

- (a) himself make an inquiry into the causes which led to the accident, or
- (b) depute a Subordinate Magistrate, who, if possible should be a Magistrate of the First Class, to make such an inquiry, or
- (c) direct police to investigation into the causes.

Provided that where, having regard to the nature of the accident, the Central Government has appointed a Commission of Inquiry to inquire into it under the Commissions of inquiry Act, 1952 (60 of 1952) or has appointed any other authority to inquire into it and for that purpose has made all or any of the provisions of the said Act applicable to that authority, a Magistrate or a Police Officer shall not make his inquiry or investigation under this rule and if he has already commenced his inquiry or investigation, shall not proceed further with it. Such Magistrate or Police officer shall hand over the evidence, records or other documents in his possession relating to the inquiry or investigation to such authority as may be specified by the Central Government in this behalf.

#### **934.1 Notice of Magisterial Inquiry:**

Whenever it is decided to make an inquiry under clause (a) or clause (b) of rule 934 the District Magistrate or other Magistrate appointed as aforesaid or the Magistrate deputed under clause (b) of rule , as the case may be, shall at once inform the Commissioner of Railway Safety, the Head of the Railway Administration concerned and the Divisional Railway Manager of the date and hour at which the inquiry will commence so as to enable the Railway Administration to summon the requisite expert advise. After sending such information, he shall proceed to the scene of the accident and conduct the inquiry there.

#### **935 Judicial Inquiry:**

A Magistrate, making an inquiry under rule No.934 may summon any railway servant, and any other person whose presence he may think necessary and, after taking the evidence and completing the inquiry, shall, if he considers that there are sufficient grounds for holding a judicial inquiry, take the requisite steps for bringing to trial any person whom he may consider to be criminally liable for the accident. Whenever technical points are involved, the Magistrate shall call for the opinion of the Commissioner of Railway Safety or other professional persons.

#### **936 The result of Magisterial inquiry to be communicated to the Head of the Railway Administration and CRS:**

The result of every inquiry or investigation made under rule shall be communicated by the Magistrate who has held such inquiry or investigation, to the Head of the Railway Administration concerned and to the Commissioner of Railway Safety.

#### **937 Procedure for summoning the Commissioner of Railway safety and Railway servants to assist the Magistrate holding Judicial Inquiry:**

- a) If, in the course of any Judicial Inquiry into an accident occurring in the course of working a railway, the Magistrate holding such inquiry desires the assistance of the Commissioner of Railway Safety or of the Head of the Railway Administration concerned or the attendance of any Officer of the railway to explain any matter relating to railway working, he shall issue a requisition to the Commissioner of Railway Safety or the Head of the Railway Administration concerned, as the case may be, for the attendance in the court, (**stating the nature of the assistance required**). In summoning railway employees, the Magistrate shall take care not to summon on the same day so large a number of the employees, especially of one class, as to cause inconvenience to the working of railway. In the case of very serious accidents, it will generally be advisable for the Magistrate to obtain reports from both the Commissioner of Railway Safety and the Head of the Railway Administration concerned in regard to the accident, before finally concluding the Judicial Inquiry.

- b) The Magistrate conducting the Judicial Inquiry shall, as far as possible, avoid summoning the Commissioner of Railway Safety, if in the report submitted under rule 230 of the Statutory Investigation into Railway Accidents Rules, 1973, the opinion of the said Commissioner on technical matters which required explanation has already been expressed.

**938 Communication of the decision of Judicial Inquiry to the Railway Administration, Commissioner of Railway safety and the State Government:**

On conclusion of the judicial inquiry, the Magistrate shall send a copy of his decision to the Head of the Railway Administration concerned and to the Commissioner of Railway Safety, and shall, report the result of the inquiry to the State Government, if he thinks it is necessary to do so.

**939 Police Investigation:**

The Railway Police may make an investigation into the causes which led to any accident occurring in the course of working a railway and shall do so –

- (a) Whenever any such accident is attended with loss of human life or with grievous hurt, with serious damage to railway property of the value exceeding ₹ 2 Crore or has prima facie been due to any criminal act or omission; or
- (b) Whenever the District Magistrate or the Magistrate appointed under rule 216 of Railway Accidents Rules 1973 has given a direction under clause (c) of that rule:

Provided that no such investigation shall be made when an inquiry has been commenced or ordered under clause (a) or clause (b) of rule 216.

Provided further that where, having regard to the nature of the accident, the Central Government has appointed a Commission of Inquiry to inquire into it under the Commissions of Inquiry Act, 1952 (60 of 1952), or has appointed any other authority to inquire into it and for that purpose has made all or any of the provisions of the said Act applicable to that authority, the Railway Police shall not make an investigation under this rule. If they have already commenced their investigation, they shall not proceed further with it and shall hand over the records or other documents in their possession relating to the investigation to the commission of enquiry.

**939.1 Railway Police to report every Accident:**

The Railway Police shall report with as little delay as possible to the nearest Station Master or, where there is no Station Master, to the railway employee in charge of the section of the railway on which the accident has occurred, every accident which may come to their notice occurring in the course of working a railway, attended with loss of human life or with grievous hurt or with serious damage to railway property of the value exceeding ₹ 2 Crore or which has prima facie been due to any criminal act or omission.

**939.2 Status of Police Officer investigating the accident:**

- a) Whenever an investigation is to be made by the Railway Police,
  - i) in an accident case which is attended with loss of human life or with grievous hurt or with serious damage to railway property of the value exceeding ₹ 2 Crore.
  - ii) in pursuance of the direction given under clause (c) of rule 216 of Railway Accidents Rules 1973
  - iii) the investigation shall be conducted by Head of the Railway Police of the area in which the accident has occurred, or if that Officer is unable to conduct the investigation himself, by an Officer to be deputed by him.
- b) The Officer deputed under the above rule shall ordinarily be the Senior Officer available, and shall, whenever possible, be a Gazetted Officer and shall in no case be of rank lower than that of an Inspector.