

Bill No. 91 of 2014

THE RAILWAYS (AMENDMENT) BILL, 2014

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BILL

further to amend the Railways Act, 1989

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Railways (Amendment) Act, 2014.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

24 of 1989. 5 **2.** In section 109 of the Railways Act, 1989 (hereinafter referred to as the principal Act), after clause (b), the following proviso shall be inserted, namely:—

Amendment
of section
109.

“Provided that the railway administration where the loss of life or personal injury to a passenger occurs shall be made a party amongst others, if any, before the Claims Tribunal.”.

10 **3.** In section 123 of the principal Act,—

Amendment
of section
123.

(a) after clause (a), the following clause shall be inserted, namely:—

“(aa) “accidental falling” means accidental falling of any passenger from a train carrying passengers but does not include—

(i) a passenger falling from a train while entering or leaving or attempting to enter or leave any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform, or other place appointed by the railway administration for passengers to enter or leave the carriage, or while standing near the door or opens the door of any carriage while the train is in motion; or 5

(ii) a person who violates the provisions of section 153 or section 154; or

(iii) any passenger or any other person referred to in section 156;'

(b) in clause (c), sub-clause (2) shall be omitted. 10

Insertion of new section 124B.

4. After section 124A of the principal Act, the following section shall be inserted, namely:—

Compensation on account of accidental falling.

“124B. When in the course of working a railway, an incident of accidental falling occurs, 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 the dependent 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, for the time being in force, 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 accidental falling: 15 20

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; 25
- (c) his own criminal act;
- (d) his own carelessness or negligence:

Provided that for the purposes of this clause, it may be established and proved by the passenger or on his behalf that he had taken reasonable care and precaution to avoid occurrence of such incident; 30

(e) any act committed by him in a state of intoxication or insanity.’’.

STATEMENT OF OBJECTS AND REASONS

At present, the provisions of section 109 of the Railways Act, 1989 provides that an application before the Claims Tribunal for compensation for loss of life or personal injury to a passenger, may be instituted against,—

- (i) the railway administration from where the passenger obtained his pass or purchased his ticket, or
- (ii) the railway administration on whose railway the destination station lies, or
- (iii) the loss or personal injury occurred.

2. The options made available for filing of claims are misused and claims against different railways are filed for the same loss or injury, resulting into filing of duplicate and false claims by the claimants causing loss to the exchequer. To prevent this, it is considered necessary that the railway under whose jurisdiction the loss or injury has occurred should as a rule be made a party amongst others, if any, before the Railway Claims Tribunal, so that the railway under whose jurisdiction loss or injury occurred can check, if the claim against such loss or injury has already been filed.

3. Under sub-clause (2) of clause (c) of section 123 of the Railways Act, 1989, accident cases of ‘the accidental falling’ of any passenger from a train carrying passengers has been included in the definition of ‘untoward incident’. Most of the cases of ‘the accidental falling’ arising out of falling down from train are because of negligence, carelessness and misadventure on the part of the passengers while entraining and detraining a moving train knowing that any accident may take place. However, railways are being made liable to pay compensation even when there is no fault on the part of railway.

4. Therefore, cases of ‘accidental falling’ will be categorised separately under clause (aa) in section 123 to enable railways to ensure its liability when there is fault on its part and non-payment where there is no fault on its part in such incidents.

5. Through the proposed amendments, the filing of duplicate claims, by making different railways as party for the same claim, could be avoided, and the settlement of compensation in train accidents and untoward incidents, where there is fault on the part of railway, will be expedited. Accordingly, it is proposed to amend the Railways Act, 1989.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 30th July, 2014.

D.V.SADANANDA GOWDA

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to insert a new section 124B in the Railways Act, 1989. Under the said section, the railway administration will pay compensation to a passenger who has been injured or to his dependent in case of his death, if an incident of accidental falling occurs, but no compensation will be paid due to his negligence, carelessness etc. As the compensation for the cases mentioned in the proposed amendment is already being paid by the railways, no additional financial implications are involved. Instead, loss to the exchequer could be avoided by ensuring that railway is not made liable to pay compensation in accidents caused due to carelessness and negligence on the part of travelling passengers. The provisions of new section 124B do not involve any additional expenditure of non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to insert a new section 124B in the Railways Act, 1989. Under the said section, the extent of compensation payable to any person in case of death or injuries will be prescribed by rules made under section 129 of the said Act.

2. The matters in respect of which rules may be made are matters of administrative detail, and as such, it is not practicable to provide for them in the Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE RAILWAYS ACT, 1989

(24 OF 1989)

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Railway
administration
against which
application
for
compensation
for personal
injury is to be
filed.

109. An application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against,—

* * * * *

(b) the railway administration on whose railway the destination station lies or the loss or personal injury occurred.

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CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO PASSENGERS
DUE TO ACCIDENTS

Definitions.

123. In this Chapter, unless the context otherwise requires,—

* * * * *

(c) “untoward incident” means—

* * * * *

(2) the accidental falling of any passenger from a train carrying passengers.

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LOK SABHA

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BILL

further to amend the Railways Act, 1989

(Shri D.V. Sadananda Gowda, Minister of Railways)