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**UNEQUAL COMPENSATION FOR EQUAL PERSONS: STATUTORY  
AND JUDICIAL INCONSISTENCIES IN ROAD AND RAILWAY FATAL  
ACCIDENT DAMAGES IN INDIA**

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**INTRODUCTION**

As many as 21,803 people were killed in 24,678 railway accidents in the country in 2023<sup>1</sup> itself, and this trend shows no signs of slowing down.<sup>2</sup> Media houses cover the gory scenes of train accidents almost weekly, but what remains untouched is the aftermath of these tragedies. In India, receiving just compensation has become not just a legal battle, but a constitutional one due to governance by fragmented statutory regimes that vary significantly depending on the mode of transport involved.<sup>3</sup> A victim of a rail accident can file for compensation only under the Railways Act, 1989<sup>4</sup> and is restricted by a fixed, capped, no-fault statutory framework<sup>5</sup> while road accident compensation under the Motor Vehicles Act, 1988<sup>6</sup> is determined through judicial assessments based on actual pecuniary and non-pecuniary losses<sup>7</sup>. This essay critically examines why these two regimes, despite addressing identical human loss, produce vastly unequal compensation outcomes.<sup>8</sup> It analyses the statutory basis of

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<sup>1</sup>National Data Sharing and Accessibility Policy (NDSAP), "State/UT wise Classification of Railway Accidents during 2023" (January, 2025), available at: <https://www.data.gov.in/resource/stateut-wise-classification-railway-accidents-during-2023>

<sup>2</sup>*Ibid.*

<sup>3</sup>Roots, R., "The Dangers of Automobile Travel: A Reconsideration", 66 *The American Journal of Economics and Sociology* 959–976 (2007).

<sup>4</sup>The Railways Act, 1989 (Act no. 24 of 1989).

<sup>5</sup>Breslin, M., "RAILROAD INDUSTRY: SECURITY AND CAPACITY.", 68 *Defense Transportation Journal* 16–28 (2012).

<sup>6</sup>The Motor Vehicles Act 1988 (Act no. 59 of 1988).

<sup>7</sup>Kidner, R., & Richards, K., "Compensation to Dependents of Accident Victims" 82 *The Economic Journal* 130–142 (1974).

<sup>8</sup>Bimal Jalan, "Concentration and Economic Equality" 5 *Economic and Political Weekly* 1544–1546 (1970).

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quantum fixation, the judicial methodology applied, the constitutional and socio-political harm such disparity causes, and concludes with measures for amelioration.<sup>9</sup>

### THE CONFLICTING STATUTORY FRAMEWORK

Compensation for fatal railway accidents in India is governed primarily by the Railways Act 1989, read with the Railway Accidents and Untoward Accidents (Compensation) Rules 1990, specifically Chapter XIII of the Act.<sup>10</sup> Section 124 of the Railways Act imposes liability on the railway administration for death or injury caused by derailments, collisions or operational failures and extends this liability to “untoward incidents,” as well, including accidental falling from a train, terrorist acts, robberies, or violent attacks, provided the victim is a bona fide passenger.<sup>11</sup> The liability under both provisions is strict and no-fault, subject only to limited statutory exceptions such as suicide, attempted suicide, self-inflicted injury, intoxication, insanity or natural causes. Under this Act, the actual quantum of compensation payable is not determined by the courts but by delegated legislation under the Compensation Rules. It fixes the value of a passenger’s death or permanent disability at Rs. 8,00,000, an absolute ceiling where no authority, judicial or quasi-judicial, has the discretion to enhance compensation regardless of the nature of the harm, the affected person(s)’ income, age or number of dependents.<sup>12</sup> The Railway Claims Tribunal thus remains helpless in severe cases as well, with its only function being determining that whether the case falls under the ambit of Section 124 and whether the claimant is a bona fide passenger.<sup>13</sup>

On the contrary, fatal road accident compensation is governed by the Motor Vehicles Act 1988<sup>14</sup>, particularly Chapter XII which establishes a comprehensive compensation regime. The Act provides three distinct routes: via Section 140 which governs interim no-fault compensation, through Section 163A based on structured formula compensation and Section 166 which lays down the route for fault-based just compensation. Section 140 provides immediate relief to the family of the deceased or disabled through an interim relief of upto

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<sup>9</sup>Knoeber, C. R., “Penalties and Compensation for Auto Accidents” 7 *The Journal of Legal Studies* 263–278 (1978).

<sup>10</sup>The Railways Act, 1989 (Act no. 24 of 1989), c.13.

<sup>11</sup>Zoellner, T., & Ferriss, A., “High - Speed Empire” 205 *Foreign Policy* 44–51 (2014).

<sup>12</sup>Cutler, T., & James, P., “Does Safety Pay? A Critical Account of the Health and Safety Executive Document: “The Costs of Accidents.”” 10 *Work, Employment & Society* 755–765 (1996).

<sup>13</sup>Myers, G., “A Study of the Causes of Industrial Accidents”, 14 *Publications of the American Statistical Association* 672–694 (1915).

<sup>14</sup>The Railways Act, 1989 (Act no. 24 of 1989), c.12.

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Rs. 50,000 and does not bar subsequent claims under the other two sections.<sup>15</sup> Section 163A introduces a no-fault scheme based on the Second Schedule of the act where compensation is determined through a three-pronged test of annual income, age-based multiplier and deductions for personal expenses. However, the most significant and widely invoked provision is Section 166 which enables dependants of the deceased to claim just compensation based on negligence. Under this provision, courts and the Motor Accidents Claims Tribunal (MACTs) assess compensation using the multiplier method, as laid down by the Supreme Court.<sup>16</sup> This method comprises of several steps including ascertainment of the actual incomes of the deceased at the time of death, addition of future prospects as mandated in *National Insurance Co. Ltd v Pranay Sethi*,<sup>17</sup> deductions for personal and living expenses enumerated in *Sarla Verma v DTC*<sup>18</sup> and application of an age-based multiplier. Awards under conventional heads such as loss of consortium, loss of estate and funeral expenses are also given. There is no statutory ceiling on compensation. Courts routinely award compensation running into several crores where income and dependency justify such amounts.<sup>19</sup>

This divergence arises from fundamentally different legislative philosophies. The Railways, being a state-owned monopoly and mass carrier, historically adopted a flat compensation model to manage large-scale liability.<sup>20</sup> The objective was never full restitution; it was only minimum guaranteed relief, prioritizing speed, uniformity, certainty and fiscal predictability over full justice.<sup>21</sup> This seems quite ironical in a democratic country like India where the State itself fails to restore victims to the economic position they would have occupied but for the accident.<sup>22</sup>

## A CONSTITUTIONAL AND RIGHTS-BASED ANALYSIS

Firstly, at the core of the constitutional infirmity lies Article 14, which guarantees equality before the law and equal protection of the laws.<sup>23</sup> The Supreme Court has consistently held

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<sup>15</sup>Plant, J. F., "Rail Safety: Targeting Oversight and Assessing Results" 68 *Public Administration Review* 137–140 (2008).

<sup>16</sup>Atiyah, P. S., "Compensating the Accident Victim", 43 *The Australian Quarterly* 16–24 (1971).

<sup>17</sup>(2017) 16 SCC 680

<sup>18</sup>(2009) 6 SCC 121

<sup>19</sup>Reynolds, D. J., "The Cost of Road Accidents" 119 *Journal of the Royal Statistical Society. Series A (General)* 393–408 (1956).

<sup>20</sup>de Rus, G., & Nombela, G., "Is Investment in High Speed Rail Socially Profitable?" 41 *Journal of Transport Economics and Policy* 3–23 (2007).

<sup>21</sup>"Rail Safety Asked", 32 *Journal of Environmental Health* 436–436 (1970).

<sup>22</sup>Covey, J., Robinson, A., Jones-Lee, M., & Loomes, G., "Responsibility, scale and the valuation of rail safety", 40 *Journal of Risk and Uncertainty* 85–108 (2010).

<sup>23</sup>*Ibid.*

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that Article 14 forbids class legislation and permits classification only if it satisfies the twin tests of intelligible differentia and rational nexus with the object sought to be achieved. In the context of fatal accident compensation, the classification created by the law distinguishes between victims based solely on whether death occurred in a railway accident governed by Sections 124 and 124A of the Railways Act, 1989 or in a road accident governed by Sections 140, 163A, and 166 of the Motor Vehicles Act, 1988. This classification fails constitutional scrutiny because the object of compensation law across both statutes is fundamentally the same: to provide monetary redress for loss of life caused by transport-related accidents. The loss suffered by dependants of a deceased person does not vary in nature or magnitude merely because the death occurred on a railway track rather than a public road.<sup>24</sup> The Supreme Court's reasoning in *E.P. Royappa v. State of Tamil Nadu*<sup>25</sup> makes clear that arbitrariness is antithetical to equality, and a compensation framework that limits recovery for one class of victims while allowing full restitution for another is thus arbitrary.<sup>26</sup>

Additionally, In *Maneka Gandhi v. Union of India*, the Court held that any law which is arbitrary, unreasonable, or unfair is violative of Article 14. Applying this standard, a fixed, compensation regime for railway deaths is unreasonable when juxtaposed with the individualized assessment available to road accident victims.<sup>27</sup> It is startling to note that the government did revise the Railways Act in 2025 but the amendment majorly focussed on raising dearness allowances for employees, implementing new rules for bonuses and updating pension options and medical allowances.<sup>28</sup> No major amendment to compensations has taken place since 1989, when the Act was first drafted making current awards economically misaligned with realities in 2026 because they are anchored to historical cost structures and income levels that no longer reflect contemporary economic conditions.<sup>29</sup> The Act thus ignores how over the past three and a half decades, India has experienced sustained inflation, substantial real wage growth, urbanisation, and rising costs in housing, education, healthcare,

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<sup>24</sup>Ballantine, A. A., "A Compensation Plan for Railway Accident Claims", 29 *Harvard Law Review* 705–723 (1916).

<sup>25</sup>(1974) 4 SCC 3

<sup>26</sup>(1978) 1 SCC 248

<sup>27</sup>Weiss, E. D., "Legislation and Road Accidents" 2 *The Modern Law Review* 139–152 (1938).

<sup>28</sup>Dodgson, J. S., "Railway Costs and Closures", 18 *Journal of Transport Economics and Policy* 219–235 (1984).

<sup>29</sup>Evans, A. W., "Accidental Fatalities in Transport", 166 *Journal of the Royal Statistical Society. Series A (Statistics in Society)* 253–260 (2003).

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and social security, all of which magnify the financial impact of a fatal accident on dependants.<sup>30</sup>

Secondly, the Supreme Court in *Olga Tellis v. Bombay Municipal Corporation*<sup>31</sup> recognised that the right to livelihood as an integral facet of the right to life. When a statutory scheme provides compensation that is grossly inadequate to replace the lost livelihood of a deceased earning member, it indirectly deprives dependants of their right to live with dignity. Railways are predominantly used by lower- and middle-income groups, migrant workers, and daily wage earners.<sup>32</sup> When members of these groups die in railway accidents, their families receive compensation that bears little relation to their actual economic loss. The effects of the current compensation framework are equally significant in relation to Article 38, which directs the State to secure a social order in which justice, social, economic, and political shall inform all public institutions. Although Article 38 is part of the Directive Principles of State Policy, the Supreme Court has repeatedly held that these principles are fundamental in the governance of the country and must inform the interpretation of fundamental rights. In *State of Kerala v. N.M. Thomas*<sup>33</sup>, the Court emphasised that equality must be understood in the context of social justice, not as a purely formal concept.<sup>34</sup>

Article 39 further sharpens this critique. Article 39(a) directs the State to ensure that citizens have the right to an adequate means of livelihood, while Article 39(e) requires that the health and strength of workers and citizens are not abused by economic necessity.<sup>35</sup> Compensation for fatal accidents is directly linked to these objectives because it is a mechanism through which the State mitigates the sudden deprivation of livelihood caused by accidental death.<sup>36</sup> Article 39 also has a distributive dimension, requiring that economic arrangements do not result in the concentration of wealth or the perpetuation of poverty. However, under-compensating railway accident victims who disproportionately belong to economically

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<sup>30</sup>Franklin, M. A., Chanin, R. H., & Mark, I., "Accidents, Money, and the Law: A Study of the Economics of Personal Injury Litigation", 61 *Columbia Law Review* 1–39 (1961).

<sup>31</sup>(1985) 3 SCC 545

<sup>32</sup>Drudi, D., "Railroad-related work injury fatalities", 130 *Monthly Labor Review* 17–25 (2007).

<sup>33</sup>2012 SCC OnLine Ker 29108

<sup>34</sup>SELLERS, A. H., "Accidents and the Public Health: With Particular Reference to Automobile Accidents", 27 *Canadian Public Health Journal* 125–137 (1936).

<sup>35</sup>Nariman, F. S., "FIFTY YEARS OF HUMAN RIGHTS PROTECTION IN INDIA - THE RECORD OF 50 YEARS OF CONSTITUTIONAL PRACTICE" *National Law School of India Review* 13–26 (2013).

<sup>36</sup>*Consumer Education and Research Centre v. Union of India*, (2010) 15 SCC 699

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weaker sections is exacerbating economic vulnerability.<sup>37</sup> This outcome runs counter to the spirit of Article 39, which envisions the State preventing economic deprivation.<sup>38</sup>

Thirdly, Article 41 further illuminates the constitutional implications of the existing compensation regime. This provision directs the State to make effective provisions for securing the right to work and education in cases of unemployment, old age, sickness, and disability.<sup>39</sup> Although Article 41 does not expressly mention death, its reference to “disablement” and “undeserved want” has been broadly interpreted to include situations where families are rendered helpless due to circumstances beyond their control.<sup>40</sup> Fatal accidents fall squarely within this category. The irony deepens when one considers the role of the State as both regulator and provider. Indian Railways is a State-owned enterprise, operating as a public utility for the benefit of the masses. In a democratic welfare state, public ownership is justified on the premise that essential services will be governed by higher standards of accountability and care.<sup>41</sup> Paradoxically, the compensation regime governing railway accidents offers weaker remedial protection than the regime applicable to privately owned vehicles under the Motor Vehicles Act, 1988. This inversion of responsibility, where the State shields itself through statutory caps while imposing broader liability standards on private actors, sits uneasily with democratic notions of fairness and public trust.

### JUDICIAL INCONSISTENCY

A significant manifestation of this issue lies in the inconsistency of judgements by courts on the question of contributory negligence. For instance, in *Reshma & Ors. v Union of India*,<sup>42</sup> the Delhi High Court applied a strict interpretation of Section 124A, holding that contributory negligence has no role to play in railway accident claims. By rejecting the relevance of passenger conduct or the conduct of railway officials, the Court emphasised that the claimant must establish that he was a bona-fide passenger and that the incident qualifies as an “untoward incident”. This aligns with the Supreme Court’s judgement in *Union of India v Rina Devi*<sup>43</sup> and despite being non-inclusive, does ensure predictability. However, the

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<sup>37</sup>McAndrews, C., “Road Safety as a Shared Responsibility and a Public Problem in Swedish Road Safety Policy”, 38 *Science, Technology, & Human Values* 749–772 (2013).

<sup>38</sup>Lekachman, R., “On Economic Equality.”, 1 *Signs* 93–102 (1975).

<sup>39</sup>*Ibid.*

<sup>40</sup>Alexander, P. C., “EQUALITY AS A FUNDAMENTAL RIGHT IN INDIA” 9 *The Indian Journal of Political Science* 54–58 (1948).

<sup>41</sup>Sharma, S. R., “India’s Democratic Constitution”, 28 *Foreign Affairs* 499–501 (1950).

<sup>42</sup>2023 SCC OnLine Del 7474

<sup>43</sup>2017 SCC OnLine Pat 2185

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Madhya Pradesh High Court in *Vijay Singh Gour & Ors. v Union of India*<sup>44</sup> exposed fault lines by taking an absolute opposite stand. The Court did acknowledge the statutory scheme under Section 124A, but still took a detailed examination of railway conduct, particularly overcrowding, overbooking and failure to regulate passenger movement. The Court attributed the injury to the Railway's negligence and although the outcome was compensation, the reasoning effectively reintroduced fault-based logic into a no-fault regime. This doctrinal blending is problematic and opens the door for courts to evaluate cases at their own discretion. The inconsistency becomes even more pronounced in cases where courts have denied compensation altogether by characterising passenger conduct as "voluntary risk."<sup>45</sup> In several High Court decisions, passengers boarding or disembarking moving trains have been denied compensation on the ground that they exposed themselves to danger, even where there was no evidence of intent to cause self-harm. These conflicting approaches have serious implications for access to justice and equality before law.<sup>46</sup>

Additionally, at the tribunal level, claims are often disposed of mechanically, with minimal compensation or outright rejection based on technicalities such as absence of a ticket. Conversely, litigants who possess the financial and social capital to pursue appeals before High Courts frequently succeed in overturning these findings and securing higher compensation. This creates a structurally unequal system where similarly situated victims receive vastly different outcomes based not on law, but on their capacity to sustain prolonged litigation.<sup>47</sup> Such disparity runs counter to the constitutional mandate of Article 14 and undermines the egalitarian rationale behind statutory compensation schemes. Further, these judicial inconsistencies directly erode the core objective of predictability. Predictability is central to any compensation regime, particularly one grounded in strict liability.<sup>48</sup> Victims and their families should be able to anticipate outcomes based on statutory criteria rather than jurisdictional happenstance. However, the current landscape reveals that identical fact situations, such as accidental falls due to overcrowding may result in full compensation in one

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<sup>44</sup>2025 SCC OnLine MP 8394

<sup>45</sup>"Neglect of Rail Passenger Safety: Indian Railways' dismal safety record shows lack of leadership and vision", 49 *Economic and Political Weekly* 9 (2014).

<sup>46</sup>Chowdhury, S. R., "Equality before the Law in India", 19 *The Cambridge Law Journal* 223–238 (1961).

<sup>47</sup>Cassels, J., "Judicial Activism and Public Interest Litigation in India: Attempting the Impossible?" 37 *The American Journal of Comparative Law* 495–519 (1989).

<sup>48</sup>Boyd, R., "Determinism, Laws, and Predictability in Principle.", 39 *Philosophy of Science* 431–450 (1972).

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jurisdiction, reduced compensation in another, or outright denial elsewhere.<sup>49</sup> This unpredictability defeats the legislative purpose of Section 124A and weakens public confidence in the legal system. The fragmentation of judicial reasoning also signals a deeper jurisprudential shift: the gradual importation of Motor Vehicles Act (MVA) principles into railway accident jurisprudence.<sup>50</sup>

### THE PATH FORWARD

Since the main basis of this predicament is statutory, certain amendments in the Railway Act will make the process more equitable. Firstly, Article 124 should be accompanied by a proviso such as “Provided that compensation for death shall be just, fair and reasonable, and shall take into account the age, income, number of dependants, and future earning capacity of the deceased, in such manner as may be prescribed, and shall not be limited to a fixed or uniform sum” in order to allow just compensation, already judicially entrenched under Section 166 of the Motor Vehicles Act within the Railways Act itself.<sup>51</sup> Additionally, the phrase “shall not be limited to a fixed or uniform sum” removes the statutory foundation for rigid caps without dismantling the no-fault regime. Secondly, there could also be the Insertion of a new Section that enumerates Principles for Determination of Compensation including, but not limited to the ones in the MVA along with allowing the Central Government to prescribe a minimum statutory compensation, without prejudice to enhanced compensation determined using the other basis. Thirdly, Rule 3 of the compensation rules should be amended to include Rs. 8,00,000 as the minimum amount and a mechanism for minimum compensation under Rule 3 to be revised every three years in accordance with the Consumer Price Index and national wage growth indicators, as notified by the Central Government.”<sup>52</sup> Fourthly, there must be an Amendment to Section 13 that restores adjudicatory discretion to the Tribunal, transforming it from a clerical body into a constitutional adjudicator capable of enforcing substantive equality. It aligns the Tribunal’s role with that of Motor Accident Claims Tribunals. Lastly, provisions must be inserted to prevent prospective justice from becoming selective justice. This will ensure that families already affected by unconstitutional under-compensation are not permanently excluded from relief. These amendments thus do

<sup>49</sup>Ferguson, R. B., “Legal Ideology and Commercial Interests: The Social Origins of the Commercial Law Codes”, 4 *British Journal of Law and Society* 18–38 (1977).

<sup>50</sup>Dinesh Mohan, “Road Traffic Crashes, Injuries and Public Health.”, 36 *Economic and Political Weekly* 4656–4662. (2001).

<sup>51</sup>“Accidents: Speed And The Road Environment.”, 2 *The British Medical Journal* 1619–1621 (1978).

<sup>52</sup>Fombad, C. M., “Compensation of Victims of Motor Vehicle Accidents in Botswana: An Appraisal of the MVA Fund Act Scheme.”, 43 *Journal of African Law* 151–183 (1999).

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not dismantle the no-fault, welfare-oriented structure of railway compensation; they modernise it. By introducing minimum guarantees, income-sensitive enhancement, judicial discretion, and periodic revision, the Railways Act can be brought into constitutional parity with the Motor Vehicles Act. The proposed changes correct inequality at its source, the statute, rather than relying on ad hoc judicial interventions. In doing so, they restore coherence between democratic values, economic reality, and the law's valuation of human life.<sup>53</sup>

## CONCLUSION

The deep fragmentation between regimes has led to an inconsistency in the treatment of accidents that result similarly, simply based on the distinction between the compensation law in the Railways Act, 1989 and the Motor Vehicles Act 1989. There are several challenges to the no-fault liability structure of the Railways Act and the consequent fixed compensation that no longer reflects economic realities.<sup>54</sup> Over three decades later, this Act has become contrary to the objectives the state set out, with regards to the public sector. Violations of Article 14, 21, 39 and 41 are not just obvious, but shake the very foundation of the compensation regime and a lack of predictability due to inconsistent judicial decisions exacerbates the problem. With the railways used largely by middle- and lower-class individuals, the Act reinforces economic stratification and losses rather than bring a tool for change.<sup>55</sup> Thus, there is an urgent need to recalibrate the Act with more inclusive policies that consider factors such as the victims' age, income, number of dependents and also fix interim compensation for immediate relief. Tribunals must be transformed from mere clerical bodies to pillars of justice, a role they fulfil only on paper. In an era of increasing rail dependency, delivering full and meaningful justice to accident victims is not merely desirable, it is imperative.<sup>56</sup>

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<sup>53</sup>Ahmad, S. W., & Ali, M. A., "SOCIAL JUSTICE AND THE CONSTITUTION OF INDIA", 67 *The Indian Journal of Political Science* 767–782 (2006).

<sup>54</sup>*Supra* note 6 at 1

<sup>55</sup>*Supra* note 35 at 6

<sup>56</sup>*Supra* note 43 at 7

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