

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No....279/01.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....O.A. 279/01.....Pg.....1.....to.....5.....D.O. 4/12/02
2. Judgment/Order dtd.....4/12/02.....Pg.....1.....to.....4.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....279/01.....Pg.....1.....to.....21.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....O.A. 279/01.....Pg.....1.....to.....17.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ORDER SHEET

APPLICATION NO. 279 OF 2001

APPLICANT (s) Ent. Hemanta Kumar Baruah

RESPONDENT (s) U.C.I. Toms

ADVOCATE FOR APPLICANT(s) Mr. U.K. Goswami, Miss U.D. As

ADVOCATE FOR RESPONDENT(s) CGS.C (Railway Counsel)

Notes of the Registry	dated	Order of the Tribunal
<u>Recd. in Regd. Office</u> <u>for filing</u> <u>vide C.P.</u> <u>to I.P.U.L.</u> <u>IPU.L. No. 56424.195</u> <u>Dated</u> <u>12.6.2001</u> <i>Step taken action</i> <i>by D.R. Register.</i> <i>24/7/01</i>	<u>26.7.01</u>	Issue notice on the respondents to show cause as to why the application shall not be admitted, returnable by four weeks. Mr. S.Sarma, learned counsel for the respondents accepts notice on their behalf. List on 23.8.2001 for admission.
	<u>bb</u>	<u>141 (Chairman)</u> <u>Member</u>
	<u>23.8.01</u>	<u>24/9/01</u> List on 24/9/01 as prayed for Mr. S.Sarma, learned counsel for the respondents to obtain necessary instructions.
	<u>mb</u>	<u>Vice-Chairman</u>
	<u>16.11.01</u>	<u>6/12/01</u> List on 6/12/01 for admission.
	<u>mb</u>	<u>141 (Chairman)</u> <u>Member</u>
		<u>Vice-Chairman</u>

Notice prepared and sent to D/S for sending the respondent No. 1 to 4 by Regd. A.D. vide D/I No. 2884/1584 dated 2/8/01

17/8/01

① Service report are still awaited.

By
22/8/01

2
No. written statement
has been filed.

3-1-02

6.12.01

Mr. U.K. Nair appearing on behalf
of Mr. S. Sarma, learned counsel for the
respondents submitted that a reply will
be filed shortly by the respondents.

List the case again on 4.1.2002
for admission.

3
Member (J)

IC Usha
Member (A)

bb

No. Wks has been filed.

3-1-02

4.1.02

List on 22.1.02 to enable
the parties to obtain necessary
instructions.

IC Usha
Member

Vice-Chairman

No. written statement
has been filed

3-2-02

1m

22.1.02

List on 20.2.2002 to enable the
respondents to obtain the instructions
or to submit its reply.

IC Usha
Member

Vice-Chairman

mb

20.2.02

List again on 14.3.2002 for admi-

ssion.

IC Usha

Member

Vice-Chairman

3-3-02

mb

14.3.2002

List on 1.4.2002 for admission.

IC Usha

Member

Vice-Chairman

bb

No. written statement
has been filed.

3-5-02

1.4.02

After hearing Mr. S. Sarma, learned
counsel for the Respondents, the application
is admitted. Call for the records.

List on 6.5.2002 for orders.

IC Usha
Member

mb

(3)

97

O.A. No. 279/2001

Notes of the Registry	Date	Order of the Tribunal
No. written statement has been filed	6.5.02 <i>31.5.02</i>	List on 3/6/2002 to enable Mr. S. Sengupta, learned counsel for the Railway to file written statement. K C Usha Member
	3.6.02 <i>5.6.02</i>	List on 5.7.02 for orders. K C Usha Member
Notes of the Registry	5.7.02 <i>8.8.02</i>	One to consider setting at Argusheh the case is adjourned to 15/8/2002 K C Usha Member
No. written statement has been filed	15.7.02 <i>11.9.02</i>	List again on 19.8.2002 to enable the respondents to file written statement. K C Usha Member
No. ws has been filed	9.10.02	

19.8.02

List again on 12.9.2002 to enable the Respondents to file written statement if any.

K Chawla

Member


Vice-Chairman

mb

12.9.02

Mr S. Sengupta, learned Railway standing counsel stated that the respondents are filing written statement within a short time. He also stated that enquiry was conducted and enquiry report was received by the authority. He prays for four weeks time to file written statement.

List on 10.10.02 for order.


Vice-Chairman

pg

10.10.02

Mr. S. Sengupta, learned Standing counsel for the Railway stated that he is filing written statement shortly. Considering the facts and circumstances of the case ~~pxxx~~ prayer is allowed. List again on 18.11.2002 for written statement and further orders.

K Chawla

Member


Vice-Chairman

mb

18.11.02

On the prayer of Mr. S. Sengupta learned counsel for the respondents further two weeks time is allowed to file written statement. List on 2.12.2002 for orders.

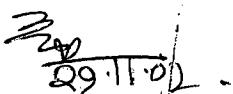
K Chawla

Member


Vice-Chairman

mb

No written statement has been filed.


29.11.02

Note of the Registry	Date	Order of the Tribunal
	2.12.2002	List on 4.12.2002 for orders. I C Usha Member
27.12.2002 Copy of the Judgment has been sent to the Opp. for filing the same to the appellate as well as to the Rly. Adv. for the Respondent H	4.12.2002 bb	Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs. I C Usha Member
		Vice-Chairman

6

Note of the Registry	Date	Order of the Tribunal

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXX No. 279. of. 2001..~~xx~~

DATE OF DECISION. 4.12.2002.....

Smti Hema Lata Mudoi

APPLICANT(S)

Mr.U.K.Goswami, U.K.Nair & Ms.U.Das. ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Others.

RESPONDENT(S)

Mr.S.Sengupta

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches :

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 279 of 2001.

Date of Order : This the 4th Day of December, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Smti Hema Lata Mumoi
Wife of Girin ch. Mudoii
Santipur, Guwahati - 9. . . . Applicant.

By Advocates Mr.U.K.Goswami, U.K.Nair & Ms.U.Das.

- Versus -

1. The Union of India

Represented by the Secrretary
to the Government of India
Ministry of Railways
Maligaon, Guwahati-1.

2. The General Manager

North Eastern Frontier Railway
Maligaon, Guwahati - 11.

3. The Divisional Railway Manager (P)

North East Frontier Railways
Lumding, Dist:-Nagaon
Assam.

4. The Station Master

N.F.Railway, Digaru Railway Station
Digaru, Dist:- Kamrup. . . . Respondents.

By Mr.S.Sengupta, Rly. counsel.

O R D E R

CHOWDHURY J.(V.C.):

In this application under section 19 of the Administrative Tribunal Act, 1985 the applicants, mother of Mridul Mudoii, an employee of Railways died in a railway accident that took place on 1.6.99, prayed for direction on the respondents to release all admissible dues including pension to the applicant and other reliefs.

1. Admittedly, the son of the applicant died in a railway accident. This Tribunal is not the appropriate forum for adjudication of the claims payable to an accident victim. Mr.U.K.Nair, learned counsel for the applicant submitted that in this application the applicant also prayed for the reliefs which the legal heir of the deceased is entitled namely, unpaid salary to the deceased, money payable in conformity with the General Insurance Scheme, family pension and DCRG. The learned counsel submitted that since those are not paid to the deceased the applicant made this application praying the Tribunal to look into all the aspects of the matter.

2. The Railways submitted its written statement. Though assailed the maintainability, it fairly stated that there are some dues payable to the legal heir of the deceased Mridul Mudoi. The admitted claims of the legal heir is reproduced below as stated in Para 11 of the written statement.

(i) Salary for the period from 22.4.99 to 1.6.99 amounting to Rs.7820/- consequent on his death. The amount was passed under C.O.7 No.34 L.E. dated 9.6.99. But the amount is still lying unpaid vide unpaid list No.88/Tfc/June/99/26 dated 26.7.99. But the same could not be paid to the legal heir of the deceased for non-submission by the legal heirs about the -

- (a) mode of payment;
- (b) death certificate;
- (c) death and heirship certificate.

(ii) Rs.29,989/- is due to be paid to the legal heir of Late Mudoi against the G.I.S.(i.e. General Insurance Scheme); and

(iii) Family pension in favour of the applicant/legal heir/deponent which has been fixed at Rs.1350/- with effect from 2.6.99; and

(iv) D.C.R.G. (i.e. Death-cum-Retirement Gratuity) Rs.11,880/- due to be paid to the legal heir of Sri Mudoi.".

According to the respondents, those amounts are payable to the legal heir, but the same could not be done in the absence of necessary legal documents like heirship or succession certificate etc. In the written statement the respondents also stated that no P.F. subscription was recovered from the deceased as he could not complete one year service and as such no amount on that account was payable. Similarly, as no leave was due to Late Mudoi, no leave salary was also admissible on that account.

3. We have heard Mr.U.K.Nair, learned counsel for the applicant and also Mr.S.Sengupta, learned Standing counsel appearing on behalf of the Railways. It thus emerges that there are some dues to the deceased, which the Railway authorities are eager to pay subject to availability of those certificates like (i) death certificate (ii) death and heirship certificate etc. Mr.U.K.Nair, learned counsel for the applicant submitted that within a fortnight the applicant will be able to submit the said documents. We accordingly direct the applicant to submit the necessary documents before the authority as expeditiously as possible and the Railway authority shall thereafter settle the outstanding admissible dues to the authorised person within a period of two months from the

receipt of the necessary documents.

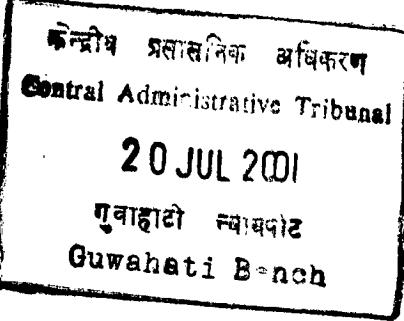
Subject to the observations made above, the application stands disposed of.

There shall, however, be no order as to costs.

K K Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

(D.N.CHOWDHURY)
VICE CHAIRMAN

bb



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

D. A No. 279 /2001

BETWEEN

Smti Hema Lata Mudoi

... Applicant.

- AND -

Union of India & Ors.

INDEX

Sr. No.	Particulars of the case	Page
1.	Application	10
2.	Verification	11
3.	Annexure A	12
4.	Annexure B	13 - 15
5.	Annexure C	16
6.	Annexure D colly	17, 18
7.	Annexure E	19 - 21

Filed by U.K. Goswami
Advocate:

Filed by:
the Applicant
through
Mridul Kumar Gour
Advocate

20-7-2001

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(Application under Section 19 of the Central
Administration Tribunal Act, 1985)

O.A. No. of 2001

BETWEEN

1. Smti Hema Lata Mudoi, wife of
Girin Ch. Mudoi, Santipur,
Guwahati-9.

... Applicant

AND

1. The Union of India, represented
by the Secretary to the
Government of India. Ministry
of Railway, New Delhi-1,
2. The General Manager, North-East
Frontier Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway Manager
(P), North East Frontier
Railways, Lumding, District-
Nagaon, Assam.
4. The Station Master, N.F.
Railway, Digaru Railway
Station, Digaru, District-
Kamrup.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The instant application is not directed against any particular order, but against non-consideration of the representations of the Applicant regarding enquiry to the accident took place in Digaru Railway Station on 1.6.99, which resulted in death of her son Mridul Mudoi. Who got his appointment as Asstt. Station Master. The accident took place which her said deceased

H. Mukherjee

son Mridul Mudoi during the course of his employment as Asstt. Station Master, Digaru Station.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such she is entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2 That the Applicant is the mother of her deceased son (Mridul Mudoi) who was an employee of NF Railway and died as a result of an accident took place in Digaru Railway Station on 1.6.99 while he was on duty. Thereafter, the Applicant made representation to the Respondents describing therein the entire facts and circumstances amounting the death of her said son and with a prayer for an early enquiry into the matter. But till date the Respondents authority did not look into the matter, inspite repeated prayer before the authority for commission of an enquiry but the Respondent authority did not gave any reply to that

H. Muelo

effect. Hence this application.

4.3 That the present begs to state that by the order vide memo No. B/41/143/Pt.XIV(t)(TRAINEE ASM) dated 24.5.99 issued by the General Manager (P), Maligaon, Guwahati-11, the deceased Mridul Mudoi asked to report to the Divisional Railway Manager (P), Lumding on his successful completion of training as Trainee Station Master. Pursuant to the said order dated 24.5.99, Mridul Mudoi reported to the authority concerned for duty.

A copy of the order dated 24.5.99 is annexed as Annexure-A,

4.4 That the applicant begs to state that on 27.5.99 the Divisional Railway Manager (P), Lumding issued an office order vide memo No. DRM(P)'s Office/LMG whereby a list of 27 numbers of Trainee Assistant Station Master directed to attend their practical training programme in the respective training places/stations. Pursuant to that order, the said deceased Mridul Mudoi proceeded to the practical training in Digaru Railway station.

A copy of the office order dated 27.5.99 is annexed as Annexure-B.

4.5 That the applicant begs to state that deceased Mridul Mudoi used to attend the training programme from his Guwahati residence by daily passenger as he was not provided with any accommodation at Digaru Railway Station. On 1.6.99, as usual Mridul Mudoi had proceeded

M. Mudoi

to the Digaru Station with valid authority by 67 up Kapili Intercity Express from Guwahati and which reached Digaru Railway Station at about 11.10 AM. Unfortunately, due to heavy rush of passengers in the Kapili Intercity Express on that date day, said Mridul Mudoi was suddenly fell down from the train and same resulted his death on the spot. After such occurrence the RPF, Guwahati registered a case as U/D case bearing No. 20/99.

The Applicant craves leave of the Hon'ble Tribunal to direct the Respondents authority to produce the record of the case No. 20/99 at the time of hearing of the instant OA.

4.6 That the applicant begs to state that her said son died due to the accident occurred in the Digaru Railway Station during the time of his employment. The accident occurs on 1.6.99 which resulted the death of her son Mridul Mudoi.

The Applicant craves leave of the Hon'ble Tribunal to produce the copy of the Post Mortem report of the deceased Mridul Mudoi as and when required.

A copy of the certificate of death dated 11.8.99 is annexed as Annexure-C.

4.7 That the applicant begs to state that she made repeated requests before the Respondents authority and praying for an enquiry into the accident which resulted the death of her son Mridul Mudoi. Thereafter, the

H. Muelo

Applicant made a representation on 1.3.2000 to the Respondent No. 2 for an enquiry into the accident. But the Respondent concerned did not look into the matter. Then the Applicant again on 1.8.2000 made a reminder of her earlier representation. Till date there is no communication from the side of the Respondents to that effect.

A copy of the representation dated 1.3.2000 and the reminder dated 1.8.2000 is annexed as Annexure-D Colly.

4.8 That the applicant begs to state that finding no other alternative she approached to her Advocate and accordingly her Advocate issued a legal notice to the concerned authority on 28.2.2001. But till date no answer has been received from the Respondents.

A copy of the legal notice dated 28.2.2001 is annexed as Annexure-E.

4.9 That the applicant begs to state that the said deceased Mridul Mudoi was the elder son of the Applicant, who after successful completion of his education got the job of Asstt. Station Master under the Respondents authority. Like any other mother the Applicant had expectations from her said son. She had also the expectation that in the later stage of their life her deceased elder son will look after his parent. But the accident dated 1.6.99 has taken away her elder son from her as well as her all expectations regarding her elder son.

H. Muelia

4.10 That the applicant begs to state that her said son Mridul Mudoi died in an accident which occurred during the course of his employment. Inspite of the fact the Respondents authority did not look into the matter. Although the Applicant made several prayers to the Respondents authority under the relevant provisions of law, but till date nothing has been done so far in the matter and for that the Railway authority is liable to compensate to the family members of the deceased who died due to Railway accident. In the instant case the deceased being Railway employee, the Respondents authority ought to have made necessary arrangement to enable the Applicant to get the compensation amount and other dues as admissible under the Rules. Further more, the deceased being an employee under the Railway, therefore Applicant is entitled to family pension, exgrasia payment and other dues as per law. The Applicant visited the office of the Respondents to enquiry about the enquiry and its out come as well as the admissible dues but the said Respondents could not furnish her any affirmative reply to that effect. Hence the present OA seeking the appropriate relief.

4.11 That the Indian Railways being a model employer having highest number of employees ought to have taken due care to its employees more so the employee who died performing their devoted duty. However, in the present case it is not expected from the Respondents authority that an employee under such an organization who died almost two years ago and there was no enquiry into the matter and the family members of the deceased employee

M. Mudoi

not getting any compensation and dues as admissible under the relevant Rules.

4.12 That the applicant has got her vested rights to claim the compensation and the amount payable to her deceased son as an employee under Respondents authority in accordance with law. In the instant case, as it was not granted by the Respondents authority, the Applicant has a right to demand for it.

4.13 That the applicant demanded justice and which is denied to her and having no other alternative, she has come under the protective hands of this Hon'ble Tribunal.

4.14 That the applicant files this application bonafide and to secure the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action on the part of the Respondents in not conducting any enquiry into the accident which resulted death of the elder son of the Applicant is illegal and arbitrary and hence necessary directions need be issued to them for settlement of the same within a fixed time frame.

5.2 For that the action of the Respondents in not disposing of the matter inspite of repeated request and prayer before the Respondents authority amounts to failure at administrative fair play and same are liable to be set aside.

5.3 For that even after completion of almost 2 years to

H. Muddi

the accident, the authority concerned did not granted any compensation to the Applicant, which has resulted unnecessary complication to the family members and have necessary direction needs be issued for completion of the said enquiry and settlement of dues within a fixed time.

5.4 For that the Applicant pursued the matter before the Respondents but the Respondents kept silent, which amounts to total non application of mind by the Respondents.

5.5 For that the inaction on the part of the Respondents authority to arranging necessary enquiry into the accident amounting the death of the elder son of the Applicant who was an employee under Respondents authority is not at all tenable on the part of the Respondents who is the largest industry of the country and a model employer.

5.6 For that the inaction on the part of the Respondents authority to granting any compensation to the mother of the deceased Railway employee, is not maintainable taking into consideration various Rules/Regulation and guidelines issued by the Respondents from time to time.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

H. Mehta

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that she has exhausted all the remedies available to her under the law and there is no alternative remedy available to her any more. It is noteworthy to mention here that in RCT, the Applicant has preferred an appeal for "Accident Compensation" which is pending disposal before the same. However, the present dispute/claim has got no nexus with the said "accident claim".

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicants further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

- 8.1 To direct the respondents to release all the admissible dues including compensation to the Applicant and pass necessary orders to that effect.
- 8.2 To direct the Respondents to pay an interest @ 18 %

H. Melvi

on the delayed settlement of the admissible dues to the Applicant.

8.3 To direct the Respondents to make proper enquiry into the matter and after such enquiry pass necessary orders in terms of the findings of the enquiry to come to the exact conclusion of the cause of action of the accident and if anybody is found guilty, to punish him accordingly so that an example is set not to repeat the same.

8.4 Cost of the application.

8.5 Any other relief/reliefs to which the applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case the applicants pray for interim order directing the respondents to consider the case of the applicants.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 5G 424195
- ii) Date : 12-6-2001
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

H. Mehta

VERIFICATION

I, Smti Hema Lata Mudoi, aged about 47 years, wife of Girin Ch. Mudoi, resident of Santipur, Guwahati-9, do hereby solemnly affirm and verify that I am one of the applicant in this instant application and conversant with the facts and circumstances of the case. Thus I am competent to verify this case and the statements made in paragraphs 4'1,4'2,4'5, 4'9 to 4'14 & 5'1 to 5'6 are true to my knowledge ; those made in paragraphs 4'3,4'4,4'6 4'7 & 4'8 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 20 th day of July, 2001.

✓ *Hemalata Mudoi*

N.F. Railway

ANNEXURE - A

Office of the
General Manager (P)
Guwahati-781011

No.B/41/143/Pt.XIV(T) (TRAINEE ASM) Malignon dated 24 - 5 - 99

To : Shri/Smt. Mr. Mdridul Moudi (SC)

SM at Office.

Sub:- Posting of Trainee ASM in
scale Rs.4500-125-7000/- (RSP).
-0000-

On successful completion of training at Trainee Assignment Station
Lester, you are hereby directed to report to DIM(P) / L146 immediately
for appointment of ASM.

This letter will be treated as copy in 1 class from Kamakhya to
L146.

Ex-2
Ex-2
Ex-2

Copy forwarded for information and necessary action to :-

1) DAO / L146.

2) Principal/ZFC/PPM in terms of his letter No.Z/TR/32/Pt.
dated _____ . He will please ensure to send the LPO,

Merit position and training certificates of the staff concerned
to DIM(P) / L146 immediately.

3) DIM(P) / L146 . The above named staff was
recruited as Trainee ASM and was sent to the Training School
for training for a period of 5 months. He is Medically Fit
in Class 42. He has passed the unmentionable subjects from
the training school/illiparous junction.

(1) First . i.e (2) Engineering (3) Goods (4) Trains practice.

He should initially be put on practical training at three
different stations and certified fit to work independently as ASM
before he is posted to a Trainee post of ASM in scale Rs.4500-7000/-
(RSP). One Intimation card is sent herewith, on receipt of which
please be acknowledged.

4) All other with relevant
certificates and other relevant
papers and Intimation card.
RSP / L146 effects.

SC-2/146

To: General Manager (P)

-0000-

Attested
W. K. Gogoi
Advocate

NORTHEAST FRONTIER RAILWAY.

OFFICE ORDER.

DRM(P) 's Office/LMG

Dated 27-5-99

Sub:- Practical training of TR-ASM for a period of 21 days w.e.f. 28-5-99

The following TR-ASMs who have reported to this office on the dates as shown against each, are hereby booked for undergoing practical training for a period of 18 days commencing from 28-5-99 to 14-6-99 for the items No.(i) & (ii) given below at the stations as noted against each. On completion of the said training (item No.(i) & (ii)), they should report to TI/Training School/LMG for undergoing the practical training for a period of 3(three) days commencing from 15-6-99 to 17-6-99 for item No.(iii) given below and thereafter, they should report to this office for their suitability test to be conducted by Sr.DOM/LMG before their posting on appointment as ASM in scale Rs.4500/-7000/-.

SN	Name	Reported to this office on	Stations where booked for P/Training.
57/ Sri			
1)	Jagat Jiban Bora	25-5-99	DKE.
2)	Dip Sarmah	25-5-99	IXTB.
3)	Mridul Mudoi(SC)	25-5-99	MGX.
4)	Sanjay Das	25-5-99	HJO.
5)	Pinku Bordoloi	25-5-99	JTG.
6)	Sailendra Baruah(OBC)	25-5-99	LJO.
7)	Brojen Medhi	25-5-99	LFG.
8)	Chinmoy Das (SC)	25-5-99	MXR.
9)	Nabajit Kalita	25-5-99	PDJ.
10)	Milan Kalita	25-5-99	DJA.
11)	Gafforuddin Ahmed	25-5-99	LCT.
12)	Phukan Ch. Kalita	25-5-99	HJO.
13)	Bhaskar Jyoti Sarmah	25-5-99	DTC.
14)	Pollab Kr. Baruah	25-5-99	BKK.
15)	Ranjan Kr. Bhattacharjee	25-5-99	MGE.
16)	Ranjan Bharali (SC)	25-5-99	WDA.
17)	Manoj Kr. Mahanta	25-5-99	MBG.
18)	Monash Das (SC)	25-5-99	RQI

Contd... to P/21.

Aftered
Wing
Advocate

4 2 -

SN	Name	Reported to this office on	Station where booked for P/Prog.
S/Serial			
19)	Rajib Ahmed	26-5-99	MPP.
20)	Fazir Ali(OBC)	26-5-99	MPP.
21)	Dipak Das(SC)	26-5-99	M.CHE.
22)	Jayanta Borah(OBC)	26-5-99	J.T.M.
23)	Pulak Ch.Borman	26-5-99	MGK.
24)	Narswar Kalita	26-5-99	MED.
25)	Dilip Kr.Nath(OBC)	26-5-99	MJO.
26)	Satish Baruah(OBC)	26-5-99	MPP.
27)	Bipul Kr.Misra	26-5-99	PHI.

On completion of the training, SSS/SMs and TI/Training School/LMG should issue competency certificates in favour of each candidate as regards performance of their training. The competency certificates must be submitted to this office positively.

2M PROGRAMME OF TRAINING.

Item No. (i) :- Train operation under SSS/SM including block system working, precedence and crossings, SWR, Train Table, PSS, Amenities etc.

Item No. (ii) :- Under CYM at Transhipment, claims prevention, Marshalling, shunting, operating statistics, etc.

Item No. (iii) :- With TIs for safety rules, points lever and Signal operations, prevention of accidents and staff duties etc.

This issues as per orders of S.D.O.N/LMG.

for Divisional Railway Inspector (P),
U.F. Railway/ Lending

Contd... to P/3.

- 3 -

No.E/45-1 (TR-ASM) PV (T)

Date 20-5-99

Copy forwarded for information and necessary action to:-

- 1) TR-ASMs concerned at office. They are advised to report to the respective stations as indicated against each.
- 2) SSS/SMS-DKE, DJB, MGX, HDO, WTC, LJO, LFG, MXR, PLJ, DJA, LCT, HJO, DTC, BXK, MGE, MDV, MBG, KQI, MPP, BF, CME, PII.
- 3) TI/Training School/LMG. He will also issue competency certificates in favour of the above mentioned TR-ASM on completion of the training.
- 4) RAC(o) at office. He will maintain the attendance of the above TR-ASMs with HQ. at LMG from the dates they reported to this office for appointment as ASM.
- 5) OS/ET/Bill at office. During the period of training, the above mentioned TR-ASM will draw their pay on their present capacity. GM(P)/MLG vide their letter No. E/41/143/Pt XIV(T) (TR-ASM) dated 24-5-99 has stated that the above candidates reported to H.Q. Office/MLG on 22-4-99 and released from H.Q. Office/MLG on 24-5-99. The period may be treated as 'waiting for duty'.
- 6) SR. DOM/LMG & CYM/LMG & BPB.
- 7) SS/LMG. He will please issue E/D passes in 2nd Class Ex-LMG to the stations where they have been booked for training.

for Divisional Fly Manager (P),
N.E. Railway/ Lending.
21.05.99

Referred!
Wijayan
Advocate

xx
xx Form No. 10
2-3-4



Sl. No.
ক্রমিক নং

32758

GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(বাধ্য সেবা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্রমাণ পত্ৰ)



xx ISSUED UNDER SECTION 12 of the Registration of Births and Deaths Act, 1969.
xx ISSUED UNDER SECTION 17

xx (জন্ম আবু মুত্তুর পঞ্জীয়ন আইন ১৯৬৯ ব। ১২/১৭ অন্ত লিপিবদ্ধ)

xx This is to Certify that the following information has been taken from the
xx original record of Death which is in the register for.....Death.....
xx Registration unit of Sonsapuri of District Kamrup of the State of Assam.

xx ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য অসম বাজৰ ----- জিলাৰ ----- খণ্ড/
 xx পৌৰসভাৰ ----- মৌজাৰ অস্তৰ্গত ----- পঞ্চায়ান গেটৰ পঞ্চীন মূল অভিলোখৰ পৰা
 xx সংগৃহীত কৰা হৈছে।

Name/নাম : Md. Mdridul Mendoi

Nationality/जन्मभूमि - भारत -

Sex/sex: male -----

Permanent Address/સ્થાન ઠથાનું -----

xx Date of Death/মৃত্যুর তারিখ - ১৫-০৮-১৯ - Registration No./পঞ্জীয়ন নং - ১৫-১৫

Registration No./পঞ্জাব নং ২৫১৫
Place of Death/মৃত্যু স্থান Date of Registration /পঞ্জাব তারিখ

xx Name of Father/Mother/Husband/পিতৃ/মাতৃ/ Permanent Residential Address/পিতৃ/মাতৃর স্থায়ী ঠিকানা--

xx শ্রেণীর নাম----- ইগনান্তাতি Permanent Residential Address/পাঠ্য/মাটির হাজা ঠকনা
xx সারিপুর P.O- ইগনান্তাতি-q dist-Kannur
xx

xx Signature of issuing authority / জাৰি কৰা কৰ্ত্তৃপক্ষৰ চৰ্চা

1880-1881

Designation/পদবী _____ Date/তারিখ _____

Chief Registrar/মুখ্য পঞ্জীয়ক

xx Date/তারিখ
xx

Chief Registrar/মুখ্য পঞ্জীয়ক

1978. 10. 14

Affected
Workers
Advocate

ANNEXURE - D Colly

To,

The General Manager,
N.F. Railway, Maligaon,
Guwahati-781 011.

Date : 1st March' 2000.

Sub : Prayer for giving notice of the accident to the State Government and the Commissioner having jurisdiction over the place of the accident as per the provision of the Railway act, 1989.

Respected Sir,

With heavy heart and profound respect, I would like to bring to your kind notice that my son, Late Mridul Mudoj TR. ASM was booked for practical training vide order Dt. 27.5.99 of your office. Accordingly, he joined in the Digaru Rly. Station on 28.5.99 for the said training. being T.R. ASM, my son used to have training from the Guwahati residence by way of daily passenger as he had not been provided with dwel accomodation at Digary Rly. Station. So, on 1.6.99 my said son proceeded to the particular station with valid authority by 67 up Kapili Intercity Express from GIIY which arrived Digaru Rly. Station at about 11.10 A.M. But due to heavy rush of passengers in the Kapili Intercity Express on that day, my above named son, suddenly fell down from the said train and succumbed to death on the spot. After such occurrence, the GRP/GIIY registered on U/D case bearing No.20/99 and started investigation as per provision of Cr.p.c.

It mayt be mentioned here that my son who was an Railway Employee of N.F. Rly. lost his life consequent on circumstantial accident occurred in the kapili Intercity Express on 1.6.99 at about 11.10 A.M. at Digaru Rly. Station in course of his employment. But no notice of the said accident was either to the state Govt. or to the from the Railway side. On the other hand, the Rly. administration with in where jurisdiction such accident occurred should arrange an enquiry which have not yet been arranged till date regarding the extant procedure.

It is therefore prayed that your honour would be pleased to hold an inquiry on the matter as stated above as per the provision of the law in force and all such necessary reports may be communicated to the petitioner/mother who lost her beloved son untimely during the course of employment under the N.F. Railway for her better knowledge and satisfaction. i shall be greatful.

Yours faithfully,

Hema Lata Mudoj

(Hema Lata Mudoj)
W/o Sri Girin Mudoj,

Guwahati/Railway Station Colony,
Rly. Otr. No.B-S/20/D
near Namghar - Guwahati-781 001,
District - Kamrup, Assam.

*affixed
With regards
Attn: Colly*

*Added over to
a postcard at 3/3/00
on 13/3/00*

ANNEXURE-D Copy

RE/INDE

To,

The General Manager,
N.F. Railway, Maligaon
Guwahati - 781 001.

Date, 1st August 2000

Respected Sir,

Sub : **Prayer for giving Notice of the accident to the State Govt. and the Commissioner having jurisdiction over the place of the accident as per the provision of the Railway Act, 1989.**

Ref : **My appeal dated, 1st March'2000.**

In continuation of my appeal dated, 1.3.2000, I would like to inform you that I have not yet been favoured with any suitable action taken from your end against my prayer as I sought for in my appeal dated 1.3.2000. However, a copy of my aforesaid appeal is enclosed herewith for your kind perusal and taking suitable action immediately as prayed for.

In view of the above, I would request your honour kindly to intervene into the matter and a presto action is solicited from your end and for which act of your kindness I shall remain ever pray.

Thanking you,

Enclo : One appeal dt. 1.3.2000.

Yours faithfully,

Hema Lata Mudoi
(Hema Lata Mudoi)

W/o Sri Girin Mudoi,
Guwahati Rly. Station Colony,
Near Namghar, Guwahati-781001
Kamrup (Assam).

*Attested
by
Myself
Advocate*

U.K. Goswami,
Advocate.
Guahati High Court

Date :

To : General Manager,
N.F. Railway, Maligaon,
Guahati-781011.

Sub : Notice

Sir,

Upon authority and as per instruction of my client Smti. Hema Lata Mudoi, Guahati Railway Station Colony, Rly.Qtr. No. D-S/20/D, Near Namghar, Guahati-781001, District Kamrup, Assam, I give you this notice as follows :

1. That my aforesaid client is the mother of Mridul Mudoi who was a railway employee and who died in a Railway accident at Digaru Railway Station on 1.6.99.
2. That, the said son of my client Mridul Mudoi was selected for the practical training of TR-ASM vide memo No. DRM(P)'s Office/LMG dated 27.5.99 and accordingly he proceeded to his place of training at Digaru on 28.5.99. My clients said son used to attend the training program from his Guahati residence by way of daily passenger as he had not been provided with any accommodation at Digaru Railway station. Therefore on, 1.6.99, as before my clients son had proceeded to the Digaru Station with valid authority by 67,up Kapili Intercity Express from Guahati and which reached Digaru Railway Station at about 11.10 AM. Unfortunately my clients son died due to a railway accident at Digaru Station. The GRP/GHY registered a U/D case bearing No. 20/99 and started investigation as per provision of law. On enquiry it was learnt that my client's son had fallen down from the train at the said station.

*Atul
N. Goswami
Advocate*

3. That said Mridul Mudoi who was a Railway employee had lost his life in a Railway accident involving the Kapili Intercity Express on 1.6.99 at about 11.10 AM at Digaru Railway station and the same was in course of his employment. But till now the Railway administration did not arrange for any investigation into the matter to determine the factors leading to the death of my clients said son and thereby has ignored/violated the existing procedure.

4. That finding no other alternative my said client made a representation to the General Manager, NF Railway, Maligaon, Guwahati on 1.3.2000, stating therein the accident which amounting death of her son and further made a prayer for inquiry into the circumstances leading to the death of her son. But there was no reply on the part of the Railway authorities. Thereafter, my said client made a reminder G.M., NF Railway on 1.8.2000 praying therein for taking necessary action in the matter. But till date my client is yet to hear from the authorities as regards the prayers made by her vide the said representations.

5. That inspite of the repeated appeals made by my said client to cause an enquiry into the death of her said son and to determine the cause thereof ,the Railway authorities have dealt with the same in a causal manner which is uncalled for on the part of a "model employer" like you.

6. That nowadays it is known even to a laymen that whoever died in Railway accident, his/her keen relative, gets a compensations amount. On the other hand in the instant case, the victim of the railway accident was an employee of the railway and the railway accident which resulted in his death occurred in the course of his employment, but the railway

*Neeraj
Chettri
Advocate*

authorities have deemed it and proper to ignore the repeated appeals made by my client to know the circumstances leading to the death of her said son. Therefore the railway authority should cause an enquiry into the same and apprise my client about the findings of the said enquiry.

7. That an employee of the railway who died in the course of his employment due to Railway accident almost two years ago and the railway authority did not make any enquiry of the accident till date inspite of repeated appeal/prayer made by the mother, such a negligence on the part of big organisation like Indian Railways is not sustainable, unreasonable and shameful.

In view of the matter, I give you this notice making a demand that within 15 days from the date of receipt of this notice. You would take steps to cause a detail enquiry into the factors leading to the death of said Mridul Mudoi and on completion of the same would apprised my said client of the result of the said enquiry and would furnished to her the detail enquiry of the inquiring officer. Further my client would be given the compensation admissible to her due to the death of her son in course of his employment. Otherwise as per the instruction of my client I have to take appropriate legal action against you for which you will solely responsible for the consequence thereof.

I hope and trust that there will be no occasion for further litigation.

Thanking you,

Yours Sincerely,

U.K. Goswami
Advocate

*Manu
Goswami
Advocate*

Filed by
Sankar Chandra
Roy and others
4. 12. 2002
Sarinda Mayan Roy
कानूनी विभाग
पु. से. नं. ३३३
O.V. Personnel Officer
N.P. & I. Lundia

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O. A. No. 279 of 2001

Santi Hemlata Mudei Applicant

Vs.

Union of India & Ors. Respondents.

- AND -

IN THE MATTER OF :

Submission of the Written Statement for
and on behalf of the respondents.

The humble Written Statement for and on behalf of
the respondents is submitted most respectfully as under :

1. That, the respondents submit that they have gone through the copy of the application and have understood the contents thereof.
2. That, the application suffers for want of valid cause of action.
3. That, the applicant has got no right for filing the application. No heirship or Succession Certificate has been submitted by her to support her claim or claiming as dependent/ heir of the deceased Sri Mudei.

Sonwara Mayan Ray
विभाग कार्यक्रम अधिकारी
पृ. सी० रेल्व. अमरिंगा
Div. Personnel Officer ३
Bld. No. ५१०, Luadung]

25

4. That, the application is not maintainable in its present form and is fit one to be dismissed in limine.

5. That save and except those statements of the applicant which are borne on records or are specifically admitted here-under, all other averments/statements of the applicant as made in the application are denied herewith and the applicant is put to strictest proof of same.

6. That, the respondents have been advised to confine their replies/statements only on those averments of the applicant which are borne on records or are relevant for the purpose of a proper decision in the case, and as such, meticulous denial of each and every statements in the application has been avoided, without admitting the correctness of such statements.

7. That, with regard to averments at paragraphs 4.2 and 4.3 of the application it is submitted that the allegations as made in the application are not correct and hence all the allegations are denied herewith.

In this connection it is also to submit herein that Late Mridul Mudei, Trainee Asstt. Station Master, Digaru met with an accident on 1.6.99 which caused his death. As a result, the General Manager (Respondent No.2) desired to have an enquiry about the incident by a Committee comprising of 3 administrative grade Officers members (i.e. one member each from the Operating Department, Medical Department and Security Department). Accordingly a Committee was formed on 3.6.99 by the Divisional Railway Manager, Lundia. The Enquiry Committee enquired into the matter and submitted

-: 3 :-

their report on 10.6.99, holding the son of the applicant (i.e. Late Mridul Mudei) responsible for his own death.

In this connection the copies of the following documents :

- (i) The photo copies of message No.T/2/5/99-2000/LM dated 4.6.99 issued by Divisional Railway Manager, N.F. Railway, Lumding to the 3 respective Committee Members and other officials concerned for attendance, and,
- (ii) The Enquiry Committee's report dated 10.6.99 submitted alongwith its findings, are annexed and are annexed here to as Annexures-'A' and 'B' respectively.

It is thus quite incorrect that respondent authority did not look into the matter of enquiry etc. as alleged.

8. That, with regard to averments at paragraphs 4.4, 4.5 and 4.6 of the application, it is submitted that except those which are borne on records or are admitted hereunder all other averments etc. are denied. It is submitted that the Late Mridul Mudei, Trainee Asstt. Station Master, Digaru (son of the applicant) was ordered vide Divisional Railway Manager (P), Lumding's letter dated 27.5.99 (copy annexed as Annexure-'B' to the application) to have practical training at Digaru Station for 18 days with effect from 28.5.99. But he left his working place Digaru on 31.5.99 for Guwahati unauthorisedly and without taking any permission from the competent authority. Thus, he violated the General Rule 2.07 and 2.08(I) of General and Subsidiary Rule Book (1982 edition) of the N. F. Railway.

Southeasterners say.

मंडल कार्यालय अधिकारी
पू. सी० ल० जामडिला
D. M. Personnel Officer
N. P. १००. Lundung

四

On 1.6.99 he was travelling by 67 UP Kapili Inter City Express from Guwahati to Haibargaon and attempted to get down from the running train at Digeru Station though 67 UP train has no scheduled stoppage at Digeru Station and as a result he fell down in between Platform No.1 and Railway track at Guwahati end near the Station 'name board' which resulted in his death. Such action of Late Mudei tantamounts to violation of Subsidiary Rule No.2.11/2(b) of General and Subsidiary Rule Book (of 1982 edition) and Section 118(1) of the Indian Railways Act 1890 (now Section 118(1) of the Railways Act 1989).

Copies of the relevant extracts of the aforesaid Rules etc. are annexed hereto as Annexures C, D, E and F for ready perusal.

9. That, from the enquiry report dated 10.6.99 it thus reveals that Late Mudoi himself is responsible for his death. Question of production of these documents which are available and or are relevant only can arise in the case and not other documents.

10. That, with regard to events at 4.7 and 4.8 of the application it is submitted that the allegations are not true and hence denied herewith. As stated herein above, the Committee comprising of 3 Junior administrative Officers enquired into the incidents about the death of ~~the~~ Late Mudei and they already submitted their report on 10.6.2002. Some relevant extracts from the said report Enquiry Report are furnished herein below for ready perusal :

-3 5 :-

2. Findings :

After having examined all the evidences, documents & witnesses, we the members of Enquiry Committee come to the conclusion that the allegation made in the New item of Local daily 'The Assamiya Pratidin' dated 26.99 does not seem to be true.

Mridul Mudei, Trainee Asstt. Station Master died immediately after he got serious injury because of his falling down from running train in to the track. None of the witnesses of this incident has stated that he was alive for 45 munutes after he got serious injury.

3. Reasons for findings :

4. Responsibility for the incident :

No one but Mridul Mudei, Trainee Asstt. Satation Master himself is found responsible for this incident in which he lost his life.

— 6 —

11. That, with regard to averments at paragraphs 4.9 and 4.10, of the application it is submitted that :

- (i) As appears from records and enquiry report, the death of the son of the applicant (i.e. Late Sri Mridul Mudei) did not occur in course of employment.

(ii) Late Mudei is responsible for his own death; and as such the respondents (Railway Administration) is not liable to pay any compensation or any ex-gratia amount to his legal heir.

However, the following dues are found to be admissible and due to be paid to the legal heir of the deceased Sri Mudei :

(i) Salary for the period from 22.4.99 to 1.6.99
amounting to Rs.7820/- consequent on his death.

The amount was passed under C.O. 7 No. 34 L.E. dated 9.6.99. But the amount is still lying unpaid vide unpaid list No. 88/Tfc/June/99/26 dated 26.7.99. But the same could not be paid to the legal heir of the deceased for non-submission by the legal heirs about the -

- (a) mode of payment; ✓
 - (b) death certificate; ✓
 - (c) death and heirship certificate.

(ii) Rs.29,989/- is due to be paid to the legal heir of Late Mudei against the G.I.S. (i.e. General Insurance Scheme); and

-: 7 :-

- (iii) Family pension in favour of the applicant's legal heir/dependent which has been fixed at Rs.1350/- with effect from 2.6.99; and
- (iv) D.C.R.G. (i.e. Death-Cum-Retirement Gratuity) Rs.11,880/- due to be paid to the legal heir of Sri Mudei.

The matter regarding the payment etc. of the settlement dues on account of Late Mudei are under process and same will be paid on receipt of legal documents mentioned hereinabove.

Further, as no P.F. (Subscription amount on account of Provident Fund) has been recovered from Late Mudei as he could not complete one year service and as such no amount on this account is payable.

Again, as no leave was due to the Late Mudei no leave salary is also found to be due on this account.

All the allegations made in these paragraphs of the application are denied herewith.

12. That, with regard to averments at paragraphs 4.11, 4.12, 4.13 and 4.14 of the application it is submitted that all such allegations/averments are quite unfounded and hence these are denied herewith.

— 8 —

It is quite incorrect that no enquiry was conducted and or that Justice was denied to the applicant as alleged.

13. That, with regard to the grounds cited and relief sought for and the legal provisions as mentioned in paragraphs 5 and 8 of the application, it is submitted that in view of what have been stated in the foregoing paragraphs of this Written Statement, none of the grounds put forward by the applicant are maintainable under law and rules in vogue and in view of the nature and facts of the case and hence these are emphatically denied herewith.

Further, no relief as claimed by the applicant at paragraph 8 of the application, are admissible under rules, law and merit of the case and hence these are liable to be rejected.

Further, the applicant has also sought relief from the Railway Claims Tribunal.

The Enquiry conducted into the case revealed that for the accident and consequent death of the Sri Mridul Mudei (Trainee Asstt. Station Master) late Mudei himself was responsible.

14. That, it is submitted that the actions taken in the case are quite in consequence to the rules in vogue and are valid legal and proper and the present case of the applicant is based on wrong premises and suffers from mis-interpretation of rules etc. on the subject.

-: 9 :-

15. That, the answering respondents crave leave of the Hon'ble Tribunal to permit them to file additional Written Statement in future, if found necessary, after receipt of further informations/records, for ends of Justice.

16. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the Written Statement, the instant application is not maintainable and is liable to be dismissed.

VERIFICATION

I, Swarinda Narayan Ray, son of late Sankar Ch. Ray, aged about 53 years, now working as Divisional personnel officer N. F. Railway, Lumding, do hereby solemnly affirm and state that the statement made in paragraphs 1 and 6 are true to my knowledge and those made at paragraphs 7, 8 and 9 are based on informations and records of the case which I believe to be true and those made at rest of the paragraphs are my humble submissions before this Hon'ble Tribunal and I sign this verification on this day 13/11/02 on proper authority.

Swarinda Narayan Ray
FOR AND ON BEHALF OF ~~कामिक अधिकारी~~
UNION OF INDIA. ~~कामिक अधिकारी~~
Div. Personnel Officer
N. F. R. Lumding

XXR

L.M.G.

DT/- 04/06/99.

(3)

Smti Mehta, Sr.DDM/LMG.
Br. R.K.Roy, Sr.DMO/LMG.
Sri Biswas, DSC/LMG.

SS/DGU, SM/CAZ/GHY, LF, YS/NGC, CHCs & CPRCs/LMG & GHY,
DDM/LMG & GHY, Sr.DME/IC/LMG, AME/NGC, OC/GRP/JID,
OC/RPF/JID & DGU, DMO/JID ON DUTY SCR/LMG - NNGE BOARD.

NO. T/2/5/99-2000/IM (.) JAG PEAKER AT 10.00 HRS. ON
5/6/99 IN SR.DDM/LMG's Chamber IN CONNECTION WITH ACCIDENT
OF MRIDUL MUDGI, TRAINEE ASM AT DGU ON 1/6/99 (.) DEPTT.
CONCERNED PEPPER GUARD, DRIVER, DAD & TICKET CHECKING STAFF
OF 67 UP OF 1/6/99 AND ASM, C/MAN & P/MAN OF DGU STATION
WHO WERE ON DUTY ON 1/6/99 DURING THE ABOVE ACCIDENT (.)
OC/GRP/JID & OC/RPF/JID TO SEND THEIR STAFF WHO ATTENDED
THE SITE WITH ALL RELEVANT DOCUMENTS BEFORE ENQUIRY
COMMITTEE (.) ALL CONCERNED TO ENSURE ATTENDANCE OF
STAFF BEFORE ENQUIRY COMMITTEE ON THE AFORESAID DATE &
TIME WITHOUT FAIL (.) CHCs & CPRCs TO RELAY THE
MESSAGE TO ALL CONCERNED ON PHONE (.) DDM/IC TO SUBMIT
PAPERS IN CONNECTION WITH EX- GRATIA PAYMENT, IF ANY AND
SR.DMO/JID TO ATTEND WITH RELEVANT DOCUMENTS (.) ENSILE (.)

- DRM(S) -

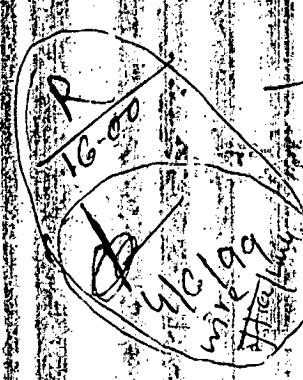
मराठा रेल प्रबन्धक (सरका)
Divisional Rly Manager Secy.
कृ. श्री. रेण्डे, लामडिंग
M. P. Railway/Lumdinner

5/6/99
10/6/99

CHC

14
CPRC

01
09/06/99



Inquiry Report on the incident of Mr. McCaul at DOU on 1/6/01.

1. Brief history of his case:

On 1/6/99 while 67 UP kopili fast Passenger was entering on line No. 1 of DCU station at about 11.12 hrs, ASM on duty at DCU heard bus and cry among the public on the platform saying one person fall down from running train and he cancelled the line clear of 67 UP and controlled the train at DCU Station suspecting that someone might have got injury. He rushed to the site of incident with first aid box. There he found that Mridul Muddi, IR. ASM/DCU was lying on the track in unconscious condition and his left hand was cut into 2(two) pieces and also there was injury spot on his head. He rendered first aid to Mridul Muddi and immediately informed SCR on duty in I MG Control to inform DCO and OC/GRP/JID about this incident. After that he personally went on a private scooter to Air Force Hospital to call the doctor and Ambulance but Ambulance was not available in Air Force Hospital and hence doctor also did not come to him. Then he rushed to State dispensary where also no doctor was available. However, he brought one Private Maruti Car to shift Mridul Muddi to Air Force Hospital but on his return to station Driver and Guard of 67 UP served a notice to him stating that Mridul Muddi seemed to be dead. The driver of the Maruti Car refused to carry a dead body in his car.

Since Control Communication between JID - LMG was out of order, Section duty could not inform DMO/JID in time. However, OC/OPP/JID arrived DDU by road at about 13.30 hrs, for necessary action and the dead body of Mr. Dul Hugo was taken to GIV by 68 Dn.

The above incident appeared in the News item of the Assamya Pratidin daily dated 2.6.99 in which it was alleged that Hridul ~~was~~ remained conscious for about 45 minutes after the incident and then died. On this News item G.W.I.P.R.Jy. ordered an inquiry into this case by Committee consisting of JAG officers and accordingly Inquiry Committee conducted an inquiry into this incident.

(b) During my stay following the war, I was engaged

- | | | |
|---------|----|---|
| (i). | 21 | K. M. Deka, AG, AGM/ESU. |
| (ii). | " | M. C. Barman, DY. S/ /SC. |
| (iii). | " | K. Deka, Cabinman/ESU. |
| (iv). | " | R. K. Dutta, I.R. Cabinman/ESU. |
| (v). | " | H. K. Rakshit, Passenger Driver/NGC. |
| (vi). | " | Krishna Mazumder, Passenger Driver/NGC. |
| (vii). | " | M. S. Dey, U/C/Training. |
| (viii). | " | Prabhat Barman, Constable/RPF/NGC. |
| (ix). | " | Suraj Palikis, Constable/RPF/NGC. |
| (x). | " | C. C. Barker, Pointsman/DCU. |
| (xi). | " | Ranbaran Deka, Pointsman/DCU. |
| (xii). | " | Probir Bhownick, AG, AGM/J.D. |
| (xiii). | " | Paromita Ch. Deka, S. Goods usw. |
| (xiv). | " | Abhi Ram Deka, H. STTE/GTV. |

(Contd...p/2)

(page/2)

After examining and cross questioning the above staff, Inquiry Committee has taken the statement of few local public persons who were present there at the station at that time when the incident took place.

2. Findings:-

After having examined all the evidential documents & witnesses, the members of Inquiry Committee came to the conclusion that the allegation made in the news item of "Aaj Tak" dated 2.6.99 does not seem to be true.

Mridul Hudei, TR ASM, died immediately after he got serious injury because of his falling down from running train into the track. None of the witnesses of this incident has stated that he was alive for 45 minutes after got serious injured injury.

3. Reasons for findings:-

- i) During our cross examination of witnesses, ASM on duty DCU stated in reply to question No.5 that he rendered possible First Aid to Mridul Hudei though he was senseless and seemed to be dead.
- ii) In answer to Question No.1, Dr. S/5/DCU clearly stated that Mridul Hudei seemed to him as dead at about 11.22 hours.
- iii) Inquiry Committee has taken the statement of few local public who were eye-witnesses of this incident. They have clearly stated that Mridul Hudei died immediately after the incident because he got serious injury.
- iv) Guard and Driver of 67 up who served memo to ADM on duty after this incident stating that Mridul Hudei seemed to be dead. During cross examination they have stated clearly stated that he was not found alive after this incident rather he seemed completely dead when they reached to the site of incident.
- v) Shri Abhi Ram Deka, M.R.T.S./CHM who conducted ticket checking in 67up on that day also rushed to the site of incident and found Mridul Hudei as dead. It is clear from his reply to Question No.7.

4. Responsibility for the incident:-

No one but Mridul Hudei, TR.ASM himself is found responsible for this incident in which he lost his life.

5. Other matters brought to light:-

- i) Mridul Hudei, TR, ASM who was ordered to take practice shifting at DCU for 18 days w.e.f. 28.5.99 vide DRM(P)/IMG's Order No.5/C-1 (TH-151) P V(T), dated 27.5.99, unauthorily left his working HQ.ORG. DCU without taking prior permission from Competent Authority on 31.5.99 and thus violated CR 2.07 and 2.08 (1) of G & S Rule Book-1982 edition of N.R.Railway.
- ii) As Mridul Hudei, TR 151 was travelling by 67up of 1.6.99 and attempted to get down from the running train at DCU Station where 67up does not stop as per schedule and subsequently fell down in between platform No. 1 and railway track at HY end near station gate board. Thus, violates Cr 2.11/2(b) of G & S Rule Book of 1982 edition, N.R.Rly. & section 118(1) of I.R.A 1890.

(Contd... 2/3)

Other matters brought to light-

(iii) Control communication from IMA(1) - JJD station was not working on that day at the time this incident took place. Hence SC on duty in ITC control could not convey the message of this incident to IMA(1) immediately to proceed to IMA(1) to render necessary medical aid to Majid Madi. Appropriate action had to be taken to put control communication in proper working order when the alarm is given in case any information at the time from any external incident occurs.

(iv) BS/PGV failed to exercise the competent authority of authorized starting from working hours, by Majid Madi. Summary instructions need to be circulated to all concerned to prevent such mistakes in future.

Ch. Officer
(D.O.B. 1967)
BS/PGV
10/10/1991

Major
(Off)
(M.D. 1967)
10/10/1991

Major
(Off)
(M.D. 1967)
10/10/1991

- 14-
- 48
- (c) satisfy himself that the staff working under him have complied with clauses (a) and (b), and
 - (d) if necessary, explain to the staff working under him, the rules so far as these apply to them.

S.R. 2.03. Railway servants connected with train working are required to pass an examination as prescribed by the Railway Administration and, it is the duty of the Divisional Officers, Inspectors and Station Masters to satisfy themselves that the subordinates under them maintain their knowledge of the rules with upto-date corrections.

2.04. **Assistance in observance of rules.**— Every railway servant shall render assistance in carrying out these rules, and report promptly any breach thereof which may come to his notice, to his superior officer and other authority concerned.

2.05. **Prevention of trespass, damage or loss.**
(1) Every railway servant is responsible for the security and protection of the property of the Railway Administration under his charge.
(2) Every railway servant shall endeavour to prevent—
(a) trespass on railway premises,
(b) theft, damage or loss of railway property,
(c) injury to himself and others, and
(d) fire in railway premises.

2.06. **Obedience to rules and orders.**— Every railway servant shall promptly observe and obey—

- (a) all rules and special instructions; and
- (b) all lawful orders given by his superiors.

2.07. **Attendance for duty.**— Every railway servant shall be in attendance for duty at such times and places and for such periods as may be fixed in this behalf by the Railway Administration and shall also attend at any other time and place at which his services may be required.

S.R. 2.07/1. All Railway servants, who are required to be in uniform, shall wear it when on duty. All supervisory staff should see that all the staff working under them put on clean and proper uniforms.

S.R. 2.07/2. Railway servants not on duty are forbidden to enter on the platform without proper authority when passenger trains are at the station.

2.08. **Absence from duty.**
(1) No railway servant shall, without the permission of his superior, absent himself from duty or alter his appointed hours of attendance or exchange duty with any other railway servant or leave his charge of duty unless properly relieved.
(2) If any railway servant whilst on duty desires to absent himself from duty on the ground of illness, he shall immediately report the matter to his superior and shall not leave his duty until a competent railway servant has been placed in charge thereof.

15

S.R.2.08/1. Notice of sickness: Any railway servant, who through sickness finds himself unable to attend, shall give sufficient notice to enable a substitute to be procured, and shall at once submit a medical certificate of fitness for duty duly signed by an authorised Medical Officer. The possession of a medical certificate does not entitle a railway servant to quit the station at which he is employed without the permission of the controlling officer, unless otherwise directed by the competent medical authority. A railway servant who, when sick and under treatment, quits his station without proper authority, renders himself liable to face disciplinary action as decided by the Railway Administration.

S.R.2.08/2. Railway servant, to whom medical leave has been granted by the competent authority, does not return at the expiration of his leave, or does not give due notice supported by a medical certificate that he requires an extension, is liable to face disciplinary action as decided by the Railway Administration.

S.R.2.08/3. Notice of infectious disease: No railway servant in whose house there may be a case of a small pox or any other quarantinable infectious disease or the employee who is suffering from an infectious disease shall at that time come to duty without giving due notice to, and receiving the permission of a duly authorised Medical Officer. Leave of absence on medical certificate will be granted to an employee under these circumstances until the danger of infection is declared by the Medical Officer to have passed away.

2.09. Taking alcoholic drink, sedative, narcotic, stimulant drug or preparation.

- (1) While on duty, no railway servant shall, whether he is directly connected with the working of trains or not, be in a state of intoxication or in a state in which, by reason of his having taken or used any alcoholic drink, sedative, narcotic or stimulant drug or preparation, his capacity to perform his duties is impaired.
- (2) No railway servant, directly connected with the working of trains, shall take or use any alcoholic drink, sedative, narcotic or stimulant drug or preparation within eight hours before the commencement of his duty or take or use any such drink, drug or preparation when on duty.

S.R.2.09/1. A railway servant when on duty or within 8 hours before coming to duty should not take any alcoholic drink or intoxicating drug. If he is found in a state of intoxication while on duty, he shall be liable to severe disciplinary action which may extend even to dismissal from service.

S.R.2.09/2. Intoxication, Medical report and witnesses. When a case of intoxication, or what appears to be intoxication, is noticed, a medical report should, if possible, be obtained at once. The written evidence of two impartial witnesses should also be obtained.

2.10. Conduct of railway servants. A railway servant shall—

- (a) wear the badge and uniform if prescribed, and be neat and tidy in his appearance while on duty.
- (b) be prompt, civil and courteous.
- (c) not solicit or accept illegal gratification.
- (d) give all reasonable assistance and be careful to give correct information to the public, and
- (e) when asked, give his name and designation without hesitation.

S.R.2.10/1(a). As soon as the line clear of a passenger carrying train scheduled to stop at the station has been given, the Station Master shall cause the station bell to be rung. The description of the train approaching shall be called out loudly as a warning to the station staff and passengers. He shall also

see that all staff on duty are at their posts, and that watermen, where provided, have a full supply of drinking water, and at night, that the platform lamps are lighted.

(b) On the train approaching the station, the station bell shall be rung again, and upon the arrival at a station of the concerned train, the Station Master shall see that the name of the station is called out distinctly along the train.

(c) At stations where refreshment rooms have been provided and the scheduled stoppage of the train is more than 5 (five) minutes, a warning bell shall be rung 5 minutes before the due departure of the train to warn the passengers.

2.11. Duty for securing safety. —

(1) Every railway servant shall —

- see that every exertion is made for ensuring the safety of the public,
- promptly report to his superior any occurrence affecting the safe or proper working of the railway which may come to his notice, and
- render on demand all possible assistance in the case of an accident or obstruction.

(2) Every railway servant who observes —

- that any signal is defective,
- any obstruction, failure or threatened failure of any part of the way or works,
- anything wrong with a train, or
- any unusual circumstances likely to interfere with the safe running of trains, or the safety of the public,

shall take immediate steps, such as the circumstances of the case may demand, to prevent accident, and where necessary, advise the nearest Station Master by the quickest possible means:

Provided that in the case of a train having parted, he shall not show a Stop hand signal but shall endeavour to attract the attention of the Driver or Guard by shouting, gesticulating or other means.

S.R.2.11/1 : Assistance to the travelling public. — It is the duty of all railway servants to render all possible assistance to ensure safety and comfort of the travelling public.

S.R.2.11/2 : Entering carriage in motion, or otherwise improperly travelling on a railway. — (a) A railway servant shall warn a passenger against travelling on the roof, steps, or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers. If a passenger, after being warned by a railway servant to desist, persists in such travelling, he shall render himself liable to be punished under Section 118(2) of the Indian Railways Act, 1890 (IX of 1890).

(b) Passengers shall be prevented from entering or leaving a train in motion, and railway servants shall, under any circumstances, open the door of a vehicle in motion, or in any way assist a passenger about to enter or leave it. If a passenger enters or leaves, or attempts to enter or leave any carriage while the train is in motion, he shall be liable to punishment in accordance with the provision of Section 118(1) of the Indian Railways Act, 1890 (IX of 1890).

S.R.2.11/3 : Lighting of lamps at places under repairs. — Whenever platforms, buildings, approach roads, etc. are under repairs and there is any possibility of passengers or others falling into openings or coming against temporary obstructions, lamps shall be placed to light up those parts, and Station Masters shall see that this is done by the Engineering Department.

See that all staff on duty are at their posts, and that watermen, where provided, have a full supply of drinking water, and at night that the platform lamps are lighted.

(b) On the train approaching the station, the station bell shall be rung again, and upon the arrival of a station of the concerned train, the Station Master shall see that the name of the station is called out distinctly along the train.

(c) At stations where refreshment rooms have been provided and the scheduled stoppage of the train is more than 5 (five) minutes, a warning bell shall be rung 5 minutes before the due departure of the train to warn the passengers.

2.11. Duty for securing safety.—

(1) Every railway servant shall—

- (a) see that every exertion is made for ensuring the safety of the public,
- (b) promptly report to his superior any occurrence affecting the safe or proper working of the railway which may come to his notice, and
- (c) render on demand all possible assistance in the case of an accident or obstruction.

(2) Every railway servant who observes—

- (a) that any signal is defective,
- (b) any obstruction, failure or threatened failure of any part of the way or works,
- (c) anything wrong with a train, or
- (d) any unusual circumstances likely to interfere with the safe running of trains, or the safety of the public,

shall take immediate steps, such as the circumstances of the case may demand, to prevent accident; and where necessary, advise the nearest Station Master by the quickest possible means:

Provided that in the case of a train having parted, he shall not show a Stop hand signal but shall endeavour to attract the attention of the Driver or Guard by shouting, gesticulating or other means.

S.R.2.11/1-**Assistance to the travelling public**—It is the duty of all railway servants to render all possible assistance to ensure safety and comfort of the travelling public.

S.R.2.11/2-**Entering carriage in motion, or otherwise improperly travelling on a railway**,—(a) A railway servant shall warn a passenger against travelling on the roof, steps of footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers. If a passenger after being warned by a railway servant to desist, persists in such travelling, he shall render himself liable to be punished under Section 118(2) of the Indian Railways Act, 1890 (IX of 1890).

(b) Passengers shall be prevented from entering or leaving a train in motion, and railway servants shall not, under any circumstances, open the door of a vehicle in motion, or in any way assist a passenger about to enter or leave it. If a passenger enters or leaves, or attempts to enter or leave any carriage while the train is in motion, he shall be liable to punishment in accordance with the provision of Section 118(1) of the Indian Railways Act, 1890 (IX of 1890).

S.R.2.11/3-**Lighting of lamps at places under repairs**—Whenever platforms, buildings, approach road &c. are under repairs and there is any possibility of passengers or others falling in openings or coming against temporary obstructions, lamps shall be placed to light up these parts, and Station Masters shall see that this is done by the Engineering Department.

52
S.R.2.08/1-**Notice of sickness**—Any railway servant, who through sickness finds himself unable to attend, shall give sufficient notice to enable a substitute to be procured, and shall at once submit a medical certificate of unfitness for duty, duly signed by an authorised Medical Officer. The possession of a medical certificate does not entitle a railway servant to quit the station at which he is employed without the permission of the controlling officer unless otherwise directed by the competent medical authority. A railway servant who, when sick and under treatment, quits his station without proper authority, renders himself liable to face disciplinary action as decided by the Railway Administration!

S.R.2.08/2-**Railway servant**, to whom medical leave has been granted by the competent authority, does not rejoin at the expiration of his leave, or does not give due notice supported by a medical certificate that he requires an extension, is liable to face disciplinary action as decided by the Railway Administration.

S.R.2.08/3-**Notice of infectious disease**—No railway servant in whose house there may be a case of a small-pox, or any other quarantinable infectious disease or the employee who is suffering from an infectious disease, shall at that time come to duty without giving due notice to, and receiving the permission of, duly authorised Medical Officer. Leave of absence on medical certificate will be granted to an employee under these circumstances, until the danger of infection is declared by the Medical Officer to have passed away.

2.09.—Taking alcoholic drink, sedative, narcotic, stimulant drug or preparation.

- (1) While on duty, no railway servant shall, whether he is directly connected with the working of trains or not, be in a state of intoxication or in a state in which, by reason of his having taken or used any alcoholic drink, sedative, narcotic or stimulant drug or preparation, his capacity to perform his duties is impaired.
- (2) No railway servant, directly connected with the working of trains, shall take or use any alcoholic drink, sedative, narcotic or stimulant drug or preparation within eight hours before the commencement of his duty or take or use any such drink, drug or preparation when on duty.

S.R.2.09/1-**A railway servant when on duty or within 8 hours before coming to duty should not take any alcoholic drink or intoxicating drug.** If he is found in a state of intoxication while on duty, he shall be liable to severe disciplinary action which may extend even to dismissal from service.

S.R.2.09/2-**Intoxication, Medical report and witnesses.**—When a case of intoxication, or what appears to be intoxication, is noticed, a medical report should, if possible, be obtained at once. The written evidence of two impartial witnesses should also be obtained.

2.10.—Conduct of railway servants.—A railway servant shall—

- (a) wear the badge and uniform, if prescribed, and be neat and tidy in his appearance while on duty;
- (b) be prompt, civil and courteous;
- (c) not solicit or accept illegal gratification;
- (d) give all reasonable assistance and be careful to give correct information to the public, and
- (e) when asked, give his name and designation without hesitation.

S.R.2.10/1(a)-**As soon as the line clear of a passenger carrying train scheduled to stop at the station has been given, the Station Master shall cause the station bell to be rung.** The description of the train approaching shall be called out loudly as a warning to the station staff and passengers. He shall also

SYNOPSIS

1. *Analogous law.*
2. *Diseases deemed to be "infectious or contagious disorders."*
3. *Offences under section 269, I.P.C.*
1. **Analogous law.**—This section corresponds to English By-law No. 16.
2. **Diseases deemed to be "infectious or contagious disorders."**—For the purposes of the Indian Railways Act, the following shall be deemed to be infectious or contagious disorder, namely, (1) Bubonic fever, (2) Chicken-pox, (3) Cholera, (4) Diphtheria, (5) Leprosy, (6) Measles, (7) Mumps, (8) Scarlet fever, (9) Small-pox, (10) Typhus fever, (11) Typhoid fever, (12) Whooping cough.
3. **Offences under Sec. 269, I.P.C.**—Where knowing that he was suffering from cholera travelled by a train, without informing the railway officers of his condition and *M* knowing *K*'s condition purchased his ticket and travelled with him; it was held that *K* was properly convicted under Sec. 269, Indian Penal Code, because he must have known that he was doing an act likely to spread infection, and he did so negligently in not informing the railway authorities, and that *M* was guilty of abetment of *K*'s offence.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or otherwise is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for the passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.
- (2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

SYNOPSIS

1. *Analogous law.*
2. *"Passenger".*
3. *Whether traveling on footboard of a carriage makes a person a passenger.*
4. *No liability for injury to a passenger.*
5. *To enter or leave a moving carriage.*
6. *Company when liable.*

1. **Analogous law.**—Sub-Section (1) is adapted almost verbatim from the English By-law No. 12 and sub-section (2) is adapted from the English By-law No. 11; *Cf.* also Secs. 33 and 34 of the Indian Railways Act, 1879.

2. **"Passenger."**—The section is a penal section and hence it must be interpreted strictly. The word "passenger" has been construed as referring to a person who enters a railway carriage without a railway servant's permission to travel by the train as a passenger. The railway authorities have power to reserve a compartment for the ice-vendor during the hot season for the convenience and comfort of passengers. A person persisting in occupying it for travelling is guilty under Sec. 118.

3. **Whether travelling on footboard of a carriage makes a person a passenger.**—The word "passenger" is used in this section in a restricted sense and it denotes a person who without the permission of a railway servant enters any carriage of a railway for the purpose of travelling therein as a passenger.

1. *Vide G. R. R. 7, Pt. II, p. 185.*

2. *Krishnappa v. Murugappa*, 7 Mad. 276.

3. *Shu v. Emperor*, 14 Cr. L. J. 654.

4. *Durga Prasad v. Emperor*, A.I.R. 1936

All. 439 : 1936 A. L. J. 117.

A licensed sweetmeat-seller standing on footboard of a carriage in motion to recover his dues cannot therefore be held to be a passenger within the meaning of this section.¹

If a person persists in riding on the footboard after prohibition, he is liable to prosecution under Cl. (2) of this section.²

4. **No liability for injury to a passenger.**—If a person gets on to the back step of the hindmost coach of a train in order to get a gratuitous ride having received no permission or licence so to do from the railway officials, though to their knowledge he had done the same thing on other occasions, the company is not liable if he gets injured, for the company owed him no duty.³

5. **To enter or leave a moving car.**—If a passenger chooses to attempt to enter or leave a moving car he does so at his own risk. It is not what a prudent or reasonable man should or would do and if he does it, and sustains injury while in the act of doing so, it would be an accident or a misfortune for which the company could in no event be held liable.⁴

6. **Company when liable.**—The workman cannot increase the responsibility of the employers by doing something for his own purposes and which it is no part of his duty to do and if he be injured, he will not be entitled to compensation as for example, where a ticket-collector, for his own pleasure, got on to the footboard of a moving train to speak to a friend and was killed in jumping off; but where a porter, in breach of known rules, jumped on to the footboard of an incoming train in order to be ready to move luggage as soon as possible when the train had stopped, his claim for compensation for injury was allowed.⁵

119. If a male person, knowing a carriage compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

SYNOPSIS

1. *Analogous law.*
2. *Scope of the section.*
1. **Analogous law.**—*Cf.* Sec. 37 of the Indian Railways Act, 1879 (Act IV of 1879).

2. **Scope of the section.**—This section does not apply when a person enters a female compartment for a lawful purpose, e.g., a passenger for assisting his wife.⁶

120. If a person in any railway carriage or upon any Drunkenness or nuisance on a railway part of a railway—

1. *Emperor v. Ladha Ramjee*, 1 Bom. L. R. 996; *Abhu v. Bhiva Ramji* (unreported), Bom. H. Ct. 20-8-1913; *Grand Trunk Rly. Co. of Canada v. Barnett*, 139 L.T. 526: (1911) A.C. 361; *contra*, *Nur Mohamad v. King-Emperor*, 31 P. R. Cr. 1905 : 146 P. L. 1905.
2. *In re Munisami*, 1 Weir 875; dissented from *Emperor v. Bulakhi*, 5 N.L.R. 151.
3. *Grand Trunk Rly. Co. of Canada v. Barnett*, 130 L. T. 526.
4. *Temulji v. The Bombay Electric Supply & Tramway Co., Ltd.*, 13 Bom. L. R. 35.
5. *Smith v. Lane & Yorkshire Rly. Co.*, (1899) 1 Q. B. 441.
6. *McWilliam v. C. N. of Scotland Co.*, 1914 S. C. 453.
7. *Chajjumal v. Emperor*, 7 I. 1903.

