

Railways Act, 1989

Chapter 13 - Liability of Railway Administration for Death and Injury to Passengers Due to Accidents

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 grandparent wholly dependant on the deceased passenger.

1[(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 (28 of 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. Inserted by Railways (Amdt.) Act (28 of 1994), section 2 (w.e.f. 1-8-1994).

Section 124 - Extent of liability

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.

Section 124A - Compensation on account of untoward incident

1124A. Compensation on account of untoward incident

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:

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.]

1. Inserted by Railway (Amdt.) Act (28 of 1994), section 3 (w.e.f. 1-8-1994).

Section 125 - Application for compensation

(1) An application for compensation under section 1241[or section 124A] 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,1[or the untoward incident] 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.

1. Inserted by Railway (Amdt.) Act (28 of 1994), section 4 (w.e.f. 1-8-1994).

Section 126 - Interim relief by railway administration

(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 124¹[or section 124A] 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.

1. Inserted Railway (Amdt.) Act (28 of 1994), section 5 (w.e.f. 1-8-1994).

Section 127 - Determination of compensation in respect of any injury or loss of goods

(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.

Section 128 - Saving as to certain rights

(1) The right of any person to claim compensation under section 124¹[or section 124A] shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923 (8 of 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.

(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.

1. Inserted by Railway (Amdt.) Act (28 of 1994), section 6 (w.e.f. 1-8-1994).

Section 129 - Power to make rules in respect of matters in this Chapter

(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 compensation payable for death;

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