AFR

2026:AHC:190705

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 27617 of 2026

Ram Naresh Singh and 5 others

…..Petitioner(s)

Versus

Union of India

…..Respondent(s)

Along with:

1. **Writ - C No. 20172 of 2026:**
Sudama Ram and another
Versus
Union of India

2. **Writ - C No. 22329 of 2026:**
Vidyakant Mishra and another
Versus
Union of India

3. **Writ - C No. 22393 of 2026:**
Khutali Devi and 4 others
Versus
Union of India

4. **Writ - C No. 26612 of 2026:**
Ramnagina and another
Versus
Union of India and another

5. **Writ - C No. 22333 of 2026:**
Nirmala and 3 others
Versus
Union of India

6. **Writ - C No. 25893 of 2026:**
Devraji and 2 others
Versus
Union of India and another

7. **Writ - C No. 22326 of 2026:**
Ashok

Versus
Union of India

8. Writ - C No. 22337 of 2026:
Smt Seema Devi and another
Versus
Union of India

9. Writ - C No. 22425 of 2026:
Anil Kumar Chauhan and another
Versus
Union of India and another

10. Writ - C No. 10790 of 2026:
Smt. Reeta Patro and 2 another
Versus
Union of India and another

11. Writ - C No. 20867 of 2026:
Bindeshwari Devi and 4 others
Versus
Union of India and another

12. Writ - C No. 22321 of 2026:
Shashi Devi
Versus
Union of India

13. Writ - C No. 35223 of 2026:
Smt. Soni Devi and 3 others
Versus
Union of India and another

14. Writ - C No. 27472 of 2026:
Smt. Siyarani and another
Versus
Union of India and another

15. Writ - C No. 27717 of 2026:
Jaishree
Versus
Union of India and another

16. Writ - C No. 21666 of 2026:
Smt. Rabadi Devi and another
Versus
Union of India and another

17. Writ-C No. 28604 of 2026:

WRIC No. - 27617 of 2026

Smt. Sushila Devi and others

Versus

Union of India

Counsel for Petitioner(s)	:	Ashok Kumar Singh, Bhagwan Dutt Pandey, Brijendra Kumar Srivastava, Gaurav Singh, Lalit Kumar, Mritunjay Verma, Mukti Nath Pandey, Pashupati Nath Pandey, Priyanka Tripathi, Rajesh Kumar, Ram Mani Tripathi, Ram Raj Prajapati, Shambhavi Nandan, Shiv Babu Dubey, Shiv Binayak
Counsel for Respondent(s)	:	A.S.G.I., Ashutosh Srivastava, Gaurav Bishan, Gaya Prasad Singh, Harshita Rani, Krishna Kant, Krit Raj Singh, Om Prakash Mishra, Rajesh Kumar Vidyarthi, Rakesh Kumar Mishra, Raman Saxena, Ravi Prakash Singh, Sujata Choudhary, Ved Mani Tiwari, Vijay Chandra

Court No. - 9

HON'BLE ROHIT RANJAN AGARWAL, J.

(Oral)

1. Heard Shri Pashupati Nath Pandey, learned counsel appearing for the petitioners and Shri Gaurav Bishan, learned counsel appearing for the respondent along with Shri Gaya Prasad, Shri Om Prakash Mishra, Shri Om Prakash Gupta, Shri Harsh Bardhan Chaubey, Shri Krit Raj Singh, Shri Suyas Chaudhary, Shri Raman Saxena, Shri Ravi Prakash Singh and Shri Rajesh Kumar Vidyarthi.

2. These bunch of writ petitions have been filed challenging the vires of Rule 5 of the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990 (hereinafter referred to as the 'Rules of 1990') and declaring them to be ultra vires to the Constitution of India. Challenge has also been made to the order passed by Railway Claims Tribunal (hereinafter referred to as the 'RCT').

3. As in all the connected writ petitions, similar question has been raised and in two cases, pleadings have been exchanged between the parties, thus with the consent of counsel for the parties, the cases are being decided at admission stage, as only validity of Rule 5 has to be tested in these bunch of petitions.

4. Facts leading rise to these petitions are that near and dear ones of the claimant-petitioners while travelling through train had unfortunately met with an accident and have either lost their lives or were injured. Claim-petitions were filed before the RCT either by dependents/next of kins or by the injured themselves seeking compensation from railway authorities. The RCT while making award has relied upon Rule 5 of the Rules of 1990 and had released 10 percent of awarded compensation and directed for the rest to be kept in a nationalized bank in an interest bearing account.

5. The entire challenge laid to Rule 5 specially Rule 5.1, 5.4.1(i) and 5.4.1(ii) is on the ground that it de-hors the constitutional scheme envisaged under Article 14 of the Constitution of India and entire awarded amount by tribunal should have been released in favour of the claimants and not withheld as per rules in the award made by RCT.

6. Before proceeding to decide the issue in hand, a cursory glance of some of the provisions of Railway claims Tribunal Act, 1987 (hereinafter referred to as the 'Act of 1987') and the Railways Act, 1989 (hereinafter referred to as the 'Act of 1989') are relevant for better appreciation of the case.

7. The object and reason for introducing the Act of 1987 was that Indian Railways are directly controlled by the Central Government like any other government machinery, so it is accountable to the Indian citizens in a democratic set up. Need was felt for the establishment of Railway Claims Tribunal for inquiring into and determining claims against railway administration for loss, destruction, damage, deterioration or non-delivery of goods/ animals entrusted to it to be carried by railway or for the refund of fares or freight or for compensation for death or injury to passenger occurring as a result of railway accidents and related matters. The Bill was introduced in the Parliament which attained the Presidential assent and became the Act No. 54 of 1987 on 23.12.1987.

8. The Claims Tribunal was set up and has been defined under Section 2(e) of the Act. Chapter II provides for the establishment of Railway Claims Tribunal and its benches thereof. Chapter III deals with jurisdiction, powers and authority of Claims Tribunal. Chapter IV provides for the procedure for making an application to Claims Tribunal whereas Section 17 of Chapter IV lays down the period of limitation for moving such an application. Section 30 of the Act provides the power to Central Government to make rules. Pursuant to which, the Railway Claims Tribunal (Procedure) Rules, 1989 were framed.

9. It would not be out of place to mention that initially the Indian Railways Act was enacted during the British era and was called the Indian Railways Act, 1890, which governed the law relating to railways. It was amended from time to time, and the Central Government on 03.06.1989 enacted the Railways Act, 1989. Section 2 is the definition clause which defines the various railway authorities including the Claims Tribunal. Sub-section (29) of Section 2 defines the "passenger" which means a person travelling with a valid pass or ticket.

10. Chapter XIII of the Act deals with the liability of railway administration for death and injury to a passenger due to an accident. Section 123 defines an accident in sub-section (a), and in sub-section (b), the 'dependent' means any of the relatives of the deceased passenger. Section 124 enumerates the extent of liability of the railway authorities. Section 124A was introduced and inserted by Act No. 28 of 1994 with effect from 01.08.1994 and provides for compensation on account of untoward incident. Section 125 provides for the filing of application for compensation. Section 129 provides for the power of Central Government to make by notification the rules in respect of liability of railway administration for death and injury to passengers due to accidents.

11. Thereafter, the Central Government framed Rules of 1990 for providing the procedure for claim for compensation as it provides the amount of compensation. Rule 3 of Rules of 1990 is of great importance as it provides the amount of compensation. Rule 3(2) provides that the compensation to be payable for an injury not specified in Part II or Part III of the Schedule but which in the opinion of the Claims Tribunal is such as to deprive a person of all capacity to do any work shall be Rs. 8 Lakhs, meaning thereby that in case of injury of such nature which incapacitates a passenger not to do any work or in case of death, the compensation amount payable shall be Rs. 8 Lakhs.

12. Rule 5 provides for the mode of payment. This rule was added by notification dated 03.06.2020 issued by the Ministry of Railways (Railway Board) pursuant to the judgment of the High Court of Delhi rendered in the case of ***Geeta Devi Vs. Union of India***. The Delhi High Court while dealing with the mode of payment to an injured or in case, a passenger has lost his life passed orders on 21.04.2017, 24.05.2019 and thereafter, on 06.11.2019. It was pursuant to these orders that Rule 5 was introduced in the Rules of 1990. Rule 5 is extracted hereasunder:-

> ***"5. Mode of payment.-***
>
> *5.1 The tribunal may, in order to protect the sum awarded to the claimant, having due regard to the illiteracy or other disabling factors impairing the judicious use of such sum, issue directions for disbursing the award in terms of annuities, fixed deposits or other suitable mode as shall subserve justice.*
>
> *5.2 If any of the claimants is a minor or person of unsound mind, the Tribunal may give liberty to the guardian ad litem to use the interest accruals on the deposit that shall be made during the minority for maintenance.*
>
> *5.3 Nothing in this rule shall limit the power of the Tribunal to make modifications of the mode of disbursal for reasons to be stated in writing*

depending on the exigencies requiring liquidation of any corpus created for annuity or premature closure of fixed deposit, for the benefit of the claimant.

5.4 The orders dated 21st April, 2017, 24th May, 2019 and 06th November, 2019 of Hon'ble High Court of Delhi in FAO No. 22/2015 and CM Application No. 4501/2015 in Geeta Devi Vs. Union Of India, relating to disbursement of compensation shall be read as part of this rule.

5.4.1 Examination of the Claimant(s) before passing of the award

(i) RCT shall, before or at the time of passing of the award, examine the claimant(s) to ascertain their financial condition/needs, mode of disbursement and amount to be kept in fixed deposit.

(ii) Before disbursement of the award amount, the RCT shall direct the claimant(s) to open an individual savings bank account in a nationalised bank near the place of their permanent residence and the concerned bank be directed to not issue any cheque book(s) and/or debit card(s) to the claimant(s) and if the same have already been issued, the bank be directed to cancel the same and make an endorsement on the passbook of the claimant(s) to the effect that no cheque book and/or debit card shall be issued to the claimant(s) without the permission of the RCT. The concerned Bank of the claimant(s) be directed to permit the claimant(s) to withdraw money from his savings bank account by means of a withdrawal form only. The claimant(s) be directed to produce the copy of the order passed by the RCT before the concerned bank whereupon the bank be directed to make an endorsement on the passbook. The claimant(s) be directed to produce the passbook with the necessary endorsement as well as Aadhaar Card and PAN Card before the RCT on the next date fixed for compliance.

(iii) RCT shall take the following documents on record from the Claimant(s):

> *(a) Details of the Bank Account(s) of the Claimant(s) near the place of their residence with the necessary endorsement;*
>
> *(b) Aadhaar Card and PAN Card or any other appropriate ID card; and*

(c) Two sets of photographs and specimen signatures of the Claimant(s).

5.4.2 Deposit of the award amount

The RCT shall direct the Railways to deposit the amount awarded with the Registrar or RCT within a period of 30 days from the date of communication of the award. At the time of passing the award, RCT shall examine whether the Claimant(s) are entitled to exemption of deduction of TDS and if so, the Claimant(s) shall submit Form 15G or Form 15H (for senior citizen) to the Presenting Officer of the Railways (as applicable under sub-section (2) of section 19 of the Railway Claims Tribunal Act, 1987) so that no TDS is deducted.

5.4.3 Protection of the award amount

The RCT shall, depending upon the financial status and financial need of the Claimant(s), release such amount as may be considered necessary and direct the remaining amount to be kept in annuity or fixed deposit. For Example, in case of award of compensation of amount of Rs. 5.5 lakhs:-

(i) Rs. 50,000/- be released immediately and the balance Rs. 5,00,000/- be kept in FDR for five years or such period as the RCT may consider appropriate, on which monthly interest be released to the claimant(s) by transferring the same to his savings bank account; or

(ii) Rs. 50,000/- may be released immediately and the remaining amount of Rs. 5,00,000/- may be kept in 50 fixed deposits of Rs. 10,000/- each, in the name of the Claimant(s), for the period of one month to 50 months respectively, with cumulative interest.

5.4.4 RCT shall impose the following conditions with respect to the fixed deposits

(a) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the Claimant(s) i.e. the savings bank account(s) of the Claimant(s) shall be an individual savings bank account(s) and not a joint account(s).

(b) The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount,

date of maturity and maturity amount shall be furnished by bank to the Claimant(s).

(c) The monthly interest be created by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their residence.

(d) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the Claimant(s) near the place of their residence.

(e) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the RCT.

(f) The concerned bank shall not issue any cheque book and/or debit card to the Claimant(s). However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall freeze the account of the Claimant(s) so that no debit card be issued in respect of the account of the Claimant(s) from any other branch of the bank.

(g) The bank shall make an endorsement on the passbook of the Claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the RCT and Claimant(s) shall produce the passbook with the necessary endorsement before the RCT on the next date fixed for compliance.

(h) It is clarified that the endorsement made by the bank along with the duly signed and stamped by the bank official on the passbook(s) of the Claimant(s) is sufficient compliance of clause(g) above.

(k) The concerned Bank of the claimant(s) be directed to permit the claimant to withdraw money from his savings bank account by means of a withdrawal form only.

5.4.5 RCT shall fix a date for reporting compliance

(i) RCT shall fix a date for reporting compliance, preferably within 90 days of the award itself.

(ii) Railway shall place on record the proof of deposit of the award amount with up to date interest along with a calculation sheet.

(iii) Upon such proof being filed, RCT shall ensure that the interest up to the date of notice of deposit has been deposited by the Railways.

5.4.6. *Twenty One Banks mentioned in Appendix-I have implemented Motor Accident Claims Tribunal Annuity Deposit (MACAD) Scheme on the directions of the Delhi High Court in Rajesh Tyagi Vs. Jaibir Singh, FAO No. 842/2003. The particulars of the said Scheme are given in Appendix-II. All the aforesaid twenty one banks have been directed to extend the MACAD Scheme to the victims of the untoward incident of Railways. The RCT is at liberty to disburse the award amount through the said Scheme in appropriate cases."*

13. The present petitions are directed for declaring the Rule 5, Rule 5.1, Rule 5.4.1 and Rule 5.4.1(i) and (ii) as ultra vires as it distinguishes between the class of claimants. An effort has been made by the petitioners' counsel to declare Rule ultra vires on the ground that Rule 5.1 gives power to the tribunal to protect sum awarded to claimants, who are illiterate or are differently abled persons.

14. According to them, this is against the spirit of Article 14 of the Constitution of India. Similarly in Rule 5.4.1, the power has been given to the tribunal to assess and examine before passing an award as to the financial condition/needs, mode of disbursement and amount to be kept in fixed deposit. The entire hammer is that such condition cannot be imposed and claimants cannot be divided into two class, one literate and illiterate, and also between financially sound and weak claimants.

15. According to them, all the claimants are equal before law. The Government cannot frame such rules as to distinguish between two class of claimants. The railways is used by both the literate and illiterate people and also by rich and poor. The award and release of compensation cannot be examined and withheld on the ground of literacy and financial condition.

16. Some of the Advocates have tried to impress that the condition laid in Rule 5.4.1(ii) cannot be sustained as once the award is made and the amount is transmitted into the account of a claimant, the tribunal has no authority to curtail the use of amount awarded. According to them, tribunal becomes *functus officio*.

17. Reliance has been placed upon the various decisions of Supreme Court as well as this Court being ***Appeal (Civil) No. 6898 of 2002 (Union of India Vs. Prabhkaran Vijaya Kumar & Others) decided on 05.05.2008***, judgment of the Hon'ble Apex Court rendered in the case of ***Union of India Vs. Rina Devi*** reported in *(2019) 3 SCC 572*, judgment of coordinate Bench rendered in the case of **Runna Vs. Vth Additional District Judge/Motor Accidents Claims Tribunal** reported in **1999 0 ACJ 637**, decision rendered by this Court in ***Writ-C No. 43347 of 2024 (Radha Devi and others Vs. Union of India decided on 04.03.2025*** and decision rendered by High Court of Orissa in case of ***Kabi Pradhan and others Vs. Union of India*** reported in ***2021 LawSuit (Ori) 261***.

18. Counsels appearing for the railway authorities submitted that Rule 5 was inserted pursuant to the decision rendered by High Court of Delhi in case of ***Geeta Devi Vs. Union of India***. They submitted that in order to protect the claimants from touts and middlemen, the High Court of Delhi had directed for the addition of Rule 5 in the Rules of 1990. According to them, the entire awarded amount has been paid by the railway authorities and has been deposited into the accounts of the claimants. The only question is whether the entire money should be released in favour of the claimants or should be released in part as per the directions of the High Court of Delhi which has been inserted as Rule 5 in the year 2020.

19. Shri Gaurav Bishan, counsel appearing for the railway authorities have relied upon the judgment rendered in the case of ***Rina Devi (supra)***, ***Union of India Vs. Radha Yadav, Civil Appeal No. 1265-1266 of 2019*** and judgment rendered in the case of ***Rathi Menon Vs. Union of India*** reported in ***(2001) 3 SCC 714***.

20. I have heard the respective counsel for the parties and perused the material on record.

21. The sole controversy hinges as to the rider imposed in Rule 5 of the compensation amount to be released to claimants in a phased manner. It is not in dispute that the RCT has made an award in respect to the claims made by petitioners who lost their near and dear ones in an untoward railway accident or some are the passengers themselves who have sustained injuries and have been awarded compensation by the tribunal.

22. Prior to 2020, the RCT was following the procedure laid in Rules of 1990 and was awarding the sum of compensation payable as per Rule 3 wherein the Schedule provided for compensation as per the injuries sustained or in case of death. Prior to 1997, the maximum compensation amount was Rs. 2 Lakhs but with effect from 01.11.1997, it was raised to Rs. 4 Lakhs and thereafter, with the amendment in Rule 3(2), the maximum amount has been raised to Rs. 8 Lakhs. It is an undisputed fact that any claim filed under Chapter XIII of the Act of 1989, the compensation was paid as per Rule 3 of the Rules of 1990. There is no dispute that the awarded amount till 2020 was released to the claimants, it was after the direction of High Court of Delhi dated 21.04.2017, 24.05.2019 and 06.11.2019 that Rule 5 was inserted with effect from 01.01.2020 in view of the notification dated 03.06.2020.

23. The question which needs to be addressed is whether the tribunal can differentiate between the literate and illiterate claimants and also on their financial condition. It is an admitted fact that nearly all citizens residing in the country are using the Indian Railways.

24. There is no restriction as to use of facility of the railways by rich or poor. In the garb of Rule 5.1 and 5.4.1, a distinction has been carved between the literate and illiterate and also on financial condition. The said rule were inserted pursuant to the order dated 24.05.2019 passed by the High Court of Delhi, wherein, it was found that there are several instances where exploitation has been done by the middlemen and touts operating in the field.

25. Before the RCT, the applications are moved by the claimants themselves or through their lawyers or agents. The rule cannot be framed so as to mark distinction between the literate and illiterate on the ground that illiterate person would be exploited by the lawyers or their agents. Once the claimants authorizes any person to act on his behalf and makes an application knowing the fact that in case of death, a claimant is entitled to a maximum of Rs. 8 Lakhs and in case of injury incapacitating the passenger from doing any work, an amount of Rs. 8 Lakhs would be payable, no question of exploitation arises. Moreover, the award is made by the tribunal on the basis of the Schedule to Rule 3(2) of the Rules of 1990.

26. In today's modern world where there is use of technology and majority of countrymen are having bank accounts after the initiative of the Central Government bringing Jan Dhan Yojana, where bank accounts were opened and linked with Aadhaar and mobile number, it cannot be said that an illiterate would not be able to operate his bank account and a rider be placed upon the award made to be kept in a fixed deposit in a nationalized bank, and the tribunal being the guardian protecting the award.

27. It appears that while dealing with the case of ***Geeta Devi (supra)***, the counsels could not place before the Court that already most of the people in the country are having a bank account linked to their Aadhaar Card and mobile numbers. It is both the rich and poor, literate and illiterate who are enjoying the facility of Jan Dhan Yojana and having bank accounts. Once a person with a weak financial condition is operating and managing his financial aspects, he cannot be restricted from using the awarded amount. There is no material on record to demonstrate that illiterate or financially weak person cannot manage the awarded amount.

28. It is also clear from the reading of Schedule to Rule 3 that the maximum compensation awarded is only Rs. 8 Lakhs. In today's world, Rs. 8 Lakhs is not a big amount which cannot be managed by an Indian.

There appears no justification in only releasing 10 percent of the awarded amount, that is, Rs. 80,000/- to a claimant and keeping rest of Rs. 7,20,000/- in a fixed deposit for a period of three years.

29. The guard set up for a period of three years appears to be unreasonable. As Rule 5.1 and 5.4.1 discriminates between the claimants/passengers, who are travelling through a train on ground of literacy and financial condition. Article 14 provides for equality before the law. The Tribunal in garb of Rule 5.1 and 5.4.1(i) cannot keep the money in a fixed deposit and release only 10 percent of the said amount. Need of a claimant cannot be gauged by RTC.

30. Further, Rule 5.4.1 (ii) gives power to the tribunal to open a saving account in a nationalized bank where the bank is required not to issue a cheque book to a claimant and in case, it has already been issued, the same needs to be cancelled. The condition laid down is excessive. The tribunal can only direct for opening of the saving account in case the claimants don't have such bank accounts in a nationalized bank. The issuance of a cheque book is a consequential act pursuant to the opening of a bank account. Such riders only creates difference in the society as the weaker section finds that such restrictions are to curb their rights in the garb of protection given to them while the literate people with good financial background enjoys the fruits immediately.

31. This Court in the case of ***Runna (supra)*** had already held that once a person becomes a major, he has to decide what he has to do with his money which has been awarded. The State cannot put any rider to the awarded amount. Similar view was taken by High Court of Orrisa in the case of ***Kabi Pradhan (supra)***.

32. From the reading of the Act of 1989 and Rules of 1990 and the statement and object of enacting the Act of 1987 and 1989, it is clear that the Government was well aware that in a democratic set up, the Government machinery was accountable to its citizen and the Railway Claims Tribunal Bill was introduced making way for raising claim against the railway authorities against the loss, destruction, damage, deterioration or non-delivery of goods, for the refund of fares or freight or for compensation for death or injury to a passenger occurring as a result of railway accidents and related matters.

33. The Act of 1989 in Chapter XIII has provided for the liability of railway administration in case of death or injury to passengers due to accidents. Once the Act provides for the compensation on account of untoward incident, it cannot through subordinate legislation like the Rules of 1990 curtail the benefit extended by the tribunal to a claimant in case of death of his near and dear one, or to a passenger sustaining injury.

34. The rules are there to facilitate the Act and not to curb its power. It simplifies the procedure and provides way for realizing the object of the Act. Rule 5.1, 5.4.1(i) and 5.4.1(ii) are only hurdles in the claims decided by a tribunal awarding compensation to the claimants in case of death or injury of a passenger.

35. In ***B.R. Enterprises Vs. State of U.P.*** reported in ***(1999) 9 SCC 700***, the Hon'ble Apex Court had observed that "reading down" emerge from the concern of the courts towards salvaging a legislation to ensure that its intended objects are achieved. Relevant para 81 is extracted hereasunder:

> "**81.** ... It is also well settled that first attempt should be made by the Courts to uphold the charged provision and not to invalidate it merely because one of the possible interpretations leads to such a result, howsoever attractive it may be. Thus, where there are two possible interpretations, one invalidating the law and the another upholding, the latter should be adopted. For this, the courts have been endeavouring, sometimes to give restrictive or expansive meaning keeping in view the nature of legislation, may be beneficial, penal or fiscal etc. Cumulatively it is to subserve the object of the legislation. Old gold rule is of respecting the wisdom of legislature that they are aware of the law and would never have intended for an invalid legislation. This also keeps courts within its track and checks individual zeal of going wayward. Yet in spite of this, if the impugned legislation cannot be saved the courts shall not hesitate to

> strike it down. *Similarly, for upholding any provision, if it could be saved by reading it down, it should be done, unless plain words are so clear to be in defiance of the constitution. These interpretations springs out because of concern of the courts to salvage a legislation to achieve its objective and not to let it fall merely because of a possible ingeniously interpretation. The words are not static but dynamic. This infuses fertility in the field of interpretation.* This equally helps to save an Act but also the cause of attack on the Act. Here the courts have to play a cautious role of weeding out the wild from the crop, of course, without infringing the constitution. For doing this, the courts have taken help from Preamble, Objects, the scheme of the Act, its historical background, the purpose for enacting such a provision, the mischief, if any which existed, which is sought to be eliminated."

36. In ***Calcutta Gujarati Education Society Vs. Calcutta Municipal Corporation*** reported in ***(2003) 10 SCC 533***, the Hon'ble Apex Court held that rule of "reading down" is only for the limited purpose of making a provision workable so as to fulfil the purpose and object of the statute. Relevant para 35 is extracted hereasunder:

> "**35.** The rule of "reading down" a provision of law is now well recognised. It is a rule of harmonious construction in a different name. It is resorted to smoothen the crudities or ironing the creases found in a statute to make it workable. In the garb of "reading down", however, it is not open to read words and expressions not found in it and thus venture into a kind of judicial legislation. *The rule of reading down is to be used for the limited purpose of making a particular provision workable and to bring it in harmony with other provisions of the statute. It is to be used keeping in view the scheme of the statute and to fulfil its purposes.* "

37. Recently, the Hon'ble Apex Court in case of ***Authorized Officer, Central Bank of India Vs. Shanmugavelu*** reported in ***(2024) 6 SCC 641*** while dealing with the principles of "reading down" a provision held that the principle is rooted in the idea that the courts should make every effort to preserve the validity of the legislation and should only declare a law invalid as a last resort. The Court further found that principle of "reading down" is to avoid striking down an entire legislation. Courts generally prefers to preserve the intent of the legislature and the overall validity of the law by adopting an interpretation that addresses the specific constitutional concerns without invalidating the entire statute. Relevant paras 94, 95, 96, 97 and 100 are extracted hereasunder:

> *"**94.** The principle of "reading down" a provision refers to a legal interpretation approach where a court, while examining the validity of a statute, attempts to give a narrowed or restricted meaning to a particular provision in order to uphold its constitutionality. This principle is rooted in the idea that courts should make every effort to preserve the validity of legislation and should only declare a law invalid as a last resort.*
>
> ***95.** When a court encounters a provision that, if interpreted according to its plain and literal meaning, might lead to constitutional or legal issues, the court may opt to read down the provision. Reading down involves construing the language of the provision in a manner that limits its scope or application, making it consistent with constitutional or legal principles.*
>
> ***96.** The rationale behind the principle of reading down is to avoid striking down an entire legislation. Courts generally prefer to preserve the intent of the legislature and the overall validity of a law by adopting an interpretation that addresses the specific constitutional concerns without invalidating the entire statute.*
>
> ***97.** It is a judicial tool used to salvage the constitutionality of a statute by giving a provision a narrowed or limited interpretation, thereby mitigating potential conflicts with constitutional or legal principles.*
>
> ....
>
> ....
>
> ***100.** Thus, the principle of 'Reading Down" a provision emanates from a very well settled canon of law, that is, the courts while examining the validity of a particular statute should always endeavour towards upholding its validity, and striking down a legislation should always be the last resort. "Reading Down" a provision is one of the many methods, the court may turn to when it finds that a particular provision if for its plain meaning cannot be saved from invalidation and so by restricting or reading it down, the*

court makes it workable so as to salvage and save the provision from invalidation. Rule of "Reading Down" is only for the limited purpose of making a provision workable and its objective achievable."

38. Thus, from the above, it is clear that "reading down" a provision is to avoid striking down an entire legislation, it is a judicial tool used to salvage the constitutionality of a statute by giving a provision a narrowed or limited interpretation, thereby mitigating potential conflicts with constitutional or legal principles.

39. In the instant case, Rule 5 was added in the Rules of 1990 by judicial pronouncement in the year 2020. Prior to it, there was no embargo in releasing the awarded amount by the tribunal to claimants meeting the object and intention of the legislature.

40. By insertion of Rule 5.1 and Rule 5.4.1(i), a distinction has been carved between claimants on the strength of their literacy and financial position.

41. It was never the intention of legislature in framing Rules of 1990 to give restricted benefit to the claimants. Withholding 90 percent of the awarded amount creates a barrier between claimants, who cannot be discriminated on the ground of literacy and financial position.

42. In case of both sets of passengers where either the death is caused or a passenger is injured in a train accident, denial of benefit to claimants granted under Sections 123, 124 read with Section 124A of the Act of 1989 would disqualify a section of the society, which is never the intention of the constitutional mandate under Article 14 or under the Act of 1987 and 1989.

43. Act of 1987 is a beneficial piece of legislation while Chapter XIII of Act of 1989 also extends benefit to the claimants and makes railway administration liable for death or injury of a passenger due to an accident. Once the intention of the legislature is clear that benefit has to be passed on in case of death or injury of a passenger in a train accident, rules deferring the extension of benefit granted under the Act and discriminating between class of claimants is violative of Article 14 of the Constitution of India.

44. Thus, I find that Rule 5.1 and 5.4.1(i) and (ii) needs to be read down as under:

> "(a) 5.1 The tribunal shall release the sum awarded to claimants pursuant to the award made therein except for claimants mentioned in Rule 5.2".
>
> (b) Rule 5.4.1(i) and (ii) shall be read down as "RCT shall disburse awarded amount into the account of claimant, provided the same getting verified, and in case claimant does not have any individual saving account in a nationalized bank near place of his permanent residence, RCT shall direct for opening such bank account. The bank be directed to not issue any debit card to claimants in case a new bank account is opened. However, where a new account is opened bank would permit claimants to withdraw money from his saving account by means of cheque or withdrawal form".

45. In view of the above, the writ petitions are **partly allowed** and the tribunal is directed to release the entire awarded amount to the petitioners in case they are major and not hit by Rule 5.2. Further amount kept in fixed deposit shall be immediately released in favour of the claimants. The orders passed by RCT are modified to extent indicated above.

(Rohit Ranjan Agarwal,J.)

September 10, 2026
A.V. Singh