

MA/DLR/708/2021

RP-AD



पश्चिम रेलवे
Western Railway

SN/100

Received through Post
Explain possibility of
meeting concave of all
PCCM of all zones, along with
members of RCT
Request for visiting reduction
of interest rate portion A to A1
by preparing note, along with
this communication be
put up on Judicial
side before DB of
Principal Bench
Similarly Note 'B to B'
by preparing note, along with
communication be also put
up before D.B.

No. C 54/0/Policy & Procedure/2019

Headquarter Office
Churchgate, Mum-20

Date: 25.01.2021

Chairman Principal Bench
Railway Claims Tribunal
RCT-Delhi, 13/15 Mall Rd.
Delhi-110054

Sub: Suggestions for improvement in expediting the disposal of claim compensation cases filed in Railway Claims Tribunals.

Registrar
ADL 12/2/21
Chairman

Recently a review was conducted wherein the position of compensation cases filed against Western Railway and issues being faced by this office in processing of these cases and complying orders of Tribunal was discussed in depth. The position of RCT wise cases filed against Western Railway at the end of Dec 2020 is as under:

RCT	Under Sec 124 (Accident)	Under Sec 124A (Untoward Incident)	Refund Freight Goods	Goods, Parcel	Total
Mumbai	0	1713	0	0	1713
Ahmedabad	0	531	4	5	540
Jaipur	0	44	2	5	51
Bhopal	0	115	3	4	122
Others	0	197	73	0	270
Total	0	2600	82	14	2696

While discussing the various aspects of procedure involved in settlement/adjudication of various types compensation cases, it is brought to my notice that if following issues are decided then goal of expeditious and meritorious settlement of claim cases can be achieved.

1. Digitization of RCT as well as Claims office working :

- > It is suggested that the existing RCT module for registration of cases available at various RCTs should be integrated with the existing Claim module with Claims office over Zones. Once the case is registered in the RCT

module, same should be integrated in Claims module whereby the process of sending physical claim notice can be avoided and the exercise of duplication of data feeding of claim applications in Claim module can be eliminated. This will not only avoid delay in registration with claims office but will also have exact data at par with RCT office. Same can be done at the stage of decrees also, wherein the digitally signed decrees can be uploaded in RCT module which should be directly integrated in Claims module.

- Western Railway is also initiating proposal at Board's level to modify the existing Claims module as dealing cum record module instead of record keeping module at par with E office module.
- The integration of both modules will help RCT as well as Zonal Railway to assess the real time data at all times which may avoid unwarranted executions for non-payment of compensation awarded, in other words RCT can assess directly the status of individual cases at Zonal level whether appeal is preferred or payment has been processed.
- Managements Information System (MIS) in this regard can generate the required reports about stages of cases, payment details and reason for withholding, etc.

2. Machinery for providing legal help to applicants.

- A free legal aid or legal aid at a pre decided reasonable cost can be introduced in RCT itself - As per the RCT Act, an applicant is basically not required to engage a legal practitioner to contest his case before the Hon'ble RCT. He can appear himself and represent his case. However, it is seen that in majority of the RCTs, the applicants are required to make huge payment as a legal fee to the Advocates for contesting their cases. The fee ranges somewhere between 20% to 25% of the compensation amount. After, Hon'ble Supreme Court's judgment in Rina Devi v/s union of India case, there is hardly any scope for Railways to defend the Railways interest as a very thin line between self inflicted injury and suicide is further clarified. In the same judgment the issue of bonafide passenger is also left at the affidavit level of the applicant. Railway Board has also issued instructions to categorize the admitted cases accordingly and conduct Lok Adalat.
- Looking at the above situation, if a legal Aid through any NGO is thought of then it will be of great help to the applicants and will also give a better working and transparent atmosphere in RCTs. As such a huge share of compensation awarded will not be spent by applicant on legal fees of Advocates thus actually serving the purpose of this beneficiary piece of legislation.

3. Fixed Rate of interest to be decided as per the market conditions:

- At present various RCTs are awarding rate of interest ranging between 6% to 9% which is not as per the prevailing market interest rates. At present, the rate of interest in nationalized banks on savings and fixed deposits are ranging from 3.5% to 4.5% depending upon the period of deposits. However, the Railway is bearing the cost of interest for the cases settled with the pendency of 04 to 05 yrs in RCTs at the rate ranging between 6% to 9%. It is suggested that for the period of pendency the rate of interest should be at Savings bank rate as Railway is not at fault for pendency of cases in RCTs. Once the decree is awarded and if there is a delay in settlement of the compensation amount from Railways side then only the enhanced rate of interest at prevailing fixed deposit rate for deposits above 01 year should be awarded which will reduce the burden of heavy share of interest from Govt. exchequer.
- In admitted cases, where Railways have consented to not contest the case, the agreed compensation amount as per schedule may be permitted to be deposited while reporting consent with RCT. This will automatically eliminate the burden of interest on such cases directly. If case is decided otherwise on the issue of dependency or admissibility then such amount should be returned back to Railways subsequently. The mention about the deposited amount by Railways should be made in the decree itself which will create a permanent record at both ends i.e. RCT and Railways.
- No interest should be awarded in Lok Adalat cases:
During last few Lok Adalats, it is observed that the applicants are not coming forward for offering consent for the cases pending for more than 01 year old with a fear of not getting interest if settled in Lok Adalat. In this regard, it is suggested that on day of Lok Adalat, if the applicant or his Advocate is not appearing and giving his consent then it should be recorded on that day specifically stating that no interest will be awarded in regular board also for that case treating this as case settled by Railway in Lok Adalat and order should be passed for Railways to deposit the agreed amount as per schedule with Registrar and case should be treated as closed from Railways side. A//

B 4. Payment of compensation through One Nodal Bank:

- At present, Railways are facing difficulties in disbursement of awarded compensation payment through various modes. Normally while awarding compensation a part payment is awarded to be paid through ECS to the applicant's savings bank account and remaining either through Fixed Deposit or Annuity.
- As the compensation amount have a limitation of schedule, the maximum awarded principal amount of decree comes to Rs. 08 lakhs and if part of the same is to be paid through Annuity then monthly share comes below

Rs. 10000/- for which many banks are reluctant to disburse the payment through Annuity of such small amount and the issue gets delayed.

- In this regard it is suggested that Railway will deposit the entire amount of decree with ADR and in turn ADR should liaison with one Nodal bank through which he will arrange the payment of disbursement of compensation amount. This will help the applicant as while registering the case itself he can be guided to open an SB cum Annuity account with specified bank near to place of his residence so that through CORE Banking the disbursement will be eased out through Nodal bank.
- Railway is also exploring the possibility of creating corpus fund towards compensation based on average of past few years wherein contractual bank can transmit the required compensation amount to RCT once the sanctioning authority decides to satisfy the decree. Modalities in this regard are under discussion with our Finance department.

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5. Educating the field staff:

- Recently, many changes have been advised through Gazette Notification by Railway Board in Manner of Investigation Rules and there are also many changes in requirement of DRM Investigation Report especially after the judgment of Supreme court in Rina Devi v/s Union of India case. In this regard, it is suggested that RCT Members may guide the field staff through Seminars organized by Zonal Railways. The experience of Tribunal about the flaws in DRM report and measures to be taken to improve the same will surely help in getting a detailed understanding of the importance of DRM IR and ways to streamline the same.
- This will not only improve the system but also will help to segregate the agreed as well cases to be actually contested which in turn will help the Tribunal to bring the pendency down.
- It should be guided during the seminar that DRM report should clearly bring out whether the exceptions provided under Sec 124A are proved with concrete evidence or otherwise. There should not be any mention about whether compensation is payable or not which is the purview of the Hon'ble Tribunal.
- Use of CCTV footage as evidence in DRM report- It is felt that emphasis should be given during the seminar to impress upon the field investigating staff to make use of CCTV footage and mention invariably in the Investigating report whether the area of accident is covered under the range of CCTV or not. If the same is covered within the range, then footage should immediately be secured and copied for presenting it as evidence while furnishing the DRM report. If it is not covered in the range of CCTV then also a remark to this effect should be given in the DRM report so that if the area is proved as an accident prone zone, then action can be taken to install CCTV to bring that

area in the ambit of CCTV view. This will avoid malfunctioning if any, at field level.

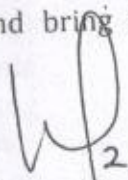
6. Calendar for Conducting of Lok Adalat with expanding the scope of admitted cases:

- It is suggested that a yearly calendar (atleast one week in a quarter) should be pre decided and advised to all RCTs and Zonal Railways by Principal Bench so that cases fit for Lok Adalat can be put forth before RCT in time bound manner which will definably reduce the pendency burden on Tribunals as well as Railways.
- The scope of admitted cases to be proposed before Lok Adalat may also be expanded in cases detailed below:
 - a) For bonafidness as passenger: if mentioned clearly in DRM Report or any other document enclosed with DRM report establishing that ticket was found though lost subsequently or if it is mentioned in Claim application in form of affidavit that ticket was purchased or if there is any statement recorded by co passenger that he was holding a valid ticket which was lost in the incident. At present, all such cases are adjudicated and decreed by RCT taking the provisions of Supreme Court judgment in the case of Rina devi v/s Union of India. Railway may also be permitted to consider such cases fit for Lok Adalat as precedent of adjudication on same grounds is available.
 - b) For falling down: If anywhere in DRM report or Station Diary or Inquest Panchnama or any statement of any evidence, it is mentioned by word that victim has fallen down then same should be considered as untoward incident under provisions of Sec 123 and Sec 124A. If in DRM report, Railway is not in a position to prove the exceptions provided under Sec 124A, with concrete evidence, then all such cases should be taken as an admitted cases before Lok Adalat.

The above suggestions if implemented will surely help to bring in perceptible improvements in the functioning as well as disposal of claim cases of Railway Claims Tribunal as well as Claims office.

Your kind co-operation is solicited in helping to ensure and bring in transformation in the working of RCTs and Zonal Claims offices.

in R kind regards.


(Rajkumar Lal)
PCCM-WRLY

26/1/24

C/- AM/Commercial, Railway Board