

Geeta Devi vs.union of India

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Court : Delhi

Decided On : May-24-2019

Appellant : Geeta Devi

Respondent : Union of India

Judgement :

\$~36 * % + IN THE HIGH COURT OF DELHI AT NEW DELHI FAO222015 & CM APPLN. 4501/2015 Date of Decision:

24. h May, 2019 GEETA DEVI Through: Mr.Yogesh Appellant Swaroop, Mr.Kapil Kishore Kaushik, Mr.Saurabh Pandey and Mr.Raghubir Chandra, Advocates versus UNION OF INDIA Respondent Kumar Ms.Priyata Shukla, Sharma, Ms.Neelam and Ms.Sujata Dubey, Through: Mr.Brijesh Ms.Shobha Shukla Advocates for Railways and RCT Mr.Joydeep Mazumdar, Mr.Rohit Dutta, Ms.Debojyoti Bhattacharya and Chakraborty, Advocates for Northern Railways Mr.K.P. Yadav, Registrar, Principal Bench, RCT ACP Mahender Kr., HQ Railway, Insp. Naresh Kr. SHO/D. Cantt Railway and SI Yashpal Singh I/C Dar, Railway G.R.P. Mr.Jamal Akhtar, Standing counsel for GNCTD CORAM: HON'BLE MR. JUSTICE J.R. MIDHA JUDGMENT (ORAL) 1. This order is the culmination of reports and responses secured from all the stake holders containing suggestions for amendment of the principal FAO222015 Page 1 of 9 enactment, viz., the Railways Act, 1989 and some directions for modifications of statutory Rules and consequently, mandating notifications in the Government Gazette to give effect to them. While doing so, the written submissions dated 22nd May, 2019 made on

behalf of the Chairman, RCT and the written submissions made by the respondent through Dy. Chief Commercial Manager, have been examined and assimilated to the extent found suitable.

2. As Regards Suggestions for Amendments to the Railways Act, 1989 2.1. Among the amendments suggested to the Railways Act, 1989, it is pointed out that the expression dependant occurring in Section 123 is misleading in situations when the deceased is a child and the claimants are the parents. When the deceased person is not an earning member, the characterization of a parent as dependant is clearly a misnomer. 2.2. The expression legal representatives is familiar in claims relating to motor accident claims as well. The Motor Vehicles Act, 1988 which contains provisions for making claims before Motor Accident Claims Tribunal, enable through Section 166 that the claims in cases of deaths can be made by legal representatives of the deceased. 2.3. As regards Section 124A proviso (b), self-inflicted injury occurring in Section 124A is incongruous so as to cause an exception, especially when suicide or attempted to suicide are already excepted under proviso (a). In a scheme of law providing for strict liability against railway administration, the issue of negligent conduct of the victim has no place. This has been so explained by the Supreme Court in *United India Insurance Co. v. Sunil Kumar*, 2018 ACJ11 in a decision rendered under Motor Vehicles Act. While considering a claim made under Section 163A of the Motor Vehicles Act, the Supreme Court explained that the said provision relieves the claimant from proving negligence on the part of the respondent driver of a motor vehicle, who caused the accident. This judgment has been cited by the Supreme Court while interpreting this Section 124A of the Railways Act, 1989 in *Union of India v. Rina Devi*, 2018 ACJ1441 and the Supreme Court ruled that the meaning of self-inflicted injury shall include only acts preceded by intention. In yet another case, in *Kalindi Charan Sahoo v. General Manager, South-East Central Railway, Bilaspur*, 2018 ACJ1460(SC), the Supreme Court explained, while setting aside the order of dismissal by the RCT and the High Court, that death occurring while de-boarding near Railway Yard before scheduled stop at the Railway platform was to be considered as an untoward incident. In so doing, the Supreme Court was setting aside the assumption that such an incident would qualify as self-inflicted injury. In that view of the matter, the exceptions under proviso to Section

124A of the Railways Act, 1989 would require to be deleted. Under the circumstances, it is hoped that the respondent initiates process for suitable amendments to the Act in the manner and in the light of the aforesaid.

3. As Regards Amendment to Railway Claims Tribunal (Procedure) Rules, 1989

3.1. The constitution of Claims Tribunal through the Claims Tribunal Act, 1987 was with the idea of expediting claims and to provide for a turnkey solution to the victims of accidents and untoward incidents as defined under the Railways Act, 1989. Rule 5 of the Railway Claims Tribunal (Procedure) Rules, 1989 prescribes the form of application that shall be filed by the injured victims or the legal representatives (dependants) of the deceased victim of railway accident or untoward incident as the case maybe. An easy, yet exhaustive application that is in a semi optical mark reading (OMR) format can be easily filled in by the applicant with information gathered through police reports will be a sure tool for processing claims quickly and busting false and fabricated claims. It will also have a potential for futuristic use for online switch by applicants, receipt of online applications by the RCT and for disposal online. It is directed that all the applications for compensation in case of death/injury for accident/untoward incidents shall be filed in Format annexed hereto as Annexure - A1.

3.2. The use of technology shall be put to optimum use for service of notice to parties. It is a common place occurrence that considerable time is lost at this stage of proceedings. Service through electronic mode, apart from postal service is most desirable and keeping in with technological advances that the Civil Procedure Code takes notice of. The existing Rule 5 (2), (2A) and (3) would require to be substituted.

3.2.1. Substitute existing Rule 5 (2) as follows:-

"An application referred to sub-rule (1) may also be sent by registered post or electronic mail to the office of the Registrar or the Additional Registrar or the Assistant Registrar, as the case may be, of the Bench concerned.

3.2.2. Substitute existing Rule 5 (2A) as follows:-

"An application sent by post or electronic mail under sub-rule (2) shall be deemed to have been received on the day when the application is received by the Registrar, Additional Registrar or the Assistant Registrar, as the case may be.

3.2.3. Insert following Rule 5(3A) after Rule 5 (3):-

" The application sent by email by the applicant shall also make available hardcopies of the application along with originals or FAO222015 Page 4 of 9 duly certified true copies of originals of enclosures relied by the applicant by registered post to the Registrar, Additional Registrar or the Assistant Registrar. 4. As Regards Amendment to the Railway Passengers (Manner of Investigation of Untoward Incident) Rules, 2003 4.1. The Railway Passengers (Manner of Investigation of Untoward Incident) Rules of 2003 are the first trigger to every information that is relevant for processing a claim. It tasks the Station Master who obtains information regarding death or injury in railway premises, to inform the GRP apart from filling in details in a register maintained for that purpose at the Station premises. It will give control over the body of the injured victim to the Police and collect important information about the likely cause for the incident, the eye-witness accounts, the mobile phone call particulars, etc. It puts the RPF on job to work in tandem with GRP to collect oral and documentary evidence, more importantly, with the work of accessing registers such as the Train Signal Register (TSR), Guards rough journal or the loco-pilots diary. The Divisional Railway Manager to whom the Divisional Security Commissioner, RPF reports is empowered to order fresh investigation or affirm the reports of the police, both of the GRP and RPF and make them available if a claim is made along with the written statement. 4.2. Vide order dated 24th April, 2015, this Court directed the Detailed Accident Report (DAR Procedure) to be implemented in respect of Railway Accidents and untoward incidents. The format of the DAR was modified and revised vide order dated 17th May, 2017. Further suggestions have been canvassed on behalf of the respondent. This pertains to the data and vital information that shall be collected by the Investigation Officer, GRP and the FAO222015 Page 5 of 9 RPF, apart from information that the Hospital records will bear out. These details will vouch for exhaustive and meticulous investigation that will assure the outcome of investigation to be perfect or as near as one could get at. There is a clear indication of all the documents that shall be appended along with the report and will be simultaneously uploaded in the website of the GRP, State Police. The modified Railway Passengers (Manner of Investigation of Untoward Incident) Rules, 2003 as approved, Forms I (Rule

4) and II (Rule

6) and the approved DAR are annexed herewith as Annexure - A2, A3, A4 and A5 respectively.

5. As Regards Amendment to the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 5.1. Many of the claimants are drawn from rural areas with low levels of literacy and lower levels of making appropriate decision for the use of amounts guaranteed under the awards. There are several instances of their exploitation by middlemen and touts operating in the field. The scope for such exploitation is itself one of the incentives for fomenting bogus claims, fabricated documents and duplicate claims in different Benches of the Tribunal for the same cause of action. The availability of bulk funds in the name of an ill-informed claimant is also a cause for exploitation. A scheme for protection of the amount due to such a claimant is the need of the hour. Earlier, this Court has involved 21 Nationalised Banks in dialogue to evolve a scheme of annuities for disbursement of claims. They have been ordered already to be implemented in this case, vide directions passed on 22nd February, 2019. This scheme as applied to motor accident claims has been approved by the Supreme Court in its order dated 05th March, 2019 in Krishnamurthi v New India Insurance Company, SLP (C) No.31521- FAO222015 Page 6 of 9 31522 of 2017. A statutory rule backing will therefore best serve the interest of the litigant in the manner set out below:

5. 2. Insert following Rule 5 after Rule 4:-

"Rule 5: Mode of payment-(1) The Tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall subserve justice. (2) If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance. (3) Nothing in this Rule shall limit the power of the Tribunal to make modifications of the mode of disbursement for reasons to be stated in writing depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed

deposit, for the benefit of the claimant. 6. Amendment in Railway (Notices of and Enquiries into Accidents) Rules, 1998 6.1. The Railway (Notices of and Enquiries into Accidents) Rules of 1998 sets an agenda for statutory enquiry into cause of any railway accident so that the preventive actions can be taken after recommendation of expert committees. The existing Rules contemplate information of an accident to be shared with the Railway Board, a protocol for providing medical aid and speedy restoration works for resumption of train services. These rules shall be further strengthened by providing legal aid to victims of accidents and further enable compensation amounts to be paid by a simple and seamless procedure. 6.2. Add following Rule 9A after Rule 9:-

"FAO222015 Page 7 of 9 (i) The reports containing the names and addresses of the injured victims or persons deceased shall be dispatched to the Principal Bench of the Railway Claims Tribunal. Wherever the names of next of kin of the deceased passengers are known, the said information shall also be furnished to the Principal Bench of the Railway Claims Tribunal. (ii) Legal aid to claimants or victims of accidents: - It shall be the duty of the Railway Administration to forward the names of injured victims or the persons who died in a railway accident to the Principal Bench of the Railway Claims Tribunal for rendering appropriate legal aid for obtaining compensation in the manner provided under the Railway Claims Tribunal Act and to that end, wherever information is available, the names of the next of kin shall also be furnished to the Principal Bench of the Railway Claims Tribunal. 6.3. Legislative amendments to the Central enactment shall be prerogative of the Parliament and hence the suggestions contained in this order shall be viewed as such and the respondent shall endeavour to initiate the process in an appropriate way for bringing to fruition the changes. As far as the modifications as regards the Rules which are within the executive domain, since they are issued after eliciting the views of the respondent including the principal officer of the Railway Claims Tribunal, it is expected that these changes are notified in the Government Gazette after following the usual procedure for public notice and publication.

8. These directions be implemented w.e.f. 1st July, 2019. List for reporting compliance and hearing on merits of the case on 19th July, 2019.

9. This Court appreciates valuable assistance rendered by Mr. Brijesh Kumar Shukla, Advocate and Mr. Joydeep Mazumdar, Advocate in this matter. FAO222015 Page 8 of 9 10. Copy of this judgment be given dasti to counsel for the parties under the signatures of the Court Master. J.R. MIDHA, J.

MAY24 2019 ds/dk FAO222015 Page 9 of 9 ANNEXURE A-1 PROFORMA FOR APPLICATION FOR COMPENSATION UNDER THE RAILWAY CLAIMS TRIBUNAL ACT BEFORE THE RAILWAY CLAIM TRIBUNAL AT O.A. .. / 1. AB, etc Vs. Union of India by General Manager (Zone), (Place) ..Applicant (s) .Respondent (s) APPLICATION FOR COMPENSATION FOR DEATH/INJURIES IN ACCIDENT/UNTOWARD INCIDENT I. Personal details of the applicant(s) 1. Name(s) of the applicant(s) with fathers/husbands name and residence:

2. In case of death, was the victim married: Yes No (Tick what is applicable; Leave as blank which is not applicable or score off the same) (i) (a) If yes, name of the spouse: . of child(ren) Name(s) irrespective marital of the status: (b) Have all the above named persons been impleaded in the application?. Yes No Page 1 of 9 (c) if no, why?. .. (d) Was the deceased in relationship of the nature of marriage with anyone?. Yes No (e) If yes, the name of the person: (f) If there is/are child(ren) through the relationship, his/her/their name(s): (g) If parent(s) /are alive, is/are (s)he/they dependent(s)?. Yes No (h) If yes, name(s) of the surviving parent(s): (i) In the event of the pre-decease of parent(s) date(s) of death: .. (ii) (a) If not married, Name(s) of surviving parent(s): (b) Is/are there minor brother(s) who is/are dependant(s) on deceased?. Yes No If yes, his/their name(s): .. (c) Is/are there unmarried sister(s): Yes No If yes, her/their name(s): 3. Documents filed to prove the identity and relationship for deceased victim: (i) (a) Aadhaar for applicant(s) with number(s) and address(es) for applicant(s): Page 2 of 9 (b) If Aadhaar is not filed for any of the applicants, is there any other proof of identity?. Yes No If yes, describe the document(s) other than the type of document mentioned in (ii) and (iii) below and the name of the issuing authority:. (ii) Election ID card for major applicant(s): (iii) Ration card: .. (a) The issuing

authority and the year of issue: (b) Name(s) of member(s) of the family: Note: if no proof of identity is filed for any of the applicants, the application will be summarily rejected.

4. Did the injured victim/deceased have mobile telephone?. Yes No (a) If yes, the phone number and name of the operator?. (b) Did the victim make a phone call to any relative/friend at/ or/ during travel or just before the accident/unto ward incident?. Yes No (c) If yes, the name of the person to whom the call was made with the phone number: II. Travel details of the injured victim or deceased:

1. (a) Was she/he a passenger a visitor at the platform or Railway Staff (b) If she/he was passenger or visitor at the platform, ticket/railway pass details, Ticket no: Date: dd/mm/yyyy Time of issue:

00. 00 hrs (c) The intervening stations as mentioned, if any, in the ticket: (d) Whether the alleged site of the incident falls within the route described above: Yes No Page 3 of 9 (e) If railway pass, then the pass No. valid from dd/mm/yyyy to dd/mm/yyyy (f) If railway staff, designation and proof: (g) If she/he was a passenger was the ticket handed over or recovered by the police?. Yes No (h) Was a seizure memo prepared?. Yes No (i) If yes, time of preparation, the articles seized and the names of persons who have signed in the memo as witnesses thereof: . (j) If no, state if any other object handed over to Police or recovered from the victim: Purse/wallet: Diary Employee ID Aadhaar Election ID Credit / Debit card(s) of Bank (s) Cash Amount in Rs. Bag (s) No.(k) Any other object(s): 2. Do you know the details of the journey that the victim was undertaking, viz., the station of origin and destination station?. Yes No (a) If yes, give the details with station of origin to destination station for the victim: . (b) Do you know the name of the train and train number in which the victim travelled or attempt to travel?. Yes No (c) If yes, give the details of the train: .. (d) If no, have you collected details from the GRP/RPF or Station Superintendent?. Yes No (e) If no information was collected, furnish details of the names of trains (to the extent possible) that may have passed in the direction where the victim was found in a range of 2 hours before and after the time when incident is suspected to have happened: .. Page 4 of 9 .

3. (a) Was/were there (a) known co-passenger(s) with the victim of accident/untoward incident?. No Yes (b) If yes, name(s) of co-passenger(s) and nature of relationship through blood or friendship in social circle or at work: ..
..... 4. (a) Was there an eyewitness to the victims travel?. Yes No (b) If yes, name(s) of the person(s): ... (c) Has she/he given any statement to the Police at the time of inquest or at any other time during Police investigation: ... III. Details of accident/untoward incident:

1. If accident, (a) Nature of accident: Derailment Collision between trains Collision between train and any other motor vehicle or any other non-motor vehicle (b) In case of derailment, the station at or near the place where the accident took place: . (c) If collision between train, the trains that were involved in the accident and the place at or near where the place the accident took place: . . . (d) If collision with any other vehicle or contrivance carrying passenger or goods, was it at manned or unmanned crossing at or near the place where the accident took place:
Page 5 of 9 (e) Was the name published as among list of victims?. Yes No (f) If yes, was any ex gratia payment made?. Yes No (g) If yes, the amount paid and the person to whom paid with relationship: .. (h) Documents filed: (i) Copy of statutory report of accident: (ii) News paper report: (iii) Voucher for payment of ex gratia, if any:

2. If untoward incident, tick one of the boxes applicable: a. Terrorist attack b. Robbery/dacoity/violent attack c. Victim of incident of rioting, shoot-out or arson, by any person in or on any train carrying passenger 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 d. Accidental fall from train e. Any other manner: . (a) If terrorist attack, details of the case with crime number: (b) If robbery/dacoity/violent attack, was any criminal case registered?. Yes No If yes, give details of case number and the court where the case is /was being prosecuted: .. (c) Victim of shoot out, arson, etc, was any criminal case registered?. Yes No i. FIR ii. News paper report, if any iii. Judgment, if any (d) Fall from the train i. While boarding the train at the railway platform of the station of origin/mid- station ii. While de-boarding the train at platform/mid-station/destination station Page 6 of 9 iii. Accidental fall at mid-station when the train was in motion

(e) Was the train stopped at the place of fall?. Yes No (f) If yes, it was after alarm chain pull (ACP) or at the instance of the guard (g) If yes, it was by co-passenger , some member of public GRP/RPF Guard Loco-pilot Railway staff 3. (a) Is there an eyewitness to the incident ?. Yes No (b) If yes, his/her name was and he was examined by the Police and statement recorded by GRP/RPF or by both or by none (c) Names of other eye witnesses, if any: (d) Documents filed: i. Guards diary/rough journal for ACP ii. Loco-pilots diary for ACP iii. Entry in untoward incident register iv. Statement(s) of eye witness(es): v. Photograph of the injured victim showing amputation if any or of the dead body taken at the site of accident IV. Post-Accident Details:

1. (a) Was the victim admitted at the hospital?. Yes No (b) If yes, the name of the person who accompanied the victim to the hospital at the time of admission: (c) What is the time of admission, as entered in the MLR/Accident register at the Hospital?. .. (d) If the victim is alive, what are the injuries and diagnosis at the time of discharge at the Hospital?.

..... . . Page 7 of 9

(e) If the victim had died, post mortem was conducted Yes No (f) What is the cause of death as entered in the post mortem:

2. (a) Was inquest conducted on the deceased ?. Yes No (b) Was deceased victim identified at the time of inquest?. Yes No (c) Was any of the near relatives of the deceased victim available at the time of inquest?. Yes No (d) If yes, who informed the relative (s), police or state the source (e) What were the belongings recorded as found at the time of Inquest?. Ticket Wallet/purse Aadhar Election ID PAN card Credit/debit card Watch Bangle (s) Cash Cell phone (f) Any other articles: .. (g) Have the Police submitted final report to the jurisdictional magistrate?. Yes No (h) If yes, what is the conclusion of the police?. V. Limitation (a) Is the application filed on time?. Yes No (b) If no, state number of days of delay and the reason(s): . ..

Page 8 of 9 VI. Prayer in the application: Counsel for the applicants Applicant(s) Verification of the applicant(s) I/We, the applicant(s) do hereby state that the averments made above are true to the best of knowledge and belief and the documents submitted are true copies of the original as certified to be true by the competent authority. We further affirm that we have understood and are advised

that any deliberate misinformation or false hood will result in actions being initiated for perjury. Page 9 of 9 ANNEXURE A-2 RAILWAY PASSENGERS (MANNER OF INVESTIGATION OF UNTOWARD INCIDENTS) RULES AS APPROVED Short title and commencement -

(1) These rules may be called Railway Passengers (Manner of Investigation of Untoward Incidents) Rules

(2) They shall come into force on the date of their publication in official Gazette.
Definitions :

(1) In these rules, unless the context otherwise requires:-

"1.

2. a) Act means the Railways Act, 1989 (24 of 1989) b) Claims Tribunal means Tribunal constituted under the Railway Claims Tribunal Act, 1987 c) Diary means the station diary being maintained by the Station Superintendent for recording daily events happened at the station; d) Divisional Office means the Divisional Headquarter of the Zonal Railway; e) Divisional Railway Manager means the administrative in-charge of the divisional office; or the Additional Divisional Railway Manager nominated by him f) Divisional Security Commissioner means an officer, not below the rank of a Commandant, who is the head of the Force of a Division or a Railway Establishment at any other place connected with the Railways; g) Force means the Railway Protection Force; h) Form means the form appended to these rules; i) Inquest Report means the report prepared by the Police containing details of incident; j) Jama Talashi means the report about the recovery of any belongings of the person affected by the untoward incident; k) Officer of the Force means the authorized officer as defined in clause (c) of Section 2 of the Railway Property (Unlawful Possession) Act, 1966 and clause 26 A of Section 2 of the Railways Act, 1989; l) Police means a State Police; m) Station Superintendent includes Deputy Station Superintendent Station Master and Assistant Station Master or other officer being in-charge of the station; n) Untoward Incident means an incident defined under clause (c) of Section 123 of the Act; and o) Zonal Railway means a Zonal Railway constituted under Section 3 of the Act. (2) The words and

expressions used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act. Page 1 of 5

3. Report about untoward incident: Any railway servant, including member of the Force, Guard and Driver of the train, on coming to know of the occurrence of an untoward incident, shall report the incident immediately to the nearest Stations Master/ Station Superintendent of Railways.

4. Duties of Station Superintendent, Guard, Conductor and Train Ticket Examiner in - charge of the train;- (1) If an untoward incident occurs at the station, the concerned Station Superintendent shall immediately arrange for medical assistance to the injured passengers and report such incident within twenty-four hours of the occurrence to the Divisional Security Commissioner FORM -I. (2) If an untoward incident occurs in the mid-section, the Guard of the concerned train shall inform the Station Superintendent of the nearest station who shall perform the duties referred to in Sub-rule (1). (3) In case the Guard is injured in an untoward incident, the Conductor of the concerned train shall inform the Station Superintendent of the nearest station who shall perform the duties referred to in Sub-rule (1). (4) In case both the Guard and the Conductor are injured in an untoward incident, the Train Ticket Examiner in-charge shall inform the Station Superintendent of the nearest station who shall perform the duties referred to in Sub- rule (1). (5) If an untoward incident occurs in mid-section, in the absence of officers mentioned in Sub-rules (2), (3) and (4), the Station Superintendent, if it comes to his notice, shall perform the duties referred to in Sub-rule (1).

5. Additional duties of Station Superintendent - The Station Superintendent on receipt of an information about the occurrence of untoward incident under Rule 3, shall, - (i) Maintain a separate exclusive register for recording the untoward incidents (a) Assign a unique identification number to each untoward incident and mention the untoward incident in the said register against this unique identification number. Page 2 of 5 (b) The untoward incident register should be closed at 23:59 hrs every day so that untoward incident happening thereafter can be added in the register against that day. (ii) Make a brief report in respect of spot of the untoward incident and forward copies thereof to the Divisional Office, Zonal Railways, Police and Divisional Security Commissioner of the Force. (iii) Submit a fortnightly status

report of untoward incidents including compliance of Rule 4 to Divisional Commercial Manager In-charge / Senior Divisional Commercial Manager.

6. Conducting of investigation and submission of report by the Force.- (1) On receipt of information under Rule 6, an officer of the Force, shall carry out the investigation and shall- (i) Obtain copies of the inquest report, post mortem report and Jama Talashi report from the Police investigating the incident; (ii) Obtain a copy of the report specified under clause (iii) of Rule 6; (iii) Obtain information about the untoward incident in Form 2; (iv) Record statement of additional witnesses, if so required (v) Collect any other evidence required by the circumstances of the case; (2) The officer of the Force shall complete the investigation within sixty days and submit a report to the authority specified under Sub-rule (2) of Rule.

7. Conducting of investigation and submission of report by the Police.- (1) The Police on receipt of information of an untoward incident from general public or any Railway servant including Station Superintendent, the Police shall immediately initiate investigation and prepare inquest report or injury report in accordance with the procedure laid down in Code of Criminal Procedure, 1973. (2) The Police upon reaching the scene of the untoward incident shall inform the nearest/concerned Station Superintendent personally or over telephone or through SMS or any effective electronic means of its presence at the scene of the incident. The Police shall immediately take photographs of the incident along with dead body/victim at the spot along with the tracks/witness(es)/bystanders. (3) After preparation of report, as mentioned in Sub-rules (1) and (2), the Police shall immediately give clearance certificate for movement of trains from the site of incident so that minimum delay is caused in restoration of train movement. Page 3 of 5 (4) The Police shall prepare the Detailed Accident Report (DAR) and submit a copy of the same to Divisional Security Commissioner/ Sr. DSC within 60 days from the date of untoward incident for onward submission to Divisional Railway Manager. (5) In the event of the Police failing to take photographs as stated under Rule 6 (2) above, the concerned DCP shall examine why the photographs were not taken and whether any action is warranted for the lapse.

8. The injured and the next of kin of the deceased passenger shall submit all the relevant evidence before the Police and assist the Police/Force to complete investigation.

9. Forwarding of investigation report by the police and the Force.- (1) The Police on completion of the investigation shall forward the report thereof to the Magistrate as required under the Code of Criminal Procedure, 1973 (2) The officer of the Force shall forward the report prepared under Sub-rule (2) of Rule 7 to the Divisional Security Commissioner of Force. (3) The Divisional Security Commissioner shall submit the report to Divisional Railway Manager within fifteen days of the receipt of report of investigation from officer of the Force. (4) The Divisional Security Commissioner shall also ensure that a copy of Detailed Accident Report prepared by Police, in the format circulated by Ministry of Home Affairs (CS Division) vide their letter No.24013/35/Misc./2017 CSR,.III dated 19.09.2017, forwarded to the Divisional Railway Manager within 15 days of the receipt from the Police and after ascertaining the facts and verifying the genuineness of the facts of the case along with Modified Form - 2 10. Action on the Report by the Divisional Railway Manager - (1) The Divisional Railway Manager, on receipt of the report, mentioned in Sub-rule (3) of Rule 10 shall examine the same within fifteen days. (2) The Divisional Railway Manager, on receipt of the report, mentioned in Sub-rule (3) of Rule 10 shall examine the same within fifteen days. In case, the statutory time periods mentioned in the Rules for filing of Modified Form-1 and Modified Form-2 have not been adhered to then Divisional Railway Manager shall call for explanation for delay from the concerned authorities. Page 4 of 5 (3) When, on examination, Divisional Railway Manager is satisfied that the investigation is complete, he shall pass an order accepting the said report. (4) If the Divisional Railway Manager has reason to believe that some more inquiry is required in the matter, it shall refer the same back for investigation to the officer of the Force along with his observations for further investigation. (5) On receipt of the reference under Sub-rule 3, the officer of the Force shall investigate the matter further and submit the report immediately to the Divisional Railway Manager.

11. Communication of order:-

"Final orders passed on the report by the Divisional Railway Manager shall be communicated to the Station Superintendent who shall maintain the records and make necessary entries in the Station Diary to this effect.

12. Sending report to Claim Office - (1) The investigation report along with acceptance of Divisional Railway Manager there on shall be sent within fifteen days to the administrative in-charge of the Claim office of the Zonal Railway where the incident has occurred. (2) The administrative in-charge of Claim office of the Zonal Railway who has received the notice of the claim for that particular incident, shall arrange to collect the report from the Claim office of Railway where the incidence has occurred, shall initially have the claim examined by presenting officer (Railway Claims Tribunal) and associated legal branch and on the basis of their submission, and recommendation of Divisional Railway Manager as provided under Sub-rule (6) of Rule 9 and pass a speaking order, whether the claim is to be admitted or contested and shall submit the same to be concerned Bench of the Railway Claims Tribunal along with the Written Statement. Page 5 of 5
ANNEXURE A-3 MODIFIED FORM -1 (Refer Rule

4) REPORT OF UNTOWARD INCIDENT1 Unique Identification Number of the Untoward Incidents:

2. Kilometer at which untoward incident occurred:

3. Name of Driver of the train with Headquarter:

4. Name of the Guard of the train with Headquarter:

5. Name of the Train Ticket Examiner of train, if posted, with Headquarter:

6. Nature of the untoward incident: (a) Accident fall (b) Bomb blast (c) Rioting (d) Shootout (e) Arson (f) Dacoity/Robbery (g) Violent attack (h) Terrorist act/attack (i) Run over/trespassing (j) Suicide (k) Others 7. Date and time of occurrence:

8. Position of the injured dead body in relation to the tracks along with photographs:

9. Whether medical help was given to the injured/victim:

10. Whether train stopped or not:

11. Condition of doors and occupation of coach: Date: Signature Name and designation ** For creating the Unique ID Number, the alphabetical and numerical code of station/ division/zone/year/month/incident serial number mentioned in the register can be written in a continuous manner. For example: If the incident falls within the area of Kathgodam Station under Izzat Nagar division of N.E Railway and the incident happened in the month of October, 2017, the Unique ID will be as follows: KGM/04305472/IZN/NER/2017/serial number. Page 1 of 1 ANNEXURE A-4 FORM -2 (Refer Rule

6) BRIEF PARTICULARS OF UNTOWARD INCIDENT1 Date and time of the untoward incident:

2. Nature of untoward incidents (please specify - (a) accidental fall, (b) bomb blast, (c) rioting, (d) shootout, (e) arson (f) dacoity/robbery, (g) violent attack, (h) terrorist act/ attack (i) run over, (j) trespassing (k) suicide, (l) others):

3. FIR number and address of the Police Station where FIR is registered :

4. Medical report , if available:

5. Name, address and parentage of the first informant:

6. Name and designation of the Railway officials who reached the place of incident first:

7. Name and designation of the Officer for the Force/Police on the train:

8. Name, age, sex and address of the victim:

9. Photograph at the site where the victim was found:

10. Name and number of the train involved:

11. The actual time of arrival and departure of the train in question (As per TSR of the Station nearest to the place of incident):

12. Certified copies of station diary, untoward incident register, TSR, GDR report etc:
13. Kilometerage at which the passenger fell, or person was knocked down:
14. Was the incident by the Guard /Driver/ TTE and and the train stopped, or was the alarm chain pulled to stop the train:
15. Type of injuries sustained by the injured i.e. grievous/simple, permanent/partial disablement:
16. Time and place the body was detected:
17. Position of the body in relation to the tracks:
18. Blood stains on ballast or engine, extent of the injuries and whether prima facie inflicted by a train, or otherwise:
19. Position of any clothing etc. found on, or near the rails:
20. Details of articles seized, including tickets, from the body of the victim:
21. Whether genuineness of the ticket is verified from the console:
22. Whether the ticket alleged to have been recovered is compatible with time of its issuance and where the victim was found:
23. How the injured or dead person was dealt with (whether medical help was given to the injured; whether he was admitted to any hospital; was the dead person identified; was post mortem carried out; was inquest report obtained; were the relatives of the injured/dead informed):
24. If child, also give the name and address of the guardian at the time, and his relationship to the child:
25. Brief statement of the injured person containing cause of accident:

26. Name and signature of the passenger in whose presence the statement is recorded:

27. In the case of a child, the name and signature of guardian:

28. Statement of co-passengers:

29. Condition of the doors of the relevant coach:

30. If there is no conclusive evidence regarding cause of incident, then Officer of Force instead of writing fallen down, should state reasons not known:

31. Any other comments/remarks: Signature Name and Designation Date:
ANNEXURE A-5 DETAILED ACCIDENT REPORT (DAR) (To be submitted by the Investigating Officer) PART - I Date & Time of the incident: FIR No./ DD No., date and under Section: Name of the Police Station: Offences as per report under Section 173 or 174 Cr PC Place of accident / incident : a) Line Number : b) Platform Number : c) Nearest Pole Number :

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6. Train involved, if known: Source of information:

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16. 17. Who reported the accident to the Police?. (Give name, address & contact no.) Drive/Guard/Passenger/Others Victim Witness Hospital/Medical facility Who removed the body from the track: Name of the person who took the victim to the hospital and name of the hospital: Officer who first visited the site (If other than Inquiry Officer his/her statement to be enclosed): Name of the person injured/ dead, if known: Age: Sex: Address: Name and relationship of co-passenger if any who could identify the injured/ deceased: Address of co-passenger(s): If ticket recovered from passenger at the site: Ticket No.: Date of Journey: Date and Time of issue: If ticket is shown recovered later: Place of recovery: Time of recovery: Yes/No Page 1 of 4 Details of person from whom recovered: Name: Mobile No.: Contact details:

18. (i) List of articles recovered: (ii) Was/Were there (a) cell phone(s) with the victim?. (iii) If yes, what was/were the phone number(s): (iv) Working condition: (v) If yes, what was the last call to or from with time and number: (vi) Was the number contacted and person verified: (vii) Details of the location of the mobile phone at the time of last call made/ received obtained from the relevant Telecom Service Provider: (viii) Details of any important information: Names, relationship and addresses of dependents of deceased: Identity of injured/ dependents of deceased:

19.

20. Aadhaar Card Electoral Identity Card Ration Card Birth Certificate Family Card Others Possible cause for Death or Injury (By fall while boarding, de-boarding, travelling etc.): Any material or circumstance for suspecting any of the exceptions mentioned in Section 124A of the Railways Act: - (a) Suicide or attempted suicide by him: If suicide or illness as cause of death suspected, was any medical record available: If yes, the name and the statement of the treating doctor recorded: (b) self-inflicted injury: (c) his own criminal act: (d) any act committed by him in a state of intoxication or insanity: Yes/No Yes/No Yes / No Page 2 of 4 Yes / No Yes/No If the injured or deceased victim was suspected to be in an inebriated state at the time of the incident, was the blood of the victim medically analyzed: If yes, did it reveal any alcohol or narcotic substance: (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: PART - II Hospital Admission Particulars (a) Name of the hospital(s): (b) Date and time of admission: (c) Date and time of discharge: Nature of Injuries- Fatal/ Grievous/ Simple: Details of person who admitted the injured to the hospital: Name: Mobile No.: Contact Details: If dead, date and time of death: In case of death, whether post mortem done: Manner of disposal of dead body (Claimed or Unclaimed): PART - III Documents/ Information submitted by GRP (Tick Yes /No) First Information Report: Yes / No Memo of the Station Master & GDR extract (combined Guard Yes / No 1.

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4. and Driver Report): Site Plan in terms of Clause 5 of Part I: Photographs taken at the site Track Character Straight and Level Straight and Grade Curve and Level Curve and Grade Under Construction/ maintenance 5 Statement(s) of witnesses Yes /No Yes / No Yes/ No Page 3 of 4 6.

7. Statement of Loco-pilot in case of run over to his knowledge Statement of Guard Inquest report: Body identified: Who identified the body When identified:

8. Where identified: Details of person who identified: Name: Mobile No.Contact Details:

9. 10.

11.

12. 13.

14. 15.

16. Final report to Jurisdictional Magistrate: MLR/MLC No: Discharge summary from Hospital: Post mortem report: Recovery memo/ seizure memo during Jama talashi: Site Map: Photographs: Any other relevant documents/ information: VERIFICATION Yes/ No Yes/ No Yes/No Yes/ No Yes/ No Yes/ No Yes/ No Yes/ No Yes/ No Yes/ No Yes/ No Yes/ No Verified at _____ on this _____ of _____ that the contents of the above report are true and correct and the documents mentioned in Part - III have been verified. Name and Designation of Investigating Officer Date: Police Station Page 4 of 4

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