

JOINT PROCEDURE ORDER REGARDING MANNER OF INVESTIGATION OF UNTOWARD INCIDENT AS PER GAZETTE NOTIFICATION GSR. NO.346- E DTD.03.06.2020.

As the Ministry of Railways, in exercise of powers conferred by Section 129 of the Railways Act.1989, has changed the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, and as it is in supersession of the Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2003 in respect of things done or omitted to be done before such supersession, it is very much necessary to bring this to the notice of all concerned. These rules known Railway Passengers (Manner of Investigation of Untoward Incidents) Rules, 2020 and have come into force on the 1st day of January, 2020.

Hence, all the untoward incidents have to be investigated in the manner prescribed according to these rules and the Reports duly accepted by DRM are to be submitted to the Claims Office/ECOR for submission to the different RCTs. Thus, DRMs of all the Divisions are hereby advised to implement the Rules of 2020 for investigation and speedy disposal of cases. Here, it is pertinent to express that if the investigations are done as per the guidelines laid down in the Gazette Notification, false and frivolous cases against the Railway can be curbed and only genuine applicants will get benefit which will ultimately serve the purpose of beneficial legislation enacted by the Parliament.

The following procedure order is issued to be implemented by all concerned rigidly so that a uniform system will prevail in the whole of East Coast Railway. However, these are only in the nature of guidelines. In case of any conflict, the rules as per the Gazette, will prevail.

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Some Important Sections of the Railways Act, 1989.

Section 123.

123. (a) "accident" means an accident of the nature described in section 124;

123. (b) "dependant" means any of the following relatives of a deceased passenger, namely:—

- (i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;
- (ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;
- (iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;
- (iv) the paternal grandparent wholly dependant on the deceased passenger.

Sec.123 [(c) "untoward incident" means—

- (1) (i) the commission of a terrorist act within the meaning of sub-section (1) of section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
- (ii) the making of a violent attack or the commission of robbery or dacoity; or
- (iii) the indulging in rioting, shoot-out or arson, by any person in or on any train carrying passengers, or in a waiting hall, cloak room or reservation or booking office or on any platform or in any other place within the precincts of a railway station; or
- (2) the accidental falling of any passenger from a train carrying passengers.]

Section 124 in The Railways Act, 1989.

Sec.124. Extent of liability. —When in the course of working a

railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident.
Explanation. —For the purposes of this section "passenger" includes a railway servant on duty.

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Section 124A in The Railways Act, 1989

Sec.124-A. Compensation on account of untoward incident. —When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependant of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident: Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to—

- (a) suicide or attempted suicide by him;
- (b) self-inflicted injury;
- (c) his own criminal act;
- (d) any act committed by him in a state of intoxication or insanity;
- (e) any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident. Explanation.—For the purposes of this section, “passenger” includes—
 - (i) a railway servant on duty; and
 - (ii) a person who has purchased a valid ticket for travelling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident without boarding the train.

Some Important Definitions. -

(1) In these rules, unless the context otherwise requires: -

- (a) ‘Act’ means the Railways Act, 1989 (24 of 1989);
- (b) ‘Claims Tribunal’ means Tribunal constituted under the Railway Claims Tribunal Act, 1987 (54 of 1987);
- (c) ‘Diary’ means the station diary being maintained by the Station Superintendent for recording daily events happened at the station;
- (d) ‘Divisional Office’ means the Divisional Headquarter of the Zonal Railway;
- (e) ‘Divisional Railway Manager’ means the administrative in-charge of the divisional office or the Additional Divisional Railway Manager nominated by him;
- (f) ‘Divisional Security Commissioner’ means an officer, not below the rank of a Commandant, who is the head of the Force of a Division or a Railway Establishment at any other place connected with the Railways;

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- (g) 'Force' means the Railway Protection Force;
- (h) 'Form' means the form appended to these rules;
- (i) 'Inquest Report' means the report prepared by the Police containing details of incident;
- (j) 'Jama Talashi' means the report about the recovery of any belongings of the person affected by the untoward incident;
- (k) 'Officer of the Force' means the authorised officer as defined in clause (c) of section 2 of the Railway Property (Unlawful Possession) Act, 1966 (29 of 1966) and clause (26A) of section 2 of the Railways Act, 1989 (2 of 1989);
- (l) 'Police' means a State Police;
- (m) 'Station Superintendent' includes Deputy Station Superintendent Station Master and Assistant Station Master or other officer being in-charge of the station;
- (n) 'Untoward Incident' means an incident defined under clause (c) of section 123 of the railways Act 1989; and
- (o) 'Zonal Railway' means a Zonal Railway constituted under section 3 of the railways Act 1989.
- (2) The words and expressions used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Report about untoward incident. - Any railway servant on duty or on leave shall report the incident immediately to the nearest Stations Master/ Station Superintendent of Railways.

4. Duties of different Officials

- (a). Chief Controller - The Chief Controller would be responsible to ensure that all Diary entries pertaining to any untoward incident reported by any of the stations figure in the consolidated list of unsatisfactory reports.

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The divisional unsatisfactory reports prepared by the control office at different divisions should be scrutinized daily by both Commercial Controller and in-charge of RPF Control at the divisional level to find any untoward incident of the divisions of the previous day and take action as indicated in

Para-(a) Both Commercial Control and RPF Control should report the untoward incident to Sr.DSC/RPF of respective divisions as also to the Commercial Control and RPF Control at HQs for information of CCO & CSC/RPF.

(b). Commercial Controller/RPF control at respective divisions shall maintain a separate register known as "Untoward Incident Report Register", in which daily occurrence of untoward incidents in the respective divisions shall be recorded with as much details as possible.

(c). Relevant Control chart should also be duly checked at the control office daily and details particulars shall be noted down by both Commercial & RPF Controllers in the registers mentioned in para-(b). Sr.DOM shall take steps to preserve the daily relevant control-chart for future reference and evidence before the Court.

(d). Every station must ensure that untoward incidents occurring in the station and in mid-sections of the adjoining stations are entered in SMR diary without any exception with following details.

- (i) Time, place, date of occurrence.
- (ii) Source/person reporting the incidents
- (iii) Nature of injury, etc. of victim, as per information available.
- (iv) Train No./Time of train passing the concerned stations, if known
- (v) Name/Address of victim, if available along with Mobile No. or any other ID for example Driving License, Aadhaar Card or Voter I Card or Identification card issued by the office in which the victims is employed.
- (vi) Name/Address/Designation of person/persons reporting incidents along with Mobile No. or any other ID for example Driving License, Aadhaar Card or Identification card issued by the office in which the person is employed.

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- (vii) Name/designation/Hqs. of staff visiting site of incident or has been the witness to the incident along with Mobile No. or any other ID for example Driving License, Aadhaar Card or Identification card issued by the office in which the staff is employed.
- (viii) Name/designation of RPF Officer reported to.
- (ix) Photograph of site/victim, if possible with date and time.
- (x) Ticket, other articles recovered from the victim, if no ticket was found, the same should be duly recorded in clear terms.

(d.1) Every Train Guard, TTE, SM, on receipt of information of any untoward incident will immediately inform about the incident to the nearest RPF Post/Out-Post in addition to informing Control room.

(d.2) An officer of the RPF of the jurisdiction will attend the place of occurrence on receipt of information and co-ordinate with GRP for immediate registration/investigation of the case.

4. Duties of Station Superintendent, Guard, Conductor and Train Ticket Examiner in - charge of the train. -

(1) If an untoward incident occurs at the station, the concerned Station Superintendent shall immediately arrange for medical assistance to the injured passengers by seeking help of Commercial and RPF Staff if available at station and report such incident within twenty-four hours of the occurrence to the Divisional Security Commissioner in **FORM -I**.

(2) If an untoward incident occurs in the mid-section, the Guard of the concerned train shall inform the Station Superintendent of the nearest station who shall perform the duties by calling off duty Station Masters(s) or any other commercial/RPF staff available in Station premises referred to in sub-rule(1).

(3) In case the Guard is injured in an untoward incident, the Conductor of the concerned train shall inform the Station Superintendent of the nearest station who shall perform the duties referred to in sub-rule (1).

(4) In case both the Guard and the Conductor are injured in an untoward incident, the Train Ticket Examiner in-charge shall inform the Station Superintendent of the nearest station who shall perform the duties referred to in sub-rule (1).

(5) If an untoward incident occurs in mid-section, in the absence of officers mentioned in sub-rules (2), (3) and (4), the Station Superintendent, if it comes to his notice, shall perform the duties by seeking help of commercial and RPF Staff if available at station referred to in sub-rule (1).

5. Additional duties of Station Superintendent. -

The Station Superintendent on receipt of an information about the occurrence of untoward incident under rule 3, shall, -

(i) Maintain a separate exclusive register for recording the untoward incidents

(a) Assign a **unique identification number** to each untoward incident and mention the untoward incident in the said register against this unique identification number. This will be explained in the example below:-

For example: If the incident falls within the area of Bhubaneswar Station under Khurda Road division of E.Co. Railway and the incident happened in the month of October, 2017, the Unique ID will be as follows:
BBS/72435/KUR/E.Co.R/2017/serial number. (Alphabetical and numerical code of station/ division/zone/year/month/incident serial number mentioned in the register).

(b) The untoward incident register should be closed at 23:59 hrs every day so that untoward incident happening thereafter can be added in the register against that day.

(ii) Make a brief report in respect of spot of the untoward incident and forward copies thereof to the Divisional Office, Zonal Railways "Govt.Rly.Police", Sr.Divl. Safety Officer and Divisional Security Commissioner of the Force.

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(iii) Submit a monthly status report of untoward incidents including compliance of rule 4 to Divisional Commercial Manager In-charge/Senior Divisional Commercial Manager.

6. Conducting of investigation and submission of report by the Force.-

(1) On receipt of information under rule 4 d(i) , an officer of the Force, shall carry out the investigation and shall-

(i) Obtain copies of the inquest report, post mortem report and Jama Talashi report from the Police investigating the incident;

(ii) Obtain a copy of the report specified under clause (ii) of rule 5;

(iii) Obtain information about the untoward incident in Form – 2;

(iv) Record statement of additional witnesses, if so required;

(v) Collect any other evidence required by the circumstances of the case;

(2) The officer of the Force shall complete the investigation within sixty days and submit a report to the authority specified under sub-rule (2) of rule 9.

7. Conducting of investigation and submission of report by the Police.-

(1) The Police on receipt of information of an untoward incident from general public or any Railway servant including Station Superintendent, the Police shall immediately initiate investigation and prepare inquest report or injury report in accordance with the procedure laid down in Code of Criminal Procedure, 1973 (2 of 1974).

(2) The Police upon reaching the scene of the untoward incident shall inform the nearest/concerned Station Superintendent personally or over telephone or through SMS or any effective electronic means of its presence at the scene of the incident. The Police shall immediately take photographs of the incident along with dead body/victim at the spot along with the tracks/witness(es)/bystanders.

(3) After preparation of report, as mentioned in sub-rules (1) and (2), the Police shall immediately give clearance certificate for movement of trains from the site of incident so that minimum delay is caused in restoration of train movement.

(4) The Police shall prepare the Detailed Accident Report (DAR) and submit a copy of the same to Divisional Security Commissioner/ Sr. DSC within **60 days** from the date of untoward incident for onward submission to Divisional Railway Manager.

(5) In the event of the Police failing to take photographs as stated under sub-rule (2) of rule 7 above, the concerned DCP shall examine why the photographs were not taken and whether any action is warranted for the lapse.

8. The injured and the next of kin of the deceased passenger shall submit all the relevant evidence before the Police and assist the Police/Force to complete investigation.

9. Forwarding of investigation report by the police and the Force.-

(1) The Police on completion of the investigation shall forward the report thereof to the Magistrate as required under the Code of Criminal Procedure, 1973 (2 of 1974).

(2) The officer of the Force shall forward the report prepared under sub-rule (2) of rule 6 to the Divisional Security Commissioner of Force.

(3) The Divisional Security Commissioner shall submit the report to Divisional Railway Manager within **fifteen days** of the receipt of report of investigation from officer of the Force.

(4) The Divisional Security Commissioner shall also ensure that a copy of Detailed Accident Report prepared by Police, in the format circulated by Ministry of Home Affairs (CS Division) vide their letter No. 24013/35/Misc./2017 CSR,.III

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dated 02.09.2019, is forwarded to the Divisional Railway Manager within 15 days of the receipt from the Police and after ascertaining the facts and verifying the genuineness of the facts of the case along with Form - 2.

10. Action on the Report by the Divisional Railway Manager. -

(1) The Divisional Railway Manager, on receipt of the report, mentioned in sub-rule(3) of rule 9 shall examine the same within fifteen days.

(2) The Divisional Railway Manager, on receipt of the report, mentioned in sub-rule (3) of rule 9 shall examine the same within fifteen days. In case, the statutory time periods mentioned in the rules for filing of Form-1 and Form-2 have not been adhered to, then Divisional Railway Manager shall call for explanation for delay from the concerned authorities.

(3) When, on examination, Divisional Railway Manager is satisfied that the investigation is complete, he shall pass an order accepting the said report.

(4) If the Divisional Railway Manager has reason to believe that some more inquiry is required in the matter, it shall refer the same back for investigation to the officer of the Force along with his observations for further investigation.

(5) On receipt of the reference under sub-rule 4, the officer of the Force shall investigate the matter further and submit the report immediately to the Divisional Railway Manager.

11. Communication of order. -

Final orders passed on the report by the Divisional Railway Manager shall be communicated to the Station Superintendent who shall maintain the records and make necessary entries in the Station Diary to this effect.

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12. Sending report to Claim Office. -

(1) The investigation report along with acceptance of Divisional Railway Manager there on shall be sent within **fifteen days** to the administrative in-charge of the Claim office of the Zonal Railway where the incident has occurred.

(2) The administrative in-charge of Claim office of the Zonal Railway who has received the notice of the claim for that particular incident, shall arrange to collect the report from the Claim office of Railway where the incidence has occurred, shall initially have the claim examined by presenting officer (Railway Claims Tribunal) and associated legal branch and on the basis of their submission, and recommendation of Divisional Railway Manager as provided under sub-rule (3) of Rule 10 and pass a speaking order, whether the claim is to be admitted or contested and shall submit the same to the concerned Bench of the Railway Claims Tribunal along with the Written Statement.

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FORM -1
(Refer Rule 4)

REPORT OF UNTOWARD INCIDENT

1. Unique Identification Number of the Untoward Incidents:
2. Kilometre at which untoward incident occurred:
3. Name of Driver of the train with Headquarter:
4. Name of the Guard of the train with Headquarter:
5. Name of the Train Ticket Examiner of train, if posted, with Headquarter:
6. Nature of the untoward incident:
 - (a) Accident fall
 - (b) Bomb blast
 - (c) Rioting
 - (d) Shootout
 - (e) Arson
 - (f) Dacoity/Robbery
 - (g) Violent attack
 - (h) Terrorist act/attack
 - (i) Run over/trespassing
 - (j) Suicide
 - (k) Others
7. Date and time of occurrence:
8. Position of the injured dead body in relation to the tracks along with photographs:
9. Whether medical help was given to the injured/victim:
10. Whether train stopped or not:
Condition of doors and occupation of coach:

Signature

Date :

Name and designation

N.B. ** For creating the **Unique ID Number**, the alphabetical and numerical code of station/division/zone/year/incident serial number mentioned in the register can be written in a continuous manner.

For example: If the incident falls within the area of Bhubaneswar Station under Khurda Road division of E.Co. Railway and the incident happened in the month of October, 2017, the Unique ID will be as follows:

BBS/72435/KUR/E.Co.R/2017/serial number.

(Alphabetical and numerical code of station/ division/zone/year/month/incident serial number mentioned in the register)

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FORM -2

(Refer Rule 6)

BRIEF PARTICULARS OF UNTOWARD INCIDENT

1. Date and time of the untoward incident:
2. Nature of untoward incidents (please specify - (a) accidental fall, (b) bomb blast, (c) rioting, (d) shootout, (e) arson (f) dacoity/robbery, (g) violent attack, (h) terrorist act/ attack (i) run over, (j) trespassing (k) suicide, (l) others):
3. FIR number and address of the Police Station where FIR is registered:
4. Medical report, if available:
5. Name, address and parentage of the first informant:
6. Name and designation of the Railway officials who reached the place of incident first:
7. Name and designation of the Officer for the Force/Police on the train:
8. Name, age, sex and address of the victim:
9. Photograph at the site where the victim was found:
10. CCTV footage of the incident at station/inside coach: if available is to be preserved.
11. Name and number of the train involved:
12. The actual time of arrival and departure of the train in question (As per TSR of the Station nearest to the place of incident):
13. Certified copies of station diary, untoward incident register, TSR, GDR report etc:
14. Kilometre No. at which the passenger fell, or person was knocked down:
15. Was the incident noticed by the Guard /Driver/ TTE and and the train stopped, or was the alarm chain pulled to stop the train:
16. Type of injuries sustained by the injured i.e. grievous/simple, permanent/partial disablement:
17. Time and place the body was detected:
18. Position of the body in relation to the tracks:
19. Blood stains on ballast or engine, extent of the injuries and whether prima facie inflicted by a train, or otherwise:
20. Position of any clothing etc. found on, or near the rails:
21. Details of articles seized, including tickets, from the body of the victim:
22. Whether genuineness of the ticket is verified from the console:

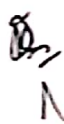
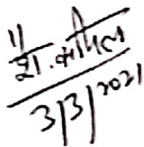
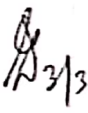
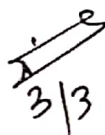
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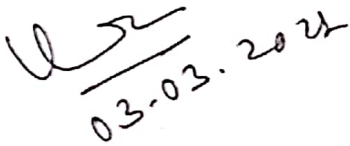
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23. Whether the ticket alleged to have been recovered is compatible with time of its issuance and where the victim was found:
24. How the injured or dead person was dealt with (whether medical help was given to the injured; whether he was admitted to any hospital; was the dead person identified; was post mortem carried out; was inquest report obtained; were the relatives of the injured/dead informed):
25. If child, also give the name and address of the guardian at the time, and his relationship to the child:
26. Brief statement of the injured person containing cause of accident:
27. Name and signature of the passenger in whose presence the statement is recorded:
28. In the case of a child, the name and signature of guardian:
29. Statement of co-passengers:
30. Condition of the doors of the relevant coach:
31. If there is no conclusive evidence regarding cause of incident, then Officer of Force instead of writing "fallen down", should state "reasons not known":
32. Any other comments/remarks:

Signature Name and Designation

Date:



Ingredients of Ideal DRM Reports

The ideal DRM Report should be investigative, properly worded, thorough, absence of any presumption, non-speculative, well documented, tagged with police report prepared in accordance to police manual, Cr.PC, Indian Evidence Act and should contain FIR, PM, Inquest Report, Dead body challan, Seizure list/Zima Nama, Final Report along with copy of case diary. In case the report of Force varies with report of police the same should be submitted with detail reasoning and rebuttal evidence for proper appreciation of Tribunal. The word 'investigative and thorough' means the report should inter-alia contain name of the injured/deceased, his identification, date time and place of incident, nature of injury, Train No., statement of the injured, Guard, Driver, TTE, Station Master, Key Man or any other Railway staff, co-passenger, eye-witness with their mobile no, journey particulars, position of the body at the time of detection, dress particulars, nature and condition of the injured/deceased etc.

The conclusion part of the DRM Report should be drafted more carefully. In the absence of any corroborative evidence, mere recovery of journey ticket, during inquest does not prove that the deceased was a bonafide passenger on that date. The ticket may be a planted one. If there is no eye-witness to the occurrence of incident, the falling down of passenger from the train should not be admitted in the conclusion part without any corroborative evidence. If the incident occurred due to negligence of deceased/injured same to be supported with corroborative evidence in respect of his negligence. Any statement in the nature of presumption/assumption should not be placed in the conclusion part of the DRM Report.

It is hereby advised that all officers concerned should ensure implementation of the instructions contained in the Gazette Notification by the Ministry of Railways and to widely circulate it among all concerned including the Guards/Asstt. Guards, Station Managers, Station Supdts, DTIs, Loco Pilots/Assistant Loco

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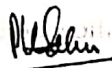
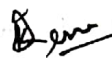
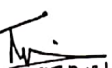
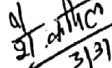
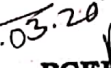
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Pilots, SSE(C&W), TTEs, CTIs, Coach Conductors, CIs, CMIs, Commercial Controllers, Section Incharge of Security Control, all Officers-in-Charge of the RPF Posts, all Officers-in-charge of GRP/Police Station, all Sr.Section Engineers of P.Way, all Health Units & Hospitals of Railways, the Divisional Safety Branches, SSE of all Power & Train Lighting, all the In-Charges of the Railway Station. All Roster Clerks, all Booking Clerks, Supervisors and Section Controllers for bringing awareness among the staff and officers and ensure adherence to their duties in case of untoward incidents.

       
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Distribution:

1. All SMRs, OC/RPF, CTIs, CBS, CHCs, CLs, Commercial Controllers, RPF Controllers of East Coast Railway.
2. All DRMs, ADRMs, CMS, Sr.DSC/DSC/RPF, Sr.DCMs/DCMs, Sr.DOMs/DOMS, Sr.DMEs, Sr.DEEs, Sr.DSO/DSOs of East Coast Railway.
3. All PHODs/CHODs/HODs of East Coast Railway.
4. ADG(Railways)/Cuttack: It is requested that the JPO issued by the Railways based on the Gazette of India notification as amended from time to time regarding investigation of untoward incidents may be circulated to all the police stations under GRP for information and necessary action.
5. ADG/IG(Railways),Vijaywada. -do-
6. ADG/IG(Railways),Raipur. -do-
7. PO/RCT.