

निबंधक
Registrar



रेल दाया अधिकरण
Railway Claims Tribunal
प्रधान पीठ / Principal Bench
13/15, माल रोड, दिल्ली-110054
13/15, Mall Road, Delhi-110 054

No. RCT/DLI/Judicial Policy/2016

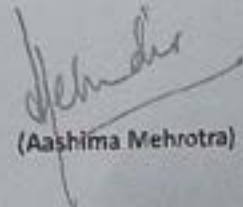
Date: 15.06.2023

Sub- Suo-moto order passed by Hon'ble Chairman RCT Delhi for payment of compensation

Hon'ble Chairman Railway Claims Tribunal, Principal Bench, Delhi has taken suo-moto cognizance of the unfortunate rail accident occurred on 02.06.2023 at Bahanaga Bazar Railway Station in Balasore district of Odisha, Howrah-Chennai Express 12841 and SMVB-Howrah Express 12864 and has passed inter-alia following order on date:

1. To register case on their file and assigned to each injured applicant and to the family of deceased individual (list enclosed with order) case no. and issue notices simultaneously to the applicants as well as the respondents in order to skirt long procedure and to enable parties to realize the benefits of compensation.
2. The date of hearing shall be fixed not later than 6 weeks from the date of issue of Notices and on being served, the additional registrar/ assistant registrar of the respective benches shall themselves offer assistance to the applicants to fill in the details of the applications in the format as prescribed.
3. If there are already applications in respect of any injured victims or representative of the deceased, the details of such applications may be brought on file before disposal of the individual applications.
4. The benches of the respective tribunal to which this order is dispatched shall register the cases in the manner referred in the order and inform the details of cases so registered within a week from the date of receipt of this order.
5. It shall not be necessary to put any case through trial procedure of oral evidence except where the identity of the applicants is an issue for verification or contest.
6. Bench in association with respective concerned zonal railway official's may take immediate action in getting the list of dead/injured passengers updated and get the claim applications filed without any further delay so that the victim of the accident/ kith and kin could be provided desired solatium.

The copy of detailed order is enclosed for your information and compliance.


(Aashima Mehrotra)

Copy for information and necessary action:

1. Executive Director (PG), Railway Board
2. Additional Registrar, RCT, Bhubaneswar Bench
3. Additional Registrar, RCT, Kolkata Bench
4. Additional Registrar, RCT, Patna Bench
5. Additional Registrar, RCT, Ranchi
6. Additional Registrar, RCT, Bhopal
7. Addl Registrar, Chandigarh

RAILWAY CLAIMS TRIBUNAL
PRINCIPAL BENCH,
DELHI

BEFORE HON'BLE Mr. JUSTICE K.S. AHLUWALIA, CHAIRMAN

Case No: OAI/a/DLI/01/2023

Date of hearing: 15.06.2023

Railway Claims Tribunal,
Principal Bench, Delhi
on its own motion

... Applicant

Versus

Union of India through,
General Manager
East-Coast Railway,
Bhubaneswar.

... Respondent

Present : None for applicant

Shri Rajendra Kumar, Presenting Officer for respondent

Order passed by the Chairman,

Railway Claims Tribunal

Kj

Keeping the past precedents and practices pertaining to railway accidents, the Office on 5th June, 2023, in respect of Railway accident of Howrah-Chennai Express (12841) and SMVB-Howrah Express (12864) at Bahanaga Bazar Railway Station in Balasore District of Odisha on 02.06.2023, had appended the following note:-

"Sub: Train Accident of Howrah-Chennai Express (12841) and SMVB-Howrah Express (12864) at Bahanaga Bazar Railway Station in Balasore District of Odisha on 02.06.2023

This is in reference to the Train Accident of Howrah-Chennai Express (12841) and SMVB-Howrah Express (12864) at Bahanaga Bazar railway station in Balasore District of Odisha on 02.06.2023 involving severe causalities and injuries to the passengers. Since 2016, whenever major train accident happened, a detailed information was called for by RCT from Railway Board regarding list of victims/injured passengers along with their address so that same may be provided to respective Bench for further necessary action.

Railway Board is also requested to issue necessary directions to concerned Zonal railway to put in place a proper system for getting petitions filed in seamless manner as the very purpose of formation of the Tribunal is to help the needy litigants immediately with instant claims disposal without procedural delay.

If approved, a reference may be made to Railway Board in respect of Train Accident of Howrah-Chennai Express (12841) and Bangalore-Howrah Express (12864) at Bahanaga Bazar railway station in Balasore District of Odisha on 02.06.2023 for obtaining details of victims and issuing necessary directions to concerned Zonal railway, so that claim settlements may be done in seamless manner.

A proposed draft letter to the Railway Board is put up for kind consideration of Hon'ble Chairman please."

2. The above said note was approved on the administrative side by the Chairman of the Tribunal and a letter was sent to the Railway Board. In pursuance thereof, on 14th June 2023, the Railway Board has sent the following letter to the Registrar of this Tribunal:-

"Sub: Payment of compensation to the victims of train accident of Train No. 12841 SHIN- MAS Coromandal Express on 02.06.2023 near Bahanaga Bazar Station, Kharagpur Division of South Eastern Railway.

Please find enclosed a list of victims in the subject accident, for your perusal and necessary action please."

3. The Office, taking into account the residential address of the deceased/injured victim, had prepared the following table:-

List of cases received from Railway Board pertains to Benches in which jurisdiction of cases lies based on the residential address of the deceased/injured

S.No	Name of the Bench	Death	Injury	Total
1.	Kolkata	93	35	128
2.	Bhubaneshwar	33	24	57
3.	Patna	43	14	57

4.	Ranchi	10	2	12
5.	Chandigarh	1	0	1
6.	Bhopal	0	1	1
7.	NA (In which no address is given as claimant)	13	77	90
8.	Total	193	153	346

A list pertaining to each Bench is being made part of this order and is being sent to respective Benches for ready reference.

4. The Office has further submitted that two passengers in the list were residents of Bangladesh and Nepal respectively, and therefore, in respect of them, the place of accident is to be considered for institution of claim applications. Regarding 13 persons who died in the incident and 77 persons who received injuries (in all 90 persons), no details are available regarding the address of the deceased/injured victim. As and when their addresses are made available, further appropriate directions shall be issued. However, till then, in respect of them, the place of accident be taken into consideration for initiating/ filing of claim applications at the Bench of the Tribunal having territorial jurisdiction over the place of accident; subsequently upon request made, the case can be transferred to the place of residence.

5. A list along with the table was put up before the Chairman on the administrative side. A direction was issued by the Chairman of the Tribunal that the cases be taken on judicial side suo-moto, and hence, the matter has been listed before this Bench.

6. In terms of Section 123 of the Railways Act, 1989 an accident is of the nature described under Section 124 of the Act. Section 124 of the Railways Act makes the Railway Administration liable for compensation in the manner prescribed for dependents of the deceased railway passenger or injured victim in a railway accident. Under the above Section, an accident occurs either by collision between the 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. The Section provides whether or not there has been any wrongful act, neglect or default on the part of the railway administration, a passenger, who has been injured or has suffered a loss could maintain an action and recover damages in respect thereof. The said provision enjoins that the railway administration, shall notwithstanding anything contained in any law, be liable to pay compensation, and in such an action, there is no scope for transferring the liability to any other person, who may have been responsible for the accident.

7. There has been a statutory enquiry constituted relating to the accident and it is learnt that there is no final outcome to the said inquiry. It is gratifying to note that the Railway Administration itself has offered ex-gratia payments to the

families of the deceased victims and to the injured applicants. To an injured victim and to a recipient of *ex-gratia*, there could be a dent to self-esteem, but if the payment is through a rights-based approach, it could be a redeeming sense of satisfaction and relief. The victims are apt to be perceived as recipients of just not acts of charity by the State, but deserving persons for compensations which the law prescribes as duty on the State. Through the proceeding of the Railway Administration, the persons in the schedule annexed have been recorded as victims and the payments against their names have been given to their family members in cases where victims have died or to the injured victims, as the case may be. This constitutes *prima facie* proof of the *bona fides* of the passengers' status and the liability of the Railways.

8. It has been the experience for victims of railway accidents to line up their claims before the Tribunal by resorting to individual applications under the Railway Claims Tribunal Act, 1987 to claim compensation as determined under the said Rules. The Railway Claims Tribunal Procedure Rules, 1989 sets out the form, in which the application has to be presented. The presentation of applications involves substantial loss of time and before adjudication takes place, the party ends up incurring substantial expenses including the fee payable to the legal practitioners. The Railway Administration is also put at a loss by having to shoulder the burden of interest from the time when the application is presented till the time when adjudication is made. The Railways Act, 1989

which particularly declares the liability norm for the Railways and the Tribunals acting under the Railway Claims Tribunal Act and the Rules that determine the compensation payable fall in the genre of beneficial legislation and the injured victims or their families shall be afforded the benefits under the Acts without having to needlessly wait for a long time before they realize the fruits which the law provides.

9. To skirt a long procedure and to enable parties to realize the benefits of compensation, I invoke the power as Chairman under the Railways Claims Tribunal Act to direct the Benches of the Tribunal, shown in the schedule annexed, to register cases on their file and assign to each injured applicant and to the family of the deceased individual case numbers and issue notices simultaneously to the respondent. The notices shall be sent to the applicants as well, who shall be the injured victims or members of the deceased victims named in the tabulation below. The date of hearing shall be fixed not later than six weeks from the date of issue and on being served, the Additional Registrars/Assistant Registrars of the respective Benches shall themselves offer assistance to the applicants to fill in the details of the applications in the manner required under the Railways Claims Tribunal (Procedure) Rules, 1989 in the forms as prescribed. The respective Benches shall be at liberty to seek assistance of Local Taluk Committee/District Committee/State Committees constituted under the Legal Services Authority Act for service of notices

identifying the victims or the family members of the deceased victims and in the matter of preparing filled-in applications after notice to the parties. If there are already applications in respect of any of the injured victims or the representative of the deceased, the details of such applications may be brought on file before disposal of the individual applications is made. The Benches of the respective Tribunals, to which this order is dispatched, shall register the cases in the manner referred to above and inform the details of cases so registered within a week from the date of receipt of a copy of this order.

10. It shall not be necessary to put any case through trial procedure of recording oral evidence except where the identity of applicants is an issue for verification or contest.

11. At the final disposal of the cases, the Tribunal shall also be at liberty to give directions of deposit of decretal amounts in the respective SB accounts of beneficiaries in terms of the directions issued in Geeta Devi Vs Union of India, decided by the Hon'ble High Court of Delhi in FAO 22/2015 & CM APPLN. 4501/2015 decided on 24.05.2019 and also in compliance of the GSR 347-E dated 3.6.2020.

12. A copy of this order be sent to Member (Operations and Business Development), Railway Board with a request to issue necessary directions to the concerned Zonal Railways and Presenting Officers of Benches of the Tribunal for getting the list of dead/injured passengers updated and get the claim

applications filed from the remaining litigants without any further delay so that
victims of the accident their kith and kin could be provided the desired solution.


(Justice Karan Singh Ahlawat)

Chairman