

CHAPTER XII

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

12.1 RELIEF TO PASSENGERS INVOLVED IN TRAIN ACCIDENT.

The amount of ex-gratia relief payable to the bonafide passengers/dependents involved in train accidents should be as under:-

* In case of death	: Rs. 50,000/-
* In case of grievous injury	: Rs. 25,000/-
* In case of simple injury	: Rs. 5,000/-

- (i) The revised rate and conditions for payment of ex- gratia relief in case of grievously injured passengers who are hospitalized in case of Train Accident as defined under section 124 of the Railways Act, 1989 is as follows:-

Period of hospitalization	Rate of ex- gratia For
hospitalization upto 30 days to take care of initial expenses	Rs.25,000/- lumpsum.

Thereafter at the end of every 10 days period or discharge, whichever is earlier? Rs.300/- perday

The maximum period for which ex-gratia is payable to the grievously injured passenger will be 12 months.

12.2 EX- GRATIA PAYMENTS TO VICTIMS (ROAD USERS) INVOLVED IN TRAIN ACCIDENTS AT MANNED LEVEL CROSSINGS:

The ex-gratia amount payable to the dependants of dead or injured, road users involved in train accidents due to Railway prima – facie failure at manned level crossing should be as under:-

* In case of death	: Rs. 50,000/-
* In case of grievous injury	: Rs. 25,000/-
* In case of simple injury	: Rs. 5,000/-

12.3 EX-GRATIA RELIEF PAYABLE TO THE DEPENDANTS OF DEAD OF INJURED PASSENGERS INVOLVED IN UNTOWARD INCIDENTS.

- (1) The ex-gratia amount payable to the dependants of dead of injured passengers involved in untoward incidents under section 124-A of the Railways Act, 1989 (24 of 1989) shall be Rs.15000/- (Rupees fifteen thousand only) in case of death, Rs.5000/- (Rupees five thousand only) in case of grievous injury and Rs.500/- (Rupees five hundred only) in case of simple injury.

The rate and conditions for payment of ex-gratia relief in case of grievously injured passengers who are hospitalized in case of untoward incidents are defined under section 123, read with section 124-A, of the Railways Act, 1989 is as follows:

Period of hospitalization	Rate of ex- gratia
- Upto 30 days of hospitalization	Rs. 5,000/- (Rupees five thousand only)
- Upto further six months of hospitalization	Rs.1,000/- (Rupees one thousand only) per week of part thereof for the period of indoor treatment.
- Upto further five months of hospitalization	Rs.500/- (Rupees five hundred only) per week of part thereof for the period of indoor treatment.

The maximum period for which ex-gratia is payable to the grievously injured passenger will be 12 months.

- Note:** (i) No ex- gratia relief is admissible in case of Accident at Unmanned Level Crossing.
- (ii) No ex-gratia payment would be admissible to the trespassers, persons electrocuted by OHE and road users at Unmanned Level Crossings.
- (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) Payments 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.
- (vi) These ex-gratia payments, except in case of road users at manned level crossing, are not to be taken into account at the time of formal claims for compensation.
- (vii) Other terms and conditions applicable who are grievously injured in train accidents or untoward incidents
- (a) 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.
- (b) The period of 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 upto the period of 11 months. In case where the injured is taking treatment in other than Railway Hospital, the treatment has to be certified by Railway Doctor.
- (c) Sr.DMO shall also keep track of such injured person taking treatment in other than Railway Hospitals. Sr.DCM/DCM shall

keep co-ordination with Sr.DMO for the purpose and arrange payment of ex-gratia every week 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.

(viii) In case of enhanced ex-gratia announced by the Minister of Railways as a special case under his/her discretionary powers, the amount equivalent to the normal rate of ex-gratia for death/injury of passenger in train accidents/ untoward incidents and to the road users who meet with an accident due to Railway's prima facie liability at Manned Level Crossing Gate Accident be paid in cash and the remaining portion of the enhanced ex-gratia be paid by account payee cheque. The position is tabulated as under:-

Sl. No.	In case of	Normal rate of ex-gratia (as per extant instructions)	Amount of Ex-Gratia to be paid by cash/ cheque in case of enhanced ex-gratia announced by the Hon'ble Minister of Railways	
			By Cash	By Cheque
1. In case of Train Accident (Section 124 of the Act).				
i)	In case of death	Rs.50000/-	Rs.50000/-	Announced amount of ex-gratia minus Rs.50000/-
ii)	In case of grievous	Rs.25000/-	Rs.25000/-	Announced amount of ex-gratia minus injury Rs.25000/-
iii)	In case of simple injury	Rs.5000/-	Rs.5000/-	Announced amount of ex-gratia minus Rs.5000/-
2. In case of Untoward incident (Sec-124-A of the Act)				
i)	In case of death	Rs.15000/-	Rs.15000/-	Announced amount of ex-gratia minus Rs.15000/-
ii)	In case of grievous injury	Rs.5000/-	Rs.5000/-	Announced amount of ex-gratia minus Rs.5000/-
iii)	In case of simple injury	Rs.500/-	Rs.500/-	Announced amount of ex-gratia minus Rs.500/-
3. In case of Accident at Manned Level Crossing (due to Railway's Prima facie liability)				
i)	In case of death	Rs.50000/-	Rs.50000/-	Announced amount of ex-gratia minus Rs.50000/-
ii)	In case of grievous injury	Rs.25000/-	Rs.25000/-	Announced amount of ex-gratia minus Rs.25000/-
iii)	In case of simple injury	Rs.5000/-	Rs.5000/-	Announced amount of ex-gratia minus Rs.5000/-

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 centralise 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 this 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 bonafide 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 in to 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.
