



Rail Accidents and Compensation in India - A Succinct Study

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ABSTRACT

The term 'accident' refers to the damage caused to another person. Any unexpected event beyond normal wisdom that cannot be imagined, or against which protection or protection cannot be done, is called an 'accident'. A railway accident is an incident in the process of train operations that affects the safety of the Railways, its locomotives, coaches, tracks, passengers, or servants, or whether trains are delayed, causing damage to the Railways. S.124A of the Railways Act, 1989, with effect from 01.08.1994, provides for compensation on account of untoward incident. This paper encapsulates the manner in which Indian railways have been able to address the issue of rail accidents and the compensation system regarding it. This paper foremost provides what entails within the definition of an accident in the ambit of Railways Act, 1989. This paper also has provided with relevant data to better understand the current situation of accidents in railways. Second part of this paper deals with the compensation in case of an untoward incident in railways and how the compensatory concept with respect to accidents has evolved since 1989.

KEY WORDS

Accident, Railway Act, Gratuity, Railway Claims Tribunal, Compensation.

INTRODUCTION

A railway accident is an incident in the process of train operations that affects the safety of the Railways, its locomotives, coaches, tracks, passengers, or servants, or whether trains are delayed, causing damage to the Railways. A passenger train is a train that wholly or partially transports passengers from one place to another. Accident relief trains, military special trains, escort trains, tower wagons, etc. are also fall

within the definition of passenger trains. A train, locomotive, or any other vehicle once added to the train remains a part of the train until it reaches the destination station. The point of destination (station) where the train or other vehicle is separated from the respective loco-motor is the point where it ceases to be a part of the train.

The General Meaning of Accident

The term ‘accident’ refers to the damage caused to another person. An ‘accident’ involves damage to another. Any unexpected event beyond normal wisdom that cannot be imagined or against which protection cannot be done is called an accident. “An effect is called an accident when the work by which it is done with the intention of not causing it and unless it is so likely to occur as a result of that action that a person of a common conscience must exercise proper caution against the circumstances under which it was done.” S.80 of the Indian Penal Code, 1860 deals with misfortune and accident. According to S.80, “Nothing is an offense which happens by accident or misfortune and without any criminal intent or knowledge in a lawful manner, by lawful means, with due vigilance and caution.” That is, an act is not criminal in itself unless the doer has done it with criminal intent. To constitute a crime, both the intention of the offender and his action must be confluent.

Indian Railways has classified accidents as an occurrence in the course of working of a Railway, which does or may affect the safety of the Railway, its engine, its rolling stock, permanent way, and works, fixed installations, passengers or servant, or which affects the safety of others or which does or may cause delay to train or loss to the Railway. For the ensuing safety of railway property and passengers, each department defined its own safety parameters. Accidents are classified under five heads:

- (i) Train Accidents,
- (ii) Yard Accidents,
- (iii) Indicative Accidents,
- (iv) Equipment Failures, and
- (v) Unusual Incidents.

The Railway Board has issued directions with respect to the definition and re-classification of accidents on Indian Railway from time to time and has also led to the formulation of accident manuals separately by the respective Zonal Railways. On the basis on the impact caused, train accidents were further divided into two categories-

i. Consequential Train Accidents

It includes train accidents having serious repercussions in terms of either one or all of the following:

- A. loss of human life,
- B. human injury,
- C. loss of Railway property,
- D. Interruption to Rail traffic.

ii. Other Train Accidents

All other accidents, which are not covered under consequential train accidents, are covered under “Other train accidents”.

Details of Consequential Train Accidents

S.No.	Type of accident	2017-18	2018-19	2019-20	2020-21	Total
1.	Confrontation	3	4	3	1	11
2.	Train derailment incident	55	48	45	15	163

3.	Accident at manned level crossing	3	3	1	1	8
4.	Accident at unmanned level crossing	10	3	0	0	13
5.	Fire in train	3	6	8	3	20
6.	Various	0	1	1	0	2
7.	Total	74	65	58	20	217

[Source: Performance Audit on Derailments in Indian Railways Performance (Audit Report no. 22 of 2022)]

It can be seen that out of 217 consequential accidents maximum accidents were due to derailments, which constitute around 75% of the total consequential accidents, followed by accidents due to fire, which constitutes 9%.

Details of Other Train Accidents

S.No.	Accident category	Accident type	2017-18	2018-19	2019-20	2020-21	Total
1.	Equipment failure	Failure of engine/rolling stock	11	20	13	40	84
2.	Indicator accident	Train passing signal at danger and other Incidents	57	67	52	35	211
3.	Other Train Accidents	Derailments (Other Train Accidents)	63	89	117	74	343
		Fire (Other Train Accidents)	6	6	3	4	19
		Others (Accidents at level crossings with/without manned vehicles)	19	26	6	3	54
4.	Unusual incidents	Casualties, train wrecking and other miscellaneous incidents	19	44	24	48	135
5.	Yard accident	Derailment (Yard Accident)	143	383	241	119	886
		Other events	16	21	29	2	68
6.	Total		334	656	485	325	1800

[Source: Performance Audit on Derailments in Indian Railways Performance (Audit Report no. 22 of 2022)]

In the category of “Other Train Accidents” a total 1,800 accidents took place. The derailment accounts for 68% (1,229 derailments). Out of 2,017 consequential and non-consequential accidents (1800+217=2,017), accidents due to derailments were 1,392 (163+343+886) 69% during 2017-18 to 2020-21.

Level crossing is an intersection of road with lines of rail at the same level. Train running into road traffic at level crossing (manned/un-manned) is classified as a “level crossing accident”. Level crossings are the weakest link, most unsafe element and source of accidents on railway tracks. The I.R. is stated to have eliminated (2019) all UMLCs on busy routes. As of November 2018, there were around 21,150 MLCs in I.R. The MLCs are prone to accidents due to human error on the part of railway staff as well as forcible opening/crossing by road users. There were 20,471 MLCs (April 2019) across 15 Zones of the Railways. Out of these only 2,908 MLCs (9%) were targeted for elimination during the period from 2018-2019 to 2020-2021 and only 2,059 (70%) of these targeted MLCs was eliminated by the Zonal Railways. Thus, except for NWR, in 15 Zonal Railways, the shortfall ranged from 6% (WR) to 61% (ECR). The level crossings are potential safety hazards and nine accidents have occurred on level crossings during 2019-2021.

Details of elimination of MLCs during the period from 2019-20 to 2020-21

Zonal Railways	Number of MLCs (Targeted)	Number of MLCs (Actual)	Number of MLCs (Shortfall)	Per cent Shortfall	Number of Accidents at Level crossings
Central Railway	151	112	39	26	0
Eastern Railway	44	32	12	27	1
East Central Railway	281	109	172	61	1
East Coast Railway	103	70	33	32	0

Northern Railway	439	284	155	35	3
North Central Railway	230	144	86	37	0
North Eastern Railway	260	165	95	37	NA
Northeast Frontier Railway	47	32	15	32	2
North Western Railway	241	247	0	0	0
Southern Railway	256	139	117	46	0
South Central Railway	234	208	26	11	0
South Eastern Railway	119	91	28	24	1
South East Central Railway	78	47	31	40	0
South Western Railway	148	122	26	18	0
Western Railway	183	172	11	6	NA
West Central Railway	94	85	9	10	1
Total	2908	2059	849	29	9

[Source: Performance Audit on Derailments in Indian Railways Performance (Audit Report no. 22 of 2022)]

Indian Railways Accidents Details (From 2014-2022)

Railway accidents can also be classified in accordance with the kind of impact caused i.e., head-on collision, rear-end collisions, side collisions, derailments, fires, explosions etc. A compensation system for a railway accident is in place by the Indian railways yet a need was being felt for issuing Indian Railway Accident Protocol describing standard set of activities/ procedures of reporting and handling serious accidents. Although the respective Protocol has been framed is to give gist and be a ready reckoner relating to accident reporting and accident handling so as to use it easily to deal with serious accidents. The respective table given below enumerates the accident details from the year 2014 till 2022.

S.No.	Train No.	State	Railway	Division	Date of Accident	Location
1.	50105	Maharashtra	Central	Mumbai	01/08/2014	Nagothane-Roha Stations Section
2.	12236	Bihar	East Central	Sonpur	01/08/2014 02:15	Chhapra Kuchery - Goldinganj Section
3.	12220	Karnataka	Central	Solapur	12/09/2015	Martur Station
4.	11078	Punjab	Northern	Firozpur	04/10/2016	Ladhowal-Phillaur (Mid Section)
5.	19321	Uttar Pradesh	North Central	Jhansi	20/11/2016	PHN-MLS Section
6.	13248	West Bengal	North East Frontier	Alipur Duar Jn.	06/12/2016	SMTA Station
7.	12987	Uttar Pradesh	North Central	Allahabad	28/12/2016	RURA Station
8.	18448	Andhra Pradesh	East Coast	Waltair	21/01/2017	KNRT Station
9.	Gourav RO RO	Maharashtra	Konkan Rail Corp	Ratnagiri	06/02/2017	KOL-KOLAD (Yard)
10.	14723	Uttar Pradesh	North Central	Allahabad	20/02/2017	TDL (Yard)
11.	12189	Uttar Pradesh	North Central	Jhansi	30/03/2017	Mahoba-Kulpahar (Mid Section)
12.	18477	Uttar Pradesh	Northern	Delhi	19/08/2017	KAT-MSP Section
13.	17317	Maharashtra	Central	Mumbai	21/08/2017	TKW-MHC Section
14.	12225	Uttar Pradesh	North Central	Allahabad	23/08/2017	PTX-ULD Section
15.	12487	Bihar	East Central	Sonpur	03/02/2019	SDG (Yard)

16.	12303	Uttar Pradesh	North Central	Allahabad	20/04/2019	RXM Station
17.	12618	Karnataka	Konkan Rail Corp.	Karwar	28/04/2019	BIJR-SEN Section
18.	12504	Assam	NEF	Lumding	30/04/2019	CBZ-KKGT (Mid Section)
19.	15655	Assam	NEF	Lumding	05/05/2019	Kamakhya Yard
20.	Dn BCNHL Empty Stock	West Bengal	NEF	Katihar	21/05/2019	NJP- RNI Section
21.	Empty Coaching rake (locoNo.16727 WDM3A)	Assam	NEF	Lumding	11/07/2019	New Guwahati Yard
22.	Dn BCN Empty Stock	Assam	NEF	Lumding	20/10/2019	GHY Station
23.	Dn HIMB CPC	West Bengal	North East Frontier	Alipur Duar Jn	21/10/2019	New Coochbehar Station
24.	DN JTTN Food Grain	Assam	NEF	Tinsukia	08/12/2019	Duliajan-Naharkati Section
25.	12879	Odisha	East Coast	Khurda Road	16/01/2020	SQQ-NRG (Mid Section)
26.	06188 TIR-JP Shramik Exp	Karnataka	Southern	Palghat	19/05/2020	Padil Station
27.	Kunkavav-Jadoli ka Bas	Delhi	Northern	Delhi	27/10/2020	LPNR-HNZM Section
28.	02502	Tripura	NEF	Lumding	18/12/2020	Kumarghat Station
29.	03174	Assam	NEF	Lumding	21/01/2021	At Badarpur Jn.
30.	DN BCN Empty stock	Bihar	NEF	Katihar	22/01/2021	Barsoi Station
31.	05604	Assam	NEF	Tinsukia	27/06/2021	Ledo-Margherita Section
32.	02346	Assam	NEF	Rangiya	25/08/2021	Chaygaon Station
33.	15633	West Bengal	North East Frontier	Alipur Duar Jn	13/01/2022	New Domohani Station
34.	07546 DEMU Pass	Bihar	NEF	Katihar	03/04/2022	JAG-KUB Mid-Section

(Source: Public Information's of Indian Railways Accidents)

Compensation Rate Payable to Railway Accident Victims

Ministry of Railways has decided the amount of compensation payable in respect of death & injuries to the passengers involved in Accidents and Untoward incidents.

Item	Existing Amount (Rs.)	Revised Amount (Rs.)
PART I		
For death	4,00,000	8,00,000
PART II		
For absolute deafness	4,00,000	8,00,000
For double amputation through leg or thigh or amputation through leg or thigh on one side and loss of other foot.	4,00,000	8,00,000
For loss of both hands or amputation at higher sites	4,00,000	8,00,000
For loss of hand and a foot	4,00,000	8,00,000
For loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	4,00,000	8,00,000
For very severe facial disfigurement	4,00,000	8,00,000
PART III		
For amputation below shoulder with stump less than 8" from tip of acromion	3,20,000	6,40,000
For amputation through shoulder joint	3,60,000	7,20,000
For loss of a hand or the thumb and forefinger of one hand or amputation from 4 1/2" below space tip of olecranon	2,40,000	4,80,000
For loss of thumb	1,20,000	2,40,000
For loss of thumb and its metacarpal bone.	1,60,000	3,20,000
For loss of four fingers of one hand	2,00,000	4,00,000

For loss of three fingers of one hand	1,20,000	2,40,000
For loss of two fingers of one hand	80,000	1,60,000
For loss of terminal phalanx of thumb	80,000	1,60,000
For amputation of both feet resulting in end bearing stumps	3,60,000	7,20,000
For amputation through both feet proximal to the metatarsophalangeal joint	3,20,000	6,40,000
For loss of all toes of both feet through the metatarso-phalangeal joint	1,60,000	3,20,000
For loss of all toes of both feet proximal to the proximal inter phalangeal joint	1,20,000	2,40,000
For loss of all toes of both feet distal to the proximal inter-phalangeal joint	80,000	1,60,000
For amputation at hip	3,60,000	7,20,000
For amputation below hip with stump not exceeding 5" in length measured from tip of great trench-anter	3,20,000	3,20,000
For amputation below hip with stump exceeding 5" in length measured from tip of great trench anter but not beyond middle thigh	2,80,000	5,60,000
Fracture of Spine with Paraplegia	2,00,000	4,00,000
For amputation below knee with stump exceeding 5"	1,60,000	3,20,000
For loss of one eye without complications the other being normal	1,60,000	3,20,000
For amputation of one foot resulting in end-bearing	1,20,000	2,40,000
For amputation through one foot proximal to the metatarso-phalangeal joint	1,20,000	2,40,000
Fracture of Spine without paraplegia	1,20,000	2,40,000
For loss of vision of one eye without complications of disfigurement of eye ball, the other being normal	1,20,000	2,40,000
For loss of all toes of one foot through the metatarso-phalangeal joint	80,000	1,60,000
Fracture of Hip-joint	80,000	1,60,000
Fracture of Major Bone Femur Tibia both limbs	80,000	1,60,000
Fracture of Major Bone Humerus Radius Both limbs	60,000	1,20,000
Fracture of Pelvis not involving joint	40,000	80,000
Fracture of Major Bone Femur Tibia One limb	40,000	80,000
Fracture of Major Bone Humerus Radius Ulna One limb	32,000	64,000
For amputation from 8" from tip of acromion to less than 4 1/2" below tip of olecranon	2,80,000	5,60,000
For amputation below middle thigh to 4 1/2" below knee	2,40,000	4,80,000
For amputation below knee with stump exceeding 4 1/2" but not exceeding 5"	2,00,000	4,00,000

(Source: : The Railway Accidents and Untoward Incidents (Compensation) Rules, 2016 (w.e.f. from 1st January 2017)

Application for Compensation

Provisions for application for compensation have been made under Section 125 of the Railways Act, 1989. Application for compensation under section 124 and section 124A shall be filed at the Railway Claims Tribunal by the person who has suffered damage, or any loss, or by the authorized agent of the victim, the minor through his guardian in case where he has died as a result of an accident, by a dependent of the deceased, where such dependent is a minor, it will be done by his guardian.

The Railway Claims Tribunal will decide the application for compensation. Since 08.11.1989, 21 Benches of the Tribunal have been constituted and are functional in different parts of the country. The applicant can now make his claims in the respective bench of the Railway Claims Tribunal situate at the following:

- (i) Where the applicant resides; or
- (ii) The place from where the passenger has purchased his ticket; or
- (iii) Where the accident took place; or

(iv) At the station of the destination.

Prior to 08.11.1989, the claim could be made only at the site of the accident.

CONCLUSION

Damage or loss due to an accident or untoward incident in Railways is provided in compliance with the Railway Accidents and Untoward Incidents Act. Further, compensation or gratuity amount is payable in compliance with the ordinary ordinance issued at the time by the Railway Board. Even though there exists 21 functional railway claims tribunals, there still exists a need to set up more 'Railway Claims Tribunals' keeping in mind the convenience of the aggrieved party so that the victim party can seek redressal in a speedy and just manner.

Prior to 1989, a claim could be made only at the site of the accident, the rule for application for compensation under Section 125 of the Railways Act, 1989 has been extended. The compensation or grace amount, where the maximum amount is limited to Rs.8 lakhs, puts forth the need that needs to be increased further in accordance to present circumstances. The amount of compensation or compensation effective from 01.01.2017 appears to be very minimal as per the current scenario.

REFERENCES

1. For statistical purpose IR classified accidents in "A to R" categories excluding I and O, viz., (A-Collisions), (B-Fire or explosion in trains), (C-Accidents at Level crossings), (D-Derailments), (E-Other Train Accident), (F-Averted Collisions), (G-Breach of block rules), (H-train passing signal at danger), (J- failure of engine and rolling stock), (K-Failure of permanent way), (L-Failure of electric equipment), (M- Failure of signalling and telecommunication), (N-Train Wrecking), (P-Casualties), (Q-Other incidents), and (R-Miscellaneous).
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