

5

**STANDING COMMITTEE ON RAILWAYS
(2014-15)**

SIXTEENTH LOK SABHA

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

THE RAILWAYS (AMENDMENT) BILL, 2014

FIFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 2015/ Vaisakha, 1937 (Saka)

FIFTH REPORT

**STANDING COMMITTEE ON RAILWAYS
(2014-15)**

(SIXTEENTH LOK SABHA)

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

THE RAILWAYS (AMENDMENT) BILL, 2014

Presented to Lok Sabha on 05.05.2015

Laid in Rajya Sabha on 05.05.2015



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 2015/ Vaisakha, 1937 (Saka)

CONTENTS

	Page
Composition of the Committee (2014-15)	(ii)
INTRODUCTION	(iv)
REPORT	
PART I	
I. Introductory	1
II. Amendment to Section 109 of the Railways Act, 1989	5
III. Amendment to Section 123 of the Railways Act, 1989	15
IV. Amendment to Section 124 of the Railways Act, 1989	22
PART II	
Recommendations/ Observations	30
ANNEXURES	
I. The Railways Act, 1989	42
II. The Railways (Amendment) Act, 1994	104
III. The Railways (Amendment) Bill, 2014	107
IV. List of Individuals/Organisations/Associations, etc. which appeared before the Committee for evidence	114
APPENDICES	
I. Minutes of the sitting of the Standing Committee on Railways held on 18.11.2014	115
II. Minutes of the sitting of the Standing Committee on Railways held on 04.02.2015	117
III. Minutes of the sitting of the Standing Committee on Railways held on 16.04.2015	119
IV. Minutes of the sitting of the Standing Committee on Railways held on 29.04.2015	121

COMPOSITION OF STANDING COMMITTEE ON RAILWAYS (2014-15)

Shri Dinesh Trivedi - Chairperson

MEMBERS

LOK SABHA

2. Shri E. Ahamed
3. Kunwar Pushpendra Singh Chandel
4. Shri Ram Tahal Choudhary
5. Shri Sanjay Dhotre
6. Shri Gourav Gogoi
7. Shri Rajen Gohain
8. #Shri Chandra Prakash Joshi
9. Shri Ramesh Chander Kaushik
10. Shri Gajanan Kirtikar
11. Shri Balabhadra Majhi
12. Shri Arjun Ram Meghwal
13. Shri K.H. Muniyappa
14. Shri Thota Narasimham
15. Shri A.T. Nana Patil
16. Shri R. Radhakrishnan
17. Shri Mekapati Raja Mohan Reddy
18. Shri Lakhan Lal Sahu
19. Shri Ganesh Singh
20. Shri Uday Pratap Singh
21. Shri S.R. Vijayakumar

RAJYA SABHA

22. Shri A.K. Antony
23. Shri Mukut Mithi
24. Shri Dilipbhai Pandya
25. Shri Parimal Nathwani @
26. Shri Ambeth Rajan
27. Shri T. Rathinavel
28. Shri Bashistha Narain Singh
29. Shri Devender Goud T.
30. Shri Alok Tiwari
31. Shri Motilal Vora

* Constituted *vide* Lok Sabha Bulletin Part II No.623 dated 01.09.2014

Sh. Bandaru Dattatreya ceased to be a Member on his appointment as Minister w.e.f. 09.11.2014. Shri Chandra Prakash Joshi was nominated as Member *vide* LSS Bulletin Part No.783 dt.14.11.2014

@ Smt. Kusum Rai retired on 25.11.2014 vide R.S.S. I.d. No..1(2)2014-coord. dt.20.11.14. Shri Parimal Nathwani nominated as Member w.e.f. 19.12.2014 *vide* LSS Bulletin Part II No.1212 dated 31.12.2014

LOK SABHA SECRETARIAT

- | | | | |
|----|------------------------|---|----------------------------|
| 1. | Shri K. Vijayakrishnan | - | Additional Secretary |
| 2. | Smt. Anita Jain | - | Joint Secretary |
| 3. | Shri Raju Srivastava | - | Additional Director |
| 4. | Shri Vivek Saini | - | Senior Executive Assistant |

INTRODUCTION

I, the Chairperson of the Standing Committee on Railways (2014-15) having been authorized by the Committee to present the Report on their behalf present this Fifth Report (16th Lok Sabha) on 'the Railways (Amendment Bill), 2014' relating to the Ministry of Railways.

2. The Railways (Amendment) Bill, 2014 as introduced in Lok Sabha on 11th August, 2014, was referred by the Hon'ble Speaker, Lok Sabha, under Rule 331 (E) (i) (b) of the Rules of Procedure and Conduct of Business in Lok Sabha on 16th September, 2014 to the Standing Committee for examination and report.

3. Considering the wide ramifications of the Bill, the Committee decided to invite Memoranda containing suggestions/ comments/ views from the public in general and from Individuals/ NGOs/ Experts/ Stakeholders and Institutions in particular on various provisions of the Bill.

4. Accordingly, a Press communiqué was issued through the print and electronic media on 17 October, 2014 for soliciting the comments on the proposed bill from the general public, stakeholders and others. Based on the response from various stakeholders, the Committee took evidence of the selected individuals. Besides, the Committee also undertook study tour to Mumbai on 12th February, 2015 and held informal discussions with various organisations/ associations and the representatives of the Central and Western Railways.

5. The Committee, at their sitting held on 29 April, 2015, considered and adopted the Draft Report. The Committee were immensely benefited by the suggestions/contributions made by the Members of the Committee for which I express my sincere thanks to them. The Committee also wish to thank Dr. Kirit Somaiya, MP who presented his considered views on various aspects of the Railways (Amendment) Bill, 2014.

6. The Committee wish to express their thanks to the representatives of the Ministry of Railways (Railway Board) who tendered their evidence before the Committee, attended the sittings of the Committee and gave their views. The Committee also wish to express their thanks to the

representatives of various organisations/ associations/ individuals who furnished written information/views as well as those who appeared before the Committee and made available necessary information for consideration of the Committee, which was of great help to the Committee in arriving at their conclusions.

7. The Committee would also like to place on record their appreciation rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

8. For the facility of reference and convenience, the recommendations/ observations of the Committee have been printed in bold letters in Part-II of the Report.

NEW DELHI;
29 April, 2015
9 Vaisakha, 1937 (Saka)

DINESH TRIVEDI,
Chairperson,
Standing Committee on Railways.

REPORT

I. INTRODUCTORY

The entire Railway system in the country is under the control and administration of the Government of India. Railways have been placed at item 22 in List I – Union List – in the Seventh Schedule under Article 246 of the Constitution of India and the subject-matter of laws regarding Railways is to be made by the Parliament.

1.2 The construction of Railways in India was started in 1849 by the East India Company. The Indian Railways Act, 1890 was the first legislation of its kind to govern the law relating to Railways. This Act was amended from time to time to give effect to the changes in the Railway system. Post-Independence, the need was felt by the Government of India to replace this Act by a new legislation. The Railway Bill was passed by both the Houses of Parliament and was assented by the President on 3rd June, 1989 and became the Railways Act, 1989. It came into force on 1st July, 1990 (Annexure-I).

1.3. In the original Railways Act, 1989, section 124 provided for payment of compensation to bona fide passengers who get injured or to the dependents of those who die on account of passenger train accidents. However, incidents like terrorists' acts, robberies, dacoities, violent attacks, rioting, shoot-outs, arson, etc. in trains or in waiting halls, cloak rooms, booking offices or on platforms or other places within the precincts of any railway station were not covered by that section for the purpose of payment of compensation. The Railway Act, 1989, therefore, was amended *vide* the Railway (Amendment) Act, 1994 whereby a new section 124A was inserted in the Railway Act, 1989 (Annexure II).

1.4 Under the new section, the Railway administration was liable to pay compensation for injuries or death caused by the aforesaid incidents in trains or the aforesaid places. No compensation was, however, payable by the Railway administration in case of death or injury due to suicide or attempted suicide, self-inflicted injuries, criminal acts of the passenger, acts committed by the passenger in a state of intoxication or insanity, natural cause or disease or medical or surgical treatment unless such

treatment becomes necessary due to injury caused by any of the aforesaid incidents.

1.5 The Railways Act, 1989 is now again proposed for amendment *vide* the Railways (Amendment) Bill, 2014 which seek to amend sections 109 and 123 and to insert a new section 124B in the Railways Act, 1989. The Railways (Amendment) Bill, 2014 (Annexure III) was, accordingly, introduced in Lok Sabha on 11th August, 2014 and was referred to the Standing Committee on Railways on 16th September, 2014 by the Hon'ble Speaker, Lok Sabha for examination and report to Parliament in terms of Rule 331 (E)(1)(b) of the Rules and Procedure and Conduct of Business in Lok Sabha.

1.6 Highlighting the reasons for the aforesaid changes at para 1.5, the Ministry of Railways, in a written note, stated as under:-

- (1) The change is proposed to prevent filing of large number of duplicate cases of compensation claims in different benches of Railway Claims Tribunal (RCT), therefore, as a safeguard, provisions regarding Railway administration against which application for compensation for personal injury are to be filed, have been made under section 109 of the Railways Act, 1989.
- (2) It is considered necessary that the Railway under whose jurisdiction the loss/ injury has occurred should by default be made a party amongst others, if any, before the RCT so that the Railway under whose jurisdiction loss/ injury occurred is aware that the claim against such loss/ injury has already been filed.
- (3) The Railway administration is liable to pay compensation under section 124A of the Railways Act, 1989, for death or injury to a rail passenger or platform ticket holder on account of 'Untoward Incident', which has been defined under clause (c) of section 123 of the Act, and includes cases of 'accidental falling' under sub-section (2) of 123(c).

- (4) It is observed that large a number of cases have been filed in the Railway Claims Tribunal by the claimants arising out of falling down from the train while entraining or detraining from a moving train. Prima facie, there is wilful carelessness, negligence and known misadventure and attempt to entrain or detrain while a train is in motion which results in the occurrence of the incident, but due to omissions in the Act, the claimant is able to obtain the compensation on the basis of technical pleas. In few such cases, it is also noticed that the claims are preferred even when the dead body of the person involved is lying near the railway track and is in no way related to 'accidental falling'. The inquest report prepared by the police is doctored. In the absence of concrete evidence, we are unable to contest the allegations of the claimant and the case is very often decided in favour of the claimant by the court. Consequently, the Railway is burdened with payment of compensation even in those cases in which the act on the part of the passenger should normally be punishable for conscious carelessness and negligence on their part.
- (5) The Expert Committee constituted by the Railway Board to review the Rail Passenger Insurance Scheme (RPIS) in May, 2009 had also recommended segregation of section 124A of the Railways Act defining the liability of Railways on account of 'untoward' incidents and removal of the words 'accidental falling of passenger' and defining it separately by way of insertion of separate clause section 124B in the Railways Act, 1989.
- (6) One of the Benches of the Railway Claims Tribunal (Jaipur Bench) also, in one of its judgements in Claim Application No. OA II/19/2002 – Smt Khamani Bai Vs. Union of India in September, 2004, pertaining to death of a passenger on account of accidental falling from train, had observed that the clause was being misused with a view to grabbing money by deception and had directed the Railway administration to check such malpractices being adopted by individuals to obtain compensation in false and fabricated cases.

- (7) Prior to the proposed amendment, the payment/ claims related to ‘Untoward Incident’ including ‘accidental falling’ was governed by section 124A of the Act. Since we propose to segregate ‘accidental falling’ from ‘untoward incident’ by way of insertion of a separate provision, viz. 123(aa), it is necessary that the claims/ payments pertaining to the proposed new provision are governed separately. Therefore, a separate section 124B is proposed to be inserted.

II. AMENDMENT TO SECTION 109 OF THE RAILWAYS ACT, 1989

2.1 Existing Provision in Section 109:

“109. Railway administration against which application for compensation for personal injury is to be filed. – An application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against, -

- (a) The railway administration from which the passenger obtained his pass or purchased his ticket, or
- (b) The railway administration on whose railway the destination station lies or the loss or personal injury occurred.”

Change proposed:

Proviso after sub-section (b) of Section 109 of the Act may be added as under:

“Provided that the railway administration where the loss of life or personal injury to a passenger occurs shall be made a party amongst others, if any, before the Claims Tribunal.”

2.2 While explaining the motivational concern that prompted the Ministry of Railways to introduce amendment in section 109 of the Railways Act 1989, during the course of evidence, the representative of the Ministry of Railways stated as under:-

“In the year 2002 there was a case registered in Jaipur. When the Railway Claims Tribunal was listening the case, they came across numerous fraudulent claim cases which had been filed. Then the judicial member and the bench examined those cases and came to a conclusion that they were being filed from only point ‘A’ in the country. On that they had passed an Order saying that the

Chairman of the Railway Board should make arrangements for ensuring that such fraudulent cases are checked if not stopping them from filing. On that basis, we started this whole exercise.”

2.3 Emphasizing the need for amendment in the Railways Act, 1989, the Ministry of Railways submitted that under the existing mechanism, the following provisions exist:-

- (a) as per Section 109 of the Railway Act 1989, an application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against:-*
 - (i) The railway administration from which the passenger obtained the pass or purchased his ticket, or*
 - (ii) The railway administration on whose railway the destination station lies or the loss or personal injury occurred.*
- (b) as per Rule 8 of the Railway Claims Tribunal (Procedure) (Amendment) Rules, 2002, an application for compensation for death/ injury as defined under Section 124 or 124 A in the Railway Act, 1989 is required to be filed before the Bench having territorial jurisdiction over-*
 - (i) the place from which the passenger obtains or purchases his pass or tickets; or*
 - (ii) the place at which the accident or untoward incident occurs; or*
 - (iii) the place where the claimant normally resides.*
 - (iv) where the destination station lies.*

(c) *as per Section 125 of the Railway Act, 1989 an application for compensation under Section 124 or Section 124 A may be made to Claims Tribunal-*

(i) *by the person who has sustained the injury or suffered any loss; or*

(ii) *by any agent duly authorized by such person in this behalf; or*

(iii) *where death has resulted from the accident, by any dependent of the deceased or where such a dependent is a minor, by his guardian.*

(d) *Definition of “dependent” defined in Section 123 of the Railway Act is as under:-*

“dependent” means any of the following relatives of a deceased passenger, namely:-

(i) *The wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;*

(ii) *The parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependent wholly or partly on the deceased passenger;*

(iii) *A minor child of a pre-deceased daughter, if wholly dependent on the deceased passenger;*

(iv) *The paternal grand-parent wholly dependent on the deceased passenger.*

2.4 To a query about the mechanism for filing of compensation claims, the representative of the Ministry of Railways stated during evidence that –

“Claims can be instituted against any of the three railways; can be filed at either of four places; further a claim be filed by victim or his/her agent or anyone of the dependent(s), which includes about a dozen types of dependents as defined in clause (b) of Section 123 of the Railways Act, 1989.”

2.5 When asked to spell out the factors which are responsible for filing of duplicate cases, the Ministry of Railways replied as under:-

“The provisions discussed above have been made for the convenience of the railway passengers for filing of the claims seeking compensation from the Railways. A number of factors however have been seen to escalate the filing of duplicate cases, some of which are listed below –

- *Section 109 of the Railways Act, 1989, which deals with the filing of claim is being misused.*
- *Rule 8 of the Railway Claims Tribunal (Procedure) Amendment Rules, 2002, dealing with the territorial jurisdiction of the Tribunal Bench is also one of the factors leading to filing of multiple claim applications by making modification in the name of the claimant.*
- *Section 123 of the Railways Act which defines “dependent” is another factor which leads to multiple claims since the provision is misused by the dependents of the deceased/ injured person to file multiple applications in various RCT Benches for compensation.”*

2.6 Asked further as to whether multiple options for filing of compensation has any co-relation with filing of duplicate claims, the Ministry of Railways, in their written reply, clarified that due to the availability of multiple options for filing of compensation, these are being misused for filing of duplicate or fraudulent claims due to which Railways are facing the difficulties in the sense that avoidable loss to the

Government Exchequer is taking place, which is proposed to be rectified with the proposed amendments.

2.7 The Committee were keen to know the acuteness of the issue of filing of duplicate cases of compensation claims in different benches of the Railway Claims Tribunal (RCT) and sought information relating to the number of such cases detected during the last 10 years by different benches of the Railway Claims Tribunal. In a written submission, the Ministry of Railways have given the Zone-wise details of the number of duplicate cases detected by them during the last 10 years as under:-

S. No.	Zonal Railway	No. of duplicate cases
1.	Central Railway	41
2.	Eastern Railway	06
3.	East Central Railway	04
4.	East Coast Railway	01
5.	Northern Railway	63
6.	North Central Railway	70
7.	North Eastern Railway	13
8.	Northeast Frontier Railway	02
9.	North Western Railway	00
10.	Southern Railway	01
11.	South Central Railway	16
12.	South Eastern Railway	26
13.	South East Central Railway	00
14.	South Western Railway	00
15.	Western Railway	82
16.	West Central Railway	02
	TOTAL	327

2.8 When the Committee desired to know the existing mechanism to check the duplicate/multiple cases of compensation claims and the coordination mechanism among different benches of the Railway Claims Tribunal, the Ministry of Railways informed that –

- (i) *Under the existing mechanism to check registration of duplicate/multiple cases of compensation claims, a software programme has been developed by CRIS (Centre for Railway*

Information Systems) covering all Benches of RCT. When a new claim case is filed by claimant(s) the same is registered in the computer system with some mandatory fields to provide a computerised registration number. If the claimant tries to file a duplicate claim case in some other Bench, the system checks the mandatory fields. If there are matching details, the system does not accept the registration of such a case. Such cases are reported to Principal Bench, Delhi by the concerned RCT and the concerned Railway.

- (ii) *The working system of RCT is computerised and linked to RCT website, viz. www.rct.indianrail.gov.in. Chairman/RCT exercises coordination among different benches of RCT in all administrative matters.*

2.9 Having noted that CRIS (Centre for Railway Information Systems) has developed a software programme to detect duplicate cases of compensation claims and a coordination mechanism is in place by way of which different benches of RCTs have been inter-linked to detect such cases, the Committee, in order to know the effectiveness of the existing software programme, sought information relating to the total number of duplicate claim cases detected after operationalizing the software program. On this, the Ministry of Railways supplied the year-wise details as under:-

Railways	Upto 2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
WR	13	06	12	15	16	09	07	01	03	82
NCR	15	55 *								70
SCR	09	02	04	01	NIL	01	NIL	02	NIL	19
WCR	-	-	-	-	-	-	-	-	02	02
SR	-	-	-	-	-	-	-	01	01	02
SWR	-	-	-	-	-	-	-	-	-	00
ER	-	-	-	-	-	-	02	02	02	06
CR	04	06	11	09	05	02	02	02	-	41
NR	04	03	07	05	09	08	13	10	09	68
SECR	-	-	-	-	-	-	-	-	-	00
NER	-	-	-	-	-	-	-	-	10 @	10
NWR	-	-	-	-	-	-	-	-	-	00

**From 2007 to till date.*

@ in last five years.

2.10 The Committee also wanted to know the Zone-wise details of total number of duplicate as well as fraudulent cases detected by RCT Benches along with the amount claimed by the claimants during the last 10 years. The Ministry of Railways furnished the following details:-

Railway	No. of duplicate cases & amount claimed				No. of fraudulent cases & amount claimed.			
	Prior to software Programme developed by CRIS		After the software programme developed by CRIS		Prior to software programme developed by CRIS		After the software programme developed by CRIS	
	No. of case	Amount claimed Rs.	No. of case	Amount claimed Rs.	No. of case	Amount claimed Rs.	No. of case	Amount claimed Rs.
CR	Nil	Nil	41	n/a	Nil	Nil	Nil	Nil
ER	n/a	n/a	05	n/a	n/a	n/a	Nil	Nil
ECR	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
ECOR	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
NR	Nil	Nil	68	n/a	Nil	Nil	n/a	n/a
NCR	15	98 lakh	50	325 lakh	n/a	n/a	n/a	n/a
NER	n/a	n/a	13	n/a	n/a	n/a	n/a	n/a
NFR	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
NWR	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
SR	Nil	Nil	02	n/a	Nil	Nil	Nil	Nil
SCR	n/a	n/a	20	80 lakh	n/a	n/a	1	4 lakh
SER	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
SECR	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
SWR	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
WR	n/a	n/a	82	n/a	n/a	n/a	n/a	n/a
WCR	Nil	Nil	03	12 lakh	Nil	Nil	Nil	Nil

2.11 On being asked about the amount of compensation given in duplicate/fraudulent cases and subsequent loss to the Government Exchequer, the Ministry of Railways, in written reply, informed the Committee that there is no loss to the Government Exchequer, as such cases are disposed of as per the law of the land.

2.12 The Committee were informed that even though computerization of all the Benches of the Railway Claims Tribunal has already been done and a software has also been developed by CRIS to check registration of duplicate/ multiple cases, even then some duplicate cases are filed by doctoring some relevant data. It was further stated that modification of the software is an ongoing process and CRIS has been recently asked to develop a software to further plug the loopholes in the existing programme. On the specific question of the rationale of amending section

109 of the Railway Act, 1989, instead of plugging loop holes in the existing software programme, the Ministry of Railways furnished the following information:-

“The loophole is not at software level. Any software application checks the duplicate cases on some basic unique parameters. In this case, the unique parameters are Date of accident, place of accident, source station, destination station, passenger/victim name, father/husband of victim. Some RCT feed the victim name in short and some RCT feed as full name which cannot be checked by the application. There is no other unique parameter uniform on all Railways provided to CRIS for incorporation in the application software. CRIS has already suggested some unique parameter like PAN No, FIR/Mirg No. etc. but it was not finalized by Railways/RCTs yet. After addition of one unique parameter provided by claimant, this loophole can be plugged easily.”

2.13 On being asked the need of amendment to section 109 of the Railways Act, 1989 if a need-based software programme is developed, the Ministry stated:-

“Development/modification of software need not be linked with the amendment to section 109 of the Railways Act, 1989, as the proposed amendment is suggestion to plug some loopholes in the existing provisions of law.”

2.14 During informal discussion on the Railways (Amendment) Bill, 2014 with Western Railway and Central Railway, the Committee were informed that it has been pointed out to CRIS that one of the fields in the claim application format should be the Accidental Death Report Number (ADR No.) which is a unique number given by Government Railway Police (GRP) to identify each accident/untoward incident case. The same is yet to be implemented by CRIS. Having noted that ADR number may curb the filing of duplicate cases, the Committee asked about the reasons due to which the Centre for Railway Information Systems has not incorporated this innovative proposal while formulating the software programme. On this, the Ministry of Railways explained that –

“The Railway Claims Tribunal (RCT) application is checking the duplicate/multiple cases based on combination of unique parameter (date of accident, place of accident, source station, destination station, passenger/victim name, father/husband of victim). In case of change in name of victim/passenger, the pop-up of all cases based on date of accident is displayed to check the details of already registered cases. The suggestion to make GRP number unique is worth consideration for incorporation in the existing application by Centre for Railway Information Systems (CRIS).”

2.15 It was mentioned that Rule 8 of the Railways Claims Tribunal (Procedure) Amendment Rules, 2002 dealing with territorial jurisdiction of the Tribunal bench is one of the factors leading to filing of multiple claims application. On being asked whether this cannot be taken care of by amending the Rules instead of introducing changes in the Railways Act, 1989, the Ministry informed that the provision was incorporated by the Railway Claims Tribunal (Procedure) Rules, 1989 on the basis of the recommendation of the Railway Claims Tribunal Review Committee, 2002 headed by Justice Susanta Chatterjee.

2.16 In response to a written reply, the Committee were also informed that no stake holders/NGOs/Passenger Associations were consulted while drafting the Railways (Amendment) Bill, 2014.

2.17 Dr. Kirit Somaiya, MP, who appeared as a non-official witness before the Committee submitted the following data:-

Central Railway
Details of accidental death and injury
(Untoward incidents under Section 124-A of Indian Railways Act 1989)

Month & Year	Injured	Dead	Total
January 2014	172	173	271
February 2014	134	172	278
March 2014	204	198	402
April 2014	172	166	338
May 2014	168	194	362
June 2014	183	219	402
July 2014	142	177	319
August 2014	187	206	393
September 2014	188	203	391
October 2014	192	179	371
November 2014	181	172	353

December 2014	158	177	335
January 2015	177	174	351
February 2015	157	170	327
March 2015	184	183	367
Total	2599	2763	5362

Western Railway

Details of death and injury in tress-passing cases over Suburban Section of Mumbai Division

Month & Year	Injured	Dead	Total
January 2014	126	43	169
February 2014	125	36	161
March 2014	102	44	146
April 2014	112	31	143
May 2014	122	26	148
June 2014	117	39	156
July 2014	112	45	157
August 2014	122	43	165
September 2014	143	43	186
October 2014	132	41	173
November 2014	129	34	163
December 2014	118	41	159
January 2015	127	37	164
February 2015	94	32	126
March 2015	115	37	152
Total	1796	572	2368

III. AMENDMENT TO SECTION 123 OF THE RAILWAYS ACT, 1989

3.1 Existing provision under section 123 are:

“123. Definitions- In this Chapter, unless the context otherwise requires,

- (a) "accident" means an accident of the nature described in section 124
- (b) “dependant” means any of the following relatives of a deceased passenger, namely:
 - (i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent,
 - (ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;
 - (iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;
 - (iv) the paternal grand parent wholly dependant on the deceased passenger.
- (c) "Untoward incident" means
 - (1) (i) the commission of a terrorist act within the meaning of subsection (1) of Section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or
 - (ii) the making of a violent attack or the commission of robbery or dacoity; or
 - (iii) the indulging in rioting, shoot-out or arson,

By any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.”

Change proposed:

In section 123 of the principal Act –

(a) After clause (a), the following clause shall be inserted, namely:-

(aa) “accidental falling” means accidental falling of any passenger from a train carrying passengers but does not include –

(i) a passenger falling from a train while entering or leaving or attempting to enter or leave any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform, or other place appointed by the railway administration for passengers to enter or leave the carriage, or while standing near the door or opens the door of any carriage while the train is in motion; or

(ii) a person who violates the provisions of section 153 or section 154; or

(iii) any passenger or any other persons referred to in section 156.

(b) In clause (c), sub-clause (2) shall be omitted.

3.2 The Committee, during the course of examination, were informed that the proposed Amendment Bill has been brought in the backdrop of the recommendations of ‘The Expert Committee constituted by Railway Board to review the Rail Passenger Insurance Scheme (RPIS)’ in May, 2009. The said Expert Committee recommended segregation of section 124-A of the Railways Act defining the liability of Railways on account of ‘untoward’ incidents and removal of the words ‘accidental falling of passenger’ and

defining it separately by way of insertion of separate clause Section 124-B in the Railways Act, 1989.

3.3 The Committee also referred to the earlier mentioned judgement in Claim Application No. OAI/19/2002 – Smt. Khamani Bai Vs. Union of India in ‘September’ 2004, pertaining to death of a passenger on account of accidental falling from train, which had observed that the clause was being misused with a view to grabbing money by deception.

3.4 Further explaining the reasons for change to the instant Section, the Ministry of Railways submitted that the Railway administration is liable to pay compensation under section 124-A of the Railways Act, 1989, for death or injury to a rail passenger or platform ticket holder on account of "Untoward Incident", which has been defined under clause (c) of section 123 of the Act, and includes cases of 'accidental falling' under sub section (2) of 123(c).

3.5 To further emphasize their point, the Ministry of Railways submitted that an analysis of registration of claims and amount paid on account of accidental falling of passengers from train reveals that the number of claims for death and injury during the year 1994-95 were a meager 136 which had increased to 8157 during 2010-11 and 7906 during 2011-12. The amount paid towards compensation during the aforesaid period had increased from Rs. 26 lakh to Rs. 16489 lakh and Rs. 13590 lakh, respectively. Moreover, registration of claims on account of accidental falling had increased by over 60 times from 1994-95 to 2010-11, while the amount of compensation during the same period had increased by about 634 time. Registration of claims on account of ‘accidental falling’ constituted 94.9% to 98.8% of the “untoward incidents” during the period of 2008-09 to 2011-12. Similarly, amount of compensation paid on this account constituted 92.9% to 99.3% of the total amount paid in different ‘untoward’ incidents during this period.

The position of registration of claims and amount paid on account of accidental falling for the last four years is as under:-

Year	No. of casualties (figures in Nos.)		Total casualties	Compensation paid (Rs. In Lakhs)		Total amount paid (Rs. In Lakhs)
	Death	Injury		Death	Injury	
2008-09	5521	1229	6750	9033	1256	10289
2009-10	5775	1361	7136	11825	1377	13202
2010-11	6661	1496	8157	14677	1812	16489
2011-12	6465	1441	7906	11871	1719	13590
G. Total	24422	5527	29949	47406	6164	53570

3.6 Based on the explanation submitted by the Ministry of Railways for introduction of instant amendment, the Committee sought the opinion of the Ministry on the need for bringing out the Railways (Amendment) Act, 2014 instead of weeding out the institutional defects, viz., doctored inquest report, slipshod investigation by the Railway authorities to establish omissions under sections 153, 154 and 156 of the Railways Act, 1989 etc. Responding to the query of the Committee, the Ministry of Railways submitted as under:-

“The proposed Amendments to the Railways Act are primarily aimed at eliminating claims through fraudulent means. It is not the intention of the Railways to escape either its social obligation, or deny the bona fide passenger his claim resulting from deficiency in services. The purpose is to plug loopholes in the existing laws to prevent its misuse.”

3.7 The Committee sought further clarification from the Ministry of Railways as to how the insertion of clause (aa) to Section 123 will not increase the rigors of victims of accidents/mishaps in receiving compensation as section(s) 153 [Endangering safety of persons travelling by railway by wilful act or omission], 154 [Endangering safety of persons travelling by railway by rash or negligent act or omission] and 156 [Travelling on roof, step or engine of a train] are already punishable acts under the Railways Act, 1989. To this, the following reply was submitted by the Ministry of Railways:-

“All the offences mentioned under sections 153, 154 and 156 are punishable offences, hence there is no question of payment of any compensation, if accidental falling occurs due to reasons mentioned in these sections.”

3.8 While analyzing the proposed Amendment Bill, the Committee took note of the social welfare paradigm introduced *vide* Act No. 28 of 1994 with effect from 1 August, 1994 under sub-clause (2) of clause (c) of Section 123 of the Railways Act, 1989, wherein the accident cases of ‘the accidental falling’ of any passenger from a train carrying passengers was inserted in the definition of ‘untoward incident’. The Committee asked the reasons for making a narrow interpretation of the term “accidental falling” *vide* the Railway (Amendment) Bill, 2014 to which the Ministry replied as under:-

“The purpose for insertion of sub-clause (2) of Clause (C) of section 123 of the Railways Act, 1989 is not to make the Indian Railways immune to its social obligation. The amendment only attempts to enable the judicial system to probe all relevant angles of the case before pronouncing its judgement.”

3.9 The non-official witness while tendering evidence on the instant Amendment Bill, brought to the notice of the Committee that Clause (c) in Section 123 of the Railways Act, 1989, which defines untoward incident, was inserted by Section 2 of the Railways (Amendment) Act, 1994. The Hon’ble Supreme Court of India in *Rathi Menon v. Union of India*, (2001) 3 SCC 714 has observed as under (para. 13 at 719):

“The appellant’s claim for the compensation was based on Section 124-A of the Railways Act, 1989 (for short “the Act”). The said section itself was introduced as per Railway (Amendment) Act 28 of 1994. The section provided for awarding compensation to victims of any “untoward incident” which occurs in the course of working of a railway. The expression “untoward incident” was alien to the Railways Act before Parliament inserted such an expression in the statute as per the Amendment Act 28 of 1994. Prior to it the

Railways could have granted compensation only to the victims of an 'accident'.

As the definition of accident in the Act did not embrace instances of other types of disasters which frequently happened during train journeys, Parliament, in its wisdom, decided to insert a new category of disasters, both man-made and otherwise, to be the causes of action for claiming compensation.”

3.10 The non-official witness further highlighted the interpretation of legal nature of the liability of the Railways under Section 124A of the Railways Act, 1989 by the Hon'ble Supreme Court of India. The Hon'ble Supreme Court in *Union of India v. Prabhakaran Vijaya Kumar & Ors.*, (2008) 9 SCC 527 held as under (para. 14 at 535):-

“If we adopt a restrictive meaning to the expression “accidental falling of a passenger from a train carrying passengers” in Section 123(c) of the Railways Act, we will be depriving a large number of railway passengers from getting compensation in railway accidents. It is well known that in our country there are crores of people who travel by railway trains since everybody cannot afford travelling by air or in a private car. By giving a restrictive and narrow meaning to the expression we will be depriving a large number of victims of train accidents (particularly poor and middle class people) from getting compensation under the Railways Act. Hence, in our opinion, the expression 'accidental falling of a passenger from a train carrying passengers' includes accidents when a bona fide passenger i.e. a passenger travelling with a valid ticket or pass is trying to enter into a railway train and falls down during the process. In other words, a purposive, and not literal interpretation should be given to the expression.”

3.11 During informal discussion with one of the stake holders on the Railways (Amendment) Bill, 2014, the attention of the Committee was drawn towards the ground reality that the passengers who travel by suburban trains in the city have no choice but to undertake travel in overcrowded trains only with the object of reaching their respective places of working for earning their livelihood. This situation compels the

passengers to stand near the door or on footboard. In such cases, there is every likelihood that a passenger may lose his balance or may be hit by a pole/post standing by the side of the Railway track and suffer injury. Insertion of proviso (aa) to Section 123 as proposed in the Amendment Bill would exclude a large number of person travelling in these conditions from claiming compensation from the Railways. The representatives cited the observation of Hon'ble High Court of Bombay in Union of India Vs. Suchitra Ganesh Pathare & Others (FA No.2864 of 2007), wherein the Court have taken note of the above-mentioned fact.

3.12 Dr. Kirit Somaiya, MP, while appearing as non-official witness before the Standing Committee on Railways, stated that the post of Vice-Chairman (Judicial) in Mumbai Bench of Railway Claims Tribunal has been vacant for the last two years. At present a visiting judicial member comes sometimes and attends the cases once in a month or so. In a day, he can attend to only ten cases or so. This scenario is adversely affecting the disposal of cases before RCTs.

IV. AMENDMENT TO SECTION 124 OF THE RAILWAYS ACT, 1989

4.1 Explaining the objective of introducing the proposed section, the Ministry of Railways submitted that prior to the proposed amendment the payment/claims related to ‘Untoward Incident’ including ‘accidental falling’, was governed by Section 124-A of the Act. Since it is proposed to segregate ‘accidental falling’ from ‘Untoward Incident’ by way of insertion of a separate provision, viz. 123(aa), it is necessary that the claims/payments pertaining to the proposed new provision are governed separately. Therefore, a separate Section 124-B is proposed to be inserted, which reads as under:-

“124B. When in the course of working a railway, an incident of accidental falling 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, for the time being in force, 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 accidental falling:

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) his own carelessness or negligence:*

Provided that for the purposes of this clause, it may be established and proved by the passenger or on his behalf that he had taken reasonable care and precaution to avoid occurrence of such incident;

(e) *any act committed by him in a state of intoxication or insanity.''*

4.2 Member Traffic, Railway Board, apprised the Committee that there is something called 'no fault liability', which in legal terminology means even if the Railways are not at fault, they have to pay a claim. To prevent it from being misused, the Ministry of Railways are coming up with the proposed amendment.

4.3 The Committee desired to know the connotation and scope of term 'strict liability' and 'no fault liability' relevant to section 124 and how these terms were detrimental to the cause of the Railways in settling the compensation cases. The Ministry of Railways, in their written reply submitted as under:-

"At present as per the Railway Act, Railway bears "no fault liability" in case of accident and untoward incident including accidental falling. It means whether or not any wrongful act, neglect or default on the part of the Railway, Railway administration be liable to pay compensation. Therefore, virtually there is no scope left to the judicial bodies to scrutinize the merit of the case and they have no option but to award compensation.

Railway shall continue to bear its 'no fault liability' so far accident and untoward incident excluding accidental falling are concerned. The accident and untoward incident have been defined in section 124 and 123 (c), respectively, in the Railway Act, 1989. As per section 124, accident means a collision between trains of which one is train carrying passengers, or the derailment of a train or other accident of a train or any part of a train carrying passengers. In section 123 (c) untoward incident has been defined as follows:

(1) (i) the commission of a terrorist act within the meaning of sub section(1) of section 3 of the terrorist and disruptive activities (prevention) Act 1987 or

(ii) the making of a violent attack or commission of robbery or dacoity or

(iii) the indulging in rioting, shootout or arson,

By any person in or in any train carrying passengers or in a waiting hall, cloak room or reservation or booking office or any platform or any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.

4.4 The Ministry of Railways further explained that in the instant amendment it has only been proposed to exclude accidental falling from the ambit of untoward accident; is defined separately under the proposed section 123 (aa) and the liability of the Railway for payment of compensation in accidental falling is proposed to be included in the new section 124 B.

4.5 After carefully studying the provisions of the proposed proviso (d) of section 124B, the Committee comprehended that the burden of proof to the effect that the passenger had taken reasonable care and precaution to avoid occurrence of such incident lies on the claimant who goes to the Claims Tribunal for compensation. On this, the Committee desired to know how the dependents of the victim would prove that reasonable care and precaution was taken by the passenger to avoid occurrence of such incidents; in response, the Ministry submitted as under:-

“Usually in legal jurisprudence, the burden of proof lies on the part of the claimant who goes to the court to seek some relief. However, decisions on compensation claims filed in the RCTs are usually taken based on the material evidence available in a given case. The normal documentary evidence involved includes the Panchnama of the local GRP and the report of Divisional Railway Manager of the Division where the incident has occurred. The RCT Bench takes into consideration the aforesaid factors along with the circumstantial evidence to give its ruling.

Endangering safety by anyone of persons travelling by Railway by willful act or omission or by rash or negligent act or omission and travelling on roof, footboard of coaches or engines of train are punishable offences under the provisions of Section 153, 154 and, 156, respectively of the Railways Act, 1989. As such, the Railways cannot be made liable for payment of compensation for such acts which are punishable offences. Therefore, the victim/claimant has to prove that (s) he had taken reasonable care to avoid such incidents and has not violated the provisions of Section 153, 154 and 156 of the Railways Act 1989.”

4.6 In order to have an in-depth understanding of the term ‘reasonable care’, the Committee asked the Ministry whether they have quantified the term to satisfy the newly inserted section 124B of the Railways (Amendment) Bill, 2014. On this, the Ministry of Railways replied that –

“Although the words ‘Carelessness’ and ‘Negligence’ have not been defined in Section 124-B of the proposed Amendment Bill, in legal parlance these words have been defined as under:

***Carelessness:** carelessness is failure to use the degree of attentiveness, caution and prudence that a reasonable person in the normal circumstances would exercise.*

***Negligence:** conduct that falls below the standard of behaviour established by Law for protection of others against unreasonable risk of harm. A person has acted negligently if he/she has departed from the conduct expected of a reasonably prudent person acting under similar circumstances.*

If we see the proposed Section 123(aa) of the proposed Amendment Bill 2014, in the light of the above definition of negligence and carelessness, it transpires that the intrinsic nature or indispensable quality of both the words flows all over the Section.

The proposed Section 123(aa) states that: “accidental falling” means accidental falling of any passenger from a train carrying passengers but does not include:

A passenger falling from a train while entering or leaving or attempting to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform, or other place appointed by the railway administration for passengers to enter or leave the carriage, or while standing near the door or opens the door of any carriage while the train is in motion; or

A person who violates the provisions of Section 153 or 154; or

Any passenger or any other person referred to in Section 156 of the Railways Act, 1989.

4.7 The Committee, while taking note of the general conditions in which common passengers travel in overcrowded train coaches, came to recognize that with the introduction of automated doors in the trains, the cases of ‘accidental falling’ leading to payment of compensation to the victims by the Railways could be considerably reduced. In that eventuality, there will not be any need for amending the Railway Act, 1989. The Ministry of Railways stated that –

“Layout design of new built EMU coaches with Automatic door closure mechanism is under process. Meanwhile, Railway Board has already advised ICF to plan manufacture of EMU coaches with Automatic door closure mechanism. One Air Conditioned rake with Automatic door closure is already under manufacture at ICF, Chennai.”

4.8 During the course of informal discussion on the Railways (Amendment) Bill, 2014, the Committee were informed that the quantum of compensation paid by the Railways for death/injury in train accident or untoward incident (as defined under Section 124/124-A of the Act) has been prescribed in the Railways Accidents and Untoward Incidents (Compensation) Amendment Rules, 1997, which lays down Rs. 4 lakh for death and permanent disability; and Rs. 32,000/- to Rs. 3,60,000/- depending upon the gravity of the injury. The Bombay High Court in *Madhuri & Others Vs. Union of India (First Appeal No. 118 of 2010)* has

expressed displeasure over the quantum of compensation paid by the Railways. Considering inflation and the diminishing value of Rupee in the last 18 years, there is urgent need to enhance the quantum of compensation amount to make it reasonable, fair and equitable. Based on these inputs, the Committee desired to know about the follow up action taken by the Ministry of Railways to increase the quantum of compensation. On this, the Ministry of Railways replied as under:-

“The matter of enhancement of compensation limit has been examined recently and at present there is no proposal to enhance the compensation amount.”

4.9 Having realized that the installation of CCTVs at all the strategic locations on Railway platforms, the litigations for determining the wrongful act, neglect or default on the part a passenger or the Railway Administration can be minimised, the Committee enquired about any impact study conducted by the Railways for installing CCTVs at all the strategic locations on Railway platforms and date line set for ensuring absolute coverage of all Railway platforms by CCTVs. The Ministry of Railways, in a written reply, submitted as under:-

“Closed Circuit Television Cameras (CCTV) have been installed for keeping surveillance over suspected persons/objects at about 311 important Railway stations of the country. Presence of CCTV cameras deters anti-social elements and checks criminal activities in the station premises/circulating area. CCTV footage also helps in identification of offenders and reconstruction of scene of crime for post-incident investigations.

At present, CCTV cameras are available at about 311 important stations over Indian Railways.

In view of the emerging threat perception and growing challenges to the Railway security and as recommended by the Composite Security Plan Committee, an Integrated Security System (ISS) is being implemented to strengthen surveillance mechanism over 202 sensitive and vulnerable stations of the Indian Railways and IP based CCTV Surveillance System is one of an important features of

the ISS. The System has been conceptualized to provide multiple checking of passengers and its baggage from the point of entry in the station premises till boarding of train. 80 stations have already been covered with CCTV surveillance system under the Integrated Security System.

Besides installation of ISS at 202 nominated stations, it has been decided to cover all the A1, A & C category stations of Indian Railways with CCTV surveillance System and requirement of CCTV cameras is being assessed in consultation with Zonal Railways.

4.10 On being enquired about the number of cases of compensation claims pending in different Benches of Railway Claims Tribunal, Supreme Court and High Courts, along with the period of their pendency, the Ministry of Railways submitted following data:-

“The total number of compensation claims cases pending in different Benches of Railway Claims Tribunal as on 31.01.2015 is as under:

Sl. No.	Bench	No. of Train Accident	No. of Untoward Incident	Total
1	Delhi	00	543	543
2	Chandigarh	11	776	787
3	Lucknow	131	7700	7831
4	Gorakhpur	55	2988	3043
5	Ghaziabad	03	2067	2070
6	Kolkata	65	3226	3291
7	Bhubaneswar	00	1186	1186
8	Guwahati	00	587	587
9	Patna	03	3592	3595
10	Ranchi	05	290	295
11	Mumbai	57	5802	5859
12	Ahmedabad	02	876	878
13	Bhopal	05	2309	2314
14	Jaipur	06	1179	1185
15	Nagpur	04	1191	1195
16	Chennai	01	355	356
17	Bangalore	25	506	531
18	Secunderabad	07	2997	3004
19	Ernakulam	00	87	87
Total		380	38257	38637

In addition to the above, 3371 cases are pending in various High Courts and 9 cases are pending in Supreme Court during 2010-11 to 2014-15.”

4.11 On being asked about the time-frame fixed to settle the cases of compensation claims, the Ministry replied as under:-

“The cases claiming compensation from Railways for death/injury in train accident / untoward incident (as defined under Section 124/124-A of the Railways Act, 1989) are decided by the Railway Claims Tribunal, which is a quasi-judicial body, independent from the Railways. The cases are decided by the Tribunal after following the judicial proceedings. Railways cannot interfere in the working of the Tribunal.

Sometimes, delay in finalisation of award of decree is caused because of the following:-

- a. The legal process in submission of written statement by the Railways on the facts of the applicant takes time.*
- b. Adjournments are taken by applicant for producing evidence before the Tribunal.*
- c. Time taken by respondent Railway in filing of written statement.*
- d. Respondent Railway also seeks adjournments for cross-examination of applicant's evidence.*

Railways make all out efforts at their end for early disposal of the compensation claims in train accidents. Some of the steps taken by the Railways for speedy disposal of cases are as under:-

- An Accident Cell is set up at each Zonal Head quarter to provide assistance for filing of accident compensation claims and monitor them till the satisfaction of decree in the Railway Claims Tribunal.*
- After the decree has been passed, payment of decreed amount is made at the earliest.*

Recommendations/Observations

Consultation Process

1. The Committee note that the Indian Railways is the largest rail network in Asia and the world's second largest, under a single management. The Railways run around 11,000 trains every day, out of which there are 7,000 passenger trains which provide transport facilities to around 13 million passengers on a daily basis. The entire operation of Railways is governed by the Railways Act, 1989 which has been amended from time to time. The Ministry of Railways, through the Railways (Amendment) Bill, 2014, have now sought to amend Sections 109 and 123 and to insert a new Section 124B in the Railways Act, 1989 which mainly relates to provision of compensation to Railway accident victims. The Committee view with serious concern that though the proposed amendments involve public interest, these have been proposed without any kind of consultation process with the most crucial stakeholders, *i.e.* the Railway Accidents Victims Associations, the Railways Claims Tribunal Bar Associations, Passenger Associations, etc. The Committee would like to unambiguously state that indisputably it is the Railway users alone – the ordinary citizens of the country for whom the Railways is the most affordable mode of transport that provides the maximum connectivity – who will be the most affected at the ground level if this Bill were to be passed by the Parliament. It needs reiteration that ours is a Welfare State and the entire Government machinery and their actions are accountable to the public at large. The Committee are, therefore, of the firm view that an organization of the stature and standing of the Indian Railways will not be able to formulate and implement a passenger friendly policy without the active participation of various stakeholders concerned. From the feedback made available to the Committee, it is quite evident that very pertinent and genuine apprehensions of the stakeholders have remained unaddressed by the Railway administration. The rightful course would have been for the Ministry of Railways to have allayed the apprehensions of these stakeholders by inviting their suggestions and also discussing the issues covered under the proposed amendment Bill with them at the Zonal Railways' level. However, to the utter disappointment of the Committee, the Ministry of Railways have, regrettably, failed to take the right initiative in this direction. The Committee, therefore,

recommend that before bringing any Bill before Parliament, especially if it involves public interest, various stakeholders should invariably be consulted before major policy changes impacting their concerns are effected by the Railway administration.

Amendment to Section 109 of the Railways Act, 1989

2. The Committee note that the existing provision of Section 109 of the Railways Act, 1989 entail that an application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against the Railway administration from which the passenger obtained pass or purchased ticket, or the Railway administration from which the passenger station lies or the loss or personal injury occurred. While making changes *vide* the Railways (Amendment) Bill, 2014, the Railways have proposed to add a proviso to the effect that the Railway administration where the loss of life or personal injury to a passenger occurs shall be made a party, amongst others, if any, before the Railway Claims Tribunal. The reason given by the Railways for the proposed change is to prevent filing of a large number of duplicate cases of compensation claims in different Benches of the Railway Claims Tribunal (RCT). In this regard, the Committee have been informed that the total number of cases of compensation claims filed during the last ten years (2004-05 to 2013-14) for death or injury of passengers in train accidents is 1920 and in untoward incidents is 63,096. Against this, only 327 cases of duplicate claims have been detected by the RCT Benches. The Committee have also been apprised that with a view to checking the registration of duplicate/ multiple cases, computerization along with interconnectivity of all the Benches of the Railway Claims Tribunal has been done; besides, a software has been developed by the Centre for Railway Information Systems (CRIS) for the purpose in the year 2010.

Having noted the aforementioned details, the Committee are greatly dismayed to find that there is an absolute disconnect between the reasons put forward by the Railways to amend Section 109 of the Railways Act, 1989, and the relevant statistics made available by them to the Committee. For instance, the number of cases of duplicate claims is merely 0.5% of the total number of cases of compensation claims filed during the last ten years. The Committee are also surprised to notice that till date, no loss to the Government Exchequer

has been reported by the Railways on account of compensation given in duplicate/ fraudulent cases which starkly contradicts the Statement of Objects and Reasons given in the Railways (Amendment) Bill, 2014. The Committee are of the opinion that if the software developed by CRIS is further refined and made professionally workable by making the Accidental Death Report Number (ADR) as a mandatory field in the Claims Application Format, there will not be any requirement for making a party, by default, to that Railway Zone under whose jurisdiction the loss/ injury has occurred. The Committee are, therefore, of the firm conviction that there is no need to amend Section 109 of the Railway Act, 1989 as the reasoning given by Railways to amend this Section does not cut ice and is fraught with contradictions. The Committee further desire that CRIS should work to remove any inherent deficiencies in their software programme to make it fool-proof.

Pending Cases of Compensation Claims

3. The Committee looked into the aspect of the total number of compensation claims pending in different Benches of the Railway Claims Tribunal. The Committee are appalled to find that, as on 31 January, 2015, as many as 38,637 compensation claims are pending. The overall position of pending cases in respect of Lucknow, Mumbai and Patna Benches of RCT is alarming to the extent that 7831 cases (20.26%), 5859 cases (15.16%) and 3595 (9.30%) cases, respectively, are pending. Though the reasons for non-settlement of compensation claims could be manifold, including non-appearance of lawyers, claimants, prolonged arguments before the Tribunals, etc., but in the Committee's view, the foremost reason for the rising number of compensation claims is the non-filling of vacant post(s) of Member (Judicial) and/or Member (Technical) in the RCT Benches. Since the non-filling up of vacant posts in the RCT has a direct bearing on the settlement of compensation claims of the poor victims, the Committee wish to emphasize that had the Railways taken effective steps to expedite the filling up of vacant posts in the RCTs by way of introducing amendments to the Railways Claims Tribunal Act instead of the Railways Act, 1989, the number of pending cases could have been brought down. The Committee, therefore, strongly recommend that the Ministry of Railways should re-work their priorities and ensure that all the existing vacant posts in the Railway Claims

Tribunals are filled up expeditiously. The Committee also urge the Railways to formulate a pragmatic policy whereby the Railways should anticipate the number of vacancies arising during the year and take proactive steps to fill up the same so as to ensure that, in future, the positions in the Railway Claims Tribunals do not remain vacant for a long time.

Amendment to Section 123 of the Railways Act, 1989

4. The Committee observe that Section 123 of the Railways Act, 1989 contained the definitions of ‘accident’ and ‘dependant’. Later on, the Government introduced the Railways (Amendment) Bill, 1993 to amend, *inter alia*, Section 123 by inserting the Clause “untoward incident” which also included accidental falling of any passenger from a train carrying passengers. In the Statement of Objects and Reasons for introducing the Bill, the Government stated that there had been pressing demands in both the Houses of Parliament and from the public that the *bona fide* railway passengers who become victims of incidents should be compensated for injuries or loss of life. Accordingly, the Railways (Amendment) Act, 1994 was enacted to amend the Railways Act, 1989.

The Committee further note that by way of the Railways (Amendment) Bill, 2014, the Ministry of Railways are seeking to define those acts which do not constitute “accidental falling” like a passenger falling from a train while entering or leaving or attempting to enter or leave any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform, or other place appointed by the Railway administration for passengers to enter or leave the carriage, or while standing near the door or open the door of any carriage while the train is in motion.

While giving reasons for introducing the aforementioned changes, seemingly in disregard of the demands of both the Houses of Parliament as brought out in the Objects and Reasons for bringing the Railway (Amendment) Bill, 1993, the Ministry of Railways have informed that with the insertion of Section 124-A by the Railways (Amendment) Act, 1994, it had been observed that a large number of cases have been filed in the Railway Claims Tribunals by claimants arising out of falling down from the train while entering or detraining from a moving train. The Railways have submitted that they are

burdened with payment of compensation even in those cases in which the act on the part of the passengers should normally be punishable for conscious carelessness and negligence on their part.

The Committee are constrained to observe that the attempt of the Railways to insert the definition of “accidental falling” is fraught with serious inadequacies; this is particularly so, since the Railway administration know fully well but are not willing to accept the trying circumstances in which the passengers board and travel in rail/ suburban trains. The Committee view this as an unacceptable act on the part of Railways so that they do not have to pay compensation to the genuine Railway users. In order to further buttress their observations, the Committee wish to highlight the following points:

- *The insertion of Clause (aa)(i) in Section 123 vide the Railways (Amendment) Bill, 2014 inter alia stipulates that falling (of a passenger) from a train while opening the door of any carriage while the train is in motion does not constitute “accidental falling”. Since the EMUs/ DMUs do not have doors and in the event of falling of any passenger from these suburban trains, whether such falling from the train would come under the category of “accidental falling”?*
- *Though there has been a hugely substantial increasing in the carrying capacity of passengers in the Indian Railways during the last 2-3 decades, it is also an undeniable fact that, during this period, the number of rail users has grown at a much faster pace. This has resulted in an unenviable situation where the rail users who cannot afford to enjoy the luxury of air travel or those who cannot avail other modes of travel, are compelled to try and board the already over-crowded trains. The larger question is whether the Railways have ever contemplated to restrict the sale of tickets/ monthly seasonal tickets commensurate with the availability of space inside the rail carriage.*
- *There has been the oft complained about problems of the low height of railway platforms, the gap between the platform and the in-coming/ out-going trains, dilapidated condition of FOBs/ FUBs, unmanned level crossings, etc. Though the Railways have*

formulated many ambitious programmes in the past to overcome these problems, the fact remains that these hazards have put the safety of rail users to grave peril. Have the Railways determined a timeline to eliminate all these deficiencies on a permanent basis?

- *Using technological advancements in the recent years, the Railway administrations of several countries have introduced user-friendly automated doors in rail carriages which are closed when the train accelerates and open only when the train reaches the platform. In India too, the metro rails are using this technology. Have the Railways devised any concrete plan to introduce this technology in their operations so that untoward incidents on this account are taken care of?*
- *Section 153 (Endangering safety of persons travelling by railway by willful act or omission) and Section 154 (Endangering safety of persons travelling by railway by rash or negligent act or omission) of the Railways Act, 1989 prescribe punishment with imprisonment. Juxtaposing these stringent provisions with the realities on-ground where an unintended act of a rail user can be termed as willful omission, whether the Railways have the necessary wherewithal to man each and every railway platform, railway compartment or the railway premises so that the occurrences of unintended mishappenings are contained?*

The Committee have noticed in the foregoing paragraphs of the Report that there are several serious shortcomings in the overall system of ensuring the safety of the rail users. Instead of addressing these issues in the right perspective, the Railways have brought in the proposed legislation to amend Section 123 of the Railways Act, 1989. The Committee feel that the Railways' claim that Section 123 of the Railways Act, 1989 has to be amended to obviate wilful carelessness, negligence and known misadventure on the part of a passenger which may result in the occurrence of an incident, tantamount to shirking their responsibility towards ensuring the safety and security of the travelling public. The Committee, therefore, hold the view that amendment to Section 123 of the Railways Act, 1989 could be effected only when the inherent deficiencies in the Railway premises and property are rectified and passenger safety is ensured. Till such time,

the existing provisions of Section 123 of the Railways Act may continue.

Amendment to Section 124 of the Railways Act, 1989

5. The Committee note that after Section 124 of the Railways Act, 1989, which relates to the extent of liability, a new Section, namely 124-A, was inserted *vide* the Railways (Amendment) Act, 1994. Section 124-A provides that 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, a passenger who was injured or killed is entitled for compensation. The Committee have been informed that as per the Railways Act, 1989, the Railways bear ‘no fault liability’ in case of an accident or untoward incident, including accidental falling. It means, whether or not any wrongful act, neglect or default on the part of the railways, the Railway administration be liable to pay compensation. Therefore, the Ministry have contented that virtually there is no scope left to the judicial bodies to scrutinize the merit of the case and they have no option but to award compensation.

Justifying the insertion of a new Section 124-B, the Ministry of Railways have informed that in the existing Act, the payment/ claims related to “Untoward Incident”, including “Accidental Falling”, was governed by Section 124-A of the Act. Since it has now been proposed to segregate “Accidental Falling” from “Untoward Incident” by way of insertion of a separate provision, *viz.* 123(aa), it is necessary that claims/ payments pertaining to the proposed new provision are governed separately.

To have a better understanding of the intent and impact of the said insertion, the Committee examined all the facts gathered by them, *viz.* the evidence of the representatives of the Ministry of Railways (Railway Board), representations submitted by various stakeholders and discussions with various NGOs, Associations, etc., during the study visit of the Committee to Mumbai in February, 2015. The Committee find that the contents included in Section 124-A *vide* the Railways (Amendment) Act, 1994 have been reproduced in the proposed new insertion in the form of Section 124-B, except the following:

- (i) the words ‘untoward incident’ appearing in Section 124-A has been substituted by the words ‘accidental falling’;
- (ii) proviso attached to Section 124-A for non-payment of compensation if the passenger dies or suffers injury has been amplified by way of inserting a new proviso in Section 124-B that no compensation shall be payable if the passenger dies or suffers injury due to *his own carelessness or negligence*; and
- (iii) A further proviso has been inserted in Section 124-B stipulating that *for the purpose of this clause, it may be established and proved by the passenger or on his behalf that he had taken reasonable care and precaution to avoid occurrence of such incident.*

The Committee find that the burden of proof to the effect that the passenger had taken reasonable care and precaution to avoid occurrence of such accidental falling is now on the passenger or on his/her behalf by the claimants. In this regard, the Ministry of Railways have further informed that usually in legal jurisprudence, the burden of proof lies on the part of the claimant who goes to court to seek some relief. However, decisions on compensation claims filed in the RCTs are usually taken based on the material evidence available in a given case. The normal documentary evidence involved includes the *Panchnama* of the local GRP and the report of the Divisional Railway Manager of the Division where the incident occurred. The RCT Bench takes into consideration the aforesaid factors along with the circumstantial evidence to give its ruling.

The Committee are disinclined to accept the narrow and illogical interpretation of the Ministry of Railways on the aspect of ‘*shifting of burden of proof on the passenger or on his behalf on the claimants*’. The Committee are perturbed by several aspects of the Bill which can adversely affect the victims of untoward incident/accidental falling and prevent them from getting any compensation from the service provider, *i.e.* the Indian Railways. Expressing apprehensions on the proposed Bill, several stakeholders were of the firm view that the existing arrangement as provided in the Railways Act, 1989, as amended, was being tampered with by introducing Section 124-B. The

Committee would like to emphasize the fact that any attempt to infringe upon the rights of victims of untoward incident/ accidental falling would not be a wise move which would undermine the legislation itself, besides tarnishing the *Seva-Suvidha-Suraksha-Nyay* values of the Indian Railways. The Committee, therefore, are of the opinion that the proposed amendment will lead to a sure denial of compensation to the hapless victims of untoward incident/ accidental falling; as such, the Railways should have undertaken consultations with various stakeholders and experts in the field before proposing such an amendment. In sum, the Committee are not in favour of insertion of Section 124-B in its present form *vide* the Railways (Amendment) Bill, 2014.

Procedural improvements at Railway Premises

6. The Committee note that in terms of the relevant provisions of the Railway Act, 1989, as amended, whenever an incident of accidental falling/ untoward incident occurs, then, whether or not there has been any wrongful act, neglect or default on the part of the passenger who has been injured or killed, the Railways are liable to pay compensation to the victims or their dependents. The Committee made an attempt to look into the sequence of events, right from the occurrence of a mishap, the role of the Railway authorities and eventually the disbursal of compensation claim based on the decision of the Railway Claims Tribunal. The Committee find that whenever any mishapening occurs, occasioned by the death of, or injury to, a passenger, the injured person is shifted by the local police to the hospital and intimation is given to the station authority or the Government Railway Police (GRP). These functionaries prepare a Report and the same is sent to the Zonal Railway, in whose jurisdiction the incident occurred. The Zonal Railway prepares a statutory Report and the same is forwarded to the Tribunal for considering payment of compensation or otherwise. In this entire process, the Committee find that the initial report submitted by the station authority or the GRP is of utmost importance and it is not easy to challenge the same in the RCT.

In order to understand a situation where the Report of the station authority or the GRP is inaccurate, manipulated or favouring the Railways, which would make it difficult for the victim/ dependents

to prove innocence, the Committee enquired the status of installation of Closed Circuit Television Cameras (CCTVs) at all strategic locations on railway platforms. In response, the Ministry stated that CCTVs have been installed for keeping surveillance over suspected persons/ objects at about 311 important stations of the country. While appreciating the initiative taken by the Railways in installing CCTV cameras at the railway stations, the Committee wish to point out that the pace of installation of CCTV cameras is very tardy in view of the fact that out of 7000 railway stations in the country, only 311 stations (4.44%) have this facility. Since CCTV cameras at strategic locations in the railway stations, among other things, will mostly eliminate the possibility of any prejudiced report in the event of an accidental falling/ untoward incident, the Committee recommend that a comprehensive policy should be framed by the Railways to ensure that CCTVs are installed at all the railway stations within this fiscal year. If need be, the Ministry of Finance may be approached for allocating additional funds for completing this project.

Compensation and *Ex-gratia* relief

7. The Committee note that in terms of the Notification dated 25 October, 1997, issued by the Ministry of Railways *vide* GSR 620(E), the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 were amended to enhance the rate of compensation for death and injuries. Presently, the amount of compensation for death and permanent disability is Rs. 4 lakh and for other injury, depending upon its gravity, it is Rs. 32,000 to Rs. 3,60,000. For the payment of *ex-gratia* relief in case of death/ injury of railway passengers in train accidents or at the manned level crossings, the Ministry of Railways, *vide* their Order dated 26 July, 2012, have revised the amount to Rs. 50,000 for death, Rs. 25,000 for grievous injury and Rs. 5000 for simple injury. The payment of *ex-gratia* relief in the case of passengers who are hospitalized for more than one month as a result of train accidents/ untoward incidents has also been revised in May, 2013.

On the basis of inputs gathered by the Committee through their interactions with the representatives of the Ministry of Railways, and informal discussions with various stakeholders, Associations and representatives of the Western and Central Railways during their study visit to Mumbai in February, 2015, the Committee have come to note that the compensation offered to the victims of a railway accident has remained static over the last 18 years. Notably, the Bombay High

Court, in *Madhuri & Others Vs. Union of India*, had also expressed displeasure over the quantum of compensation paid by the Railways, taking into consideration inflationary trends and the diminishing value of the Rupee. Similarly, in spite of the specific provision for payment of *ex-gratia* relief in case of passengers who are hospitalized for more than one month as a result of train accidents/ untoward incidents, the Committee have been given to understand that there is slackness on the part of Zonal Railways to implement the scheme in letter and spirit. The Committee, therefore, strongly recommend that the Ministry of Railways should urgently examine the Railway Accidents and Untoward Incidents (Compensation) Amendment Rules, 1997 so as to enhance the amount of compensation payable to the victims of accidental falling/ untoward incident. The Ministry of Railways should also ensure that all the Zonal Railways should devise appropriate mechanisms for expeditious payment of *ex-gratia* relief in case of passengers who are hospitalized as a result of train accidents/ untoward incidents. The Committee trust that urgent necessary steps will be initiated by the Railways in this regard at the earliest.

8. The Committee note that through the proposed amendment to the Railways Act, 1989, there is an attempt on the part of the Railways to re-define “accidental falling” in Railway accidents and also to make changes to the eligibility criteria for passengers and their dependents to claim compensation in the aftermath of an accident. The amendment is also aimed at not providing compensation who have suffered injuries due to “negligence” or “carelessness” which are subjective expressions. While drafting this legislative proposal, the Railway administration should have kept in mind the millions of commuters who use the trains as a means of transport in adverse conditions, constantly battling with delays and overcrowding. The instant amendment to the Railways Act, 1989 also seeks to overturn a path-breaking judgment of the Bombay High Court wherein the Court clarified the meaning of “Untoward Incident” as “Accidental Falling of any passenger from a train carrying passengers”. The Committee are constrained to note that instead of taking effective steps to ensure the safety of passengers and reducing the cases of accidental falling like increased frequency of trains during peak hours, efforts to reduce overcrowding in trains, additional tracks, raising the height of platforms, eliminating the gap between the platform and the trains, installation of CCTV cameras and closed doors in carriages, the Railways have proposed the Railway (Amendment) Bill, 2014 that

goes against the genuine interests and concerns of the travelling public. The Committee are of the firm belief that this amendment will serve to shift the onus for the deaths and grievous injuries in Railway accidents on the hapless passengers and victims, without any financial liability whatsoever on the Railways. The Committee, therefore, recommend that in deference to the railway commuters who have lost their lives or who have become permanently disabled in Railway accidents, the Government should re-work their priorities in respect of passenger safety. The Committee would like to refer the Railways (Amendment) Bill, 2014 back to the Government for rectification on the lines proposed in the aforementioned paragraphs and re-introduction.

NEW DELHI;
29 April, 2015
9 Vaisakha, 1937 (Saka)

DINESH TRIVEDI,
Chairperson,
Standing Committee on Railways.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्रतिभार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 29] नई दिल्ली, सोमवार, जून 5, 1989/ज्येष्ठ 15, 1911
No. 29] NEW DELHI, MONDAY, JUNE 5, 1989/JYAISTHA 15, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June 1989/Jyaistha 15, 1911 (Saka)

The following Act of Parliament received the assent of the President
on the 3rd June, 1989, and is hereby published for general information:—

THE RAILWAYS ACT, 1989

No. 24 OF 1989

[3rd June, 1989.]

An Act to consolidate and amend the law relating to Railways.

Be it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Railways Act, 1989.

(2) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provi-
sions of this Act, and any reference in any such provision to the com-
mencement of this Act shall be construed as a reference to the coming
into force of that provision.

2. In this Act, unless the context otherwise requires,—

(1) "authorised" means authorised by a railway administration;

(2) "carriage" means the carriage of passengers or goods by a
railway administration;

Short
title and
com-
mence-
ment.

Defini-
tions.

(3) "Claims Tribunal" means the Railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987;

54 of 1987.

(4) "classification" means the classification of commodities made under section 31 for the purpose of determining the rates to be charged for carriage of such commodities;

(5) "class rates" means the rate fixed for a class of commodity in the classification;

(6) "Commissioner" means the Chief Commissioner of Railway Safety or the Commissioner of Railway Safety appointed under section 5;

(7) "commodity" means a specific item of goods;

(8) "consignee" means the person named as consignee in a railway receipt;

(9) "consignment" means goods entrusted to a railway administration for carriage;

(10) "consignor" means the person, named in a railway receipt as consignor, by whom or on whose behalf goods covered by the railway receipt are entrusted to a railway administration for carriage;

(11) "demurrage" means the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention;

(12) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(13) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a railway receipt to pass the property in the goods mentioned in such receipt to a specified person;

(14) "fare" means the charge levied for the carriage of passengers;

(15) "ferry" includes a bridge of boats, pontoons or rafts, a swing bridge, a fly-bridge and a temporary bridge and the approaches to, and landing places of, a ferry;

(16) "forwarding note" means the document executed under section 64;

(17) "freight" means the charge levied for the carriage of goods including transshipment charges, if any;

(18) "General Manager" means the General Manager of a Zonal Railway appointed under section 4;

(19) "goods" includes—

(i) containers, pallets or similar articles of transport used to consolidate goods; and

(ii) animals;

(20) "Government railway" means a railway owned by the Central Government;

(21) "in transit", in relation to the carriage of goods by railway, means the period between the commencement and the termination of transit of such goods, and unless otherwise previously determined—

(a) transit commences as soon as the railway receipt is issued or the consignment is loaded, whichever is earlier;

(b) transit terminates on the expiry of the free time allowed for unloading of consignment from any rolling stock and where such unloading has been completed within such free time, transit terminates on the expiry of the free time allowed, for the removal of the goods from the railway premises;

(22) "level crossing" means an inter-section of a road with lines of rails at the same level;

(23) "luggage" means the goods of a passenger either carried by him in his charge or entrusted to a railway administration for carriage;

(24) "lump sum rate" means the rate mutually agreed upon between a railway administration and a consignor for the carriage of goods and for any service in relation to such carriage;

(25) "non-Government railway" means a railway other than a Government railway;

(26) "notification" means a notification published in the Official Gazette;

(27) "parcel" means goods entrusted to a railway administration for carriage by a passenger or a parcel train;

(28) "pass" means an authority given by the Central Government or a railway administration to a person allowing him to travel as a passenger, but does not include a ticket;

(29) "passenger" means a person travelling with a valid pass or ticket;

(30) "prescribed" means prescribed by rules made under this Act;

(31) "railway" means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes—

(a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(c) all electric traction equipments, power supply and distribution installations used for the purposes of, or in connection with, a railway;

(d) all rolling stock, stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water

works and water supply installations, staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(e) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by a railway administration,

but does not include—

(i) a tramway wholly within a municipal area; and

(ii) lines of rails built in any exhibition ground, fair, park, or any other place solely for the purpose of recreation;

(32) "railway administration", in relation to—

(a) a Government railway, means the General Manager of a Zonal Railway; and

(b) a non-Government railway, means the person who is the owner or lessee of the railway or the person working the railway under an agreement;

(33) "railway receipt" means the receipt issued under section 65;

(34) "railway servant" means any person employed by the Central Government or by a railway administration in connection with the service of a railway;

(35) "rate" includes any fare, freight or any other charge for the carriage of any passenger or goods;

(36) "regulations" means the regulations made by the Railway Rates Tribunal under this Act;

(37) "rolling stock" includes locomotives, tenders, carriages, wagons, rail-cars, containers, trucks, trolleys and vehicles of all kinds moving on rails;

(38) "station to station rate" means a special reduced rate applicable to a specific commodity booked between specified stations;

(39) "traffic" includes rolling stock of every description, as well as passengers and goods;

(40) "Tribunal" means the Railway Rates Tribunal constituted under section 33;

(41) "wharfage" means the charge levied on goods for not removing them from the railway after the expiry of the free time for such removal;

(42) "Zonal Railway" means a Zonal Railway constituted under section 3.

CHAPTER II

RAILWAY ADMINISTRATIONS

3. (1) The Central Government may, for the purpose of the efficient administration of the Government railways, by notification, constitute such railways into as many Zonal Railways as it may deem fit and specify in such notification the names and headquarters of such Zonal Railways and the areas in respect of which they shall exercise jurisdiction.

Zonal
Railways.

(2) The Zonal Railway existing immediately before the commencement of this Act shall be deemed to be Zonal Railways constituted under sub-section (1).

(3) The Central Government may, by notification, declare any unit of the railways engaged in research, development, designing, construction or production of rolling stock, its parts or other equipment used on a railway, to be a Zonal Railway.

(4) The Central Government may, by notification, abolish any Zonal Railway or constitute any new Zonal Railway out of any existing Zonal Railway or Zonal Railways, change the name or headquarters of any Zonal Railway or determine the areas in respect of which a Zonal Railway shall exercise jurisdiction.

4. (1) The Central Government shall, by notification, appoint a person to be the General Manager of a Zonal Railway.

Appoint-
ment of
General
Manager.

(2) The general superintendence and control of a Zonal Railway shall vest in the General Manager.

CHAPTER III

COMMISSIONERS OF RAILWAY SAFETY

5. The Central Government may appoint a person to be the Chief Commissioner of Railway Safety and such other persons as it may consider necessary to be the Commissioners of Railway Safety.

Appoint-
ment of
Chief
Commis-
sioner
of Rail-
way
Safety
and
Commis-
sioners
of Rail-
way
Safety.

6. The Commissioner shall—

Duties of
Commis-
sioner.

(a) inspect any railway with a view to determine whether it is fit to be opened for the public carriage of passengers and report thereon to the Central Government as required by or under this Act;

(b) make such periodical or other inspections of any railway or of any rolling stock used thereon as the Central Government may direct;

(c) make an inquiry under this Act into the cause of any accident on a railway; and

(d) discharge such other duties as are conferred on him by or under this Act.

Powers
of Com-
mis-
sioner.

7. Subject to the control of the Central Government, the Commissioner, whenever it is necessary so to do for any of the purposes of this Act, may—

(a) enter upon and inspect any railway or any rolling stock used thereon;

(b) by order in writing addressed to a railway administration, require the attendance before him of any railway servant and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration; and

(c) require the production of any book, document or material object belonging to or in the possession or control of any railway administration which appears to him to be necessary to inspect.

Commis-
sioner to
be public
servant.

8. The Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Facilities
to be
afforded
to Com-
missioners.

9. A railway administration shall afford to the Commissioner all reasonable facilities for the discharge of the duties or for the exercise of the powers imposed or conferred on him by or under this Act.

Annual
report of
Commis-
sioners.

10. The Chief Commissioner of Railway Safety shall prepare in each financial year an annual report giving a full account of the activities of the Commissioners during the financial year immediately preceding the financial year in which such report is prepared and forward, before such date as may be specified by the Central Government, copies thereof to the Central Government, and that Government shall cause that report to be laid, as soon as may be, after its receipt before each House of Parliament.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF WORKS

Power of
railway
adminis-
trations
to execute
all neces-
sary
works.

11. Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Act and the provisions of any law for the acquisition of land for a public purpose or for companies, and subject also, in the case of a non-Government railway, to the provisions of any contract between the non-Government railway and the Central Government, a railway administration may, for the purposes of constructing or maintaining a railway—

(a) make or construct in or upon, across, under or over any lands, or any streets, hills, valleys, roads, railway, tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes, oil-pipes, sewers, electric supply lines, or telegraph lines, such temporary or permanent inclined-planes, bridges, tunnels, culverts, embankments, aqueducts, roads, lines of railways, passages, conduits, drains, piers, cuttings and fences, in-take wells, tube wells, dams, river training and protection works as it thinks proper;

(b) alter the course of any rivers, brooks, streams or other water courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them and divert or alter either temporarily or permanently, the course of any rivers, brooks, streams or other water courses or any roads, streets or ways, or raise or sink the level thereof, in order to carry them more conveniently over or under or by the side of the railway;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(d) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery apparatus and other works and conveniences as the railway administration thinks proper;

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead;

(f) erect, operate, maintain or repair any telegraph and telephone lines in connection with the working of the railway;

(g) erect, operate, maintain or repair any electric traction equipment, power supply and distribution installation in connection with the working of the railway; and

(h) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

12. (1) A railway administration may, for the purpose of exercising the powers conferred on it by this Act, alter the position of any pipe for the supply of gas, water, oil or compressed air, or the position of any electric supply line, drain or sewer:

Power to alter the position of pipe, electric supply line, drain or sewer, etc.

Provided that before altering the position of any such pipe, electric supply line, drain or sewer, the railway administration shall give a notice indicating the time at which the work of such alteration shall commence, to the local authority or other person having control over the pipe, electric supply line, drain or sewer.

(2) The railway administration shall execute the work referred to in sub-section (1) to the reasonable satisfaction of the local authority or the person receiving the notice under the proviso to sub-section (1).

13. Nothing in sections 11 and 12 shall authorise—

(a) a railway administration of the Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, a State Government without the consent of that Government; and

Protection for Government property.

(b) a railway administration of a non-Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, the Central Government or a State Government, without the consent of the Government concerned.

Tempo-
rary entry
upon land
to remove
obstruc-
tion, to
repair or
to prevent
accident.

14. (1) Where in the opinion of a railway administration—

(a) there is imminent danger that any tree, post or structure may fall on the railway so as to obstruct the movement of rolling stock; or

(b) any tree, post, structure or light obstructs the view of any signal provided for movement of rolling stock; or

(c) any tree, post or structure obstructs any telephone or telegraph line maintained by it,

it may take such steps as may be necessary to avert such danger or remove such obstruction and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(2) Where in the opinion of a railway administration—

(a) a slip or accident has occurred; or

(b) there is apprehension of any slip or accident to any cutting, embankment or other work on a railway,

it may enter upon any lands adjoining the railway and do all such works as may be necessary for the purpose of repairing or preventing such slip or accident and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(3) The Central Government may, after considering the report under sub-section (1) or sub-section (2), in the interest of public safety, by order, direct the railway administration that further action under sub-section (1) or sub-section (2) shall be stopped or the same shall be subject to such conditions as may be specified in that order.

Payment
of amount
for dam-
age or
loss.

15. (1) No suit shall lie against a railway administration to recover any amount for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter.

(2) A railway administration shall pay or tender payment for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter, and in case of a dispute as to the sufficiency of any amount so paid or tendered or as to the persons entitled to receive the amount, it shall immediately refer the dispute for the decision of the District Judge of the district and his decision thereon shall be final:

Provided that where the railway administration fails to make a reference within sixty days from the date of commencement of the dispute, the District Judge may, on an application made to him by the person concerned, direct the railway administration to refer the dispute for his decision.

(3) The reference under sub-section (2) shall be treated as an appeal under section 96 of the Code of Civil Procedure, 1908 and shall be disposed of accordingly.

5 of 1908

(4) Where any amount has been paid as required by sub-section (2), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liabilities to any person whatsoever in respect of any amount so paid.

16. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

Accommodation works.

(a) such crossings, bridges, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the State Government, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and

(b) all necessary bridges, tunnels, culverts, drains, water sources or other passages, over, under or by the sides of the railway, of such dimensions as will, in the opinion of the State Government, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as it was before the making of the railway or as nearly as possible.

(2) Subject to the other provisions of this Act, the works specified in sub-section (1) shall be made at the cost of the railway administration during or immediately after the laying out or formation of the railway over the lands traversed and in such a manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works:

Provided that—

(a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners or occupiers of the lands have been paid compensation in consideration of their not requiring the said works to be made;

(b) save as hereinafter, in this Chapter, provided, no railway administration shall be liable to execute any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) where a railway administration has provided suitable accommodation work for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the railway administration shall not be compelled to provide any other accommodation work for the crossing of such road or stream.

(3) The State Government may specify a date for the commencement of any work to be executed under sub-section (1) and, if within three months next after that date, the railway administration fails to commence the work or having commenced it, fails to proceed diligently to execute it, the Central Government shall, on such failure being brought to its notice by the State Government, issue such directions to the railway administration as it thinks fit.

Explanation.—For the purposes of this section, the expression “lands” shall include public roads.

Power of owner, occupier, State Government or local authority to cause additional accommodation works to be made.

17. (1) If an owner or occupier of any land affected by a railway considers the works made under section 16 to be insufficient for the use of the land, or if the State Government or a local authority desires to construct a public road or other work across, under or over a railway, such owner or occupier, or, as the case may be, the State Government or the local authority may, at any time, require the railway administration to make at the expense of the owner or occupier or of the State Government or the local authority, as the case may be, such further accommodation works as are considered necessary and are agreed to by the railway administration.

(2) The accommodation works made under sub-section (1) shall be maintained at the cost of the owner or occupier of the land, the State Government or the local authority, at whose request the works were made.

(3) In the case of any difference of opinion between the railway administration and the owner or occupier, the State Government or the local authority, as the case may be, in relation to—

- (i) the necessity of such further accommodation works; or
- (ii) the expenses to be incurred on the construction of such further accommodation works; or
- (iii) the quantum of expenses on the maintenance of such further accommodation works,

it shall be referred to the Central Government whose decision thereon shall be final.

Fences, gates and bars.

18. The Central Government may, within such time as may be specified by it or within such further time, as it may grant, require that—

- (a) boundary marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;
- (b) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at level crossings;
- (c) persons be employed by a railway administration to open and shut gates, chains or bars.

Over-bridges and under-bridges.

19. (1) Where a railway administration has constructed lines of rails across a public road at the same level, the State Government or the local authority maintaining the road, may, at any time, in the interest of public safety, require the railway administration to take the road either under or over the railway by means of a bridge or arch with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as may, in the circumstances of the case, appear to the State Government or the local authority maintaining the road to be best adapted for removing or diminishing the danger arising from the level crossing.

(2) The railway administration may require the State Government or the local authority, as the case may be, as a condition of executing any work under sub-section (1), to undertake to pay the whole of the

cost of the work and the expense of maintaining the work, to the railway administration or such proportion of the cost and expenses as the Central Government considers just and reasonable.

(3) In the case of any difference of opinion between the railway administration and the State Government or the local authority, as the case may be, over any of the matters mentioned in sub-section (1), it shall be referred to the Central Government, whose decision thereon shall be final.

20. Notwithstanding anything contained in any other law, the Central Government may, if it is of the opinion that any work undertaken or may be undertaken, is likely to alter or impede the natural course of water flow or cause an increase in the volume of such flow endangering any cutting, embankment or other work on a railway, issue directions in writing to any person, officer or authority responsible for such work to close, regulate or prohibit that work.

Power of Central Government to give directions for safety.

CHAPTER V

OPENING OF RAILWAYS

21. No railway shall be opened for the public carriage of passengers until the Central Government has, by order, sanctioned the opening thereof for that purpose.

Sanction of the Central Government to the opening of railway.

22. (1) The Central Government shall, before giving its sanction to the opening of a railway under section 21, obtain a report from the Commissioner that—

Formalities to be complied with before giving sanction to the opening of a railway.

(a) he has made a careful inspection of the railway and the rolling stock that may be used thereon;

(b) the moving and fixed dimensions as laid down by the Central Government have not been infringed;

(c) the structure of lines of rails, strength of bridges, general structural character of the works and the size of, and maximum gross load upon, the axles of any rolling stock, comply with the requirements laid down by the Central Government; and

(d) in his opinion, the railway can be opened for the public carriage of passengers without any danger to the public using it.

(2) If the Commissioner is of the opinion that the railway cannot be opened without any danger to the public using it, he shall, in his report, state the grounds therefor, as also the requirements which, in his opinion, are to be complied with before sanction is given by the Central Government.

(3) The Central Government, after considering the report of the Commissioner, may sanction the opening of a railway under section 21 as such or subject to such conditions as may be considered necessary by it for the safety of the public.

Sections
21 and 22
to apply
to the
opening
of cer-
tain
works.

23. The provisions of sections 21 and 22 shall apply to the opening of the following works if they form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed subsequent to the giving of a report by the Commissioner under section 22, namely:—

- (a) opening of additional lines of railway and deviation lines;
- (b) opening of stations, junctions and level crossings;
- (c) re-modelling of yards and re-building of bridges;
- (d) introduction of electric traction; and

(e) any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 21 and 22 apply or are extended by this section.

Tempo-
rary sus-
pension
of traffic.

24. When an accident has occurred on a railway resulting in a temporary suspension of traffic, and either the original lines of rails and works have been restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication, the original lines of rails and works so restored, or the temporary diversion, as the case may be, may, without prior inspection by the Commissioner, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) the railway servant incharge of the works undertaken by reason of the accident has certified in writing that the opening of the restored lines of rails and works, or of the temporary diversion will not in his opinion be attended with danger to the public; and

(b) a notice of the opening of the lines of rails and works or the diversion shall be sent immediately to the Commissioner.

Power to
close
railway
opened
for the
public
carriage
of pas-
sengers.

25. Where, after the inspection of any railway opened and used for the public carriage of passengers or any rolling stock used thereon, the Commissioner is of the opinion that the use of the railway or of any rolling stock will be attended with danger to the public using it, the Commissioner shall send a report to the Central Government who may thereupon direct that—

(i) the railway be closed for the public carriage of passengers; or

(ii) the use of the rolling stock be discontinued; or

(iii) the railway or the rolling stock may be used for the public carriage of passengers subject to such conditions as it may consider necessary for the safety of the public.

Re-open-
ing of
closed
railway.

26. When the Central Government has, under section 25, directed the closure of a railway or the discontinuance of the use of any rolling stock—

(a) the railway shall not be re-opened for the public carriage of passengers until it has been inspected by the Commissioner and its re-opening is sanctioned in accordance with the provisions of this Chapter; and

(b) the rolling stock shall not be used until it has been inspected by the Commissioner and its re-use is sanctioned in accordance with the provisions of this Chapter.

27. A railway administration may use such rolling stock as it may consider necessary for the construction, operation and working of a railway:

Use of
rolling
stock.

Provided that before using any rolling stock of a design or type different from that already running on any section of the railway, the previous sanction of the Central Government shall be obtained for such use:

Provided further that before giving any such sanction, the Central Government shall obtain a report from the Commissioner that he has made a careful inspection of the rolling stock and, in his opinion, such rolling stock can be used.

28. The Central Government may, by notification, direct that any of its powers or functions under this Chapter, except section 29, or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by a Commissioner.

Delega-
tion of
powers.

29. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to
make
rules in
respect
of
matters
in this
Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties of a railway administration and the Commissioner in regard to the opening of a railway for the public carriage of passengers;

(b) the arrangements to be made for and the formalities to be complied with before opening a railway for the public carriage of passengers;

(c) for regulating the mode in which, and the speed at which rolling stock used on railways is to be moved or propelled; and

(d) the cases in which and the extent to which the procedure provided in this Chapter may be dispensed with.

CHAPTER VI

FIXATION OF RATES

30. (1) The Central Government may, from time to time, by general or special order fix, for the carriage of passengers and goods, rates for the whole or any part of the railway and different rates may be fixed for different classes of goods and specify in such order the conditions subject to which such rates shall apply.

Power to
fix rates.

(2) The Central Government may, by a like order, fix the rates of any other charges incidental to or connected with such carriage including demurrage and wharfage for the whole or any part of the railway and specify in the order the conditions subject to which such rates shall apply.

Power to
classify
commodi-
ties or
alter
rates.

31. The Central Government shall have power to—

(a) classify or reclassify any commodity for the purpose of determining the rates to be charged for the carriage of such commodities; and

(b) increase or reduce the class rates and other charges.

Power of
railway
adminis-
tration to
charge
certain
rates.

32. Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any commodity and subject to such conditions as may be specified,—

(a) quote a station to station rate;

(b) increase or reduce or cancel, after due notice in the manner determined by the Central Government, a station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal;

(c) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal; and

(d) charge any lump sum rate.

CHAPTER VII

RAILWAY RATES TRIBUNAL

Consti-
tution of
the Rail-
way Rates
Tribunal.

33. (1) There shall be a Tribunal, to be called the Railway Rates Tribunal, for the purpose of discharging the functions specified in this Chapter.

(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is, or has been, a Judge of the Supreme Court or of a High Court and of the other two members, one shall be a person, who, in the opinion of the Central Government, has special knowledge of the commercial, industrial or economic conditions of the country, and the other shall be a person, who, in the opinion of the Central Government, has special knowledge and experience of the commercial working of the railways.

(4) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be prescribed.

(5) In case the Chairman or any other member is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government may appoint another person to act in his place during his absence.

(6) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(7) Subject to the provisions of sub-sections (5) and (6), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as may be prescribed.

(8) No act or proceeding of the Tribunal shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Tribunal; or

(b) any defect in the appointment of a person acting as a Chairman or other member of the Tribunal.

34. (1) The Tribunal may, with the previous approval of the Central Government, appoint such officers and employees as it considers necessary for the efficient discharge of its functions under this Chapter.

Staff
of the
Tribunal.

(2) The terms and conditions of service of the officers and employees of the Tribunal shall be such as may be determined by regulations.

35. The Tribunal may sit at such place or places as it may find convenient for the transaction of its business.

Sittings
of the
Tribunal.

36. Any complaint that a railway administration—

(a) is contravening the provisions of section 70; or

(b) is charging for the carriage of any commodity between two stations a rate which is unreasonable; or

(c) is levying any other charge which is unreasonable,

Com-
plaints
against a
railway
adminis-
tration.

may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

37. Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of—

(a) classification or re-classification of any commodity;

(b) fixation of wharfage and demurrage charges (including conditions attached to such charges);

(c) fixation of fares levied for the carriage of passengers and freight levied for the carriage of luggage, parcels, railway material and military traffic; and

(d) fixation of lump sum rates.

Matters
not with-
in the
jurisdic-
tion of
the
Tribunal.

5 of 1908.

38. (1) The Tribunal shall have the powers of a civil court under the Code of Civil Procedure, 1908 for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents, issuing commissions for the examination of witnesses and of review and shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1973 and any reference in such section or Chapter to the presiding officer of a court shall be deemed to include a reference to the Chairman of the Tribunal.

Powers
of the
Tribunal.

2 of 1974.

(2) The Tribunal shall also have power to pass such interim and final orders as the circumstances may require, including orders for the payment of costs.

Reference
to the
Tribunal.

39. Notwithstanding anything contained in section 37, the Central Government may make a reference to the Tribunal in respect of any of the matter specified in that section and where any such reference is made in respect of any such matter, the Tribunal shall make an inquiry into that matter and submit its report thereon to the Central Government.

Assistance
by the
Central
Govern-
ment.

40. (1) The Central Government shall give to the Tribunal such assistance as it may require and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to any matter before the Tribunal.

(2) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

Burden of
proof, etc.

41. In the case of any complaint under clause (a) of section 36,—

(a) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area, lower rates for the same or similar goods or lower charges for the same or similar services than it charges to other traders in any other local area, the burden of providing that such lower rate or charge does not amount to an undue preference, shall lie on the railway administration;

(b) in deciding whether a lower rate or charge does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower rate or charge is necessary in the interests of the public.

Decision,
etc.,
of the
Tribunal.

42. The decisions or orders of the Tribunal shall be by a majority of the members sitting and shall be final.

Bar of
jurisdic-
tion of
courts.

43. No suit shall be instituted or proceeding taken in respect of any matter which the Tribunal is empowered to deal with, or decide, under this Chapter.

Reliefs
which
the
Tribunal
may
grant.

44. In the case of any complaint made under clause (b) or clause (c) of section 36, the Tribunal may—

(i) fix such rate or charge as it considers reasonable from any date as it may deem proper, not being a date earlier to the date of the filing of the complaint;

(ii) direct a refund of amount, if any, as being the excess of the rate or charge fixed by the Tribunal under clause (i).

Revision
of deci-
sions
given by
the
Tribunal

45. Where a railway administration considers that since the date of decision by the Tribunal, there has been a material change in the circumstances on which it was based, it may, after the expiry of one year from such date, make an application to the Tribunal and the Tribunal may, after making such inquiry as it considers necessary, vary or revoke the decision.

46. The Tribunal may transmit any decision or order made by it to a civil court having local jurisdiction and such civil court shall execute the decision or order as if it were a decree made by that court.

Execution of decisions or orders of the Tribunal.

47. The Tribunal shall present annually a report to the Central Government of all its proceedings under this Chapter.

Report of the Central Government.

48. (1) The Tribunal may, with the previous approval of the Central Government, make regulations consistent with this Act and rules generally to regulate its procedure for the effective discharge of its functions under this Chapter.

Power of the Tribunal to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the officers and employees of the Tribunal;

(b) the award of costs by the Tribunal in any proceedings before it;

(c) the reference of any question to a member or to an officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;

(d) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;

(e) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal;

(f) a scale of fees for and in connection with the proceedings before the Tribunal.

CHAPTER VIII

CARRIAGE OF PASSENGERS

49. (1) Every railway administration shall cause to be pasted in a conspicuous and accessible place at every station in Hindi and English and also in the regional language commonly in use in the area where the station is situated,—

Exhibition of certain timings and Tables of fares at stations.

(i) a table of times of arrival and departure of trains which carry passengers and stop at that station, and

(ii) list of fares from such station to such other stations as it may consider necessary.

(2) At every station where tickets are issued to passengers, a copy of the time table in force shall be kept in the office of the station master.

Supply of tickets on payment of fare.

50. (1) Any person desirous of travelling on a railway shall, upon payment of the fare, be supplied with a ticket by a railway servant or an agent authorised in this behalf and such ticket shall contain the following particulars, namely:—

- (i) the date of issue;
- (ii) the class of carriage;
- (iii) the place from and the place to which it is issued; and
- (iv) the amount of the fare.

(2) Every railway administration shall display the hours during which booking windows at a station shall be kept open for the issue of tickets to passengers.

(3) The particulars required to be specified on a ticket under clauses (ii) and (iii) of sub-section (1) shall,—

(a) if it is for the lowest class of carriage, be set forth in Hindi, English and the regional language commonly in use at the place of issue of the ticket; and

(b) if it is for any other class of carriage, be set forth in Hindi and English:

Provided that where it is not feasible to specify such particulars in any such language due to mechanisation or any other reason, the Central Government may exempt such particulars being specified in that language.

Provision for case in which ticket is issued for class or train not having accommodation for additional passengers.

51. (1) A ticket shall be deemed to have been issued subject to the condition of availability of accommodation in the class of carriage and the train for which the ticket is issued.

(2) If no accommodation is available in the class of carriage for which a ticket is issued, and the holder thereof travels in a carriage of a lower class, he shall, on returning such ticket, be entitled to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travels.

Cancellation of ticket and refund.

52. If a ticket is returned for cancellation, the railway administration shall cancel the same and refund such amount as may be prescribed.

Prohibition against transfer of certain tickets.

53. A ticket issued in the name of a person shall be used only by that person:

Provided that nothing contained in this section shall prevent mutual transfer of a seat or berth by passengers travelling by the same train:

Provided further that a railway servant authorised in this behalf may permit change of name of a passenger having reserved a seat or berth subject to such circumstances as may be prescribed.

Exhibition and surrender of passes and tickets.

54. Every passenger shall, on demand by any railway servant authorised in this behalf, present his pass or ticket to such railway servant for examination during the journey or at the end of the journey and surrender such ticket—

- (a) at the end of the journey, or

(b) if such ticket is issued for a specified period, on the expiration of such period.

55. (1) No person shall enter or remain in any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket or obtained permission of a railway servant authorised in this behalf for such travel.

Prohibition against travelling without pass or ticket.

(2) A person obtaining permission under sub-section (1) shall ordinarily get a certificate from the railway servant referred to in that sub-section that he has been permitted to travel in such carriage on condition that he subsequently pays the fare payable for the distance to be travelled.

56. (1) A person suffering from such infectious or contagious diseases, as may be prescribed, shall not enter or remain in any carriage on a railway or travel in a train without the permission of a railway servant authorised in this behalf.

Power to refuse to carry persons suffering from infectious or contagious diseases.

(2) The railway servant giving permission under sub-section (1), shall arrange for the separation of the person suffering from such disease from other persons in the train and such person shall be carried in the train subject to such other conditions as may be prescribed.

(3) Any person who enters or remains in any carriage or travels in a train without permission as required under sub-section (1) or in contravention of any condition prescribed under sub-section (2), such person and a person accompanying him shall be liable to the forfeiture of their passes or tickets and removal from railway by any railway servant.

57. Subject to the approval of the Central Government, every railway administration shall fix the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in Hindi, English and also in one or more of the regional languages commonly in use in the areas served by the railway.

Maximum number of passengers for each compartment.

58. Every railway administration shall, in every train carrying passengers, earmark for the exclusive use of females, one compartment or such number of berths or seats, as the railway administration may think fit.

Earmarking of compartment, etc., for ladies.

59. A railway administration shall provide and maintain in every train carrying passengers, such efficient means of communication between the passengers and the railway servant in charge of the train as may be approved by the Central Government:

Communications between passengers and railway servant in charge of train.

Provided that where the railway administration is satisfied that the means of communication provided in a train are being misused, it may cause such means to be disconnected in that train for such period as it thinks fit:

Provided further that the Central Government may specify the circumstances under which a railway administration may be exempted from providing such means of communication in any train.

Power to make rules in respect of matters in this Chapter.

60. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the convenience and accommodation (including the reservation of seats or berths in trains) to passengers;

(b) the amount of refund for the cancellation of a ticket;

(c) the circumstances under which change of names of passengers, having reserved seats or berths, may be permitted;

(d) the carriage of luggage and the conditions subject to which luggage may be kept in the cloak rooms at the stations;

(e) diseases which are infectious or contagious;

(f) the conditions subject to which a railway administration may carry passengers suffering from infectious or contagious diseases and the manner in which carriages used by such passengers may be disinfected;

(g) generally, for regulating the travelling upon, and the use, working and management of the railways.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which shall not exceed five hundred rupees.

(4) Every railway administration shall keep at every station on its railway a copy of all the rules made under this section and shall also allow any person to inspect it free of charge.

CHAPTER IX

CARRIAGE OF GOODS

Maintenance of rate-books, etc., for carriage of goods.

61. Every railway administration shall maintain, at each station and at such other places where goods are received for carriage, the rate-books or other documents which shall contain the rate authorised for the carriage of goods from one station to another and make them available for the reference of any person during all reasonable hours without payment of any fee.

Conditions for receiving, etc., of goods.

62. (1) A railway administration may impose conditions, not inconsistent with this Act or any rules made thereunder, with respect to the receiving, forwarding, carrying or delivering of any goods.

(2) A railway administration shall maintain, at each station and at such other places where goods are received for carriage, a copy of the conditions for the time being in force under sub-section (1) and make them available for the reference of any person during all reasonable hours without payment of any fee.

Provision of risk rates.

63. (1) Where any goods are entrusted to a railway administration for carriage, such carriage shall, except where owner's risk rate is applicable in respect of such goods, be at railway risk rate.

(2) Any goods, for which owner's risk rate and railway risk rate are in force, may be entrusted for carriage at either of the rates and if no rate is opted, the goods shall be deemed to have been entrusted at owner's risk rate.

64. (1) Every person entrusting any goods to a railway administration for carriage shall execute a forwarding note in such form as may be specified by the Central Government:

Forwarding note.

Provided that no forwarding note shall be executed in the case of such goods as may be prescribed.

(2) The consignor shall be responsible for the correctness of the particulars furnished by him in the forwarding note.

(3) The consignor shall indemnify the railway administration against any damage suffered by it by reason of the incorrectness or incompleteness of the particulars in the forwarding note.

65. (1) A railway administration shall,—

Railway receipt.

(a) in a case where the goods are to be loaded by a person entrusting such goods, on the completion of such loading; or

(b) in any other case, on the acceptance of the goods by it, issue a railway receipt in such form as may be specified by the Central Government.

(2) A railway receipt shall be *prima facie* evidence of the weight and the number of packages stated therein:

Provided that in the case of a consignment in wagon-load or train-load and the weight or the number of packages is not checked by a railway servant authorised in this behalf, and a statement to that effect is recorded in such railway receipt by him, the burden of proving the weight or, as the case may be, the number of packages stated therein, shall lie on the consignor, the consignee or the endorsee.

66. (1) The owner or a person having charge of any goods which are brought upon a railway for the purposes of carriage by railway, and the consignee or the endorsee of any consignment shall, on the request of any railway servant authorised in this behalf, deliver to such railway servant a statement in writing signed by such owner or person or by such consignee or endorsee, as the case may be, containing such description of the goods as would enable the railway servant to determine the rate for such carriage.

Power to require statement relating to the description of goods.

(2) If such owner or person refuses or neglects to give the statement as required under sub-section (1) and refuses to open the package containing the goods, if so required by the railway servant, it shall be open to the railway administration to refuse to accept such goods for carriage unless such owner or person pays for such carriage the highest rate for any class of goods;

(3) If the consignee or endorsee refuses or neglects to give the statement as required under sub-section (1) and refuses to open the package containing the goods, if so required by the railway servant, it shall be

open to the railway administration to charge in respect of the carriage of the goods the highest rate for any class of goods.

(4) If the statement delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, the railway administration may charge in respect of the carriage of such goods such rate, not exceeding double the highest rate for any class of goods as may be specified by the Central Government.

(5) If any difference arises between a railway servant and such owner or person, the consignee or the endorsee, as the case may be, in respect of the description of the goods for which a statement has been delivered under sub-section (1), the railway servant may detain and examine the goods.

(6) Where any goods have been detained under sub-section (5) for examination and upon such examination it is found that the description of the goods is different from that given in the statement delivered under sub-section (1), the cost of such detention and examination shall be borne by such owner or person, the consignee or the endorsee, as the case may be, and the railway administration shall not be liable for any loss, damage or deterioration which may be caused by such detention or examination.

Carriage
of dan-
gerous or
offensive
goods.

67. (1) No person shall take with him on a railway, or require a railway administration to carry such dangerous or offensive goods, as may be prescribed, except in accordance with the provisions of this section.

(2) No person shall take with him on a railway the goods referred to in sub-section (1) unless he gives a notice in writing of their dangerous or offensive nature to the railway servant authorised in this behalf.

(3) No person shall entrust the goods referred to in sub-section (1) to a railway servant authorised in this behalf for carriage unless he distinctly marks on the outside of the package containing such goods their dangerous or offensive nature and gives a notice in writing of their dangerous or offensive nature to such railway servant.

(4) If any railway servant has reason to believe that goods contained in a package are dangerous or offensive and notice as required under sub-section (2) or sub-section (3), as the case may be, in respect of such goods is not given, he may cause such package to be opened for the purpose of ascertaining its contents.

(5) Notwithstanding anything contained in this section, any railway servant may refuse to accept any dangerous or offensive goods for carriage or stop, in transit, such goods or cause the same to be removed, as the case may be, if he has reason to believe that the provisions of this section for such carriage are not complied with.

(6) Nothing in this section shall be construed to derogate from the provisions of the Indian Explosives Act, 1884, or any rule or order made under that Act, and nothing in sub-sections (4) and (5) shall be construed to apply to any goods entrusted for carriage by order or on behalf of the Government or to any goods which a soldier, sailor, airman or any other officer of the armed forces of the Union or a police officer or a

4 of 1884.

member of the Territorial Army or of the National Cadet Corps may take with him on a railway in the course of his employment or duty as such.

68. A railway administration shall not be bound to carry any animal suffering from such infectious or contagious disease as may be prescribed.

Carriage
of
animals
suffering
from in-
fectious
or conta-
gious
diseases.

69. Where due to any cause beyond the control of a railway administration or due to congestion in the yard or any other operational reasons, goods are carried over a route other than the route by which such goods are booked, the railway administration shall not be deemed to have committed a breach of the contract of carriage by reason only of the deviation of the route.

Deviation
of route.

70. A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in the carriage of goods.

Prohibi-
tion of

undue
prefer-
ence.

71. (1) The Central Government may, if it is of the opinion that it is necessary in the public interest so to do, by general or special order, direct any railway administration—

Power
to give
direction
in regard
to car-
riage of
certain
goods.

(a) to give special facilities for, or preference to, the carriage of such goods or class of goods consigned by or to the Central Government or the Government of any State or of such other goods or class of goods;

(b) to carry any goods or class of goods by such route or routes and at such rates;

(c) to restrict or refuse acceptance of such goods or class of goods at or to such station for carriage,

as may be specified in the order.

(2) Any order made under sub-section (1) shall cease to have effect after the expiration of a period of one year from the date of such order, but may, by a like order, be renewed from time to time for such period not exceeding one year at a time as may be specified in the order.

(3) Notwithstanding anything contained in this Act, every railway administration shall be bound to comply with any order given under sub-section (1) and any action taken by a railway administration in pursuance of any such order shall not be deemed to be a contravention of section 70.

72. (1) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck,

Maximum
carrying
capacity
for
wagons
and
trucks.

(2) Subject to the limit fixed under sub-section (1), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit in words and figures the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(3) Every person owning a wagon or truck which passes over a railway shall determine and exhibit the normal carrying capacity for the wagon or truck in the manner specified in sub-section (2).

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where a railway administration considers it necessary or expedient so to do in respect of any wagon or truck carrying any specified class of goods or any class of wagons or trucks of any specified type, it may vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and subject to such conditions as it may think fit to impose, determine for the wagon or truck or class of wagons or trucks such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks.

Punitive
charge
for over-
loading
a wagon.

73. Where a person loads goods in a wagon beyond its permissible carrying capacity as exhibited under sub-section (2) or sub-section (3), or notified under sub-section (4), of section 72, a railway administration may, in addition to the freight and other charges, recover from the consignor, the consignee or the endorsee, as the case may be, charges by way of penalty at such rates, as may be prescribed, before the delivery of the goods:

Provided that it shall be lawful for the railway administration to unload the goods loaded beyond the capacity of the wagon, if detected at the forwarding station or at any place before the destination station and to recover the cost of such unloading and any charge for the detention of any wagon on this account.

Passing of
property
in the
goods
covered
by rail-
way
receipt.

74. The property in the consignment covered by a railway receipt shall pass to the consignee or the endorsee, as the case may be, on the delivery of such railway receipt to him and he shall have all the rights and liabilities of the consignor.

Section 74
not to
affect
right of
stoppage
in transit
or claims
for
freight.

75. Nothing contained in section 74 shall prejudice or affect—

(a) any right of the consignor for stoppage of goods in transit as an unpaid vendor (as defined under the Sale of Goods Act, 1930) on his written request to the railway administration;

(b) any right of the railway to claim freight from the consignor;
or

(c) any liability of the consignee or the endorsee, referred to in that section by reason of his being such consignee or endorsee.

3 of 1930.

76. The railway administration shall deliver the consignment under a railway receipt on the surrender of such railway receipt:

Surrender
of rail-
way
receipt.

Provided that in case the railway receipt is not forthcoming, the consignment may be delivered to the person, entitled in the opinion of the railway administration to receive the goods, in such manner as may be prescribed.

77. Where no railway receipt is forthcoming and any consignment or the sale proceeds of any consignment are claimed by two or more persons, the railway administration may withhold delivery of such consignment or sale proceeds, as the case may be, and shall deliver such consignment or sale proceeds in such manner as may be prescribed.

Power of
railway
adminis-
tration to
deliver
goods or
sale pro-
ceeds
thereof in
certain
cases.

78. Notwithstanding anything contained in the railway receipt, the railway administration may, before the delivery of the consignment, have the right to—

Power to
measure,
weigh,
etc.

(i) re-measure, re-weigh or re-classify any consignment;

(ii) re-calculate the freight and other charges; and

(iii) correct any other error or collect any amount that may have been omitted to be charged.

Weigh-
ment of
consig-
ment on
request of
the
con-
signee
or en-
dorsee.

79. A railway administration may, on the request made by the consignee or endorsee, allow weighment of the consignment subject to such conditions and on payment of such charges as may be prescribed and the demurrage charges if any:

Provided that except in cases where a railway servant authorised in this behalf considers it necessary so to do, no weighment shall be allowed of goods booked at owner's risk rate or goods which are perishable and are likely to lose weight in transit:

Provided further that no request for weighment of consignment in wagon-load or train-load shall be allowed if the weighment is not feasible due to congestion in the yard or such other circumstances as may be prescribed.

80. Where a railway administration delivers the consignment to the person who produces the railway receipt, it shall not be responsible for any wrong delivery on the ground that such person is not entitled thereto or that the endorsement on the railway receipt is forged or otherwise defective.

Liability
of rail-
way ad-
ministra-
tion for
wrong
delivery.

81. Where the consignment arrives in a damaged condition or shows signs of having been tampered with and the consignee or the endorsee demands open delivery, the railway administration shall give open delivery in such manner as may be prescribed.

Open
delivery
of con-
signments.

Partial
delivery
of con-
signments.

82. (1) The consignee or endorsee shall, as soon as the consignment or part thereof is ready for delivery, take delivery of such consignment or part thereof notwithstanding that such consignment or part thereof is damaged.

(2) In the case of partial delivery under sub-section (1), the railway administration shall furnish a partial delivery certificate, in such form as may be prescribed.

(3) If the consignee or endorsee refuses to take delivery under sub-section (1), the consignment or part thereof shall be subject to wharfage charges beyond the time allowed for removal.

Liability for
freight
or any
other
sum
due.

83. (1) If the consignor, the consignee or the endorsee fails to pay on demand any freight or other charges due from him in respect of any consignment, the railway administration may detain such consignment or part thereof or, if such consignment is delivered, it may detain any other consignment of such person which is in, or thereafter comes into, its possession.

(2) The railway administration may, if the consignment detained under sub-section (1) is—

(a) perishable in nature, sell at once; or

(b) not perishable in nature, sell, by public auction,

such consignment or part thereof, as may be necessary to realise a sum equal to the freight or other charges:

Provided that where a railway administration for reasons to be recorded in writing is of the opinion that it is not expedient to hold the auction, such consignment or part thereof may be sold in such manner as may be prescribed.

(3) The railway administration shall give a notice of not less than seven days of the public auction under clause (b) of sub-section (2) in one or more local newspapers or where there are no such newspapers in such manner as may be prescribed.

(4) The railway administration may, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus of such proceeds and the part of the consignment, if any, shall be rendered to the person entitled thereto.

Unclaim-
ed con-
signment.

84. (1) If any person fails to take delivery of—

(a) any consignment; or

(b) the consignment released from detention made under sub-section (1) of section 83; or

(c) any remaining part of the consignment under sub-section (2) of section 83,

such consignment shall be treated as unclaimed.

(2) The railway administration may,—

(a) in the case of an unclaimed consignment which is perishable in nature, sell such consignment in the manner provided in clause (a) of sub-section (2) of section 83; or

(b) in the case of an unclaimed consignment which is not perishable in nature, cause a notice to be served upon the consignee if his name and address are known, and upon the consignor if the name and address of the consignee are not known, requiring him to remove the goods within a period of seven days from the receipt thereof and if such notice cannot be served or there is a failure to comply with the requisition in the notice, sell such consignment in the manner provided in clause (b) of sub-section (2) of section 83.

(3) The railway administration shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds shall be rendered to the person entitled thereto.

85. (1) Where, by reason of any flood, land-slip, breach of any lines of rails, collision between trains, derailment of, or other accident, to a train or any other cause, traffic on any route is interrupted and there is no likelihood of early resumption of such traffic, nor is there any other reasonable route whereby traffic of perishable consignment may be diverted to prevent, loss or deterioration of, or damage to, such consignment, the railway administration may sell them in the manner provided in clause (a) of sub-section (2) of section 83.

Disposal of perishable consignments in certain circumstances.

(2) The railway administration shall, out of the sale proceeds received under sub-section (1), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds, shall be rendered to the person entitled thereto.

86. Notwithstanding anything contained in this Chapter, the right of sale under sections 83 to 85 shall be without prejudice to the right of the railway administration to recover by suit, any freight, charge, amount or other expenses due to it.

Sales under sections 83 to 85 not to affect the right to suit.

87. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) goods in respect of which no forwarding note shall be executed under proviso to sub-section (1) of section 64;

(b) dangerous and offensive goods for the purposes of sub-section (1) of section 67;

(c) infectious or contagious diseases for the purposes of section 68;

(d) rates of penalty charges under section 73;

(e) the manner in which the consignment may be delivered without a railway receipt under section 76;

(f) the manner of delivery of consignment or the sale proceeds to the person entitled thereto under section 77;

(g) the conditions subject to which and charges payable for allowing weighment and circumstances for not allowing weighment of consignment in wagon-load or train-load under section 79;

(h) the manner of giving open delivery under section 81;

(i) the form of partial delivery certificate under sub-section (2) of section 82;

(j) the manner of sale of consignment or part thereof under the proviso to sub-section (2) of section 83;

(k) the manner in which a notice under sub-section (3) of section 83 may be given;

(l) generally, for regulating the carriage of goods by the railways.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred and fifty rupees.

(4) Every railway administration shall keep at each station a copy of the rules for the time being in force under this section, and shall allow any person to refer to it free of charge.

CHAPTER X

SPECIAL PROVISIONS AS TO GOODS BOOKED TO NOTIFIED STATIONS

Defini-
tions.

88. In this Chapter, unless the context otherwise requires,—

(a) "essential commodity" means an essential commodity as defined in clause (a) of section 2 of the Essential Commodities Act, 1955;

10 of 1955.

(b) "notified station" means a station declared to be a notified station under section 89;

(c) "State Government", in relation to a notified station, means the Government of the State in which such station is situated, or where such station is situated in a Union territory, the administrator of that Union territory appointed under article 239 of the Constitution.

Power to
declare
notified
stations.

89. (1) The Central Government may, if it is satisfied that it is necessary that goods entrusted for carriage by train intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification, such railway station to be a notified station for such period as may be specified in the notification:

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:—

(a) the volume of traffic and the storage space available at such railway station;

(b) the nature and quantities of goods generally booked to such railway station;

(c) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;

(d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons;

(e) such other factors (being relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance, but such period may, by notification, be extended from time to time by a period not exceeding six months on each occasion.

(2) If any person entrusting any goods to a railway administration to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation by registered post of the arrival of the goods at the notified station shall be given and pays the postage charges required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation accordingly.

(3) There shall be exhibited at a conspicuous place at each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold, in accordance with the provision, of sub-section (1) of section 90 by public auction and the dates on which they would be so sold:

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(4) If the goods specified in any statement to be exhibited under sub-section (3) include essential commodities, the railway servant preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to—

(a) the representative of the Central Government nominated by that Government in this behalf;

(b) the representative of the State Government, nominated by that Government in this behalf; and

(c) the District Magistrate within the local limits of whose jurisdiction the railway station is situated.

90. (1) If any goods entrusted for carriage to any notified station by a train intended solely for the carriage of goods are not, removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell

Disposal
of un-
removed
goods at
notified
stations.

such goods by public auction and apart from exhibiting, in accordance with the provisions of sub-section (3) of section 89, a statement containing a description of such goods, it shall not be necessary to give any notice of such public auction, but the date on which such auction may be held under this sub-section may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed:

Provided that if at any time before the sale of such goods under this sub-section, the person entitled thereto pays the freight and other charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any goods which may be sold by public auction under sub-section (1) at a notified station, being essential commodities, are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the railway servant in-charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the railway servant to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the goods that such essential commodities have been transferred in compliance with such direction:

Provided that—

(a) such direction shall not be binding on such railway servant or the railway administration—

(i) if it has not been received by the railway servant sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or

(ii) if before the time appointed for such sale, the person entitled to such goods pays the freight and other charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or

(iii) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) is not credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards the price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(b) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

10 of 1955. (4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955:

Provided that—

10 of 1955. (a) in the case of any essential commodity being a food-stuff in respect whereof a notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

10 of 1955. (b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section;

10 of 1955. (c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (3C) of that section.

10 of 1955. *Explanation.*—For the purposes of this clause, the expressions “producer” and “sugar” shall have the meanings assigned to these expressions in the *Explanation* to sub-section (3C) of section 3, and clause (e) of section 2 of the Essential Commodities Act, 1955, respectively.

91. (1) Out of the proceeds of any sale of goods under sub-section (1) of section 90 or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the freight and other charges due in respect of such goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

Price to be paid to person entitled after deducting dues.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such freight or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 90 or transferred in compliance with the directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

Power to make rules in respect of matters in this Chapter.

92. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the factors to which the Central Government shall have regard under clause (c) of the first proviso to sub-section (1) of section 89;

(b) the form and manner in which an application may be made under sub-section (2) of section 89;

(c) the form in which a statement is required to be exhibited under sub-section (3) of section 89;

(d) the manner in which the dates of public auctions may be notified under sub-section (1) of section 90;

(e) the manner of crediting to the railway administration the price of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub-section (3) of section 90.

CHAPTER XI

RESPONSIBILITIES OF RAILWAY ADMINISTRATIONS AS CARRIERS

General responsibility of a railway administration as carrier of goods.

93. Save as otherwise provided in this Act, a railway administration shall be responsible for the loss, destruction, damage or deterioration in transit, or non-delivery of any consignment, arising from any cause except the following, namely:—

(a) act of God;

(b) act of war;

(c) act of public enemies;

(d) arrest, restraint or seizure under legal process;

(e) orders or restrictions imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf;

(f) act or omission or negligence of the consignor or the consignee or the endorsee or the agent or servant of the consignor or the consignee or the endorsee;

(g) natural deterioration or wastage in bulk or weight due to inherent defect, quality or vice of the goods;

(h) latent defects;

(i) fire, explosion or any unforeseen risk:

Provided that even where such loss, destruction, damage, deterioration or non-delivery is proved to have arisen from any one or more of the aforesaid causes, the railway administration shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or

non-delivery unless the railway administration further proves that it has used reasonable foresight and care in the carriage of the goods.

94. (1) Where goods are required to be loaded at a siding not belonging to a railway administration for carriage by railway, the railway administration shall not be responsible for any loss, destruction, damage or deterioration of such goods from whatever cause arising, until the wagon containing the goods has been placed at the specified point of interchange of wagons between the siding and the railway administration and a railway servant authorised in this behalf has been informed in writing accordingly by the owner of the siding.

Goods to be loaded or delivered at a siding not belonging to a railway administration.

(2) Where any consignment is required to be delivered by a railway administration at a siding not belonging to a railway administration, the railway administration shall not be responsible for any loss, destruction, damage or deterioration or non-delivery of such consignment from whatever cause arising after the wagon containing the consignment has been placed at the specified point of interchange of wagons between the railway and the siding and the owner of the siding has been informed in writing accordingly by a railway servant authorised in this behalf.

95. A railway administration shall not be responsible for the loss, destruction, damage or deterioration of any consignment proved by the owner to have been caused by the delay or detention in their carriage if the railway administration proves that the delay or detention arose for reasons beyond its control or without negligence or misconduct on its part or on the part of any of its servants.

Delay or retention in transit.

96. Where in the course of carriage of any consignment from a place in India to a place outside India or from a place outside India to a place in India or from one place outside India to another place outside India or from one place in India to another place in India over any territory outside India, it is carried over the railways of any railway administration in India, the railway administration shall not be responsible under any of the provisions of this Chapter for the loss, destruction, damage or deterioration of the goods, from whatever cause arising, unless it is proved by the owner of the goods that such loss, destruction, damage or deterioration arose over the railway of the railway administration.

Traffic passing over railways in India and railways in foreign countries.

97. Notwithstanding anything contained in section 93, a railway administration shall not be responsible for any loss, destruction, damage, deterioration or non-delivery in transit, of any consignment carried at owner's risk rate, from whatever cause arising, except upon proof, that such loss, destruction, damage, deterioration or non-delivery was due to negligence or misconduct on its part or on the part of any of its servants:

Goods carried at owner's risk rate.

Provided that—

(a) where the whole of such consignment or the whole of any package forming part of such consignment is not delivered to the consignee or the endorsee and such non-delivery is not proved by the railway administration to have been due to fire or to any accident to the train; or

(b) where in respect of any such consignment or of any package forming part of such consignment which had been so covered or protected that the covering or protection was not readily removable by hand, it is pointed out to the railway administration on or before delivery that any part of that consignment or package had been pilfered in transit,

the railway administration shall be bound to disclose to the consignor, the consignee or the endorsee how the consignment or the package was dealt with throughout the time it was in its possession or control, but if negligence or misconduct on the part of the railway administration or of any of its servants cannot be fairly inferred from such disclosure, the burden of proving such negligence or misconduct shall lie on the consignor, the consignee or the endorsee.

Goods in defective condition or defectively packed.

98. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, when any goods entrusted to a railway administration for carriage—

(a) are in a defective condition as a consequence of which they are liable to damage, deterioration, leakage or wastage; or

(b) are either defectively packed or not packed in such manner as may be prescribed and as a result of such defective or improper packing are liable to damage, deterioration, leakage or wastage,

and the fact of such condition or defective or improper packing has been recorded by the consignor or his agent in the forwarding note, the railway administration shall not be responsible for any damage, deterioration, leakage or wastage or for the condition in which such goods are available for delivery at destination:

Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage or for the condition in which such goods are available for delivery at destination if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

(2) When any goods entrusted to a railway administration for carriage are found on arrival at the destination station to have been damaged or to have suffered deterioration, leakage or wastage, the railway administration shall not be responsible for the damage, deterioration, leakage or wastage of the goods on proof by railway administration,—

(a) that the goods were, at the time of entrustment to the railway administration, in a defective condition, or were at that time either defectively packed or not packed in such manner as may be prescribed and as a result of which were liable to damage, deterioration, leakage or wastage; and

(b) that such defective condition or defective or improper packing was not brought to the notice of the railway administration or any of its servants at the time of entrustment of the goods to the railway administration for carriage by railway:

Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

9 of 1872.

99. (1) A railway administration shall be responsible as a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, for the loss, destruction, damage, deterioration or non-delivery of any consignment up to a period of seven days after the termination of transit:

Res-
ponsi-
bility
of a
railway
adminis-
tration
after
termi-
nation of
transit.

Provided that where the consignment is at owner's risk rate, the railway administration shall not be responsible as a bailee for such loss, destruction, damage, deterioration or non-delivery except on proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(2) The railway administration shall not be responsible in any case for the loss, destruction, damage, deterioration or non-delivery of any consignment arising after the expiry of a period of seven days after the termination of transit.

(3) Notwithstanding anything contained in the foregoing provisions of this section, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of perishable goods, animals, explosives and such dangerous or other goods as may be prescribed, after the termination of transit.

(4) Nothing in the foregoing provisions of this section shall affect the liability of any person to pay any demurrage or wharfage, as the case may be, for so long as the consignment is not unloaded from the railway wagons or removed from the railway premises.

100. A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt therefor and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants.

Res-
ponsi-
bility as
carrier of
luggage.

101. A railway administration shall not be responsible for any loss or destruction of, or injuries to, any animal carried by railway arising from fright or restiveness of the animal or from overloading of wagons by the consignor.

Res-
ponsi-
bility as
a carrier
of ani-
mals.

102. Notwithstanding anything contained in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any consignment,—

Exone-
ration
from
liability
in cer-
tain
cases.

(a) when such loss, destruction, damage, deterioration or non-delivery is due to the fact that a materially false description of the consignment is given in the statement delivered under sub-section (1) of section 66, or

(b) where a fraud has been practised by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee; or

(c) where it is proved by the railway administration to have been caused by, or to have arisen from—

(i) improper loading or unloading by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee;

(ii) riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause arising whether partial or general; or

(d) for any indirect or consequential loss or damage or for loss of particular market.

Extent
of money
liability
in respect
of any
consignment.

103. (1) Where any consignment is entrusted to a railway administration for carriage by railway and the value of such consignment has not been declared as required under sub-section (2) by the consignor, the amount of liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of the consignment shall in no case exceed such amount calculated with reference to the weight of the consignment as may be prescribed, and where such consignment consists of an animal, the liability shall not exceed such amount as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), where the consignor declares the value of any consignment at the time of its entrustment to a railway administration for carriage by railway, and pays such percentage charge as may be prescribed on so much of the value of such consignment as is in excess of the liability of the railway administration as calculated or specified, as the case may be, under sub-section (1), the liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of such consignment shall not exceed the value so declared.

(3) The Central Government may, from time to time, by notification, direct that such goods as may be specified in the notification shall not be accepted for carriage by railway unless the value of such goods is declared and percentage charge is paid as required under sub-section (2).

Extent
of liability
in respect
of goods
carried
in open
wagon.

104. Where any goods, which, under ordinary circumstances, would be carried in covered wagon and would be liable to damage, if carried otherwise, are with the consent of the consignor, recorded in the forwarding note, carried in open wagon, the responsibility of railway administration for destruction, damage or deterioration which may arise only by reason of the goods being so carried, shall be one-half of the amount of liability for such destruction, damage or deterioration determined under this Chapter.

105. Where the value has been declared under section 103 in respect of any consignment a railway administration may make it a condition of carrying such consignment that a railway servant authorised by it in this behalf has been satisfied by examination or otherwise that the consignment tendered for carriage contain the articles declared.

Right of railway administration to check contents of certain consignment or luggage. Notice of claim for compensation and refund of overcharge.

106. (1) A person shall not be entitled to claim compensation against a railway administration for the loss, destruction, damage, deterioration or non-delivery of goods carried by railway, unless a notice thereof is served by him or on his behalf,—

(a) to the railway administration to which the goods are entrusted for carriage; or

(b) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurs,

within a period of six months from the date of entrustment of the goods.

(2) Any information demanded or enquiry made in writing from, or any complaint made in writing to, any of the railway administrations mentioned in sub-section (1) by or on behalf of the person within the said period of six months regarding the non-delivery or delayed delivery of the goods with particulars sufficient to identify the goods shall, for the purpose of this section, be deemed to be a notice of claim for compensation.

(3) A person shall not be entitled to a refund of an overcharge in respect of goods carried by railway unless a notice therefor has been served by him or on his behalf to the railway administration to which the overcharge has been paid within six months from the date of such payment or the date of delivery of such goods at the destination station, whichever is later.

107. An application for compensation for loss, destruction, damage, deterioration or non-delivery of goods shall be filed against the railway administration on whom a notice under section 106 has been served.

Applications for compensation for loss, etc., of goods. Person entitled to claim compensation.

108. (1) If a railway administration pays compensation for the loss, destruction, damage, deterioration or non-delivery of goods entrusted to it for carriage, to the consignee or the endorsee producing the railway receipt, the railway administration shall be deemed to have discharged its liability and no application before the Claims Tribunal or any other legal proceeding shall lie against the railway administration on the ground that the consignee or the endorsee was not legally entitled to receive such compensation.

(2) Nothing in sub-section (1) shall affect the right of any person having any interest in the goods to enforce the same against the consignee or the endorsee receiving compensation under that sub-section.

Railway administration against which application for compensation for personal injury is to be filed.

109. An application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against,—

(a) the railway administration from which the passenger obtained his pass or purchased his ticket, or

(b) the railway administration on whose railway the destination station lies or the loss or personal injury occurred.

Burden of proof.

110. In an application before the Claims Tribunal for compensation for loss, destruction, damage, deterioration or non-delivery of any goods, the burden of proving—

(a) the monetary loss actually sustained; or

(b) where the value has been declared under sub-section (2) of section 103 in respect of any consignment that the value so declared is its true value,

shall lie on the person claiming compensation, but subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the loss, destruction, damage, deterioration or non-delivery was caused.

Extent of liability of railway administration in respect of accidents at sea.

111. (1) When a railway administration contracts to carry passengers or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea from act of God, public enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1958, if the ships were registered under that Act and the railway administration were owner of the ship and not to any greater extent.

44 of 1958.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

Power to make rules in respect of matters in this Chapter.

112. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of packing of goods entrusted to a railway administration under clause (b) sub-section (1) of section 98;

(b) the goods for the purposes of sub-section (3) of section 99; and

(c) the maximum amount payable by the railway administration for the loss, destruction, damage, deterioration or non-delivery of any consignment under sub-section (1) of section 103.

CHAPTER XII

ACCIDENTS

113. (1) Where, in the course of working a railway,—

Notice
of rail-
way
accident.

45 of 1860.

(a) any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code, or with such serious injury to property as may be prescribed; or

(b) any collision between trains of which one is a train carrying passengers; or

(c) the derailment of any train carrying passengers, or of any part of such train; or

(d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property; or

(e) any accident of any other description which the Central Government may notify in this behalf in the Official Gazette,

occurs, the station master of the station nearest to the place at which the accident occurs or where there is no station master, the railway servant in charge of the section of the railway on which the accident occurs, shall, without delay, give notice of the accident to the District Magistrate and Superintendent of Police, within whose jurisdiction the accident occurs, the officer in charge of the police station within the local limits of which the accident occurs and to such other Magistrate or police officer as may be appointed in this behalf by the Central Government.

(2) The railway administration within whose jurisdiction the accident occurs, as also the railway administration to whom the train involved in the accident belongs, shall without delay, give notice of the accident to the State Government and the Commissioner having jurisdiction over the place of the accident.

114. (1) On the receipt of a notice under section 113 of the occurrence of an accident to a train carrying passengers resulting in loss of human life or grievous hurt causing total or partial disablement of permanent nature to a passenger or serious damage to railway property, the Commissioner shall, as soon as may be, notify the railway administration in whose jurisdiction the accident occurred of his intention to hold an inquiry into the causes that led to the accident and shall at the same time fix and communicate the date, time and place of inquiry:

Inquiry
by Com-
mission-
ner.

Provided that it shall be open to the Commissioner to hold an inquiry into any other accident which, in his opinion, requires the holding of such an inquiry.

(2) If for any reason, the Commissioner is not able to hold an inquiry as soon as may be after the occurrence of the accident, he shall notify the railway administration accordingly.

Inquiry
by rail-
way admi-
nistration.

115. Where no inquiry is held by the Commissioner under sub-section (1) of section 114 or where the Commissioner has informed the railway administration under sub-section (2) of that section that he is not able to hold an inquiry, the railway administration within whose jurisdiction the accident occurs, shall cause an inquiry to be made in accordance with the prescribed procedure.

Powers
of Com-
missioner
in rela-
tion to
inqui-
ries.

116. (1) For the purpose of conducting an inquiry under this Chapter into the causes of any accident on a railway, the Commissioner shall, in addition to the powers specified in section 7, have the powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copies thereof from any court or office;

(e) any other matter which may be prescribed.

(2) The Commissioner while conducting an inquiry under this Chapter shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

State-
ment
made
before
Com-
missioner.

117. No statement made by a person in the course of giving evidence in an inquiry before the Commissioner shall subject him to, or be used against him in, any civil or criminal proceeding, except a prosecution for giving false evidence by such statement:

Provided that the statement is—

(a) made in reply to a question which is required by the Commissioner to answer; or

(b) relevant to the subject-matter of the inquiry.

Proce-
dure,
etc.

118. Any railway administration or the Commissioner conducting an inquiry under this Chapter may send notice of the inquiry to such persons, follow such procedure, and prepare the report in such manner as may be prescribed.

No in-
quiry,
investi-
gation,
etc.,
to be
made if
the
Com-
mission
of
Inquiry
is ap-
pointed.

119. Notwithstanding anything contained in the foregoing provisions of this Chapter, where a Commission of Inquiry is appointed under the Commissions of Inquiry Act, 1952, to inquire into an accident, any inquiry, investigation or other proceeding pending in relation to that accident shall not be proceeded with, and all records or other documents relating to such inquiry shall be forwarded to such authority as may be specified by the Central Government in this behalf.

3 of 1952.

120. Where any accident of the nature not specified in section 113 occurs in the course of working a railway, the railway administration within whose jurisdiction the accident occurs, may cause such inquiry to be made into the causes of the accident, as may be prescribed.

Inquiry
into
accident
not
covered
by
section
113.

121. Every railway administration shall send to the Central Government, a return of accidents occurring on its railway, whether attended with injury to any person or not, in such form and manner and at such intervals as may be prescribed.

Returns.

122. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

Power
to
make
rules in
respect of
matters
in this
Chapter.

(a) the injury to property which shall be considered serious under clause (a) of sub-section (1) of section 113;

(b) the forms of notice of accidents to be given under section 113 and the particulars of the accident such notices shall contain;

(c) the manner of sending the notices of accidents, including the class of accidents to be sent immediately after the accident;

(d) the duties of the Commissioner, railway administration, railway servants, police officers and Magistrates on the occurrence of an accident;

(e) the persons to whom notices in respect of any inquiry under this Chapter are to be sent, the procedure to be followed in such inquiry and the manner in which a report of such inquiry shall be prepared;

(f) the nature of inquiry to be made by a railway administration into the causes of an accident under section 120;

(g) the form and manner of sending a return of accidents by a railway administration under section 121.

CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO PASSENGERS DUE TO ACCIDENTS

123. In this Chapter, unless the context otherwise requires,—

(a) "accident" means an accident of the nature described in section 124;

(b) "dependant" means any of the following relatives of a deceased passenger, namely:—

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-

Defini-
tions.

deceased son, if dependant wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grand parent wholly dependant on the deceased passenger.

Extent of liability.

124. 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.

Explanation.—For the purposes of this section “passenger” includes a railway servant on duty.

Application for compensation.

125. (1) An application for compensation under section 124 may be made to the 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 this behalf, or

(c) where such person is a minor, by his guardian, or

(d) where death has resulted from the accident, by any dependant of the deceased or where such a dependant is a minor, by his guardian.

(2) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant.

Interim relief by railway administration.

126. (1) Where 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 a copy of the application made under that section.

(2) Where, on the receipt of an application made under sub-section (1) and after making such inquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to the applicant immediately, it may, pending determination by the Claims Tribunal of the actual amount of compensation payable under section 124 pay to any person who has sustained the injury or suffered any loss, or where death has resulted from the accident, to any dependant of the deceased, such sum as it considers

reasonable for affording such relief, so, however, that the sum paid shall not exceed the amount of compensation payable at such rates as may be prescribed.

(3) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under sub-section (2), send a copy thereof to the Claims Tribunal.

(4) Any sum paid by the railway administration under sub-section (2) shall be taken into account by the Claims Tribunal while determining the amount of compensation payable.

127. (1) Subject to such rules as may be made, the rates of compensation payable in respect of any injury shall be determined by the Claims Tribunal.

(2) The compensation payable in respect of any loss of goods shall be such as the Claims Tribunal may, having regard to the circumstances of the case, determine to be reasonable.

Determination of compensation in respect of any injury or loss of goods.

8 of 1923.

128. (1) The right of any person to claim compensation under section 124 shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923, or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same accident.

Saving as to certain rights.

(2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance.

129. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the compensation payable for death;

(b) the nature of the injuries for which compensation shall be paid and the amount of such compensation.

CHAPTER XIV

REGULATION OF HOURS OF WORK AND PERIOD OF REST

130. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(b) the employment of a railway servant is said to be "essentially intermittent" when it has been declared to be so by the pres-

cribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating to fifty per cent. or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each) in a tour of twelve hours duty (on the average over seventy-two consecutive hours), during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:—

(i) railway servants employed in a managerial or confidential capacity;

(ii) armed guards or other personnel subject to discipline similar to that of any of the armed police forces;

(iii) staff of the railway schools imparting technical training or academic education;

(iv) such staff as may be specified as supervisory under the rules;

(v) such other categories of staff as may be prescribed;

(d) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation.

131. Nothing in this Chapter shall apply to any railway servant to whom the Factories Act, 1948 or the Mines Act, 1952 or the Railway Protection Force Act, 1957 or the Merchant Shipping Act, 1958, applies.

63 of 1948.
35 of 1952.
23 of 1957.
44 of 1958.

Chapter
not to
apply to
certain
railway
servants.

132. (1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week.

Limita-
tion of
hours of
work.

(2) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours a week on an average in a two-weekly period of fourteen days.

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on an average in a two-weekly period of fourteen days.

(4) Subject to such rules as may be prescribed, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock or in any emergency which

could not have been foreseen or prevented, or in other cases of exceptional pressure of work:

Provided that where such exemption results in the increase of hours of employment of a railway servant referred to in any of the sub-sections, he shall be paid overtime at not less than two times his ordinary rate of pay for the excess hours of work.

133. (1) Subject to the provisions of this section, a railway servant—

Grant of
periodi-
cal rest.

(a) whose employment is intensive or continuous shall, for every week commencing on a Sunday, be granted a rest of not less than thirty consecutive hours;

(b) whose employment is essentially intermittent shall, for every week commencing on a Sunday, be granted a rest of not less than twenty-four consecutive hours including a full night.

(2) Notwithstanding anything contained in sub-section (1),—

(i) any locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each or at least five periods of not less than twenty-two consecutive hours each, including a full night;

(ii) the Central Government may, by rules, specify the railway servants to whom periods of rest on scales less than those laid down under sub-section (1) may be granted and the periods thereof.

(3) Subject to such rules as may be made in this behalf, if the prescribed authority is of the opinion that such circumstances as are referred to in sub-section (4) of section 132 are present, it may exempt any railway servant from the provisions of sub-section (1) or clause (i) of sub-section (2):

Provided that a railway servant so exempted shall, in such circumstances as may be prescribed, be granted compensatory periods of rest for the periods he has foregone.

134. Nothing in this Chapter or the rules made thereunder shall, where due provision has been made for the relief of a railway servant, authorise him to leave his duty until he has been relieved.

Railway
servant to
remain on
duty.

135. (1) Subject to such rules as may be made in this behalf, the Central Government may appoint supervisors of railway labour.

Supervisors
of railway
labour.

(2) The duties of supervisors of railway labour shall be—

(i) to inspect railways in order to determine whether the provisions of this Chapter or of the rules made thereunder are duly observed; and

(ii) to perform such other functions as may be prescribed.

(3) A supervisor of railway labour shall be deemed to be a Commissioner for the purposes of sections 7 and 9.

Power to make rules in respect of matters in this Chapter.

136. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the authorities who may declare the employment of any railway servant essentially intermittent or intensive;

(b) the appeals against any such declaration and the manner in which, and the conditions subject to which any such appeal may be filed and heard;

(c) the categories of staff that may be specified under sub-clauses (iv) and (v) of clause (c) of section 130;

(d) the authorities by whom exemptions under sub-section (4) of section 132 or sub-section (3) of section 133 may be made;

(e) the delegation of power by the authorities referred to in clause (d);

(f) the railway servants to whom clause (ii) of sub-section (2) of section 133 apply and the periods of rest to be granted to them;

(g) the appointment of supervisors of railway labour and their functions.

CHAPTER XV

PENALTIES AND OFFENCES

Fraudulently travelling or attempting to travel without proper pass or ticket.

137. (1) If any person, with intent to defraud a railway administration,—

(a) enters or remains in any carriage on a railway or travels in a train in contravention of section 55, or

(b) uses or attempts to use a single pass or a single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) The person referred to in sub-section (1) shall also be liable to pay the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has travelled, or where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or, in case of their having been examined more than once, were last examined.

(3) The excess charge referred to in sub-section (2) shall be a sum equal to the ordinary single fare referred to in that sub-section or fifty rupees, whichever is more.

45 of 1860. (4) Notwithstanding anything contained in section 65 of the Indian Penal Code, the court convicting an offender may direct that the person in default of payment of any fine inflicted by the court shall suffer imprisonment for a term which may extend to six months.

138. (1) If any passenger,—

(a) being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on a demand being made therefor under section 54, or

(b) travels in a train in contravention of the provisions of section 55,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or in the case of their having been examined more than once, were last examined.

(2) If any passenger,—

(a) travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket; or

(b) travels in or on a carriage beyond the place authorised by his pass or ticket,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, any difference between the fare paid by him and the fare payable in respect of the journey he has made and the excess charge referred to in sub-section (3).

(3) The excess charge shall be a sum equal to the amount payable under sub-section (1) or sub-section (2), as the case may be, or fifty rupees, whichever is more:

Provided that if the passenger has with him a certificate granted under sub-section (2) of section 55, no excess charge shall be payable:

(4) If any passenger liable to pay the excess charge and the fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on a demand being made therefor under one or other of these sub-sections, as the case may be, any railway servant authorised by the railway administration in this behalf may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first or second class, as the case may be, for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered,

Levy of excess charge and fare for travelling without proper pass or ticket or beyond authorised distance.

and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month but not less than ten days.

(5) Any sum recovered under sub-section (4) shall, as and when it is recovered, be paid to the railway administration.

Power to
remove
persons.

139. Any person failing or refusing to pay the fare and the excess charge referred to in section 138 may be removed by any railway servant authorised in this behalf who may call to his aid any other person to effect such removal:

Provided that nothing in this section shall be deemed to preclude a person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket:

Provided further that a woman or a child if unaccompanied by a male passenger, shall not be so removed except either at the station from where she or he commences her or his journey or at a junction or terminal station or station at the headquarters of a civil district and such removal shall be made only during the day.

Security
for good
behavi-
our in
certain
cases.

140. (1) When a court convicting a person of an offence under section 137 or section 138 finds that he has been habitually committing or attempting to commit that offence and the court is of the opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may, at the time of passing the sentence on the person, order him to execute a bond with or without sureties, for such amount and for such period not exceeding three years as it deems fit.

(2) An order under sub-section (1) may also be made by an appellate court or by the High Court when exercising its powers of revision.

Need-
lessly
inter-
fering
with
means of
communi-
cation in
a train.

141. If any passenger or any other person, without reasonable and sufficient cause, makes use of, or interferes with, any means provided by a railway administration in a train for communication between passengers and the railway servant in charge of the train, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, such punishment shall not be less than—

(a) a fine of five hundred rupees, in the case of conviction for the first offence; and

(b) imprisonment for three months in case of conviction for the second or subsequent offence.

Penalty
for trans-
fer of
tickets.

142. (1) If any person not being a railway servant or an agent authorised in this behalf—

(a) sells or attempts to sell any ticket or any half of a return ticket; or

(b) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made or any half of a return ticket or a season ticket,

in order to enable any other person to travel therewith, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and shall also forfeit the ticket which he sells or attempts to sell or parts or attempts to part.

(2) If any person purchases any ticket referred to in clause (a) of sub-section (1) or obtains the possession of any ticket referred to in clause (b) of that sub-section from any person other than a railway servant or an agent authorised in this behalf, he shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees and if the purchaser or holder of any ticket aforesaid travels or attempts to travel therewith, he shall forfeit the ticket which he so purchased or obtained and shall be deemed to be travelling without a proper ticket and shall be liable to be dealt with under section 138:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the punishment under sub-section (1) or sub-section (2) shall not be less than a fine of two hundred and fifty rupees.

143. (1) If any person, not being a railway servant or an agent authorised in this behalf,—

(a) carries on the business of procuring and supplying tickets for travel on a railway or for reserved accommodation for journey in a train; or

(b) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person;

Penalty for unauthorised carrying on of business of procuring and supplying of railway tickets.

he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, or with both, and shall also forfeit the tickets which he so procures, supplies, purchases, sells or attempts to purchase or sell:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month or a fine of five thousand rupees.

(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence.

144. (1) If any person canvasses for any custom or hawks or exposes for sale any article whatsoever in any railway carriage or upon any part of a railway, except under and in accordance with the terms and conditions of a licence granted by the railway administration in this behalf, he shall be punishable with imprisonment for a term which may extend

Prohibition on hawking, etc., and begging.

to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of one thousand rupees.

(2) If any person begs in any railway carriage or upon a railway station, he shall be liable for punishment as provided under sub-section (1).

(3) Any person referred to in sub-section (1) or sub-section (2) may be removed from the railway carriage or any part of the railway or railway station, as the case may be, by any railway servant authorised in this behalf or by any other person whom such railway servant may call to his aid.

145. If any person in any railway carriage or upon any part of a railway—

(a) is in a state of intoxication; or

(b) commits any nuisance or act of indecency or uses abusive or obscene language; or

(c) wilfully or without excuse interferes with any amenity provided by the railway administration so as to affect the comfortable travel of any passenger,

he may be removed from the railway by any railway servant and shall, in addition to the forfeiture of his pass or ticket, be punishable with imprisonment which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than—

(a) a fine of one hundred rupees in the case of conviction for the first offence, and

(b) imprisonment of one month and a fine of two hundred and fifty rupees, in the case of conviction for second or subsequent offence.

146. If any person wilfully obstructs or prevents any railway servant in the discharge of his duties, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

147. (1) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Drunken-
ness or
nuisance.

Obstruct-
ing railway
servant
in his
duties.

Respass
and refu-
sal to
desist
from
respass.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) Any person referred to in sub-section (1) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.

148. If in any application for compensation under section 125, any person makes a statement which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for making a false statement in an application for compensation.

149. If any person requiring compensation from a railway administration for loss, destruction, damage, deterioration or non-delivery of any consignment makes a claim which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Making a false claim for compensation.

150. (1) Subject to the provisions of sub-section (2), if any person unlawfully,—

Maliciously wrecking or attempting to wreck a train.

(a) puts or throws upon or across any railways, any wood, stone or other matter or thing; or

(b) takes up, removes, loosens or displaces any rail, sleeper or other matter or things belonging to any railway; or

(c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway; or

(d) makes or shows, or hides or removes, any signal or light upon or near to any railway; or

(e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent or with knowledge that he is likely to endanger the safety of any person travelling on or being upon the railway, he shall be punishable with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a person is punishable with rigorous imprisonment, such imprisonment shall not be less than—

(a) three years, in the case of a conviction for the first offence; and

(b) seven years, in the case of conviction for the second or subsequent offence.

(2) If any person unlawfully does any act or thing referred to in any of the clauses of sub-section (1)—

(a) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(b) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person,

he shall be punishable with death or imprisonment for life.

Damage to or destruction of certain railway properties.

151. (1) If any person, with intent to cause, or knowing that he is likely to cause damage or destruction to any property of a railway referred to in sub-section (2), causes by fire, explosive substance or otherwise, damage to such property or destruction of such property, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) The properties of a railway referred to in sub-section (1) are railway track, bridges, station buildings and installations, carriages or wagons, locomotives, signalling, telecommunications, electric traction and block equipments and such other properties as the Central Government being of the opinion that damage thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification, specify.

Maliciously hurting or attempting to hurt persons travelling by railway.

152. If any person unlawfully throws or causes to fall or strike at against, into or upon any rolling stock forming part of a train, any wood, stone or other matter or thing with intent, or with knowledge that he is likely to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train, he shall be punishable with imprisonment for life, or with imprisonment for a term which may extend to ten years.

Endangering safety of persons travelling by railway by wilful act or omission.

153. If any person by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling on or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any railway, he shall be punishable with imprisonment for a term which may extend to five years.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

154. If any person in a rash and negligent manner does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon any railway, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

155. (1) If any passenger—

(a) having entered a compartment wherein no berth or seat has been reserved by a railway administration for his use, or

(b) having unauthorisedly occupied a berth or seat reserved by a railway administration for the use of another passenger,

refuses to leave it when required to do so by any railway servant authorised in this behalf, such railway servant may remove him or cause him to be removed, with the aid of any other person, from the compartment, berth or seat, as the case may be, and he shall also be punishable with fine which may extend to five hundred rupees.

(2) If any passenger resists the lawful entry of another passenger into a compartment not reserved for the use of the passenger resisting, he shall be punishable with fine which may extend to two hundred rupees.

156. If any passenger or any other person, after being warned by a railway servant to desist, persists in travelling on the roof, step or foot-board of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both and may be removed from the railway by any railway servant.

157. If any passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

158. Any person under whose authority any railway servant is employed in contravention of any of the provisions of Chapter XIV or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees.

159. If any driver or conductor of any vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Entering into a compartment reserved or resisting entry into a compartment not reserved.

Travelling on roof, step or engine of a train.

Altering or defacing pass or ticket.

Penalty for contravention of any of the provision of Chapter XIV.

Disobedience of drivers or conductors of vehicles to directions of railway servant, etc.

Opening
or break-
ing a
level cross-
ing gate.

160. (1) If any person, other than a railway servant or a person authorised in this behalf, opens any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to three years.

(2) If any person breaks any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to five years.

Negli-
gently
crossing
unmann-
ed level
crossing.

161. If any person driving or leading a vehicle is negligent in crossing an unmanned level crossing, he shall be punishable with imprisonment which may extend to one year.

Explanation.—For the purposes of this section, “negligence” in relation to any person driving or leading a vehicle in crossing an unmanned level crossing means the crossing of such level crossing by such person—

(a) without stopping or caring to stop the vehicle near such level crossing to observe whether any approaching rolling stock is in sight, or

(b) even while an approaching rolling stock is in sight.

Entering
carriage
or other
place re-
served
for
females.

162. If a male person knowing or having reason to believe that a carriage, compartment, berth or seat in a train or room or other place is reserved by a railway administration for the exclusive use of females, without lawful excuse,—

(a) enters such carriage, compartment, room or other place, or having entered such carriage, compartment, room or place, remains therein; or

(b) occupies any such berth or seat having been required by any railway servant to vacate it,

he shall, in addition to being liable to forfeiture of his pass or ticket, be punishable with fine which may extend to five hundred rupees and may also be removed by any railway servant.

Giving
false ac-
count of
goods.

163. If any person required to furnish an account of goods under section 66, gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall, without prejudice to his liability to pay any freight or other charge under any provision of this Act, be punishable with fine which may extend to five hundred rupees for every quintal or part thereof of such goods.

Unlaw-
fully
bringing
dangerous
goods on
a railway.

164. If any person, in contravention of section 67, takes with him any dangerous goods or entrusts such goods for carriage to the railway administration, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees or with both and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railwa

165. If any person, in contravention of section 67, takes with him any offensive goods or entrusts such goods for carriage to the railway administration, he shall be punishable with fine which may extend to five hundred rupees and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railway.

Unlaw-
fully
bringing
offensive
goods on
a railway.

166. If any person without lawful authority—

Defacing
public
notices.

(a) pulls down or wilfully damages any board or document set up or posted by the order of a railway administration on a railway or any rolling stock; or

(b) obliterates or alters any letters or figures upon any such board or document or upon any rolling stock,

he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

167. (1) No person in any compartment of a train shall, if objected to by any other passenger in that compartment, smoke therein.

Smoking.

(2) Notwithstanding anything contained in sub-section (1), a railway administration may prohibit smoking in any train or part of a train.

(3) Whosoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

168. (1) If a person under the age of twelve years is guilty of any of the offences under sections 150 to 154, the court convicting him may require the father or guardian of such person to execute, within such time as the court may fix, a bond for such amount and for such period as the court may direct for the good conduct of such person.

Provision
with res-
pect to
commis-
sion of
offence
by the
children
of acts
endanger-
ing safety
of person
travelling
on rail-
way.

(2) The amount of the bond, if forfeited, shall be recoverable by the court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the court, he shall be punishable with fine which may extend to fifty rupees.

169. If a non-Government railway fails to comply with, any requisition made, decision or direction given, by the Central Government, under any of the provisions of this Act, or otherwise contravenes any of the provisions of this Act, it shall be open to the Central Government, by order, to levy a penalty not exceeding two hundred and fifty rupees and a further penalty not exceeding one hundred and fifty rupees for every day during which the contravention continues:

Levy of
penalty
on non-
Govern-
ment
railway.

Provided that no such penalty shall be levied except after giving a reasonable opportunity to the non-Government railway to make such representation as it deems fit

Recovery
of penalty.

170. Any penalty imposed by the Central Government under section 169, shall be recoverable by a suit in the District Court having jurisdiction in the place where the head office of the non-Government railway is situated.

Section
169
or 170 not
to pre-
clude
Central
Govern-
ment from
taking
any
other
action.

171. Nothing in section 169 or 170 shall preclude the Central Government from resorting to any other action to compel a non-Government railway to discharge any obligation imposed upon it by or under this Act.

Penalty
for
intoxica-
tion.

172. If any railway servant is in a state of intoxication while on duty, he shall be punishable with fine which may extend to five hundred rupees and when the performance of any duty in such state is likely to endanger the safety of any person travelling on or being upon a railway, such railway servant shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Abandon-
ing train,
etc.,
without
authority.

173. If any railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, or of any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place without authority or without properly handing over such train or rolling stock to another authorised railway servant, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Obstruct-
ing run-
ning of
train, etc.

174. If any railway servant (whether on duty or otherwise) or any other person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon a railway,—

(a) by squatting or picketing or during any *rail roko* agitation or *bandh*; or

(b) by keeping without authority any rolling stock on the railway; or

(c) by tampering with, disconnecting or interfering in any other manner with its hose pipe or tampering with signal gear or otherwise, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Endanger-
ing the
safety of
persons.

175. If any railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any rule made under this Act; or

(b) by disobeying any instruction, direction or order under this Act or the rules made thereunder; or

(c) by any rash or negligent act or omission, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

176. If any railway servant unnecessarily—

(a) allows any rolling stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level crossing closed against the public,

he shall be punishable with fine which may extend to one hundred rupees.

177. If any railway servant required to furnish a return by or under this Act, signs and furnishes a return which is false in any material particular or which he knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

178. If any railway servant who is required by a railway administration to inquire into a claim for loss, destruction, damage, deterioration or non-delivery of any consignment makes a report which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

179. (1) If a person commits any offence mentioned in sections 137, 141 to 147, 150 to 157, 160 to 162, 164, 166, 168 and 172 to 175, he may be arrested without warrant or other written authority by any railway servant or police officer not below the rank of a head constable.

(2) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

(3) Any person so arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate.

180. (1) If any person who commits any offence under this Act, other than an offence mentioned in section 179, or is liable to pay any excess charge or other sum demanded under section 138, fails or refuses to give his name and address or there is reason to believe that the name and address given by him are fictitious or that he will abscond, any railway servant authorised in this behalf or any police officer not below the rank of a head constable may arrest him without warrant or written authority.

(2) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

(3) Any person arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate unless he is released earlier on

Obstructing level crossing.

False returns.

Making a false report by a railway servant.

Arrest for offences under certain sections.

Arrest of persons likely to abscond, etc.

giving bail or if his true name and address are ascertained on executing a bond without sureties for his appearance before the Magistrate having jurisdiction to try him for the offence.

(4) The provisions of Chapter XXIII of the Code of Criminal Procedure, 1973, shall so far as may be, apply to the giving of bail and the execution of bonds under this section.

2 of 1974.

Magistrate
having
jurisdiction
under
the Act.

Place of
trial.

181. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence under this Act.

2 of 1974.

182. (1) Any person committing an offence under this Act or any rule made thereunder shall be triable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at such railway stations as the State Government may direct.

CHAPTER XVI

MISCELLANEOUS

Power
to provide
other
transport
services.

183. (1) A railway administration may, for the purpose of facilitating the carriage of passengers or goods or to provide integrated service for such carriage, provide any other mode of transport.

(2) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to the carriage of passengers or goods by the mode of transport referred to in sub-section (1).

Taxation
on rail-
ways by
local
authori-
ties.

184. (1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

(2) While a notification of the Central Government under sub-section (1) is in force, the railway administration shall be liable to pay to the local authority either the tax specified in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Central Government may, having regard to all the circumstances of the case, from time to time, determine to be fair and reasonable.

(3) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

(4) Nothing in this section shall be construed to prevent any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render to the railway administration.

185. (1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax to any local authority in respect of any advertisement made on any part of the railway unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

Taxation
on rail-
ways for
advertis-
ment.

(2) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

186. No suit, prosecution or other legal proceeding shall lie against the Central Government, any railway administration, a railway servant or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Protec-
tion of
action
taken in
good
faith.

187. (1) No rolling stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any court or of any local authority or person having by law the power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the Central Government.

Restric-
tion on
execution
against
railway
property.

(2) Nothing in sub-section (1) shall be construed to affect the authority of any court to attach the earnings of a railway in execution of a decree or order.

45 of 1860.

188. (1) Any railway servant, who is not a public servant within the meaning of section 21 of the Indian Penal Code, shall be deemed to be a public servant for the purposes of Chapter IX and section 409 of that Code.

Railway
servants
to be
public
servants
for the
purposes
of Chap-
ter IX
and
section
409 of the
Indian
Penal
Code.

45 of 1860.

(2) In the definition of "legal remuneration" in section 161 of the Indian Penal Code, the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

189. A railway servant shall not—

Railway
servants
not to
engage
in trade.

(a) purchase or bid for, either in person or by an agent, in his own name or in that of another, or jointly or in shares with others, any property put to auction under section 83 or section 84 or section 85 or section 90; or

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

Procedure
for deliv-
ery to
railway
adminis-
tration
of pro-
perty
detained
by a
railway
servant.

190. If a railway servant is discharged from service or is suspended, or dies or absconds or absents himself, and he or his wife or widow or any member of his family or his representative refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration or to a person appointed by the railway administration, in this behalf, any station, office or other building with its appurtenances, or any books, papers, keys, equipment or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Metropolitan Magistrate or Judicial Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the station, office or other building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or to a person appointed by the railway administration in that behalf.

Proof of
entries
in records
and docu-
ments.

191. Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession.

Service
of notice,
etc., on
railway
administra-
tion.

192. Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a Zonal Railway, on the General Manager or any of the railway servant authorised by the General Manager, and in the case of any other railway, on the owner or lessee of the railway or the person working the railway under an agreement—

- (a) by delivering it to him; or
- (b) by leaving it at his office; or
- (c) by registered post to his office address.

Service
of notice,
etc., by
railway
administra-
tion.

193. Unless otherwise provided in this Act or the rules framed thereunder, any notice or other document required or authorised by this Act to be served on any person by a railway administration may be served—

- (a) by delivering it to the person; or
- (b) by leaving it at the usual or last known place of abode of the person; or
- (c) by registered post addressed to the person at his usual or last known place of abode.

Presump-
tion
where
notice is
served
by post.

194. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

195. (1) A railway administration may, by order in writing, authorise any railway servant or other person to act for, or represent it, as the case may be, in any proceeding before any civil, criminal or other court.

Represent-
tation of
railway
administra-
tion.

2 of 1974. (2) A person authorised by a railway administration to conduct prosecutions on its behalf shall, notwithstanding anything in section 302 of the Code of Criminal Procedure, 1973, be entitled to conduct such prosecutions without the permission of the Magistrate.

196. (1) The Central Government may, by notification, exempt any railway from all or any of the provisions of this Act.

Power to
exempt
railway
from Act.

(2) Every notification issued under sub-section (1) shall be laid as soon as may be after it is issued before each House of Parliament.

197. (1) For the purposes of section 67, 113, 121, 123, 147, 151 to 154, 160, 164, 166, 168, 170 171, 173 to 176, 179, 180, 182, 184, 185, 187 to 190, 192, 193, 195 and of this section, the word "railway" whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in clause (31) of section 2.

Matters
supple-
mental
to the
definitions
of "rail-
way" and
"railway
servant".

(2) For the purposes of sections 7, 24, 113, 146, 172 to 176 and 188 to 190, the expression "railway servant" includes a person employed under a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

198. Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

General
power to
make
rules.

199. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions afore- said, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Rules to
be laid
before
Parlia-
ment.

9 of 1890. 200. (1) The Indian Railways Act, 1890 is hereby repealed.

Repeal
and
saving.

9 of 1890. (2) Notwithstanding the repeal of the Indian Railways Act, 1890 (hereinafter referred to as the repealed Act)—

(a) anything done or any action taken or purported to have been done or taken (including any rule, notification inspection, order or notice made or issued, or any appointment or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed) under the repealed

Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any complaint made to the Railway Rates Tribunal under sub-section (1) of section 41 of the repealed Act but not disposed of before the commencement of this Act and any complaint that may be made to the said Tribunal against any act or omission of a railway administration under the repealed Act shall be heard and decided by the Tribunal constituted under this Act in accordance with the provisions of Chapter VII of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

V. S. RAMA DEVI,
Secy. to the Govt. of India.

THE RAILWAYS (AMENDMENT) ACT, 1994

No. 28 OF 1994

[26th April, 1994.]

An Act to amend the Railways Act, 1989 and the Railway Claims Tribunal Act, 1987.

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Railways (Amendment) Act, 1994.
- (2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE RAILWAYS ACT, 1989

Amend-
ment of
section
123.

2. In section 123 of the Railways Act, 1989 (hereafter in this Chapter referred to as the principal Act), after clause (b), the following clause shall be inserted, namely:—

‘(c) “untoward incident” means—

(1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or

(ii) the making of a violent attack or the commission of robbery or dacoity; or

(iii) the indulging in rioting, shoot-out or arson,

by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or

(2) the accidental falling of any passenger from a train carrying passengers.’

¹ 1-8-1994 Vide Notification No. S. O. 530 dated 15-7-1994.

3. After section 124 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 124A.

124A. 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 dependant 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:

Compensation on account of untoward incidents.

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 purposes of this section, "passenger" 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.

4. In section 125 of the principal Act, in sub-section (1),—

(a) in the opening portion, after the word and figures "section 124", the words, figures and letter "or section 124A" shall be inserted;

(b) in clause (d), after the word "accident", the words "or the untoward incident" shall be inserted.

Amendment of section 125.

5. In section 126 of the principal Act, in sub-section (2), after the word and figures "section 124", the words, figures and letter "or section 124A" shall be inserted.

Amendment of section 126.

6. In section 128 of the principal Act, in sub-section (1), after the word and figures "section 124", the words, figures and letter "or section 124A" shall be inserted.

Amendment of section 128.

CHAPTER III

AMENDMENTS TO THE RAILWAY CLAIMS TRIBUNAL ACT, 1987

Amend-
ment of
long
title.

7. In the long title to the Railway Claims Tribunal Act, 1987 (hereafter in this Chapter referred to as the principal Act), after the words "railway accidents", the words "or untoward incidents" shall be inserted. 54 of 1987.

Amend-
ment of
section 2.

8. In section 2 of the principal Act, clause (n) shall be re-lettered as clause (o), and before clause (o) as so re-lettered, the following clause shall be inserted, namely:—

'(n) "untoward incident" shall have the meaning assigned to it in clause (c) of section 123 of the Railways Act, 1989;'. 24 of 1989.

Amend-
ment of
section
13.

9. In section 13 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of section 124A of the Railways Act, 1989, all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation now payable by the railway administration under section 124A of the said Act or the rules made thereunder.";

24 of 1989

(b) in sub-section (2), for the words "Railways Act", the words and figures "Railways Act, 1989" shall be substituted. 24 of 198

Amend-
ment of
section
15.

10. In section 15 of the principal Act, for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-sections (1) and (1A)" shall be substituted.

Amend-
ment of
section
16.

11. In section 16 of the principal Act,—

(a) in sub-section (1), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted;

(b) in sub-section (2), in the proviso, after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (1A)" shall be inserted.

Amend-
ment of
section
17.

12. In section 17 of the principal Act, in sub-section (1), in clause (b), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (1A)" shall be inserted.

Amend-
ment of
section
24.

13. In section 24 of the principal Act, in sub-section (1),—

(a) after the words "appointed day", at both the places where they occur, the words, brackets, figures and letter "or, as the case may be, the date of commencement of the provisions of sub-section (1A) of section 13" shall be inserted;

(b) for the words "that day", the words "that day or, as the case may be, date" shall be substituted.

Bill No. 91 of 2014

THE RAILWAYS (AMENDMENT) BILL, 2014

A

BILL

further to amend the Railways Act, 1989

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Railways (Amendment) Act, 2014.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

24 of 1989. 5 **2.** In section 109 of the Railways Act, 1989 (hereinafter referred to as the principal Act), after clause (b), the following proviso shall be inserted, namely:—

Amendment
of section
109.

“Provided that the railway administration where the loss of life or personal injury to a passenger occurs shall be made a party amongst others, if any, before the Claims Tribunal.”.

10 **3.** In section 123 of the principal Act,—

Amendment
of section
123.

(a) after clause (a), the following clause shall be inserted, namely:—

“(aa) “accidental falling” means accidental falling of any passenger from a train carrying passengers but does not include—

(i) a passenger falling from a train while entering or leaving or attempting to enter or leave any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform, or other place appointed by the railway administration for passengers to enter or leave the carriage, or while standing near the door or opens the door of any carriage while the train is in motion; or 5

(ii) a person who violates the provisions of section 153 or section 154; or

(iii) any passenger or any other person referred to in section 156;’;

(b) in clause (c), sub-clause (2) shall be omitted. 10

Insertion of
new section
124B.

4. After section 124A of the principal Act, the following section shall be inserted, namely:—

Compensation
on account of
accidental
falling.

“124B. When in the course of working a railway, an incident of accidental falling 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, for the time being in force, 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 accidental falling: 15 20

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; 25

(c) his own criminal act;

(d) his own carelessness or negligence:

Provided that for the purposes of this clause, it may be established and proved by the passenger or on his behalf that he had taken reasonable care and precaution to avoid occurrence of such incident; 30

(e) any act committed by him in a state of intoxication or insanity.’’.

STATEMENT OF OBJECTS AND REASONS

At present, the provisions of section 109 of the Railways Act, 1989 provides that an application before the Claims Tribunal for compensation for loss of life or personal injury to a passenger, may be instituted against,—

- (i) the railway administration from where the passenger obtained his pass or purchased his ticket, or
- (ii) the railway administration on whose railway the destination station lies, or
- (iii) the loss or personal injury occurred.

2. The options made available for filing of claims are misused and claims against different railways are filed for the same loss or injury, resulting into filing of duplicate and false claims by the claimants causing loss to the exchequer. To prevent this, it is considered necessary that the railway under whose jurisdiction the loss or injury has occurred should as a rule be made a party amongst others, if any, before the Railway Claims Tribunal, so that the railway under whose jurisdiction loss or injury occurred can check, if the claim against such loss or injury has already been filed.

3. Under sub-clause (2) of clause (c) of section 123 of the Railways Act, 1989, accident cases of ‘the accidental falling’ of any passenger from a train carrying passengers has been included in the definition of ‘untoward incident’. Most of the cases of ‘the accidental falling’ arising out of falling down from train are because of negligence, carelessness and misadventure on the part of the passengers while entraining and detraining a moving train knowing that any accident may take place. However, railways are being made liable to pay compensation even when there is no fault on the part of railway.

4. Therefore, cases of ‘accidental falling’ will be categorised separately under clause (aa) in section 123 to enable railways to ensure its liability when there is fault on its part and non-payment where there is no fault on its part in such incidents.

5. Through the proposed amendments, the filing of duplicate claims, by making different railways as party for the same claim, could be avoided, and the settlement of compensation in train accidents and untoward incidents, where there is fault on the part of railway, will be expedited. Accordingly, it is proposed to amend the Railways Act, 1989.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 30th July, 2014.

D.V.SADANANDAGOWDA

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to insert a new section 124B in the Railways Act, 1989. Under the said section, the railway administration will pay compensation to a passenger who has been injured or to his dependent in case of his death, if an incident of accidental falling occurs, but no compensation will be paid due to his negligence, carelessness etc. As the compensation for the cases mentioned in the proposed amendment is already being paid by the railways, no additional financial implications are involved. Instead, loss to the exchequer could be avoided by ensuring that railway is not made liable to pay compensation in accidents caused due to carelessness and negligence on the part of travelling passengers. The provisions of new section 124B do not involve any additional expenditure of non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to insert a new section 124B in the Railways Act, 1989. Under the said section, the extent of compensation payable to any person in case of death or injuries will be prescribed by rules made under section 129 of the said Act.

2. The matters in respect of which rules may be made are matters of administrative detail, and as such, it is not practicable to provide for them in the Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE RAILWAYS ACT, 1989

(24 OF 1989)

* * * * *

Railway
administration
against which
application
for
compensation
for personal
injury is to be
filed.

109. An application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against,—

* * * * *

(b) the railway administration on whose railway the destination station lies or the loss or personal injury occurred.

* * * * *

CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO PASSENGERS
DUE TO ACCIDENTS

Definitions.

123. In this Chapter, unless the context otherwise requires,—

* * * * *

(c) “untoward incident” means—

* * * * *

(2) the accidental falling of any passenger from a train carrying passengers.

* * * * *

LOK SABHA

A
BILL

further to amend the Railways Act, 1989

(Shri D.V. Sadananda Gowda, Minister of Railways)

GMGIPMRND—1969LS(S3)—04.08.2014.

ANNEXUE IV

LIST OF ORGANISATIONS, ASSOCIATIONS AND NGOs ETC. WHICH APPEARED BEFORE THE COMMITTEE FOR EVIDENCE

- (1) Dr. Kirit Somaiya, MP
- (2) Shri Shivendra Singh, Advocate, Supreme Court of India
- (3) The Railway Accidents Victims Association
- (4) The Moneylife Foundation
- (5) The Railway Claims Tribunal Bar Association
- (6) Passenger Associations and NGOs of Western and Central Railways

**MINUTES OF THE FIFTH SITTING OF THE STANDING COMMITTEE
ON RAILWAYS (2014-15)**

The Committee sat on Tuesday, the 18th November, 2014, from 1100 hours to 1230 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

SHRI DINESH TRIVEDI - CHAIRPERSON

MEMBERS

LOK SABHA

2. Kunwar Pushpendra Singh Chandel
3. Shri Ram Tahal Choudhary
4. Shri Chandra Prakash Joshi
5. Shri Sanjay Dhotre
6. Shri Ramesh Chander Kaushik
7. Shri Gajanan Kirtikar
8. Shri Arjun Ram Meghwal
9. Shri K.H. Muniyappa
10. Shri Thota Narasimham
11. Shri A. T. Nana Patil
12. Shri Uday Pratap Singh
13. Shri S.R. Vijayakumar

RAJYA SABHA

14. Shri Dilipbhai Pandya
15. Smt. Kusum Rai
16. Shri Ambeth Rajan
17. Shri Alok Tiwari

SECRETARIAT

- | | | | |
|----|------------------------|---|----------------------|
| 1. | Shri K. Vijayakrishnan | - | Additional Secretary |
| 2. | Smt. Anita Jain | - | Joint Secretary |
| 3. | Smt. Mamta Kemwal | - | Additional Director |

REPRESENTATIVES OF THE MINISTRY OF RAILWAYS (RAILWAY BOARD)

- | | | |
|----|-----------------------------|---|
| 1. | Smt. Rajalakshmi Ravi Kumar | Financial Commissioner, Railways & Ex-officio Secretary to the Government of India |
| 2. | Shri V. K. Gupta | Member-Engineering, Railways & Ex-officio Secretary to the Government of India |
| 3. | Shri Alok Johri | Member Mechanical, Railway Board & Ex-officio Secretary to the Government of India. |
| 4. | Shri A.K. Mital | Member-Staff, Railways & Ex-officio Secretary to the Government of India |
| 5. | Shri D. P. Pande | Member-Traffic, Railways & Ex-officio Secretary to the Government of India |

2. At the outset, the Chairperson welcomed the representatives of the Ministry of Railways (Railway Board) to the sitting of the Committee.

3. The representatives of the Ministry of Railways (Railway Board) briefed the Committee on the salient features of 'The Railways (Amendment) Bill, 2014 and other matters relating thereto. The Committee, then, sought certain clarifications on the Bill under consideration. The representatives of the Ministry of Railways (Railway Board) replied to the queries raised by the Members.

4. The Committee further expressed their willingness to call various stakeholders as witnesses before the Committee to reach a reasonable conclusion on the proposed amendment bill.

5. Thereafter, the Hon'ble Chairperson, Standing Committee on Railways, sought the permission of Members to request Hon'ble Speaker for extension of time to present the report on the bill.

6. A verbatim record of the sitting has been kept.

The Committee, then, adjourned.

**MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE
ON RAILWAYS (2014-15)**

The Committee sat on Wednesday, the 4th February, 2015, from 1100 hours to 1200 hours in Committee Room No. 53, Parliament House, New Delhi.

PRESENT

SHRI DINESH TRIVEDI - CHAIRPERSON

MEMBERS

LOK SABHA

2. Kunwar Pushpendra Singh Chandel
3. Shri Ram Tahal Choudhary
4. Shri Chandra Prakash Joshi
5. Shri Sanjay Dhotre
6. Shri Ramesh Chander Kaushik
7. Shri Arjun Ram Meghwal
8. Shri K.H. Muniyappa
9. Shri R. Radhakrishnan
10. Shri Mekapati Raja Mohan Reddy

RAJYA SABHA

11. Shri Dilipbhai Pandya
12. Shri Ambeth Rajan
13. Shri Motilal Vora

SECRETARIAT

- | | | | |
|----|----------------------|---|---------------------|
| 1. | Smt. Anita Jain | - | Joint Secretary |
| 2. | Shri Raju Srivastava | - | Additional Director |

NON-OFFICIAL WITNESS

Shri Shivendra Singh - Advocate, Supreme Court of India

2. At the outset, the Chairperson welcomed the non-official witness Shri Shivendra Singh, Advocate, Supreme Court of India to the sitting of the Committee.

3. The non-official witness presented his views on 'The Railways (Amendment) Bill, 2014' and offered various suggestions on the said Bill in the light of certain court cases. He also replied to the queries raised by the Members.

4. The Committee, then, complimented the non-official witness for his hard work in preparing the contents and enriching the Committee with his knowledge.

5. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE TWELFTH SITTING OF THE STANDING COMMITTEE
ON RAILWAYS (2014-15)**

The Committee sat on Thursday, the 16th April, 2015, from 1500 hours to 1700 hours in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

SHRI DINESH TRIVEDI - CHAIRPERSON

MEMBERS

LOK SABHA

2. Shri E. Ahamed
3. Kunwar Pushpendra Singh Chandel
4. Shri Ram Tahal Choudhary
5. Shri Sanjay Dhotre
6. Shri Ramesh Chander Kaushik
7. Shri Balabhadra Majhi
8. Shri K.H. Muniyappa

RAJYA SABHA

9. Shri A.K. Antony
10. Shri Mukut Mithi
11. Shri Dilipbhai Pandya
12. Shri Parimal Nathwani
13. Shri Ambeth Rajan
14. Shri Bashistha Narain Singh
15. Shri Alok Tiwari

SECRETARIAT

- | | | | |
|----|-----------------------|---|----------------------|
| 1. | Shri K Vijayakrishnan | - | Additional Secretary |
| 2. | Smt. Anita Jain | - | Joint Secretary |
| 3. | Shri Raju Srivastava | - | Additional Director |

NON-OFFICIAL WITNESS

Dr. Kirit Somaiya - MP

Representatives of the Ministry of Railways (Railway Board)

- | | | |
|----|------------------------|---|
| 1. | Shri A.K. Mital | Chairman, Railway Board & Ex-officio Principal Secretary to the Government of India |
| 2. | Shri V. K. Gupta | Member-Engineering, Railway Board & Ex-officio Secretary to the Government of India |
| 3. | Shri Pradeep Kumar | Member-Staff, Railway Board & Ex-officio Secretary to the Government of India |
| 4. | Shri Hemant Kumar | Member-Mechanical, Railway Board & Ex-officio Secretary to the Government of India |
| 5. | Shri Ajay Shukla (L/A) | Member-Traffic, Railway Board & Ex-officio Secretary to the Government of India |

2. At the outset, the Chairperson welcomed Dr. Kirit Somaiya, Chairperson, Standing Committee on Energy, to the sitting of the Committee. He, then, presented his views on 'The Railways (Amendment) Bill, 2014' and offered various suggestions on the said Bill. He also replied to the queries raised by the Members.

3. The Committee, then, complimented Dr. Kirit Somaiya for his endeavour in preparing the contents and enriching the Committee with his knowledge.

Dr. Kirit Somaiya, then, withdrew.

4. XXX XXX XXX

5. XXX XXX XXX

6. Thereafter, the Chairperson welcomed the Chairman, Railway Board, and other officials of the Ministry of Railways (Railway Board) to the sitting of the Committee. The Committee, then, took oral evidence of the representatives of the Ministry of Railways (Railway Board) on various issues related to 'The Railways (Amendment) Bill, 2014'. The members sought clarifications on the provisions of the Amendment Bill and the representatives of the Ministry replied to the same.

The Committee then adjourned.

**MINUTES OF THE THIRTEENTH SITTING OF THE STANDING
COMMITTEE ON RAILWAYS (2014-15)**

The Committee sat on Wednesday, the 29th April, 2015, from 1500 hours to 1545 hours in Committee Room No. '62', Parliament House, New Delhi.

PRESENT

SHRI DINESH TRIVEDI - CHAIRPERSON

MEMBERS

LOK SABHA

2. Shri E. Ahamed
3. Kunwar Pushpendra Singh Chandel
4. Shri Ram Tahal Choudhary
5. Shri Sanjay Dhotre
6. Shri Gourav Gogoi
7. Shri Ramesh Chander Kaushik
8. Shri Balabhadra Majhi
9. Shri Arjun Ram Meghwal
10. Shri K.H. Muniyappa
11. Shri Thota Narasimham
12. Shri R. Radhakrishnan
13. Shri Mekapati Raja Mohan Reddy
14. Shri Ganesh Singh
15. Shri S.R. Vijayakumar

RAJYA SABHA

16. Shri Mukut Mithi
17. Shri Dilipbhai Pandya
18. Shri T. Rathinavel
19. Shri Devender Goud T.

SECRETARIAT

- | | | | |
|----|-----------------------|---|----------------------|
| 1. | Shri K Vijayakrishnan | - | Additional Secretary |
| 2. | Shri Raju Srivastava | - | Additional Director |

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Committee took up for consideration the following draft Reports:-

(i) 'The Railways (Amendment) Bill, 2014'; and

(ii) XXX XXX XXX

The Committee adopted the Report at Sl. No. (i) with some minor modifications XXX XXX XXX.

3. The Committee also authorized the Chairperson to finalise the Reports and present the same to Parliament.

The Committee then adjourned.

-

XXX: Not relevant to the report.