

Mr. Chairman: The question is:

"That the Long Title stand part of the Bill."

The motion was adopted.

The Long Title was added to the Bill.

Shri Abid Ali: Sir, I beg to move:

"That the Bill, as amended, be passed."

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

15.43 hrs.

INDIAN RAILWAYS (SECOND
AMENDMENT) BILL

The Deputy Minister of Railways (Shri S. V. Ramaswamy): Mr. Chairman, I beg to move:*

"That the Bill further to amend the Indian Railways Act, 1890, be taken into consideration."

This Bill deals with five sections of the Indian Railways Act: 82 (a), 82 (b), 126, 127 and 128.

[SHRI HEDA *in the Chair*]

The existing section 82 (A) provides that the liability of a railway administration to persons involved in accidents to trains carrying passengers shall in no case exceed Rs. 10,000 in respect of any one person. Before the existing provisions of the law came into force in 1943, there was no upper limit to the amount of compensation payable but no compensation was payable to those injured or to the dependents of those killed in train accidents except in the case of accidents attributable to the negligence on the part of the Railway Administration or its servants. Considerable hardship was caused in consequence, particularly amongst passengers of limited

means, as those injured and dependents of those killed in accidents not attributable to the negligence of Railway but due to reasons such as acts of God, sabotage, etc. were unable to obtain compensation. Also it was considered that passengers of limited means found it difficult to file suits and obtain compensation as litigation was both an expensive and prolonged process. It was mainly to remedy these hardships that the Indian Railways Act was amended in 1943 so as to make the Railways liable to pay compensation in all cases of accidents to trains carrying passengers, whether attributable to the negligence of Railways or not. At the same time liability of railways in such cases was limited to a sum of Rs. 10,000 in the case of any one person, as mentioned above.

The ceiling of Rs. 10,000 seems to have been based on the maximum permissible limit under the Workmen's Compensation Act which was then Rs. 5,600 to which 25 per cent was added to allow for damage to luggage, making a figure of Rs. 7,000. Later when the Bill went to the Select Committee, as a result of their recommendation, it was raised and fixed at Rs. 10,000. By the amendment to section 82 (A) it is proposed to increase this maximum from Rs. 10,000 to Rs. 20,000 in respect of any one person. The present limit of Rs. 10,000 was fixed long ago in 1943. Since then there have been great increases in the cost of living and *per capita* income. The rise in cost of living, as reflected in the general index number of wholesale prices in India has been of the order of a little over 100 per cent since 1943, as against the consumer price index of over 71 per cent since 1944 and the *per capita* net output which has risen since 1948 by about 19 per cent. At present compensation is paid based on a schedule notified under the powers given to the Central Government under Section 82 (j) (2) (iii) of the Indian Railways Act. The rate

*Moved with the recommendation of the President.

[Shri S. V. Ramaswamy]

of compensation depends on the monthly income of the person concerned. According to this schedule, those with a monthly income exceeding Rs. 1,00 cannot, under any circumstances get more than Rs. 10,000 as compensation. In the light of the rapid economic development and rise in incomes in the country, the present limit of Rs. 10,000 is considered out of date. Raising it to Rs. 20,000 is expected to provide relief to the income groups exceeding Rs. 1,000. Taking all the above aspects into account, it is considered realistic to raise it to Rs. 20,000.

Along with the increase in the maximum limit of compensation, it is proposed separately to revise the existing schedule at which compensation is payable, generally providing a liberal increase in the case of persons belonging to lower income groups. The proposed schedule provides for changes both relating to income groups and the rate of compensation. In the new schedule, it is proposed to reduce the number of income groups at the lower level. The revision is intended to benefit the lower income groups and avoid the need for meticulous calculations of incomes with consequential delays in their determination as would be required under the old larger number of income groups. In prescribing the rates of schedule for the new income groups, the proposed revision of the present schedule of Compensation under the Workmen's Compensation Act has been taken into account. After the amending Bill is passed by the Parliament, action to issue a suitable notification under section 82 (J) of the Indian Railways Act, revising the existing schedule will be taken and laid on the Table of the House bringing the new schedule into effect. The amendment normally will have only prospective effect.

As a result of raising the maximum limit of compensation and revising the schedule of compensation providing for increased compensation, it is expected that it may involve an additional expenditure of Rs. 8 lakhs per annum, that is, an expenditure of Rs.

15.3 lakhs as against Rs. 5.5 lakhs at present. The total amount payable is estimated to be more than double because for the lower income groups the proposed compensation will be much more than double. That is with regard to 82 (a).

At present section 82 (h) of the Indian Railways Act provides that the right to claim compensation under section 82 (a) does not affect the right to claim compensation under other laws like the Workmen's Compensation Act, the Fatal Accidents Act and the General Law of Torts. From the records there is indication that initially it was not the intention, except perhaps in the case of workmen, to provide for more than one remedy. The present form of the statute seems to have emerged after consideration of the Bill by a Select Committee. It is opined that claims may now be made for compensation under the Railways Act as well as under the Workmen's Compensation Act or any other law in respect of the same accident. *Prima facie*, there appears to be no reason why compensation should be paid by Government in respect of the same accident under more than one law, especially when the railways have assumed liability irrespective of the consideration whether there is negligence on the part of the railways or not and also when the maximum limit of liability is to be increased to Rs. 20,000. It is, therefore, proposed to restrict a person's right to claim compensation under only one law.

Then I come to the other three sections—sections 126, 127 and 128. These sections deal with the dangerous activities endangering the persons travelling by trains. During recent years, a large number of cases of tampering with the railway track either for personal gain, mischief or as a wilful act of wrecking the railway train have been reported. Even during any public agitation, the railways form an easy target of attack for the ventilation of grievances, real or imaginary,

or for causing interruption to the means of communication by the undesirable elements of society. Even if an act of sabotage does not actually result in a fatal accident, the attempt implies danger to human life and a person found guilty of such a crime deserves to be dealt with severely. The Commission of Enquiry appointed to enquire into the serious accident to No. 1 Down Bombay-Calcutta Mail on the night of 23rd November, 1957 between Padali and Asvali stations on the Central Railway have *inter alia* recommended special legislation to provide deterrent penalties to those found guilty of attempts at train wrecking.

Although the existing statute provides for imprisonment for a term extending to ten years or even transportation for life to the criminals found responsible for wrecking a train, yet, in actual practice, it is observed that the culprits have been let off with light punishments which have not proved to be deterrent. Such criminals are unlikely to be deterred at present from repeating their depredations which endanger lives of a number of innocent people travelling by the trains. The awarding of adequate punishment to such elements has thus become a necessity.

To achieve this end, a minimum punishment of three years in the case of first conviction and for not less than seven years in the case of subsequent or repeated offence is proposed to be made under section 126 of the Act.

The cognate section 128 is also likewise proposed to be amended by providing a minimum of six months in the case of first conviction and not less than two years for subsequent or repeated offence with a maximum of five years in all the cases.

It is not the intention to impose a restriction on the discretion of the judiciary. As such it is proposed to provide for the courts awarding a lesser penalty in deserving cases for reasons to be recorded in writing for doing so.

Sir, I move that the Bill be taken into consideration.

Mr. Chairman: Motion moved:

“That the Bill further to amend the Indian Railways Act, 1890, be taken into consideration.”

Shri S. M. Banerjee (Kanpur): Mr. Chairman, Sir, I rise to support the Bill, and I am happy that the compensation has been raised from Rs. 10,000 to Rs. 20,000 on the basis of the cost of living. But I would like to know from the hon. Deputy Minister, one thing. During 1961, especially in the month of October—from 1st October to 31st October, 1961—there had been 171 minor and major accidents including those in the railways. There had been 82 casualties and loss of life, and about 325—I am speaking subject to correction—had sustained serious injuries. The compensation paid was only Rs. 35,000. Since many people have suffered due to the Ghat-sila accident, and since there was another big accident near Farrukhabad, I would like to know how the compensation will be paid and what will be the date of effect to these proposals, after the passage of this Bill and after it is assented to by the President. I want to know whether rules will be framed and also orders passed for the implementation of these measures, when this Bill becomes an Act, and whether this will cover all these cases of accidents, especially those of 1961. I ask this because the cost of living index rises not suddenly. It did not rise suddenly in 1962 or by the end of 1961. There had been a steady rise, and in certain months there was abnormal rise in the cost of living index since the last two years. The Reserve Bank's bulletin will show that there had been a steady rise of about ten points last year and the average has become 124 and not 125. I do not know whether it will become 125 later on, if you take into account two or three months of 1962. I would like to know what will be the basis of paying the compensation to those unfortunate people who lost their lives

[Shri S. M. Banerjee]

through no fault of their own. Those were grim incidents or accidents and I know that the Deputy Minister of Railways expressed with sadness the sad failure of the human machinery or that it was an act of sabotage. After a discussion, it was found,—not by an enquiry but by the facts that hon. Members had—here in this House that this was not an act of sabotage. We could not feel that this was an act of sabotage. I do not know whether the enquiry has been completed in respect of all these accidents. I am happy that after all these major accidents, a committee has been appointed with some of the Members of this House and also some experts, to find out the ways to minimise the accidents.

I really could not know how this approximate amount of Rs. 8 lakhs has been assessed for meeting the compensation arising out of the accidents. Do we anticipate accidents? What is the average number of accidents that we anticipate? The amount may be Rs. 8 lakhs or Rs. 14 lakhs. The hon. Minister said that the average could be Rs. 8 lakhs per annum—I am speaking subject to correction. It was quite clear to me that there were going to be accidents. It is known that despite all our efforts, accidents could not be avoided. So, if he says that this amount is going to be required for the subsequent years also, he should not have said this on the floor of the House, because this gives an impression that merely for accidents which are anticipated, we are keeping some amounts. We cannot keep such amounts in anticipation. After all, the amount is sanctioned from out of the consolidated fund. An *ad hoc* payment is made just after the enquiry. I would like to know what is the condition of those passengers who are mercilessly beaten or who are killed during the train journeys. After all, whose fault is this? The hon. Deputy Minister will say that it is the duty of the State Governments to maintain law and order. But the train is passing over the land of so many States—Uttar Pradesh, Bihar or

any other State. The passenger is killed in the train or around it, during an accident. The point is whether he will be entitled to compensation or not. It is a very serious matter which is engaging the minds of all those passengers who travel today and run the risk of being killed or looted in the various railways.

Recently, a memorandum was sent to me by the son of a railway employee who was working in Muradnagar. I think he was a booking clerk or something else. I do not remember. When he was going to Muradnagar from Delhi, he was just brutally murdered in a second class compartment in the lavatory. I do not know whether he has been paid compensation. A letter was sent by the railway administration to his widow and his son—his son is working in the Muradnagar ordnance factory—saying that his father was not on duty. Muradnagar is a very small place and people generally come to Delhi for things which they cannot get there. Particularly, a railway employee generally comes to Delhi, because he has a pass. So, he had some money with him and just to snatch away that money, he was brutally murdered. I am really sorry if his wife has not been paid compensation.

16 hrs.

Then, I would like to know what amount has been paid to the family members of the late Shri K Rama Rao. In the last session, it was said that some compensation was being paid. I still feel and maintain that Shri Rama Rao would not have been killed had there been a proper chain in the train. It was at the instance of the railway administration that the chains were blanked off. Mr. Speaker, who was in the Chair, allowed a discussion on this and said that merely because some people pull the chain unnecessarily, the chains should not be blanked off. I want to ascertain from the Deputy Minister whether chains have

been restored in all the trains and what compensation was paid to Shri Rama Rao.

About punishment, all people who indulge in sabotage should be punished. This country should not have any place for saboteurs who play with the lives of innocent railway passengers, sitting or sleeping, who do not know anything and who suddenly meet with this fate. There were certain old cases—for instance, the explosion in Pathankot. At that time, it was suspected—and the Minister did not rule it out—that it was an act of sabotage by some foreign agents. I want to know what happened to that case. I want to know whether in these inquiries, any case of sabotage has been brought to the notice of the Minister.

16.03 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

I support this Bill and I would request the Deputy Minister to see that the accidents which occurred in 1961 are covered under this. A maximum number of people died in serious accidents. Their family members should get the compensation of Rs. 20,000 and not Rs. 10,000.

With these words, I support this Bill and I would request the Minister to accept my suggestion. I am sorry I could not move any amendment, because I was not here. There have been so many accidents in October, 1961 especially—170 in all—in which 83 people were killed, speaking subject to correction and 300 injured and the amount of compensation paid was only Rs. 35,000. Purely from humanitarian considerations, they should be paid compensation under the new rate. I would request the Minister to accept this suggestion, which is non-controversial and which is going to help the families of those who lost their lives.

Shri Oza (Zalawad): I support the Bill as far as it goes. It is good that the Government thought it fit to raise the amount from Rs. 10,000 to Rs. 20,000. But to my mind, it is not yet adequate

and they should have thought it fit to raise it to Rs. 30,000. I know of an accident which took place two years back in my own place and nearly 35 passengers were killed. They included first class, second class and third class passengers. Although their relatives were not able to take advantage of the existing provision under section 82A, the compensation offered was so inadequate that they had to resort to other remedies. If this Bill had been passed long before, as it ought to have been, those people would not have been driven from pillar to post.

As has been pointed out, the cost of living index has gone up very high and if an earning member is lost to the family, no amount of money can adequately compensate the loss. But still, in terms of money, Rs. 10,000 was too ridiculous and it is good that the Government has thought it fit to raise it to Rs. 20,000. I hope at the next opportunity, they will reconsider the whole thing and keep the figure at its proper level.

About the provisions amending the penal sections, they are also very welcome. We know that accidents take place not because of any defect in the track, but because of some human agency. Either it is neglect on the part of railway servants or it is an act of sabotage. Both acts of commission and omission require to be severely dealt with. They are highly anti-social. We know of certain cases in which some people commit this act of sabotage in order to draw the attention of the community or some group of persons to their alleged grievances. At that time perhaps they are not conscious of the fact that they are endangering the lives of so many innocent persons. So, it is good that these sections have been amended so as to make the punishment very severe. I hope that the railway department will publicise these things adequately and properly, so that those persons who lightly deal with these things and commit these acts are made conscious that they will be severely dealt with if they try to tamper with

[Shri Oza]

the railways, resulting in fatal accidents.

On the whole I support this Bill.

Shri S. V. Ramaswamy: Mr. Deputy-Speaker, Sir, I thank the hon. Members for giving their support to this Bill. Shri Banerjee raised certain points. He wanted to know the rates of compensation that would be applicable to accidents that occurred in 1961. Normally, in such matters, it is always prospective and not retrospective. The new rates come into operation only after the Bill is passed by the Parliament. *

Shri S. M. Banerjee: In cases where the inquiry is pending and the compensation has not been finalised, but is only provisional, will it be finally fixed under the new rate?

Shri S. V. Ramaswamy: As I said, the normal rule is that Bills are prospective and not retrospective, unless Parliament chooses to make it retrospective. In this case, the new rates are to come into operation after the Bill becomes an Act. Therefore, I submit that the new rates will be prospective and not retrospective, unless the Parliament chooses to do otherwise.

My friend was referring to the index figure being high. At this stage, I submit that in prescribing the rates of schedule for the new income groups, the proposed revision of the present schedule of compensation under the Workmen's Compensation Act has been taken into account. The Ministry of Labour propose to double the existing rates of compensation and also to make the Workmen's Compensation Act rates applicable to those drawing a monthly income of Rs. 500 instead of Rs. 400 as at present.

The proposed schedule of the Indian Railways Act provides more liberal scales of compensation than even the proposed Workmen's Compensation schedule for the lower income group. We are making it more liberal as I

submitted than the Workmen's Compensation Act.

My hon. friend wanted to know how the figure of Rs. 8 lakhs has been arrived at. It is only a rough estimate. It is not that we want accidents to occur. Nobody wants any accident to happen at all. Every human life is precious. The life of even the poorest man in the country is precious. Nobody wants to be killed prematurely, untimely. Yet, with all our precautions, with all our care, attention and caution that we can take, accidents do happen, human nature being what it is.

Shri S. M. Banerjee: What I said was that we were not discussing the budget, as to what amounts should be kept apart for accidents and so on. I was only thinking that when we were discussing the question of raising the compensation, there was no necessity to say that the estimated expenditure on accidents would be Rs. 8 lakhs.

Mr. Deputy-Speaker: Order, order.

Shri S. M. Banerjee: I was only making a submission.

Mr. Deputy-Speaker: Order, order. But he should allow the Chair to exercise its discretion.

Shri S. V. Ramaswamy: Perhaps the House would like to know whether the increase in compensation involves a large amount. I was only giving a rough idea as to what it would mean if the rates are increased; nothing more than that.

Then, Shri Banerjee was talking about murders in the train, people being killed etc. and he asked whether compensation would be paid in their cases. This Act deals with train accidents, that is, collisions between trains or such like things and not murders or injuries to persons while travelling.

An Hon. Member: They are accidents inside the trains.

Shri S. V. Ramaswamy: Killing is not an accident, unless my hon. friend wants to distort the meaning of the

word "accident". It is specifically mentioned as "train accident" and a train accident is defined as collision between two trains and so on. Murder in the train or killing of passengers while they are proceeding from one place to another is not a train accident. Therefore, any such crime will not be attracted by these sections. That being a State matter, a matter of law and order, the persons injured or affected will have to pursue other remedies, remedies other than those provided for under this Act.

With regard to Dr. Rama Rao, the widow of Dr. Rama Rao was offered Rs. 2000 in cash. Rs. 10,000 was invested with the Life Insurance Corporation securing her an annuity of about Rs. 50 per month for the next 15 years. That is the provision that has been made.

As regards restoration of chains, we bowed to the view that was expressed in this House. The House was very keen that we should restore the chains. We have, as a matter of fact, restored the chains on a number of trains. But I am sorry to tell the House that the effect has not been to improve the running of trains. Still there is an enormous amount of chain-pulling, and we are sorry to say that the restoration of chains as was suggested by this hon. House has not brought about that result which the House expected. I hope better sense will prevail, and I hope that in those patches, in those areas where there is lawlessness, where there is this sort of anti-social behaviour, people will come to realise that chain pulling is a very vicious act and they should not resort to it.

With regard to sabotage, it is very difficult to find the saboteurs because they always do things in such a clever way that they leave no trace behind. All these things are done in the dead of night, in secret places, in places which are inaccessible, in forest areas and at places where nobody will see the saboteur. Therefore, it becomes very difficult to find out the culprit. I am afraid, in Pathankot we have not yet

1825 (A) LSD—6.

been able to find out the saboteur. I hope, Sir, the enhanced punishment that has been proposed will have a deterrent effect on those who intend to indulge in these anti-social acts.

My hon. friend Shri Oza wanted to raise the compensation to Rs. 30,000. I submit that the proposal is related to what the Workmen's Compensation Act deals with. As I submitted earlier, our rates are much more liberal than even the schedule under the Workmen's Compensation Act. Therefore, for the present we should be content with this. I am thankful to the hon. Members for supporting the Bill

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Railways Act, 1890, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We shall now take up the Bill clause by clause. There are no amendments to the clauses. I shall put them together. The question is:

"That clauses 2 to 6 stand part of the Bill."

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

Clause 1—(Short Title).

Mr. Deputy-Speaker: There is a Government amendment to clause 1 of the Bill.

Amendments made

Page 1, lines 3 and 4,—

for "(Second Amendment)" substitute—"(Amendment)" (2)

Page 1, line 4,—

for "1961" substitute "1962" (3)

(Shri S. V. Ramaswamy),

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Mr. Deputy-Speaker: There is an amendment to the Enacting Formula also.

Amendment made

Page 1, line 1,—

for "Twelfth Year" substitute—

"Thirteenth Year"

(*Shri S. V. Ramaswamy*)

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Long Title was added to the Bill.

Shri S. V. Ramaswamy: Sir, I beg to move:

"That the Bill, as amended, be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

16.18½ hrs.

BUSINESS ADVISORY COMMITTEE

SIXTY-EIGHTH REPORT

Shri Rane (Buldana): Sir, I beg to present the Sixty-eighth Report of the Business Advisory Committee.

Mr. Deputy-Speaker: The business of the day is over. The House stands adjourned to meet again tomorrow at 11:00 A.M.

16.19 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, March 14, 1962/Phalguna 23, 1883 (Saka).