

## Appendix - I

### **Extract from Railways Act 1989**

The following relevant sections of the Railways Act 1989 are reproduced for ready reference

**Section-5** : Appointment of Chief Commissioner of Railway Safety and Commissioners of Railway Safety. Duties of Commissioner: 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.

**Section-6**: The Commissioner shall-

- (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.

**Section-7**: Powers of Commissioner:

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.

**Section-9:** Facilities to be afforded to Commissioners:

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.

**Section-14:** Temporary entry upon land to remove obstruction, to repair or to prevent accident.

- (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 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.

**Section 24 :** Temporary suspension of traffic –

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.

**Section-56:** Power to refuse to carry persons suffering from infectious or contagious diseases:-

- (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.
- (2) The Railway servant giving permission under Sub-section (1), shall arrange for the separation of the person suffering from such diseases 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.

**Section 60:** 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 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 passenger 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.

**Section 113:** Notice of railway accident. –

- (1) Where, in the course of working a railway, -
- a) Any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code, 45 of 1860 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 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.

**Section 114:**Inquiry by Commissioner. –

- (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, 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.

**Section 115:** Inquiry by Railway administration . –

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.

**Section 116:**Powers of Commissioner in relation to inquiries. –

- (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, 5 of 1908, in respect of the following matters, namely :-

- (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, 2 of 1974.

**Section 117:** Statement made before Commissioner. –

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.

**Section 118:** Procedure etc. –

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.

**Section 119:** No inquiry investigation etc. to be made if the Commission of Inquiry is appointed. –

Notwithstanding anything contained in the foregoing provisions of this Chapter, where a Commissioner of Inquiry is appointed under the Commissioner of Inquiry Act, 1952 (3 of 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.

**Section 120:**Inquiry into accident not covered by Section 113 –

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 maybe prescribed.

**Section 121:**Returns –

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.

**Section 122:**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 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 an 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.

**Section 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 predeceased 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.

**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 purpose of this section ‘Passenger’ includes a railway servant on duty.



**Section 124 A:**

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 Railways 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) Any Act committed by him in a state of intoxication or insanity;
- (d) 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 purpose of this section ‘passenger’ includes

- 1. A railway servant on duty and
- 2. 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.

**Section 125** – Application for compensation –

- (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.

**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 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.

**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 124 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.

**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.

**Section 145:**Drunkenness or nuisance –

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) Willfully or without excuse interfered with any amenity provided by the railway administrations 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 –
  - (i) A fine of one hundred rupees in the case of conviction for the first offence; and
  - (ii) Imprisonment of one month and a fine of two hundred and fifty rupees, in the case of conviction for second or subsequent offence.

**Section 146:** Obstructing railway servant in his duties :-

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.

**Section 150:**Maliciously wrecking or attempting to wreck a train –

- (1) Subject to the provisions of Sub-section (2), if any person unlawfully,
  - (a) Puts or throws upon or across any railway, 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 judgement 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 it likely to cause the death of such person, he shall be punishable with death or imprisonment for life.

**Section 151:**Damage to or destruction of certain railway properties -

- (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 installation, 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.

**Section 152:**Maliciously hurting or attempting to hurt persons travelling by railway –

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.

**Section 153:**Endangering safety of persons travelling by railway by willful act or omission –

If any person by any unlawful act or by any willful 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.

**Section 154:**Endangering safety of persons travelling by railway by rash or negligent act or omission –

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 years, or with fine, or with both.

**Section 156:**Travelling on roof, step or engine of a train –

If any passenger or any other person, after being warned by a railway servant to desist, persists in travelling on the roof, step or footboard 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.

**Section 160:**Opening or breaking a level crossing gate –

- (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.

**Section 161:**Negligently crossing unmanned level crossing –

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 purpose of this section ,”negligence” in relation to any person driving or leading a vehicle in crossing an manned level crossing means the crossing by such person -

- (a) Without stopping or caring to stop the vehicle near such railway crossing to observe whether any approaching rolling stock is in sight, or
- (b) Even while an approaching rolling stock is in sight.

**Section 172:**Penalty for intoxication. –

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.

**Section 173:**Abandoning train, etc., without authority. –

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.

**Section 174:**Obstructing running of train, etc. –

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 railways.-

- 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.

**Section 175:**Endangering the safety of persons. –

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.

**Section – 176:**Obstructing level crossing. –

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.

**Section 181:**Magistrate having jurisdiction under the Act –

Notwithstanding anything contained in the Code of Criminal Procedure, 2 of 1974, no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence under this Act.

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