

- c. any tree, post or structure obstructs any telephone or telegraph line maintained by it, it may take such steps as may be necessary to avert such danger or remove such obstruction and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.
- 2) Where in the opinion of a railway administration
 - a. a slip or accident has occurred ; or
 - b. there is apprehension of any slip or accident to any cutting, embankment or other work on a railway,
 it may enter upon any lands adjoining the railway and do all such works as may be necessary for the purpose of repairing or preventing such slip or accident and submit a report thereof to Central Government in such manner and within such time as may be prescribed.
- 3) The Central Government may, after considering the report under sub-section (1) or sub-section (2), in the interest of public safety, by order, direct the railway administration that further action under sub-section (1) or sub-section (2) shall be stopped or the same shall be subject to such conditions as may be specified in that order..

3 Sections relating to Opening of Railways:

Section 24: Temporary Suspension of Traffic When an accident has occurred on a railway resulting in a temporary suspension of traffic, and either the original lines of rails and works have been restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication, the original lines of rails and works so restored, or the temporary diversion, as the case may be, may, without prior inspection by the Commissioner, be opened for the public carriage of passengers, subject to the following conditions, namely:-

- (a) The railway servant incharge of the works undertaken by reason of the accident has certified in writing that the opening of the restored lines of rails and works, or of the temporary diversion will not in his opinion be attended with danger to the public; and
- (b) A notice of the opening of the lines of rails and works or the diversion shall be sent immediately to the Commissioner.

4 Sections relating to Accidents:

Section 113: Notice of Railway Accident –

1) Where, in the course of working a railway. –

- (a) any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code (45 of 1860), or with such serious injury to property as may be prescribed; or
 - (b) any collision between trains of which one is a train carrying passengers; or
 - (c) the derailment of any train carrying passengers, or of any part of such train; or
 - (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property; or
 - (e) any accident of any other description which the Central Government may notify in this behalf in the Official Gazette, occurs, the Station Master of the station nearest to the place at which the accident occurs or where there is no Station Master, the railway servant in charge of the section of the railway on which the accident occurs, shall, without delay give notice of the accident to the District Magistrate and Superintendent of Police, within whose jurisdiction the accident occurs the, Officer-in-charge of the police station within the local limits of which the accident occurs and to such other Magistrate or Police Officer as may be appointed in this behalf by the Central Government.
- (2) The railway administration within whose jurisdiction the accident occurs, as also the railway administration to whom the train involved in the accident belongs, shall, without delay, give notice of the accident to the State Government and the Commissioner having jurisdiction over the place of the accident.

Section 114: Inquiry by Commissioner. –

- 1) On the receipt of a notice under section 113 of the occurrence of an accident to a train carrying passengers resulting loss of human life or grievous hurt causing total or partial disablement of permanent nature to a passenger or serious damage to railway proper, the Commissioner shall as soon as may be, notify the railway administration in whose jurisdiction the accident occurred of his intention to hold an inquiry into the causes that led to the accident and shall at the same time fix and communicate the date, time and place of inquiry

Provided that it shall be open to the Commissioner to hold an inquiry into any other accident which, in his opinion, requires the holding of such an inquiry.

- 2) If for any reason, the Commissioner is not able to hold an inquiry as soon as may be after the occurrence of the accident, he shall notify the railway administration accordingly.

Section 115: Inquiry by Railway Administration –

Where no inquiry is held by the Commissioner under sub-section (1) of Section 114 or where the Commissioner has informed the railway administration under sub-section (2) of that section that he is not able to hold an inquiry, the railway administration within whose jurisdiction the accident occurs, shall cause an inquiry to be made in accordance with the prescribed procedure.

Section 116: Powers of Commissioner in relation to Inquiries For the purpose of conducting an inquiry under this Chapter into the causes of any accident on a railway, the Commissioner shall, in addition to the powers specified in Section 7, have the powers as are vested in a civil Court while trying a suit under the Code of Civil Procedure, 5 of 1900, in respect of the following matters, namely:-

- a. summoning and enforcing the attendance of persons and examining them on oath;
- b. requiring the discovery and production of documents;
- c. receiving evidence on affidavits;
- d. requisitioning any public record or copies thereof from any Court or office;
- e. any other matter which may be prescribed.

The Commissioner while conducting an enquiry under this Chapter shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the code of criminal procedure, 1973 (2 of 1974)

Section 117: Statement made before Commissioner – No statement made by a person in the course of giving evidence in an inquiry before the Commissioner shall subject him to, or be used against him in, any civil or criminal proceeding, except a prosecution for giving false evidence by such statement:

Provided that the statement is –

- a) made in reply to a question which is required by the Commissioner to answer, or
- b) relevant to the subject – matter of the inquiry.

Section 118: Procedure, etc – Any railway administration or the Commissioner conducting an inquiry under this Chapter may send notice of the inquiry to such persons, follow such procedure, and prepare the report in such manner as may be prescribed.

Section 119: No inquiry investigation etc. to be made if the Commission of Inquiry is appointed – Notwithstanding anything contained in the foregoing provisions of this Chapter, where a Commission of Inquiry is appointed under the Commission of Inquiry Act, 1952 (3 of 1952) to inquire into an accident, any inquiry, investigation or other proceeding pending in relation to that accident shall not be proceeded with, and all records or other documents relating to such inquiry shall be forwarded to such authority as may be specified by the Central Government in this behalf.

Section 120: **Inquiry into Accident not covered by Section 113** – Where any accident of the nature not specified in section 113 occurs in the course of working a railway, the railway administration within whose jurisdiction the accident occurs, may cause such inquiry to be made into the causes of the accident, as may be prescribed.

Section 121: **Returns** – Every railway administration shall send to the Central Government, a return of accidents occurring on its railway, whether attended with injury to any person or not, in such form and manner and at such intervals as may be prescribed.

Section 122: **Power to make rules in respect of matters in this chapter** –

- (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
 - (a) the injury to property which shall be considered serious under clause (a) of sub-section (1) of section 113;
 - (b) the forms of notice of accidents to be given under Section 113 and the particulars of the accident such notices shall contain;
 - (c) the manner of sending the notices of accidents, including the class of accidents to be sent immediately after the accident;
 - (d) the duties of the Commissioner, railway administration, railway servants, police officers and Magistrates on the occurrence of an accident;
 - (e) the persons to whom notices in respect of any inquiry under this Chapter are to sent, be the procedure to be followed in such inquiry and the manner in which a report of such inquiry shall be prepared;
 - (f) the nature of inquiry to be made by a Railway Administration into the causes of an accident under Section 120;
 - (g) the form and manner sending a return of accidents by a Railway Administration under Section 121.

5 Sections relating to Liability of Railway administration for Death and Injury to passengers due to Accidents:

Section 123: **Definitions** –In this Chapter, unless the context otherwise requires –

- a) “accident” means an accident of the nature described in Section 124;
- b) “Dependant”, means any of the following relatives of a deceased passenger, namely:
 - i. the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;
 - ii. the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a predeceased son, if dependant wholly or partly on the deceased passenger;
 - iii. a minor child of a pre-deceased daughter, if wholly dependent on the deceased passenger
 - iv. the paternal grandparent wholly dependent on the deceased passenger.

Section 124: **Extent of liability** – When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and