

## CHAPTER II

### ACCIDENT COMPENSATION

#### Liability

- 2.1** The liability of the railway administration in the event of a consequential train accident attended with casualties has been defined in Section 124 of the Railways Act, 1989 as under:-

*“When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident”.*

- 2.2** With effect from 1.8.1994 under Section 124-A of the Railways Act, 1989 the railway administration has also become liable to pay compensation for loss of life or injury to bonafide rail passengers, who become victims of untoward incidents such as terrorist acts, violent attack, robbery, dacoity, rioting, shoot-out or arson by any persons in or on any train carrying passengers, waiting hall, cloak room, reservation or booking office, platform, any place within the precincts of a railway station or the accidental falling of any passenger from a train carrying passengers. Section 124-A of the Railways Act, 1989 reads as under:-

*“When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed, and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:*

*Provided that no compensation shall be payable under this Section by the railway administration if the passenger dies or suffers injury due to:-*

- (a) suicide or attempted suicide by him;*
- (b) self-inflicted injury;*
- (c) his own criminal act;*
- (d) any act committed by him in a state of intoxication or insanity;*
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.”*

**Explanation:** For the purpose of this section, “passengers” includes

- (i) a railway servant on duty; and
- (ii) a person who has purchased a valid ticket for travelling, by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.

### **Quantum of Compensation**

**2.3** Payment of compensation is governed by the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 1997. Under these Rules, the amount of compensation payable in case of death is Rs.4 lakhs. For injuries the amount varies from Rs.32,000/- to Rs.4,00,000/- depending on the nature of injury sustained.

**2.4** Ex-gratia relief is given by the railway administration soon after an accident, at the rate of Rs.15,000/- to the next of the kin of the dead, Rs.5,000/- in the case of grievous injury and Rs.500/- in the case of simple injury. The ex-gratia relief is intended to meet the immediate expenses and is not taken into account at the time of final settlement of compensation claims. In case of serious or special circumstances the quantum can be enhanced.

### **Application for Compensation**

**2.5** Under Section 125 of the Railways Act, 1989, it has been provided :-

“(1) An application for compensation under Section 124 or 124-A may be made to the Railway Claims Tribunal-

- (a) by the person who has sustained the injury or suffered any loss, or
- (b) by any agent duly authorised by such person in his behalf, or
- (c) where such persons is a minor, by his guardian, or

- (d) where death has resulted from the accident by any dependent of the deceased or where such a dependent is a minor, by his guardian.
- (2) Every application by a dependent for compensation under this Section shall be for the benefit of every other dependent.”

**2.6** The application for compensation will be decided by Railway Claims Tribunal . 21 benches of the Tribunal have been set up at different parts of the country and they are functioning from 08.11.1989.

Applicant can now file claims at Railway Claims Tribunal (i) having jurisdiction over the place of residence of the applicant, or (ii) the place where the passenger purchases his ticket, or (iii) where the accident or untoward incident occurs, or (iv) where the place of destination station lies, as against only at the place of occurrence of accident earlier.

#### **Interim Relief by Railway Administration**

**2.7** Under Section 126 of Railways Act, 1989, it has been provided that if a person who has made an application for compensation under Section 125, desires to be paid interim relief, he may apply to the railway administration for payment of interim relief along with the copy of the application made under that Section.

**2.8** The table given below shows the number of passengers killed and/or injured in train accidents and the amount of compensation paid to the victims in the last five years:-

<u>Year</u>	<b>Number of Passengers</b>		<b>Compensation paid (Rs. In Lakhs)</b>
	<b>Killed</b>	<b>Injured</b>	
<b>2001-2002</b>	144	595	482.46
<b>2002-2003</b>	157	658	505.40
<b>2003-2004</b>	135	302	757.07
<b>2004-2005</b>	50	191	513.63
<b>2005-2006</b>	168	483	221.63

The amount of compensation paid during the year relates to the number of cases settled and payment made during that year and not the accidents that occurred during the year.

### **Liability for accidents at Level Crossings**

**2.9** No liability accrues in the case of collisions between trains and road vehicles at unmanned level crossings in which railway passengers are not involved and cases of persons run over by trains.

**2.10** However, the victims or their dependants can claim compensation under Law of Torts by moving Motor Vehicle Accident Tribunals and the compensation is paid if any contributory negligence is proved on the part of railway administration.

The Tribunal decides the quantum of compensation on merits of each case. The amount of ex-gratia paid is counted towards amount of compensation awarded by a Court of Law. However, Supreme Court of India in a judgment arising out of Civil Appeal No, 3033 of 1990 etc. (Union of India v/s United Insurance Co. Ltd and Others) ruled that the driver and owner of the bus and, the railways, can all be joint tortfeasors, if proved.

**2.11** As regards accidents occurring at manned level crossings, prima facie, due to the negligence of railway staff, ex-gratia payment is made to the victims by the railway as per the following rates:-

(i)	In case of death	Rs.6,000/-
(ii)	Grievous Injury	Rs.2,500/-
(iii)	Simple injury	Nil

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