भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड) (Railway Board)

No. 2016/CE-I/Misc/12/compensation New Delhi, dated 05.11.2018

As per list attached,

Sub: Grant of compensation to the dependents of the victims who die or victims who become permanently disabled resulting solely and directly from any unintended and unforeseen injurious occurrence caused at railway premises during the maintenance, operation and provisioning of any public services undertaken by the Ministry of Railways

Hon'ble High Court of Delhi in case No. FAO 154/2013 & CM No. 5185/2013 and FAO 262/2013 & CM No. 9569/2013 in the matter of WRITER SAFEGUARD LTD Versus COMMISSIONER UNDER EMPLOYEES COMPENSATION ACT AND ORS has directed the Government of India to frame Policy for payment of compensation to the victims/family of victims who die or become permanently disabled while carrying out hazardous jobs within public premises.

2. Accordingly, Ministry of Railways has framed guidelines for grant of compensation to the dependents of the victims who die or victims who become permanently disabled resulting solely and directly from any unintended and unforeseen injurious occurrence, caused at railway premises during the maintenance, operation and provisioning of any public services undertaken by the Ministry of Railways. The guidelines are enclosed as Annexure-I.

3. All concerned are advised to adhere to these guidelines.

4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways, Railway Board.

DA: Annexure.

Prem Sagar
05.11.2018
(प्रेम सागर गुप्ता)
कार्यकारी निदेशक /सिविल इंजी.(जी)
रेलवे बोर्ड

No. 2016/CE-I/Misc/12/compensation New Delhi, dated 05.11.2018

Copy forwarded for information and necessary action to:

(i) PFAs, All Indian Railways.
(ii) Dy. Comptroller and Auditor General of India Railways), Room No. 224, Rail Bhawan, New Delhi.

For Financial Commissioner/Railways

LIST FOR DISTRIBUTION

1. General Managers, All Indian Railways & Production Units.
2. General Manager (Con.), N.F. Railway, Guwahati.
3. General Manager /CORE, Allahabad.

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(B)

1. Director General, RDSO, Manak Nagar, Lucknow.
2. Director General, NAIR, Vadodara
3. Director, IRICEN, Rail Path, Pune – 411 001 (Maharashtra).
4. Director, IRISET, Secunderbad.
5. Director, IRIEEN, Nashik Road.
6. Director, IRIMEE, Jamalpur.

(C)

1. MD, DMRC, Metro Bhawan, 13, Fire Bridge Lane, Barakhamba Road, New Delhi- 110 001,
2. MD, CONCOR, Concor Bhawan, C-3, Mathura Road, Opp. Apollo Hospital, New Delhi-110076.
3. MD, IRCON International Limited, C-4, District Centre, Saket, New Delhi- 110017
4. MD, RITES Ltd., RITES Bhawan, Plot No.1, Sector-29, Gurgaon.
5. MD, RVNL, August Kranti Bhawan,Plot No.25, 1st Floor, Bhikaji Cama Place, New Delhi.
6. MD, MRVC Ltd., Churchgate Station Bldg, Mumbai- 400020
7. MD, KONKAN Railway Corporation Ltd, CBD Belapur, Navi Mumbai - 400614.
8. MD, DFCCIL, 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi-110001
9. MD, RLDA, Near Safdarjung Railway Station, Moti Bagh, Phase-I, New Delhi- 110021
10. MD, CRIS, Chanakyapur, New Delhi.
11. CMD, RailTel Corporation of India Ltd. Plot No. 143, Institutional Area, Sector-44, Gurgaon – 122003.
12. CMD, Indian Railway Catering and Tourism Corporation (IRCTC), 9th Floor, Bank of Baroda Building, 16, Parliament Street, New Delhi-110001
13. CME, IROAF, 12th Floor, Core-1, Scope Minar, Distt. Centre, Laxmi Nagar, Delhi- 110092
14. CAO (Workshop Projects), Chamber Bhawan, Judge's Court Road, Anta Ghat, Patna-800001, Bihar.

Copy to:

CRB, ME, M(Tr.), MT, MS, M(RS), FC, DG(S&T), DG(RS), DG(RHS), DG(RPF), DG(Personnel), AM(CE), AM(Works), AM(ME), AM(PU), AM(B), AM(F), AM (Planning), AM(Elec.), AM(Signal), AM(Telecom), AM(RS), AM(Staff), AM(T&C), AM(C&IS), Secretary/Railway Board, PED(Projects), PED/SDE, PED(Bridges), PED(Vigilance), PED(Transformation), PED(Safety), PED(Accounts), PED(Mobility), PED(Infrastructure), ADG(PR), Legal Adviser/Railway Board, Sr.EA, EDSE.

Prem Sagar
Singh

Annexure-I

GUIDELINES FOR SETTLEMENT OF CLAIMS FOR COMPENSATION ON ACCIDENTS APPLICABLE TO THE MINISTRY OF RAILWAYS AND PUBLIC SECTOR UNDERTAKINGS UNDER ITS CONTROL

PREAMBLE

1. Accidents are unfortunate incidents, occurrence of which cannot be obliterated completely, but can only be minimized by adopting most vigilant practices, safety precautions etc. Sometimes accidents do happen when responsibility and liability cannot be affixed on certain individuals or malfunctioning of certain machinery and the Law recognizes the Principle of "No Faulty Liability" for such unfortunate incidents. In such cases, the loss of life and loss of dependency cost of the dependents of such victims cannot be written off merely on the pretext that fault on the part of Government cannot be substantiated for want of sticker proofs. Further, being in public domain and mandated by the constitution to work for the larger interest of the society, it is expected from the Government entities to pay a just compensation for any loss of life or a good life to the victims or dependents of such victims in addition to the existing provisions under various welfare legislations. Government being the model employer is required to undertake certain duties.

2. The need of payment of such compensation by the Government to the sufferer of such accidents is recognized and stressed upon by the Hon'ble Courts in various judgements and more recently in FAO/2013 and & CM No. 5185/2013, wherein Hon'ble High Court of Delhi has directed to frame standard policy of payment of compensation to the family of victims who die or become permanently disabled while carrying out hazardous jobs at the sites or places within Government premises. The Hon'ble court recognizing the principle of strict liability has issued directions to frame the guidelines in consonance of the concept of Welfare State enshrined in the Constitution of India.

3. Keeping in view the above scenario and directions of Hon'ble High Court of Delhi in FAO 154/2013 & CM No. 5185/2013 in the matter of WRITER SAFEGUARD LTD Versus COMMISSIONER UNDER EMPLOYEES COMPENSATION ACT AND ORS, the guidelines for payment of compensation to the dependents of the victims who die or victims who become permanently disabled at railway premises due to unforeseen causes in connection with railway activities is prepared and attached herewith.

4. While formulating these guidelines, it has also been considered that Government has responsibilities towards well being of its employees and they have only that organization to depend upon in the event of the occurrence of any accident. In case of contractor's employees, Government has implied indirect responsibility towards their well being, whereas in the case of a person who is

Prem Sagar
Singh

neither Government employee nor a Contractor's employee, there is no direct or strict responsibility with respect to paying any compensation in case of death or injury due to accident. However, keeping in view of the larger perspective of public welfare, Government should pay some compensation in their cases also. They would also be eligible for compensation from their respective employers in addition to the compensation under these guidelines.

5. Keeping above in view these policy guidelines are framed for grant of compensation to an **outsider** falling victim at railway premises due to unforeseen causes in connection with railway activities.

6. The amount of compensation in such a case shall be as per the proviso of Part I & II of Schedule under Rule 3 of Railway Accidents and Untoward Incidents/Compensation Rules, 1990, framed in exercise of powers conferred under Section 129 of Railways Act, 1989 (24 of 1989) and as amended from time to time.

7. The definition of 'dependent' shall be taken as mentioned in Section 123(b) of Railway Act, 1989 (24 of 1989 and as amended from time to time.

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GUIDELINES FOR SETTLEMENT OF CLAIMS FOR COMPENSATION ON ACCIDENTS APPLICABLE TO THE MINISTRY OF RAILWAYS AND PUBLIC SECTOR UNDERTAKINGS UNDER ITS CONTROL

1. **Title:** These guidelines would be called as Guidelines for Settlement of Claims for Compensation.

2. **Effective Date:** The guidelines would be effective from _____.

3. **Applicability:** These guidelines would govern the settlement of compensation claims arising out of accidents resulting into loss of life or permanent disability.

4. **Definitions:**

   a) **Accident**: Any death or permanent disability of a victim resulting solely and directly from any unintended and unforeseen injurious occurrence excluding trespass caused during the maintenance, operation and provisioning of any public services undertaken by the Ministry of Railways.

   b) **Competent Authority**: General Manager of Zonal Railway/Production Unit or Chairman & Managing Director/Managing Director of Public Sector Undertaking under the control of the Ministry of Railways, as the case may be, **shall designate the 'Competent Authority'** for receiving, processing and sanctioning of the claims under the present guidelines.

   c) **Appellate Authority**: 'Appellate Authority' means General Manager of Zonal Railway/Production Unit or Chairman & Managing Director/Managing Director of Public Sector Undertaking under the control of the Ministry of Railways, as the case may be.

   d) **Dependent:** As defined in Section 123(b) of Railway Act, 1989 (24 of 1989) and as amended from time to time.

   e) **Ministry**: Ministry means Ministry of Railways and for the purpose of the present guidelines also includes Public Sector Undertakings under the control of the Ministry of Railways.

   f) **Permanent Disablement**: A disablement that is classified as a permanent total disablement under the proviso of Part II of Schedule under Rule 3 of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 framed under Section 129 of Railway Act, 1989(24 of 1989) and as amended from time to time.

Prem Sagar

g) **Victim:** Any outsider, as per clause 4(h) who suffers permanent disablement or dies in an 'accident' defined in clause 4(a) above.

h) **Outsider:** Any person other than 'railway employee', railway contractor/sub-contractor', 'employees/casual workers of railway contractor/sub-contractor' engaged in concerned railway activity, 'railway passengers' and 'railway trespassers'.

5. **Detailed Accident Report:** The Report prepared by the police within a period of thirty (30) days from the date of incident as per Schedule-I of this guidelines.
Explanation:- For the purpose of preparation of the 'Detailed Accident Report', the word "injury" as referred in Schedule-I refers to "permanent disablement" as mentioned in clause 4(f) of the Guidelines.

6. **Extent of Liability:** On the occurrence of any "accident" as defined under these Guidelines, the Ministry shall, whether or not there has been any wrongful act, neglect or default on its part and notwithstanding anything contained in any other law, be liable to pay compensation to such extent as stipulated in Part I & Part II of Schedule under Rule 3 of Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 as amended from time to time.

7. **Procedure for settlement of claims in respect of compensation**

a) The victim or his/her dependents would make an application within a period of 90 days of the accident to the office of 'Competent Authority' under whose jurisdiction the accident had occurred. The application preferred beyond the stipulated period of 90 days, shall be decided by the 'Competent Authority' on merits on case to case basis. The application should be accompanied by the following documents:

i. Name and address of the claimant/victim;
ii. Brief description of the accident with date, time, place of occurrence, details of injury;
iii. Proof of age of the victim;
iv. Death certificate of the victim; OR
Permanent disability certificate issued by the Medical Board authorized by the Government;
v. Certified copy of FIR lodged in respect of the accident; and
vi. Proof of applicant's relation with the victim/Dependency Certificate.

The 'Competent Authority' may seek any further documents for settlement of claim to its satisfaction.

Prem Sagar

Provided that where there are more than one dependent, the Applicant must mention their names, addresses and relation with the victim and the 'Competent Authority' may at its own discretion, issue notices to all before releasing the compensation.

b) The office of Competent Authority on receipt of above application shall take into consideration the "Detailed Accident Report" submitted by the Police Authority and would process the claim of compensation on priority basis and make efforts to dispose off the same within a period of sixty (60) days from the date of receipt of the application.

c) With effect from the issue of the present guidelines, all contracts/agreements to be entered into by the Ministry of Railways with any person or agency for maintenance, operation and provisioning of public service henceforth would invariably include a clause whereby any compensation paid under these guidelines shall be recoverable from such concerned person, agency or firm from their bills/pending dues in that contract or any other contract on Indian Railways or any other Government organisation.

d) In no case, claim for appointment of any of the dependents on the compassionate grounds would be entertained by the Ministry of Railways.

8. Method of Disbursement of compensation

i. The amount of compensation so awarded, shall be deposited in a Nationalised Bank or if the branch of a Nationalised Bank is not in existence, it shall be deposited in the branch of a Scheduled Commercial Bank, in the joint or single name of the victim/dependent(s). Out of the amount so deposited, 75%(seventy percent) of the same shall be put in a fixed deposit for a minimum period of one year and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s) as the case may be.

ii. In the case of a minor, 75% of the amount of compensation so awarded shall be deposited in the fixed deposit account and shall be drawn only on the attainment of the age of majority but not before one year of the deposit provided that in exceptional cases, amounts may be withdrawn for educational or medical needs of the beneficiary at the discretion of the Ministry of Railways.

iii. The interest on the sum shall be credited directly by the bank in the savings account of the victim dependent(s).

9. **Appeal**: An appeal against the decision of the 'Competent Authority' in respect of the amount of compensation or rejection of such claim shall be made to the 'Appellate Authority' within a period of thirty (30) days of such decision.

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SCHEDULE-I

PART- I - PARTICULARS OF THE ACCIDENT		
1.	FIR No. .., Date and Under Section	
2.	Name of the Police Station	
3.	Date, Time, Place of the accident	
4.	Who reported the accident to the police	
5.	Name of the Person who took the victim to the hospital and Name of the Hospital	
6.	Whether any hospital denied treatment to the Victim?	
7.	Nature of the accident :- (i) Whether resulted in death or injury or both? (ii) Number of persons injured/died.	
8.	Name and Contact No. of the Investigating Officer	
9.	Name of the witnesses of the accident	
10.	Description of the accident	

Prem Sagar
Advocate

8

PART- II - IMPACT OF THE ACCIDENT ON THE VICTIMS		
1.	Death Cases :- a) Name and Address of the deceased b) Age c) Gender d) Education e) Occupation f) Income (Monthly) g) Legal Heirs/Guardian i. Name ii. Relationship iii. Age iv. Address v. Contact No.	
2.	Injury Cases (permanent disablement) a) Name and address of the injured b) Age	

Prem Sagar

c) Gender

d) Education

e) Occupation

f) Income (Monthly)

g) Details of family dependent of the victim

MLC No.

h) Nature of injuries

i) Name of the Hospital where the injured treated

j) Whether victim refused medical treatment

k) Period of hospitalization

l) Period of treatment

m) Whether treatment continuing

n) Name, address and contact number of the doctor (s) who treated the injured

o) Whether the injured underwent any surgery? If yes, then give particulars.

	p) Whether suffered any permanent disability. q) Expenditure incurred on treatment conveyance, special diet, attendant etc. Give details, if available. r) Whether the injured got reimbursement of medical expenses from his employer or under a mediclaim policy. Give details, if available. s) Whether the injured was provided cashless treatment by the Insurance Company? Give details, if available.	
3.	Any other relevant information.	

PART-III - RELEVANT DOCUMENTS TO BE ATTACHED		
1.	First Information Report	
2.	Photographs of the scene of the accident from all angles	
3.	Statement of the witnesses recorded by the Police.	
4.	Scientific report, if the Victim was under the influence of any liquor/drugs	
5.	**In case of Death.** a) Post Mortem Report b) Death Certificate c) Photograph and proof of the identity of the Dead.	

	d) Proof of legal representatives of the deceased. e) Photograph, specimen, signatures attested by the bank and Identify proof of the legal representatives of the deceased. f) Treatment of the deceased with name and address of the Hospital. g) Bank account No. of the legal representatives of the deceased.	
6.	**In case of Injury** a) MLC b) Multi angled photographs of the injured c) Photograph, specimen, signatures attested by the bank and identify proof of the Injured. d) Disability certificate	
7.	Any other relevant information.	

VERIFICATION

Verified at _____ on this _____ of _____, that the contents of the above report are true and correct and the documents mentioned in Part III have been verified.

Station House Officer
(Name and Stamp)

Assistant Commissioner of Police
(Name and Stamp)

Prem Sagar
Sidungh