

14.42 hrs.

**RAILWAY CLAIMS TRIBUNAL BILL
AND
METRO RAILWAYS (CONSTRUCTION
OF WORKS) AMENDMENT BILL**

[*English*]

MR. DEPUTY SPEAKER: The House will now take up the next item.

THE MINISTER OF STATE OF THE MINISTRY OF RAILWAYS (SHRI MADHAVRAO SCINDIA): Sir, I seek your kind permission to club both these Bills together and hold the discussion together.

MR. DEPUTY SPEAKER: I think the House will agree to this. The point is that items 10 & 11 will be taken together.

SEVERAL HON. MEMBERS: Yes.

MR. DEPUTY SPEAKER: All right. The hon. Minister may move the Bills now.

SHRI MADHAVRAO SCINDIA: Sir, I beg to move:

"That the Bill to provide for the establishment of a Railway Claims Tribunal for inquiring into and determining claims against a railway administration for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to be carried by railway or for the refund of fares or freight to it or for compensation for death or injury to passengers occurring as a result of railway accidents and for matters connected therewith or incidental thereto, be taken into consideration."

I also beg to move:

"That the Bill further to amend the Metro Railways (Construction of Works) Act, 1978, as passed by Rajya Sabha, be taken into consideration".

MR. DEPUTY SPEAKER: Do you want to say anything? If you want to say anything, you can say. Otherwise I will call the hon. Members to speak.

SHRI MADHAVRAO SCINDIA: No, Sir.

MR. DEPUTY SPEAKER: Motions moved:

"That the Bill to provide for the establishment of a Railway Claims Tribunal for inquiring into and determining claims against a railway administration for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to be carried by railway or for the refund of fares or freight to it or for compensation for death or injury to passengers occurring as a result of railway accidents and for matters connected therewith or incidental thereto, be taken into consideration".

"That the Bill further to amend the Metro Railways (Construction of Works) Act, 1978, as passed by Rajya Sabha, be taken into consideration."

Now, Mr. Amal Datta to speak.

SHRI AMAL DATTA (Diamond Harbour): Sir, I will speak on Metro Railways (Construction of Works) Amendment Bill. Mr. Basudeb Acharia will speak on Railway Claims Tribunal Bill....

SHRI MADHAVRAO SCINDIA: I would like to make some introductory remarks.

Mr. Deputy-Speaker, Sir, hon. Members have often expressed their concern about delays in payment of compensation for deaths and injuries in train accidents. Appointment of Claims Commissioners in major accidents and adjudication of claims by them is quite time-consuming. In the case of minor accidents, the claimants are

required to apply to the ordinary District Courts and it takes years for the overburdened District Courts to finalise their cases. Hence, there is a need for a more prompt machinery to ensure speedy settlement of accident claims.

Another category of claims for compensation against the Railways is for loss of, and damage to, consignments carried by the Railways. The Railways do settle such compensation claims through their own Claims Officers and this internal machinery has been streamlined so that the litigation on this account is minimal. Nevertheless, there are some disputed claims which go to the civil courts. The House is aware that inordinate delays occur in disposal of suits by ordinary civil courts. About 22, 425 suits now pending are three to nine years old, and about 2,580 suits are pending for a period of more than nine years, in different parts of the country. There is, therefore, a definite need to provide an expeditious remedy and to remove harassment and hardship caused to rail-users on account of such prolonged litigation. The Estimates Committee and the Railway Reforms Committee had recommended establishment of a Tribunal to settle such matters.

The Government have accordingly brought the Railway Claims Tribunal Bill to provide specialised and exclusive forum for expeditious payment of compensation to the victims of train accidents and a much quicker remedy to the rail-users to get their loss and damage claims resolved. The proposed Tribunal will also be vested with powers to deal with the disputes regarding refund of fares and freight charges.

The Tribunal will have adequate number of Benches in different parts of the country, so that the applicants are not required to travel long distances for getting the relief. Each Bench will have two Members, one judicial and one technical. This composition will help in quicker understanding of the facts and judicious application of law. The Tribunal will have powers of sum-

mary disposal on the basis of documents and affidavits, obviating the need for lengthy oral evidence as far as possible.

I hope that the establishment of the Railway Claims Tribunal will fulfil one of the long-standing demands of the rail-users and will go a long way in expediting settlement of their claims against the Railway Administration.

With these words, I commend the Bill for the consideration of the House.

As far as the Metro Railways (Construction of Works) Amendment Bill is concerned, as the House is aware, the Ministry of Railways are presently, engaged in the construction of a prestigious Mass Rapid Transit System in Calcutta, commonly known as Calcutta Metro, which would be the first of its kind in the country. The Metro Railways (Construction of Works) Act, 1978 provides for a speedy procedure for the acquisition of lands, building etc. by the Central Government, independent of the provisions of the Land Acquisition Act, 1894. For the purpose of said acquisition, a notification has to be issued under section 7 notifying the intention to acquire any particular plot of land or building etc. for the construction of Metro Railway. Section 9 provides for the objections, if any, from the affected persons, to be heard by the Competent Authority constituted under the said Act. Thereafter, under section 10(1), a declaration has to be issued by the Central Government, by notification in the Official Gazette that the particular plot of land or building etc. should be acquired. Sub-section (3) of section 10, however, provides that the notification under section 7 shall cease to have any effect, if the declaration under section 10 (1) is not published within a period of one year from the date of publication of notification under section 7.

Experience has shown that taking advantage of the above provisions, the affected parties, often resort to dilatory tactics by going to the Court and obtaining stay orders with the object of making the

[Shri Madhavrao Scindia]

publication of declaration under section 10(1) impossible within the said period of one year. Thus, the acquisition proceedings, in some cases, get unduly delayed. Hon. Members would appreciate that if the acquisition of even one plot of land, critically located, is stalled due to dilatory tactics of the affected persons, commissioning of the full length of Calcutta Metro would not be possible.

In order to eliminate these difficulties, and to ensure timely completion of the prestigious project of Calcutta Metro, the Metro Railways (Construction of Works) Amendment Bill, 1987 was introduced in the Rajya Sabha, to insert a proviso to subsection (3) of section 10 of the said Act to exclude the period during which an acquisition proceeding remains stayed by an order of Court for computing the period of one year under section 10 (1). A similar provision exists in the Land Acquisition Act, 1894.

With these words, I commend the Bill, as passed by the Rajya Sabha, for consideration of this House.

SHRI AMAL DATTA (Diamond Harbour): Sir, the metro railway, whether prestigious or not, is absolutely essential for the life to continue in Calcutta. It was recognised by the Central Government as an essential project way back in mid-sixties. Till date, no assessment has been made as to whether metro, as originally conceived, will serve the purpose it was intended to serve or whether some change are to be made, whether some expansion is necessary in view of the growth of Calcutta in both the North and South directions. We are still at the stage where we were conceptually in the mid-sixties. We have not moved a step from there because we have not been able to implement what we thought we would be able to implement in five years. Fifteen years have gone since then. We are nowhere near completion of

the project yet. It is although prestigious, but it is also a disgrace for the Central Government that they have been so tardy in the execution of this project.

Sir, take for instance the Bill itself. The land acquisition for the purpose of metro started as far back in 1973 or 1974. In 1978, they brought an Act for the purpose of eliminating the difficulties arising out of the construction of metro railway in Calcutta. Now after nine years, it has occurred to them that some people are spoiling their records by going to courts so far as land acquisition is concerned. It has taken them such a long time. It is not that diory tactics taken by the people are unknown to anybody. We have known about these things for the last 30 years. Constitutional provisions enable people to go to court under certain Articles of the Constitution and get certain remedies, certain immediate reliefs which although meant to be for a short period yet has become prolonged because courts are congested. Now this is a conventional wisdom available to anybody who is prepared to apply his mind but unfortunately, the Railway Minister and his subordinates are not. I am not talking of this Railway Minister but his predecessors.

(Interruptions)

SHRI BIPIN PAL DAS (Tezpur): Including Mr. Dandavate.

SHRI AMAL DATTA: Now, Sir, I have nothing against this Act. But this Act enables me to say a few things.

(Interruptions)

SHRI GIRDHARI LAL VYAS (Bhilwara): It is also a CPM tactics.

SHRI AMAL DATTA: Certain things should be known about the metro railway. The prestigious project, as I said, conceived in 1960 was the first of its kind. Its costing was made in June 1972 on the basis of 1970 or 71 prices. It was Rs. 140 crores. Two years later in 1974 they pro-

duced another estimate — again abstract estimate and not the detailed estimate — and that was Rs. 250 crores. Within two years it jumped from Rs. 140 crores to Rs. 250 crores. Then the next estimate, I do not know whether they had any internal one, which came in December 1981. It was Rs. 560 crores.

Now, Sir, why I am giving this is to show the Government's way of execution or implementation of a prestigious project. In 1981, it was supposed to have cost Rs. 560 crores. At that point of time, only Rs. 96 crores had been spent on the project, which means not even one-sixth of the then cost estimate and not even detailed cost. The detailed cost would have been much more. There has never been a proper machinery instituted for the purpose of execution of this project. No proper machinery has never been set up. Up-to-date, there is no metro railway authority which can take independent decisions. For the small purposes, they have got to come and report. Lot of decisions have got delayed because they have to come to Railway Board for sanctions on these matters. Now, what happened as a result was that they have no machinery there. There is no independent authority there and they have to come to some other authority for sanction. So, finalisation of tenders which could have taken not more than six months was delayed anywhere from 18 to 54 months. The finalisation of tenders and award of tenders was taking 12 to 34 months. Since there was no proper supervision of work, they were giving at random extension to the contractors whom they could not supervise to see that they are working in time. Even for the delayed awarded contracts, the contractors were given extension for periods of 10 to 68 months. Can you imagine that more than five years extension was given for execution of contracts of may be worth Rs. 10 crores to Rs. 20 crores! This has been the situation because no machinery has been set up by the Railways which was necessary for the execution of projects.

Is it I who have been saying that such a project was necessary? No. First, a Cabinet Note said that such a project was necessary. Then the Administrative Reforms Commission said that; then the Railway Convention Committee said that; then the National Transport Policy Committee said that. In spite of these committees saying that and in spite of even the Cabinet saying that, they have not up to date set up an authority for purposes of construction and running of the railways. As a result, further delay is going to take place.

I am bringing out this history not merely for the purpose of telling the people how bad the Metro Railway has been; I have a constructive motive behind it. Even today they should pay need to it and have an authority which will be fully responsible for the execution of the work.

As a result what has happened is that even the orders for building of the railway coaches have been delayed out of all proportions. They could not finalise the design of the coach for a long time and when they did and placed orders, even then there have been abnormal delays by the Integrated Coach Factory in Madras. When they were received after two or three years delay, they were supposed to be given trial run of 2 lakh kilometres. But that was not done. Each of these proto-type rails has been given trial run for only 16000 kilometres in place of 2 lakh kilometres. It is not my prescription; it is railways' own prescription that it should be given 2 lakh kilometres trial run. Instead of that they are giving not even 10% of the prescribed kilometres as trial. So, what will happen? An accident will take place sometime and then they will put the blame on anybody; but not on themselves. These facts should be taken note of today, so that the Railway Minister can arrange for a proper trial run of these rails. That has not been done so far.

14.58 hrs

(SHRIMATI BASAVARAJESWARI *in the Chair*)

Another point is that a General Manager to the Metro Railway — I think five or six successive ones for the last five or six years—is appointed only for a period of eight to ten months or maximum for one year. And at the fag end of this career. Perhaps he was entitled to be promoted as General Manager of the Railways, but no other berth could be found for him, so put him on Metro Railways because it is nobody's child. That has been the attitude. That is one of the reasons also which has caused the delay.

The reasons for delay have been analysed in the audit report — delay in finalising the contracts, giving extensions, no supervision and other things are there. But one of the reasons are that no-priority was given for supply of essential materials like steel and cement. They call it a prestigious project and they don't give priority in the supply of steel and cement when there is scarcity. Now there is no scarcity, everything is available. But even then there is a considerable delay in the execution of the balance portion of the work. There is considerable delay in running the trains properly.

Some of the MPs have visited the Metro Railways and we have been shown that a controller by means of which trains can run at an interval of 1½ minutes has not been acquired. As a result now the trains cannot run except at an interval of eight to ten minutes. They say it will take four years. When they say four years it becomes eight to ten years. I believe when the Metro Railway is completed physically even then the proper running of trains will not be possible for want of this controller. They are not even decided about the methods to be applied for the construction

of works of Metro railway. Their experimentations are still going on as to what method to apply and how to give the contract, etc. This is something the Railways should have learnt by now but Railways have not learnt the lesson. They should have learnt the lesson in these long 15 years.

Life of Calcutta has been brought to standstill at some points because we have been constructing Metro railways at congested corridors. There is no coordination with the State Government. I am sure the Minister will deny this but I will conclude by narrating my own experience when I as an MP sought to have coordination between the State Government and the Metro Railways. I went to the Urban Affairs Minister there in 1985. At that time the Urban Affairs Minister said that he had called so many meetings but not one of them has been attended by the General Manager of Metro Railways and now I refuse to call any more meetings because the General Manager does not attend the meeting. Then I went to the Mayor of Calcutta and found the same state of affairs. I personally sent two messages to the General Manager — one by telephone and the other by a letter. General Manager did not come to see the Mayor. I am sure the Railway Minister will deny lack of coordination. He will say State Government does not cooperate and all those charges but this is my personal experience and nobody can say anything against that. I have told the Chairman, Railway Board that this is the position. General Manager, Metro Railways is behaving in this fashion. Can you expect cooperation from the State Government? I do not know of late whether the situation has improved or not but I hope the Railway Minister will take note of it and put an end to this kind of affairs.

SHRI SHARAD DIGHE (Bombay North Central): Madam Chairman, these two Bills, namely, the Railway Claims Tribunal Bill and Metro Railways (Construction of Works) Amendment Bill are before the House for consideration. Of course, even

though they are clubbed together there is nothing common in them except that the Ministry which is piloting the Bills is the Railway Ministry. I would, therefore, make it clear that I would confine my remarks to the Railway Claims Tribunal Bill only.

I would wholeheartedly welcome this Railway Claims Tribunal Bill which is before the House. It seeks to provide for the establishment of Tribunal/Tribunals to deal with the claims against the Railways regarding loss, damage and deterioration to the goods or animals entrusted to the Railways as public carriers.

Secondly, to deal with claims regarding refund of fares or freights and also to deal with the accident claims arising out of railway accidents which are at present, being dealt with by the Claims Commissioner. The first two types of claims, which I just now mentioned, are being dealt with by the civil courts. It is an admitted fact in all the quarters that our civil courts are crumbling under the weight of the arrears of work. Therefore, it is a good idea to give expeditious justice to those who are filing claims against the railways on four or five counts which I have already mentioned.

The idea of tribunal is also very laudable. It consists of chairman, vice-chairman and also judicial and technical members. The tribunal has been made as independent as possible. The appointments are to be made by the President of India. The appointment of chairman is sought to be made by the President in consultation with the Chief Justice of India. As far as the other members are concerned, their appointments would be made by the Central Government. The removal part is also laudable. None of them can be removed from their service except on the ground of proved misbehaviour or incapacity to work which will have to be proved before a Supreme Court Judge. These are all good provisions which make the tribunal an independent and impartial body to deal with the public claims. Technicalities are also to be avoided because the provisions

of Civil Procedure Code are not being applied. But they would be following the rules of natural justice. There is no appeal except an appeal direct to the High Court. As I said, this tribunal would definitely help expedite the disposal of thousands of claims which are already pending. The Minister has said that nearly 22,000 claims—which are all three-year old—are pending. There are also claims pending even for a period longer than this. So, this tribunal will definitely help in clearing up all the arrears and would administer justice to the citizens of this country who use railways for travelling or for sending their goods or animals.

Having said this, I would also make certain critical remarks as far as this Bill is concerned. Firstly, I have not been able to follow exactly the rationale for bringing forward this Bill during this session. The Indian Railways Act is already before the House and has been referred to the Joint Select Committee. When that Bill is already before the Joint Select Committee, I do not know why this part has been brought forward.

It would create further complications and more work from this point of view. At several places, references have been made to different sections of the existing Indian Railways Act. As soon we pass this Bill and when the new Railways Act would replace the old one, the Government would have to come forward again with an amending Bill for making consequential amendments to the proposed bill. The Railway Minister may explain as to what was the rationale behind this, namely, bringing this Bill before the main Railways Act would be replaced by the new Railways Act.

Secondly, throughout this, we have been told that there would be Benches, Chairman, Vice-Chairman, technical members and other legal members and it has not made clear as to how many Benches will be there except in the financial memorandum, which refers to 19 Benches which will be established under

[Shri Sharad Dighe]

this Bill. If the objective is to give expeditious justice to the claimants against the Railways, then we should have large number of Benches as far as this Tribunal is concerned. At present, we have got District Courts in every district throughout India and people have got access to the District Courts for filing their claims. Even in other Civil Courts suit can be instituted against the Railways. The very objective will be defeated if we establish only few Benches throughout India which will not be accessible to common people or people who have less means of livelihood. It will be difficult for them to go to those Benches and have their litigation tried there.

My submission is that Government will have to think of establishing more Benches rather than the 19 Benches. At least as many as the Benches as the number of District Courts should be established. Those Benches should have the power or moving from one place to the other so that they can go to far-off places, into the interior and hear these cases as far as claims against Railways are concerned. The number of Vice-Chairmen should have been made elastic than four as fixed in the Act. If they would have said that the number of Vice-Chairmen would be as the Central Government would decide from time to time, that would have been better as far as this Act is concerned. Regarding qualifications, I have got nothing to say except to refer to condition that the Vice-Chairman and other members would be taken from the Indian Legal service and also from the Railway Administration. If we want to gain the confidence of the people as far as the Railway claims are concerned, members of tribunal should not be recruited from Railway Administration for such Tribunals. They have got a bias in favour of the Railways and the litigants also feel that this bias will come in their way. Therefore, it would have been better if the Railway Administration people would not have been recruited in this and that provision would not have been made.

Similarly, I do not know why people from the Indian Legal Service are going to be recruited. When we say that persons who are qualified to be High Court judges or who are sitting High Court judges or past High Court judge can be recruited, then all judicial services are covered. Therefore, it was not necessary to bring in this that persons from the administrative cadre namely, the legal service, that is, the law and judiciary would be recruited. This also comes under bias and the litigants would not feel that this is an impartial tribunal.

Finally, I would say that distribution of work has been left here to the Central Government. This would create so many practical problems. Whenever a suit is filed, it will have to go to the Central Government first for distribution or allotment to certain Tribunals. Therefore, you should have appointed territorial Tribunals or territorial Benches so that the litigation could have gone to the Bench which was in that territory. That would have been easier.

Finally, as far as the appeal to the High Court is concerned, ninety days limitations is given. I do not know whether other provisions of the Limitation Act would apply to this. That should have been made clear otherwise so many times, we do not get certified copies and cannot file an appeal in time and some delay is there and for condoning that delay, a provision is not there.

With these remarks, I welcome this Bill and support it.

SHRI BHATTAM SRIRAMA MURTY (Visakhapatnam): Mr. Chairman, Sir, I support some of the valid points raised by my learned predecessor, Shri Sharad Dighe.

At the outset, I would request the hon. Minister to consider whether it would be appropriate even now to re-examine the position and refer this Bill also to the Select Committee along with the Bill which has been there before the Select Committee.

As I said, various valid points have been raised. We have been wanting to have a comprehensive legislation on this subject. All the time we have to depend on a century-old Indian Railways Act which reminds us of the relics of the colonial past. Even in this Bill if we look at the entire Chapter 7, it is devoted to amendments to the various Sections of the Indian Railways Act itself. The basic Act, the Indian Railways Act, is intact, we are only making certain amendments. Therefore, I suggest that we should have a comprehensive legislation and that should include whatever is contemplated now and whatever is on the anvil or is before the Select Committee, so that we need no longer refer to a century-old law and depend on that and depend on piecemeal legislation from time to time to meet the present day requirements.

How does litigation occur? Why are the claims increasing? That has got to be looked into first. I have got with me a copy of the India Railway Safety Performance 1985-86—A Review. According to it, in the year 1977-78, 172 persons were killed and 421 persons were injured in the rail accidents and a sum of Rs. 45.82 lakhs was paid to them as compensation. Normally, it should be at the rate of Rs. one lakh per head—those who were killed. For 172 persons what should be the amount that should be paid? And what is the amount which has ultimately been paid? It is Rs. 45.82 lakhs. Again in 1981-82, 446 passengers were killed and 717 injured in rail accidents and only a sum of Rs. 46.13 lakhs was paid as compensation. The maximum compensation of Rs. One lakh that was stipulated originally is there on the paper only and it is not in practice. Therefore, I would request the hon. Minister that without any reference to the status of the persons killed in rail accidents, they should be paid a minimum compensation of Rs. one lakh. Perhaps it is not possible to provide that in the Act; it should be provided in the rules. It should be very clearly laid down, otherwise it is very difficult and the people are put to immense difficulties and hardships.

Kindly see Section 73 of the Indian Railways Act. There are several loopholes. According to it, the railway administration is responsible for loss, damage or deterioration of goods in transit arising from any cause except those due to the act of God, war, public enemies, omission or negligence of the consignor, consignee etc. Therefore, a number of claims filed by different parties can be repudiated. There is a wide scope for the Railway Administration to repudiate the claims.

Under Section 74, when the consignment is booked at owner's risk rate, the railway administration is not responsible except on the proof by the claimant that such loss or damage was due to negligence. Therefore, there is a lot of scope. A predominant number of cases were repudiated. I got the figures with me and I would like to quote them here.

The value of claims accepted and the percentage of value of claims paid on earnings increased from Rs. 21.9 crores in 1982-83 to Rs. 30.5 crores in 1983-84 and further to Rs. 33.0 crores in 1984-85.

Thus from Rs. 21.9 crores it has gone up to Rs. 33.0 crores. This is always on the increase. That is one aspect which I would like to point out to the Minister.

Again, if you look at the number of cases. 4 to 7 lakh cases, claims are annually being made by different parties and customers. Out of this the number of claims which are repudiated range from 35 to 45 per cent. For instance in the year 84-85 the number of claims paid was 1,68,000 and repudiated 1,73,000. So several claims are repudiated on one ground or another. I pointed out earlier, how it is possible for the administration to immediately deal with it. put up some plea and then repudiate the claim put forward.

Another interesting point has been made out by a sample study of 1363 cases repudiated during last ten days of August

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1985 undertaken on six Railways. What exactly it reveals?

	No. of claims repudiated
Party's negligence	364
Claims Notice not served within six months	328
Defective condition of packing	145
Improper Loading	101

Like this most of the cases which were repudiated were repudiated only on technical grounds causing immense hardship to the customers. The Railways should have earned the confidence of the people but instead it is creating innumerable problems for them. Therefore, that point requires to be carefully considered.

Then, it is not merely providing them an opportunity to go before the tribunal but avoiding certain circumstances which ultimately force them, drag them to the court or before the tribunals. Now, how many suits are pending? The Minister said that it is about 52,000 and odd. I have some figures here to dispose of the facts. I have got a Report of the Public Accounts Committee Report, the Eighty-Fourth Report, of the Eighth Lok Sabha. It is understood that there has been continuous increase in number of court cases instituted every year, decreed against Railways and amount paid as compensation as a result of court decrees. That means the cases which were repudiated were on untenable grounds. In 1983-84, 33,305 new suits were instituted. In 1984-85 it came down to 29,000 and odd. So, several thousands of cases are there. So, how is it possible for the 19 benches and one tribunal to look after all the problems? It is not at all possible, as my learned predecessor has earlier pointed out.

Previously, the court was having jurisdiction over the place at which the passenger had obtained his pass or purchased his ticket or got the receipt for goods handed over for carriage. Even in those places, cases can be filed. Now it is not possible because it is confined to the 19 Benches. Therefore, it will be more difficult to file cases. Moreover, even now it is not specified where these Benches are going to be located.

MR. CHAIRMAN: Please conclude.

SHRI BHATTAM SRIRAMA MURTY: Madam, from my Party, I am the only person speaking on this Bill. Please give me some more time. I will not take more than four or five minutes.

Now, let me explain how difficulties arise and how customers — even the public sector undertakings—are put to severe losses and how there is a lot of harassment. I may be permitted to read from the Report of the PAC. It is clearly mentioned in the Report that the transit losses of foodgrains increased from Rs. 23.27 crores in the year 1977-78 to Rs. 95.85 crores in the year 1983-84. What has to be done? There is a stupendous loss or shortage of foodgrains when they are being transported from one place to another. Naturally, people will put up their grievances and other problems before the Claims Tribunal. Now let us have a look at the claims. The Public Accounts Committee finds that as against Rs. 48.69 crores claimed by the Food Corporation of India as the compensation on account of loss/pilferage and damage to foodgrains in rail transit, only Rs. 1.17 crores were recovered by them from the Railways during the period from 1977-78 to 1984-85. Out of an amount of Rs. 48 and odd crores, only about Rs. one crores were to be paid, what is to be done? If this is the situation faced by public sector undertakings, what will be the position of an ordinary person? The outstanding claim of the FCI on account of shortage and damage in rail transit is stated to be Rs. 26.83 crores at the close of September 1985. This is the situation

Now the Committee further finds that the compensation claim on account of loss/pilgerage and damage to foodgrains in transit amounting to Rs. 16.29 crores was repudiated by the Railways from the years 1977-78 to 1984-85. How could it be repudiated? The Committee is astonished to find that no efforts seem to have been initiated so far to settle these claims which amounted to Rs. 21.21 crores as on 31st March 1982. Subsequently, these claims have increased to Rs. 40.62 crores as on March 31, 1984. This is the position as far as foodgrains are concerned.

Similarly, I will explain how difficulties have been arising as far as Coal India is concerned. With regard to coal, there are test checks at certain points to see whether the coal is correctly loaded or not. In September 1985, 1.18 lakh wagons loaded at different coal fields were weighed for test checks. The test weighments revealed that 37.49 per cent of the wagons were overloaded, 41.39 per cent were underloaded and only 21.12 per cent of the wagons were correctly loaded. This is the difficulty. Whose fault is this? And the game of passing the buck and shifting the responsibility from one person to another or from one party to another party, merrily starts. Endless and countless litigations take place, controversies and discussions arise without any remedy. What is the way out of all these problems? How can we solve them?

PROF MADHU DANDEVATE (Rajapur): It is like the overloading of the Treasury Benches!

SHRI BHATTAM SRIRAMA MURTY: As far as this underloading of wagons is concerned, there have been complaints from the consumers that there is shortage of coal to the tune of 13 to 16 per cent on the carrying capacity. That is the shortage which is being felt. And the test checks also revealed that the wagons are not correctly loaded. Madam much more than this — because you are giving the bell, I will not be able to cover my points and ultimately I have to be satisfied by making a reference to another important classical example of

the total negligence of the Railways — how it all happened. It was brought forth very clearly in one of the Reports of the PAC — 50th Report — in the year 1986-87. This is "A parcel containing 8 kgs. of gold valued at Rs. 14.8 lakhs was booked by the State Bank of India, Bombay to Agra on March, 1983. It was actually despatched on 26th April, 1983. When the luggage van was opened at Busaval, the gold parcel was found missing. The mysterious disappearance of gold parcel defied all detection."

So far nothing has happened. Nobody could detect it.

MR CHAIRMAN: Is it from the guide book?

SHRI E. AYYAPU REDDY (Kurnool): This had happened when the train was going from Bombay to Agra. On the way these 8 kgs. were lost and the claim is still pending.

PROF MADHU DANDEVATE: There is no trouble in Bombay!

SHRI E. AYYAPU REDDY: Railways repudiated it.

SHRI BHATTAM SRIRAMA MURTY: This is what has happened. When such a situation happens or when such incidents occur, it is the responsibility of the Railways to improve the administration to do something better. Otherwise, it is very difficult. Providing just a scope for people to approach the Tribunal that itself is not a sufficient satisfaction and solace.

Here, one important point which I would like to mention before I conclude is, that as far as the decrees are concerned, once the decrees are given, then the order made by the Claims' Tribunal under this Act shall be executed by the Claims' Tribunal as a decree of the Civil Court. And for this purpose, the Claims' Tribunal shall have all the powers of the Civil Courts. It is not a question of allowing parties to go and approach the Civil Courts for securing the

[Shri Bhattam Srirama Murty)

implementation or the execution of the decrees which were awarded by the Tribunals. As soon as the decree is awarded, it is for the Railway administration to immediately deposit the amount and enable the party to withdraw that amount whenever it is necessary. You may insist on the parties concerned to deposit the security amount, if necessary. But within a month invariably the amount must be deposited and the parties are enable to withdraw the amount, otherwise justice will not be done and we will not be able to reap the benefits that are contemplated under the Act.

Thank you.

SHRI VIJAY N. PATIL (Erandol) :
Madam, I welcome this Claims' Tribunal Bill presented by the hon. Minister in this House. This Tribunal which will expedite the claims' cases will not be beneficial to people who get the claim but it will also be beneficial to the Railways because the confidence in Railway goods traffic will increase. With the active and dynamic working of Scindiaji, we have seen that the Railway accidents have been reduced. They have come down and the fatal cases were only 66 in the year 1985-86 as compared to about 400 and odd in the year 1981. Of course the claims settled and the amount of compensation given in 1985-86 was about Rs. 2 crores. As my friend has also mentioned that the maximum limit of compensation for the death caused due to accidents is Rs. 1 lakh. I would like to suggest that there should be a minimum limit also. The minimum limit for total disablement can be Rs. 50,000. If it is done then better justice can be given to the person who is the victim of the railway accident. And also, some arrangements should be made on the spot to pay not less than Rs. 10,000 for the bereaved family or the persons who suffered serious injuries. Of course, we hope that the number of accidents, and of fatal accidents will come down because of modernization of signals and the various methods adopted to prevent accidents, and especially the contem-

plated expenditure for replacement of old tracks. About Rs. 9,000 crores are proposed to be spent over the next 15 years by the Railways for the renewal of tracks.

The Claims Tribunal is all the more essential because of the increase in the volume of goods traffic handled, and the increase which is expected by the year 2000 A.D. At present, 258 million tonnes of goods are transported over thousands of kilometres in the country, in one year; and we hope to increase this goods traffic by 114% by the year 2000 A.D. So, the number of claims because of damage to goods, both of cattle and other items will increase. The setting up of this Tribunal and 19 benches will help in expediting the cases.

I think that Railways should view paying of these claims through this Claims Tribunal as one of its social obligations, just as we consider some of the social costs. We have incurred almost Rs. 183 crores of loss by transporting foodgrains, Sugarcane and other essential commodities, during the last year. We incurred Rs. 183 crores of loss because of the concessional rate of freight. But we have paid only Rs. 43 crores as compensation to the claimants who have claimed damages for the loss of goods, or for damage to goods, in the year 1985-86, as compared to Rs. 33 crores during the year preceding that. Apparently, the number of claims has come down from about 7 lakhs over the last 5 or 6 years, to 4 lakhs during the last year. This is not so because the claimants are getting delivery of the goods without loss or damage; but over the years, the pattern of goods transported through Railways has changed. We are becoming the carriers of low-rated bulk commodities. We are not able to increase the percentage of carriage of high profit-yielding commodities. If you settle the claims properly, within a short time and to the satisfaction of the customers, it will be one of the customer services which will help enhance the goods traffic in the Railways, as we are facing competition from the road-carriers. Here also, if you are able to do this properly and expeditiously, and if the Claims Tribunal can help in this

matter, we can get more goods traffic of higher profit-yielding commodities, and the earnings of the Railways will be more

Before concluding, I would like to suggest that through Railways we are getting a greater amount of public utility service, as compared to any other department. Of course, the next department is Communications. By setting up these tribunals and doing service to the public expeditiously, i.e. by settling the claims speedily, I think we will be doing a better service to the public of this sub-continent.

With these words, I support this Bill.

SHRI V.S. KRISHNA IYER (Bangalore South): Madam Chairman, I support this Bill. It was nearly a century ago the Indian Railways Act was enacted, i.e. in 1890. This is no doubt an improvement so far as this particular section is concerned. But I do not think it will be all foolproof because there are many lacuna in the provisions of this Act, as already explained by two of my colleagues. I do not want to repeat what they have said.

I would like to know from the hon. Minister how he came to the conclusion that nineteen benches would be sufficient and on what basis he came to the conclusion. Is the Minister going to reduce the crime? Is the Minister going to reduce the accidents? Is he confident of doing that? So, on what basis this figure nineteen was arrived at? If he does reduce the crime or the accident in the Railways then we will be extremely happy. But what is happening now? The accidents in the Railways are increasing. So, this is not a realistic approach. As Mr. Shard Dighe has correctly put it, we have 380 Districts or so and can these nineteen Tribunals replace all the District courts? The Government should seriously ponder over this point.

I would like to bring to the notice of the hon. Minister another point. You have brought this Bill because you wanted to reduce the delay in settlement of claims that was now going on at the Claims Com-

missioner's level or at the level of District Courts. But there is no time limit prescribed. Is it not necessary to include a provision about time limit in the Bill? I think it is very necessary to fix the time limit, because the affected people have to wait for years and years to get the compensation. So, I would urge upon the Minister to see whether it is possible even at this stage to fix the time limit, because there is another court also, that is High Court after this. Therefore, it is necessary that the cases should be disposed of in a prescribed period.

I would like to again ask the hon. Minister as to what steps he is going to take to reduce the accidents in the Railways? Though it is not directly connected with this Bill, the measures which he is going to take, will certainly reflect on the Tribunals also.

I would like to give one or two figures from the Report of the Railway Board for the year 1985-86. In the year 1985-86 out of 717 train accidents 484 i.e. 67.5% were attributed to failure of railway staff i.e. human failure; 66 i.e. 9.2% were attributed due to persons other than railway staff and sabotage is only 0.6%. The hon. Minister has been saying that everything has been modernised. When that is so, how do you account for the failure on account of railway staff? What steps have you taken to see that the railway staff realise its responsibility? The lives of thousands of commuters are in the hands of engine drivers of the Indian Railways. It is very necessary that there should be proper training for them. And very responsible and efficient persons should be appointed as engine drivers.

Similarly with regard to theft in the railways, you say it is not the responsibility of the railways but the responsibility of the Government Railway Police. It is not understandable. The theft has taken place in your train. You are carrying the commuters. You should take responsibility of the safety of the passengers not only against accidents but also thefts. You should see that dacoities and thefts do not take place

[Shri V.S. Krishna Iyer]

in the trains. It is now common that dacoits enter the train, threaten the passengers, loot the property and go away. Something should be done in this regard.

We have got full confidence in the Railways that when we book our consignments, they will reach the destination safely and without any damage. Here I would like to quote one or two figures from this Report. In 1985-86 consignments worth Rs. 376 lakhs were lost. Out of this, the consignment recovered was only Rs. 31.77 lakhs worth. The percentage of recovery was hardly 8 per cent. Similarly, in 1984-85 it is 6%, 83-84 6%. At no time it is more than 13%. So theft is common in the railways and certainly railways are forced to give compensation. What concrete steps the hon. Minister is going to take to see that the thefts in the railways are prevented?

About the safety of the articles booked with the railways, I booked a new sofa set about three or four months back from New Delhi Railway Station to Bangalore. But by the time it reached Bangalore city, it was broken to pieces. I sent my assistant to the railway station and told him not to bring those broken pieces. I claimed compensation. But I got only Rs. 1000 as compensation against Rs. 2,500/- which I paid for that sofa. I am having the bill and the receipt for the same. I asked them on what basis they arrived at this figure. But I did not get a proper reply for that. I got only Rs. 1,000 as a penalty for booking the luggage with the Railways.

There is no doubt that you are an honest and efficient person. But this alone is not sufficient. Unless everybody, right from the level crossing man up to the Chairman of the Railway Board, is conscious of his duties and is honest, the railways cannot do service to the commuters. It is very necessary that you should see how they load and unload consignments. The goods are just thrown away. Even if it is mentioned on the consignment 'Handle with

care', they do not care. In my case I have written in bold letters 'M.P.' 'handle with care'. But they do not seem to distinguish between an MP and an ordinary person. They are very honest socialist.

I again quote from the same Railway report. This question has been asked by Shri Bhattam Srirama Murty also. In 1981-82 due to accidents persons killed 463, injured 652 and compensation paid Rs. 46.13 lakhs. The figures of 1982-83 are 59,325 and Rs. 123.87 lakhs, in 1983-84 68,307 and Rs. 95.94 lakhs, 1984-85 194,490 Rs. 122.75 lakhs and in 1986-87 66,269 and Rs. 220.80 lakhs. According to your rule or convention, you have to pay Rs. 1 lakh to the family of the dead. But I am not able to understand the correlation between the figure of dead persons and the amount of compensation paid in 1986-87. So is the case in 1984-85. Persons killed were 194 and injured 490 and the amount of compensation paid is Rs. 122.75 lakhs. Is it because the cases were not settled in the court? How this anomaly arises I do not know. So, I will request the hon. Minister to explain it while replying to the debate.

I would say that now they are appointing the Tribunal. We welcome this measure. It is certainly an improvement and we hope that the things will improve hereafter and an affected person need not wait for months or years now to get compensation. I know of a number of cases where people became disgusted. They even refused to go to courts. They left it to the lawyers. They thought they could not get the compensation. But now it will not happen. However, my only submission will be that the Minister must see that when he appoints the adequate number of Tribunal's Benches must be created and he should see that only judicial persons are appointed because technical persons will again be from the Railways. That will mean that the judge and the prosecutor will be the same person. It is not correct. Technical man may also become the Chairman of the Bench. So, that is not proper because

natural justice will not be there. Therefore, only judicial persons should be appointed.

Once again I say that the Minister should fix up a time limit. If there is no time limit, if the cases are dragged on as before, then the very purpose of this Bill will be defeated. I hope, the hon. Minister will bear this in mind. I once again commend this Bill. I support this Bill and hope that still more progressive amendments will be brought. Anyhow, they will be bringing the Railways Amendment Bill soon. Let it not be delayed. Let us have the honour of passing that Railway Amendment Bill. Don't give it to the next Parliament. Before you have a snap poll, you see that it is passed. Thankyou very much, Sir

SHRI VIRDHI CHANDER JAIN (Barmer): Madam Chairman, I support the Railway Claims Tribunal Bill, 1987 which has been introduced in the house. Just now our friends from Karnataka and Maharashtra spoke on this Bill and particularly pointed out that the Member of the Benches is 19 which is not adequate. I went through the Financial Memorandum very carefully. It envisages that:-

[English]

"To start with, it is proposed to set up 19 Benches at such places as may be specified by the Central Government. It has also been proposed that the Benches may hold their sittings at different stations within their jurisdiction. The number of Benches required will be reviewed from time to time on the basis of workload and experience gained."

[Translation]

It clearly states that with the increase in the quantum of work, the number of Benches will be increased and this is the right course. Therefore, number of the Benches will not remain static, rather these will be increased with the increase in the volume of work. Therefore, there should be no apprehension in the minds of our hon. friends.

Secondly, due care has been taken in setting up the courts in connection with the Railway Claims Tribunal. I appreciate this step. A lot of care has been taken in the qualifications of the Chairman, Vice-Chairman, and the Members. Care has also been taken that none of the officers, i.e. Chairman, Vice-Chairman or Member should be below the grade of that of a Joint-Secretary. It has also been provided that he should be a Judge of a High Court or an officer of his level. As regards their salary, I would like to say that the salary of the Chairman has been fixed at Rs. 8,000/- and for Vice-Chairman and the Members between Rs. 7,300/- and Rs. 7,600. I feel that this salary is sufficient. It is clear that the Government intends to bring most suitable persons in this tribunal. A technical member will have to be taken in it. It is rather essential. In this connection it has been stated that it is imperative to have a Technical Member, because nowadays when accidents take place, deaths occurred and injuries are also sustained. In such a situation, it is the technical person who can take a correct decision about it. If a technical person is not there, then a judicial person cannot take a correct decision. Therefore a technical person is very essential.

SHRI GIRDHARI LAL VYAS: What will the technical person do?

SHRI VIRDHI CHANDER JAIN: He is also from the Joint Secretary Cadre. He has the administrative experience of the railways and you should know that these technical persons are more intelligent than the I.P.S. and I.A.S. officers. You should be aware of all these things and should not interfere unnecessarily.

Therefore, the decision to keep a technical person as a member is quite right.

I would like to say that various companies and private persons prefer to transport their goods through trucks instead of by rail. Because they always apprehend that there is no safety of their goods sent by rail.

[Shri Virdhi Chander Jain]

There is another point that railway servants indulge in pilferage of the goods sent by rail and no action is taken against them. Had action been taken against them, the goods transportation would have been smooth and people would have been attracted towards it. Although railway freight charges are cheaper, yet people do not prefer it for lack of safety. Efforts should, therefore, be made to provide adequate security to the goods being sent by rail and a foolproof system should be evolved for this purpose.

The tribunal should dispose of the cases speedily. If the cases are not disposed of speedily, the very objective of their setting up tribunal will be defeated. Therefore, as has been pointed out by the hon. Member from Karnataka that a time limit should be fixed for disposal of a case viz a case should be disposed of within a year. This will provide facility and relief to the affected persons. With these words, I support this Bill.

SHRI BHADRESWAR TANTI (Kaliabor): The purpose of the Railway Claims Tribunal Bill, 1987 is really very good and I support it.

The spirit of the Bill is to avoid the dictum - Justice delayed is justice denied'. In civil courts there are a lot of pending cases. Those must be disposed of. Therefore, this special Bill has been brought before this House so as to effect expeditious disposal of the matters in the special court i.e. the Tribunal.

MR. CHAIRMAN: Mr. Tanti, you can continue your speech on Monday. We now take up item No. 13 - Discussion under Rule 193. Dr. Chinta Mohan.

3.00 hrs.

DISCUSSION RE: RISE IN PRICES OF ESSENTIAL COMMODITIES

[English]

DR. CHINTA MOHAN (Tirupati): Sir, I

raise a discussion under Rule 193 on the rise in prices of essential commodities. Madam, Finance Minister is not in the House during this important discussion.

MR. CHAIRMAN: Hon'ble Minister for Food and Civil Supplies, Shir H.K.L. Bhagat is here. There are other Ministers present here. You can continue.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF FOOD AND CIVIL SUPPLIES (SHRI H. K. L. BHAGAT): I just wanted to make one submission. I would be here for some time now. If you permit me, if the hon. Members agree, for some time I have to go and attend the Business Advisory Committee in the Rajya Sabha. My colleague will take note of the points made in the House. I will come back. But I am still here for some time, a few minutes. Meanwhile, Shrimati Dixit will take notes on my behalf. I will be back after the Business Advisory Committee in the Rajya Sabha is over.

PROF. MADHU DANDAVATE (Rajapur): Why not expand the Ministry?

SHRI H. K. L. BHAGAT: I am prepared to become your Minister if you come to this side.

DR. CHINTA MOHAN: Madam, if you look at the price list of various consumer items and compare it with the last year price list, it is growing very high and high. As per the Minister's statement, last time the whole-sale price index was about 5 1% rise and today it is about 7 1% rise. Then if you look at the consumer price index, there is a big yawning gap between the Minister's statement and the consumer price index today, that is, the whole-sale price increase to that of the consumer price index. It has reached the double digit figure. It is about 10.2%. Before coming to the House, I happened to go to a Super Bazar, there I enquired about the price of vanaspati last year. They said that vanas-