

CHAPTER XII

LIABILITY OF RAILWAY IN THE EVENT OF DEATH AND INJURY TO PASSENGERS

(CM No.10 dated 28.08.2024)

The amount of ex-gratia relief to be paid to the dependents of dead and injured passengers involved in Train Accidents and Untoward Incidents as defined under Section 123 read with Section 124 and 124-A of the Railways Act, 1989 and to the road users who met with an accident due to Railway's prima facie liability at Manned Level Crossing Gate Accidents. The revised rates and compiled instructions are as below:

12.1 Amount of Ex-gratia for Train Accidents, Untoward Incidents and Manned Level Crossing Gate Accidents

Sl. No	Type of accident	Amount of ex-gratia for Death	Amount of ex-gratia for Grievous Injury	Amount of ex-gratia for Simple Injury
1)	Train Accident (as defined under Section 124 of the Railways Act, 1989)	Rs. 5,00,000/- (Rupees Five lakh only)	Rs. 2,50,000/- (Rupees Two lakh Fifty thousand only)	Rs. 50,000/- (Rupees Fifty Thousand only)
2)	Untoward Incident (as defined under Section 124-A of the Railways Act, 1989)	Rs. 1,50,000/- (Rupees One lakh Fifty Thousand only)	Rs. 50,000/- (Rupees Fifty Thousand only)	Rs. 5,000/- (Rupees Five Thousand only)
3)	Accident at Manned Level Crossing (due to Railway's prima facie liability)	Rs. 5,00,000/- (Rupees Five lakh only)	Rs. 2,50,000/- (Rupees Two lakh Fifty thousand only).	Rs. 50,000/- (Rupees Fifty Thousand only)

12.2 Additional Ex-gratia relief in case of Hospitalization of Grievously injured passengers beyond 30 days

In case of Train Accident	In case of Untoward Incident
Rs. 3,000/- per day to be released at the end of every 10-day period or date of discharge, whichever is earlier.	Rs. 1,500/- per day to be released at the end of every 10-day period or date of discharge, whichever is earlier up to further six months of hospitalization.
	Thereafter, Rs. 750/- per day be released at the end of every 10-day period or date of discharge, whichever is earlier up to further five months of hospitalization.
<p>(a) Lump sum amount of ex-gratia for hospitalization of grievously injured passenger up to first 30 days is as mentioned in table at para 12.1 above.</p> <p>(b) The maximum period for which ex-gratia is payable to the grievously injured passenger will be 12 months.</p>	

12.2(a)

- (i) This ex-gratia relief will be exclusively for passengers who are grievously injured in train accidents or untoward incidents as defined under Section 123, read with Section 124/ 124-A, of the Railways Act, 1989.
- (ii) The period for treatment as indoor patient for more than 30 days would need to be certified by a Railway Doctor for the purpose of further ex-gratia payment up to the period of remaining 11 months. In case where the injured is taking treatment in other than Railway hospital, the treatment has to be certified by Railway Doctor.
- (iii) Sr. Divisional Medical Officers shall also keep track of such injured person taking treatment in other than Railway hospitals. Sr. DCM/DCM shall keep coordination with Sr. DMO for the purpose and arrange payment of ex-gratia as per the prescribed schedule mentioned in the table in Para-12.2 above at the doorstep of injured person. Every care shall be taken by Sr. DCM/DCM to avoid any inconvenience to injured person in such cases.

12.2(b) Mode of Payment of ex-gratia/enhanced ex-gratia

- (i) Maximum amount of up to Rs. 50,000/- to be paid in cash as an immediate relief for taking care of initial expenses.
- (ii) Remaining amount to be paid by Account Payee Cheque/RTGS/NEFT/ Any other online payment mode.
- (iii) Notwithstanding anything contained in Para (i) and (ii) above, Railways may disburse the entire amount of ex-gratia/enhanced ex-gratia by Account payee Cheque/ RTGS/ NEFT/ Any other online payment mode, if deemed appropriate.

12.2(c) Other terms and conditions:

- (i) No ex-gratia relief would be admissible to road users in case of accident at Unmanned Level Crossing, trespassers, persons electrocuted by OHE (Over Head Equipment).
- (ii) Ex-gratia payment in case of train accidents and untoward incidents are not to be taken in to account at the time of final claim for compensation.
- (iii) The amount of ex-gratia relief admissible to road users, who meet with an accident due to Railway's prima facie liability at Manned Level Crossing Gate Accident, will be counted towards the amount of compensation payable, if action is tenable against the Railways under the Law of Torts and an award is actually granted by a Court of Law.
- (iv) Ex -gratia Payments should also be made to railway servants killed or injured by a moving train while performing their duty, for example, gangman working on track run over accidentally by a moving train.
- (v) Payment should be sanctioned/arranged preferably on the spot by a Senior Scale Officer nominated by the General Manager after making such enquiries as can be reasonably made on the spot after the immediate needs by way of medical attendance etc. to injured persons are attended to.

12.3 ISSUE OF COMPLEMENTARY PASSES TO THE NEXT OF KIN OF THE VICTIMS AS WELL AS TO THE SURVIVING VICTIMS OF THE RAILWAY ACCIDENTS.

Complementary passes may be issued to the next of kin of the victims as well as to the surviving victims discharged from the hospitals. The class of passes should of course, be the same in which the surviving victims were traveling or higher if recommended by the doctor. The class of passes for the relatives may be determined according to the status of the persons. While issuing such passes the following aspects should be borne in mind;

1. The issue of such complementary passes may centralize in the General Manager's office and should have the approval of General Manager.
2. Such complementary may be issued to not more than two relatives of the injured or deceased passengers.
3. Sufficient safe guard may be adopted so that these passes are not misused.
4. Break of journey on such passes should not be allowed.

12.4 COMPENSATION TO VICTIMS – SPEEDY DISPOSAL:

The Railways must be more responsive while dealing with public, particularly in such cases of robberies and other unfortunate incidents resulting in injuries and other sufferings to the passengers. Proper medical records of such cases should be kept. Railway protection force should interact more closely with Government Railway Police and State Police for settling all cases of compensation expeditiously. Compensation should be paid to all after proper investigation. Vigorous efforts should be taken to locate the injured by deputing team of staff and provide them application forms with guidance to enable them to file claims for compensation before Railway Claims Tribunal and action taken particulars may be advised within 10 days. Expeditious action should be taken and ensure that delay does not take place. Wherever any passenger train accident or untoward incident takes place, addresses of all the dead/injured should be taken. Ex-gratia payment should be made in accordance with present instructions and application forms should be supplied to them for filling the claims compensation cases.

12.5 APPLICABILITY OF COMPENSATION TO PERSONS:

If a train accident results in the death of a passenger travelling by a train, compensation should be paid irrespective of whether a Bonafede authority to travel has been produced or not.

12.6 AMOUNT OF COMPENSATION PAYABLE – VARIOUS PROVISIONS OF RAILWAY ACCIDENT (COMPENSATION) RULES, 1990

Compensation payable to persons injured in railway accidents is prescribed by a Schedule of Compensation attached to the Railway Accidents and Untoward incidents (Compensation) Amendment Rules 1997.

The amount of compensation payable for an injury not specified in the schedule but which in the opinion of Claims Tribunal is such as to deprive a person of all capacity to do any work shall be Rs. 4,00,000/-

The amount of compensation payable in respect of any injury other than an injury specified in the schedule resulting in pain or suffering shall be such as the Claims Tribunal may after taking into consideration evidence besides other circumstances of these determine to be reasonable.

Provided if more than one injury is caused by the same accident, the compensation shall be payable in respect of each injury.

Provided further that the total compensation of such injuries shall not exceed Rs. 4,00,000/-.

Where compensation has been paid for any injury which is less than the amount which would have been payable as compensation if the injured person had died and the person subsequently died as the result of injury, a further compensation equal to the difference between the amount payable for death and already paid shall become payable.

Notwithstanding anything contained in the above rule, the total compensation payable under that rule shall in no case exceed Rs. 4,00,000 in respect of any person.

- 12.7 (a)** 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 Tribunals. **(CM-10 dated 28.08.2024)**

(b) Legal Aid to Claimants or victims of accidents: It shall be the duty of the Railway Administration to forward the names of the injured victims or the persons who died in a railway accidents 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. **(CM-10 dated 28.08.2024)**