examination shows that, while he was questioned about the journey and the ticket, he was not specifically confronted with the case now sought to be set up by the respondent that he had travelled by Train No. 19032 and had alighted from its wrong side. No admission in this regard was elicited from him. In the absence of such confrontation, the discrepancy in the train numbers, particularly when the appellant's original ticket stood verified by the respondent, ought to have been examined with greater care before drawing an adverse inference against him.

10. More importantly,the respondent's version regarding the manner in which the accident occurred rests substantially upon the statement attributed to Sh. *Karan Singh*, the Shunting Master, in the DRM enquiry report. The incident took place on 28.03.2018, whereas the DRM enquiry report is dated 28.10.2019. The said *Karan Singh* was not produced before the Tribunal as a witness. Consequently, the appellant had no opportunity to test the veracity of the alleged eyewitness account or to question him on the precise circumstances in which the incident occurred. In these circumstances, the statement attributed to him in the enquiry report could not have been treated as conclusive proof of the respondent's version, particularly when it was the principal basis for disbelieving the appellant's account.

11. In view of the above, the impugned judgment is set aside and the

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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 03.12.2026.

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

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

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 17, 2026
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