

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

**RESERVED ON: 11.08.2026
PRONOUNCED ON: 31.08.2026**

REVISION PETITION NO. 1089 OF 2015

(Against the Order dated 2nd January 2015 in Appeal No. 438/2010 of the State
Consumer Disputes Redressal Commission Uttar Pradesh)

1. Surender Pal Singh, S/o Sh. Megh Singh, 296, Kunwarpur, Near Ajay Girls Inter College, Bareilly .
2. Smt. Preeti, D/o Surender Pal Singh, W/o Sh. Sarvender Singh, 296, Kunwarpur,
Near Ajay Girls Inter College, Bareilly.

.....Petitioners

Versus

1. Union Of India, Through Secretary, Ministry Of Railway, Rail Bhawan, New Delhi
2. General Manager, Eastern Border Railway, Head Office, Maligaon, Guwahati (Assam)
3. Chief Claim Officer, Northern Railway, Baroda House, New Delhi

.....Respondents

BEFORE:

HON'BLE MR. JUSTICE A. P. SAHI , PRESIDENT

HON'BLE MR. BHARATKUMAR PANDYA , MEMBER

For the Petitioners : Mr. Madhurendra Kumar, Advocate

For the Respondents : Mr. Sanjeev Kumar Verma, Advocate

ORDER

PER BHARATKUMAR PANDYA, MEMBER

1. The present Revision Petition has been filed by the Petitioners (Surender Pal Singh & Smt. Preeti) against the order dated 02.01.2015 passed by the State Commission, Uttar Pradesh (Lucknow), in First Appeal No. 438/2010 arising out of the order dated 15.02.2010 passed by the District Forum, District Consumer Forum -II, Bareilly, in Complaint Case No. 85/2005, which was originally filed on 30.03.2005. The Petitioners are aggrieved by the impugned order whereby the State Commission held that the consumer complaint was not maintainable under Sections 13 and 15 of the Railway Claims Tribunal Act, 1987, as the Railway Claims Tribunal

has exclusive jurisdiction over such matters, thereby setting aside the order of the District Forum.

2. The case of the complainants, in brief, is that Complainant No. 1, Surender Pal Singh, had reserved two berths for himself and his daughter, Complainant No. 2, Smt. Preeti, in Train No. 5610, Awadh-Assam Express, for travelling from Hapur to Guwahati. The reservation was made on 26.08.2004 in Sleeper Coach No. S-8, vide Ticket No. 17810583 and PNR No. 240-5110502. On the night of 28.08.2004, at about 3:00 a.m. to 4:15 a.m., while the train was running between Barpeta Station and Rangiya Station in Assam, six to seven armed robbers allegedly entered Sleeper Coach No. S-8 and, by terrorising the passengers at the point of weapons, looted cash, jewellery and other valuable articles from several passengers, including the complainants. The robbers allegedly continued the robbery for a considerable period and, shortly before Rangiya Station, stopped the train by chain-pulling and fled with the looted articles.

2.1 The complainants alleged that cash, a Titan wristwatch and jewellery were looted from them. Complainant No. 1 alleged loss of Rs.2,865/- in cash and a Titan wristwatch valued at Rs.1,550/-. From Complainant No. 2, Rs.1,310/- in cash, a gold chain weighing approximately 30 grams valued at Rs.19,000/-, three gold rings weighing approximately 15 grams valued at Rs.10,000/-, gold earrings weighing approximately 8 grams valued at Rs.5,000/- and four gold bangles weighing approximately 30 grams valued at Rs.20,000/- were allegedly looted, aggregating to Rs.59,725/-. Complainant No. 1 specifically stated that the cash and jewellery carried by his daughter also belonged to him and had been given by him to his daughter. It was further alleged that at the time of the occurrence all the passengers were sleeping and there was neither any attendant in the coach nor any security personnel/train escort present. According to the complainants, the Railway Administration was responsible for ensuring the safety and security of the passengers during the journey, but failed to make adequate security arrangements. The complainants asserted that they had travelled after paying the prescribed fare and were consumers of the Railway's transport service, and that the robbery occurred on account of the failure of the Railway Administration, its officers and employees to maintain adequate security in the reserved coach.

2.2 After the train reached Rangiya Station, the complainants, along with other affected passengers, approached the Rangiya GRPS/Assam GRP and the Station

Superintendent and informed them about the robbery. They requested the authorities to take steps for the arrest of the robbers and for registration of an FIR. According to the complainants, however, the Railway officials did not cooperate with them. They further alleged that despite requesting the prescribed form for furnishing details of the articles looted during the incident, the said form was not supplied to them. Consequently, they were compelled to submit the details of the incident on plain paper to the Officer-in-Charge of the GRPS at Rangiya. Thereafter, as per the directions of the police authorities, the details of the articles allegedly looted from the complainants and other passengers were separately recorded and the incident was registered as Case No. 28/2004 under Section 395 of the IPC.

2.3 The complainants further alleged that after the incident, Complainant No. 1 repeatedly corresponded with and approached the Railway authorities, requesting reimbursement/compensation for the cash, jewellery and other articles allegedly looted from him and his daughter. According to the complainants, despite repeated requests and reminders, no effective action was taken by the Railway Administration. They consequently alleged that the services of the opposite parties were grossly deficient, resulting in substantial financial loss and mental and physical suffering to them. They also pleaded that the cause of action arose within the territorial jurisdiction of the Bareilly District Consumer Forum, inter alia, because the Railway Administration and its employees had offices within the relevant jurisdiction and Bareilly Railway Station formed part of their reserved journey. The complainants filed Consumer Complaint No. 85/2005 before the District Forum-II, Bareilly, praying Rs.59,725/- towards the value of the looted cash, jewellery, wristwatch and other articles, Rs.40,000/- towards mental and physical harassment/suffering, besides litigation expenses and other appropriate reliefs.

3. The Opposite Parties, in their Written Statement, contested the complaint both on maintainability and on merits. It was, inter alia, pleaded that the complaint was not properly verified and signed and that no cause of action had arisen in favour of the complainants against the answering respondents. The OPs further raised a specific objection as to territorial jurisdiction, contending that the alleged incident of robbery had occurred in the Rangiya/Assam area under the jurisdiction of the Northeast Frontier Railway and that the relevant Railway administration had no office at Bareilly. It was further contended that the subject matter of the complaint related to robbery/loot and loss of articles during a railway journey and, therefore, fell

within the jurisdiction of the Railway Claims Tribunal under Sections 13 and 15 of the Railway Claims Tribunal Act, 1987, read with the relevant provisions of the Railways Act, 1989, thereby excluding the jurisdiction of the Consumer Forum. On merits, the OPs denied any deficiency in service and denied that the complainants had suffered any loss attributable to the Railway. They specifically disputed the claim of Rs.59,725/- towards the allegedly looted cash, jewellery, wristwatch and other articles, contending that the alleged value had not been established by any documentary evidence. It was further contended that the complainants had filed the complaint on wrong facts and were not entitled to compensation for mental or physical harassment. Accordingly, the OPs prayed for dismissal of the complaint.

4. After hearing both parties, the District Forum held that the complainants had established deficiency in service on the part of the Railway Administration and had suffered loss on account of the robbery of their cash, jewellery and other articles during the journey. Accordingly, the complaint was partially allowed and the OPs were directed to pay Rs.65,000/- to the complainants along with simple interest @ 6% per annum from 10.03.2005, i.e. the date of filing of the complaint, till the date of payment, besides Rs.3,000/- towards litigation costs. The order was directed to be complied with within one month. The District Forum order dated 15.02.2010 is reproduced herein below:

"7. It may be noted that the decision was passed in this complaint on 24.02.07 in which the complaint was rejected for want of jurisdiction. Thereafter, the complainant filed an appeal in Hon'ble State Commission, Lucknow, a decision in the said appeal number 558/07, a single member Mr. Raghunath Prasad, it was announced by the presiding member that the complaint should be disposed of on merits and the second member Vinod Shankar Choubey, in his decision on the contrary, arranged that it would not be appropriate to consider it as maintainable under the Consumer Protection Act. Thus, there was a contradiction in both these decisions, but in the decision given by the third member Mrs. Rachna, she agreed with the decision of Hon'ble Raghunath Prasad. Therefore, the decision passed by Mr. Raghunath Prasad will be considered as the decision of the majority and it is effective. In the said decision, it was provided that Bareilly Forum has jurisdiction to dispose of the complaint on merits, therefore, in this regard, the jurisdiction challenged in paragraph 13 of the affidavit dated 19.01.2010 by the opposite party and paragraph 14 in which it has been said that according to Section-11 of the Consumer Protection Act, this complaint is barred. Both these things are not acceptable because the decision of the State Commission has been challenged by the Hon'ble State the the opposition in Commission and the said decision has now become final, therefore, expressing faith in the decision of Hon'ble State to the conclusion Commission, we come to the conclusion that this Forum has jurisdiction to dispose of the complaint on merits.

8. According to the majority decision of the Hon'ble State Commission, it has also been said that a first information report was in lodged in the concerned police station connection with the looting, but the situation is not clear as to what was its conclusion. In the related incident, whether the charge sheet has been presented in Section-173 Procedure of the Code of Criminal and whether the incident of robbery has been proved in the concerned court or not and whether the accused who committed the robbery are not known, them under Section-169 of the against Code of Criminal Procedure. Whether the final report was

presented before the concerned Magistrate or not and whether It was accepted by the Magistrate concerned or not. In additional evidence, some records have been filed on behalf of the opposite party from list Ka.No. 25/1 in which there is a letter, Ka. No. 25/2 of DRM (T.C.) written to the complainant in which, while accepting the incident, he also informed regarding the advance action that crime number 28/2004 section 395 has been registered in the Indian Penal Code. In the photocopy of another letter No. 25/4, a letter has been written regarding informing about the result of the investigation. In this way, it is acceptable for the opposition parties to have this incident on their own. On the affidavit again on behalf of the complainant, Annexure-3 is the photocopy of the FIR and Annexure-4 is the photocopy of the letter in which it has been mentioned that the Investigating Officer has filed the chargesheet against the accused, whose main case is pending at Judicial Magistrate, Nalwadi, Assam. Therefore, what has been determined by the Hon'ble State Commission in this regard has been resolved.

9. The learned counsel for the opposite parties again emphasized the argument that there is no liability of the Railways for compensation. In this regard, in our earlier judgment dated 24.02.2007 also, referring to guidelines on page-4, it was concluded that Railways is liable. Expressing faith in the aforesaid guidelines, we come to the same conclusion that the onus of compensation rests with the opposite parties.

10. The question now arises whether the complainant has been successful in proving the damages or not. In this regard, on behalf of the Hon'ble State Commission, in the conclusion of point number-3 in its decision, it has been arranged that the evidence which definitely should have been presented by the complainant in this case could not be presented by the complainant under any circumstances. Therefore, keeping in view the circumstances of the case, it is expedient to remand the case to the learned Forum and thereafter, in this background, the learned Forum should be expected to issue this order giving due opportunity to both the parties for evidence and hearing in the case. Dispose of the matter on merits within three months of receiving the certified copy. The option will also be available to the complainant that whatever evidence he wants to give in relation to the damages, he can present it before the learned forum.

11. Opportunity was given to the parties. The receipt of Titan watch of Rs. 1550/- has been attached by the complainant as Annexure-9 with the affidavit dated 16.12.2009 and Annexure-10 for Rs. 54,000/- of purchase of jewellery has been attached. In our opinion, in any case, the loss suffered by the complainant is not less than Rs.55,000/-, because the opposite party has stated in paragraph 15 in its counter-affidavit that the receipt filed in Annexure-10, is forge and has not issued by a licensed goldsmith, but when prima facie the complainant has filed this receipt, then the onus was on the opposite party to make it fake or forgery and merely mentioning this statement from the counter affidavit will not suffice. Therefore, we come to the conclusion that the complainant has suffered a loss of at least Rs.55,000/- in the Incident of robbery, for which the opposite parties are responsible for compensation.

12. The Hon'ble State Commission in its concurrence judgment has also mentioned that Rs. 5000/- has been ordered in respect of mental agony, appears to be very less. In such a situation, when a father was taking his newly married daughter to her in-laws house, and during the journey they suffered mental and physical pain and was given to them by robbers. Therefore, Rs.5000/- is less for mental and physical pain, then in our opinion Rs. 10,000/- will be appropriate. In addition to this, the opposite parties are also liable to pay Rs.3000/- towards the cost of litigation to the complainant. The opposite parties are also liable to pay an amount of Rs.65,000/- to the complainant with simple interest at 08 percent per annum from the date of filing the complaint till the date of payment.

ORDER

The complainants SurendraPal Singh 5/0 Mr. Megh Singh and Smt. Preeti d/o Surendra Pal Singh, wife of Mr. Savendra Singh Chauhan has filed this complaint against the opponents Ministry of Railways, Government of India, Rail Bhawan, New Delhi and the General Manager, Northeast Frontier Railway, Head Office, Maligaon, Guwahati-781012 (Assam) and partly accepted against the Chief Claims Officer, Northern Railway, Baroda House, New Delhi. The opposite parties are ordered to pay Rs. 65,000/- (Rupees sixty-five thousand only) to the complainants with 06 percent annual simple interest from the date of filing the complaint on 10.03.2005 till the date of payment. Apart from this, the opposite parties pay Rs.3,000/- (Rupees three thousand only) to the complainants as litigation expenses. The order will be complied with within one month."

5. Aggrieved by the order of the District Forum, the Opposite Parties filed First Appeal No. 438/2010 before the State Commission, Uttar Pradesh, Lucknow, challenging the directions of the District Forum. After hearing the parties, the State Commission held that the incident of robbery/dacoity committed by 6–7 armed robbers in the moving train constituted an “untoward incident” under Section 123(c) of the Railways Act, 1989, and that the claim for compensation arising therefrom was covered by Section 124-A of the Railways Act. Consequently, in view of Sections 13(1-A) and 15 of the Railway Claims Tribunal Act, 1987, the Railway Claims Tribunal had exclusive jurisdiction to entertain the claim and the Consumer Forum had no jurisdiction. Accordingly, the State Commission allowed the appeal, set aside the order of the District Forum dated 15.02.2010 and dismissed the consumer complaint as not maintainable. The Order of State Commission is reproduced herein below:

“The learned counsel for appellant has contended that in the present case, 6-7 robbers have committed loot in the moving train on the point of arms, therefore this incident under the category of untoward incident under section 123 (C) of the Railway Act. Therefore, in these circumstances, the case is covered with the provisions of compensation for the untoward incidents under section 124 (A) of the Railway Act, 1989, for which complaint should have been filed by the complainant/respondent before the Railway Claims Tribunal under section 13 (1-A) of the Railway Claims Tribunal Act, 1987 because as per section 15 of the Railway Claims Tribunal Act, no other court has the jurisdiction to hear. Therefore, impugned judgment is liable to be set aside.

The learned counsel for respondent/ complainant has contended that learned District Forum has passed the Judgment/order as per law, which does not require any interference. c Impugned Judgment/Order and records available in the file was perused.

In this regard, section 124 and 124 (A) of the Railway Act, 1989, is as under:
“124. Extent of liability - When in the course of working a railway, an accident occurs, being either a collision between train C 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 the 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 deterioration loss, destruction, damage or 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 purpose of this section “passenger” Includes a railway servant on duty.

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 dependent 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 purpose of this section, "passenger" includes,
- (i) 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."

In the present case, complainants/ respondents have been looted by 6-7 robbers in the moving train, which comes under the category of untoward incident under section 123 (C) (2) of the Railway Act and provision is available in section 124 (A) of the Railway Act, 1989 for compensation for the same. As per section 13 (1-A) of the Railway Claims Tribunal Act, 1987 the right to hear such cases, which come under section 124 (A) of the Railway Act, 1989, is with the Railway Claims Tribunal and no other court has the jurisdiction to hear the case as per section 15 of the above-said Act. Therefore, in these circumstances, the Judgment/order passed by the learned District Forum is liable to be set aside as it has no jurisdiction to pass such order. Accordingly, the appeal deserves to be allowed.

ORDER

Appeal is allowed. Judgment/order dated 15.02.2010 passed by the Learned District Forum, Bareilly in the Complaint No. 85/2005 is set aside. Complainant can file his complaint/re presentation under section 13 (1-A) of the Railway Claims Tribunal Act, 1987, which will not be treated as time-barred in the above mentioned circumstances. Both the parties will bear their respective costs. Copy of this judgment be issued to both the parties as per rules."

6. The Petitioners have challenged the impugned order, *inter alia*, on the grounds that the State Commission erred in law and on facts as it (i) failed to appreciate that the cause of action commenced at Bareilly and continued up to Barpeta and Rangiya; (ii) overlooked the earlier majority decision of the State Commission holding that the Consumer Fora had jurisdiction, which had attained finality in the absence of any challenge; (iii) wrongly held that the complaint was barred by Sections 13 and 124-A of the Railway Claims Tribunal Act; (iv) failed to appreciate that the remedy under the Consumer Protection Act was an additional remedy under Section 3 thereof; and failed to appreciate that the compensation awarded by the District Forum was itself below the actual loss suffered by the Petitioners.

7. We have heard the learned Counsel for the parties and carefully perused the pleadings, documents and orders passed by the Fora below. Before we proceed, however, we may reproduce the orders passed by this Commission with regard to the FIR with the railway police lodged by the TTE but not by the petitioner and the final report there in and paras 4 and 5 of the complaint filed before the District Forum and reply thereto filed by the Railways:

08.07.2025

"Heard Mr. Madhurendra Kumar, learned counsel for the petitioner and Mr. Sanjeev Kumar Verma, learned counsel for the Union of India.

This revision petition has been filed by the complainants, who had succeeded before the District Commission, where their complaint was allowed. But on an appeal filed by the Union of India and the Railways the order of the District Commission was reversed on the ground that the claim was not maintainable before the Consumer Forum in view of the remedy available under Section 124 read with Section 124-A of the Railways Act, 1989. It is this order which has been challenged by the complainant in the present revision petition.

Learned counsel for the petitioner urged that the incident was a loot committed while the complainants were travelling along with other passengers and this happened because of no railway staff being available, including any attendant or the train escort or any railway police official. This lack in security was therefore a deficiency and consequently the complaint was rightly allowed by the District Commission.

A criminal case was lodged with the Railway Police Station at Rangiya and the case was registered as case no. 28/2004 under Section 395 IPC. It is not known as to what has happened in the said criminal case. Learned counsel for the petitioner urges that due to the aforesaid deficiency on the part of the Railways, the claim was very much maintainable, but on an appeal the order has been reversed on the ground that such claims are entertainable only before the Railway Claim Tribunal, keeping in view of the provisions of Section 124 read with Section 124-A of the Railways Act, 1989.

We have perused the aforesaid provisions along with Section 123 (c) (1) (ii), where "Untoward Incident" has been defined. The extent of liability under Section 124 arises out of any accident causing any injury to a passenger, whereas Section 124-A talks of injury arising out of an untoward incident. It is contended that the incident might have been untoward, but did not result of any bodily injury and therefore the aforesaid provisions are not attracted and hence the State Commission in appeal has erroneously reversed the order of the District Commission.

The contention of the learned counsel for the petitioner is that this was a clear case of deficiency in service and was entertainable keeping in view the provisions of Section 3 of the Consumer Protection Act, 1986. It is also urged that the judgments relied on by the learned counsel for the respondent to support the impugned order are not applicable on the facts of the present case, where there is no allegation about any bodily injury having been caused to any of the passengers. The question is as to whether the State Commission has proceeded to invoke the provisions of Section 124 and Section 124-A of the Railways Act, 1989 correctly or not.

We would also like to be apprised of the outcome of the criminal case that was registered and we therefore direct the learned counsel for the Railways to procure the information pertaining to the criminal case and place it before us.

Keeping in view the background of the controversy relating to the invoking of the provisions of Section 124 and 124-A, learned counsel for both the parties may bring direct decisions if any relating to the provisions of applicability of Section 124 and 124-A, in which similar circumstances are involved as in the present case.

We find that one of the decisions cited by Mr. Verma, Vijay Bhargava I/s. Union of India & Anr., I (2024) CPJ 147 (NC), the, issue was with regard to compensation being claimed on account of bodily injury having been suffered in an incident while travelling in a train. In that case, the claimant had suffered a bodily

injury in a skirmish with a crowd of people who had allegedly obstructed his passage from the toilet towards the compartment. Thus, that was clear case where it was found that it was an accident involving bodily injury and therefore this Commission held that the matter would be covered by the provisions of Section 124 and 124-A. Hence the matter was accordingly closed.

In the present case as already noted above there is no allegation of any bodily injury having been suffered on account of the untoward incident.

Learned counsel may therefore invite the attention of the Bench to any such decision relating to the subject matter by the next date.

Learned counsel while proceeding to assist the Bench shall also take into account the provisions of Section 128 of the Railways Act, 1989.

List on 29.10.2025 at 2 p.m."

29.10.2025

"None of the parties have been able to inform us about the outcome of the criminal case that was registered with an FIR at the RPF at the Railway Police Station Rangiya in Assam. Time had been granted for the same to the learned Counsel for the Railways but he submits that the information is still wanting. He prays for some further time. Eight weeks' time is granted.

List on 26.02.2026 at 02.00 p.m."

26.02.2026

"We had enquired about certain information in respect of the criminal case Vide order dated 08.07.2025 in response thereto Mr. Verma, learned counsel for the Union of India and Railways has stated that he has received a complete report in this regard and the same has been filed online. A perusal of the same would indicate that the criminal case that was lodged on the basis of the FIR was lodged by the guard of the train which does not find any specific reference of the loot alleged by the complainants of their belongings. It is therefore not an FIR lodged by the complainants, but was by the Railway officials themselves. The report indicates that the investigation was carried out and the accused who had been apprehended have been finally acquitted.

The question therefore now would remain to be answered is as to whether the complaint giving rise to the instant case can in the said background proceed keeping in view the fact that there is neither any recovery nor any indication of any reported loss.

Mr. Madhurendra Kumar appearing for the petitioners may if he so chooses file a -response to the report, a copy of which has been served on him within three weeks.

Mr. Verma can make an endeavour to obtain a copy of the acquittal orders as referred to in the report by the next date fixed.

Let a physical copy of the report be filed before the Registry within a week.

List on 15.07.2026 at 2 p.m."

15.07.2026

"Mr. Madhurendra Kumar, learned counsel for the petitioner states that he has received a copy of the report tendered by the Railways annexing therewith a copy of the termination order of the criminal proceedings ending in acquittal of the of the accused vide judgment dated 09.08.2011 in Sessions Case No. 107 of 2010. The said compilation has been filed on 01.07.2026.

Since, Mr. Madhurendra Kumar prays for time to file response in relation to the said criminal proceedings, three weeks' time is granted for the same. He may also file the written synopsis along with any judgment with an advance copy to the learned counsel for the Railways.

List for directions on 11.08.2026."

Paras 4 and 5 of the complaint filed before the District Forum

4. After the occurrence of above-said incident, when train reached at Rangiya Station, complainant alongwith above-said passengers, informed the Rangiya G.R.P.S. Assam G.R.P. and Station Superintendent, Rangiya about the above-said robbery and requested them to arrest the robbers and lodge the First Information Report but the employees of defendant did not co-operate with the intention to hide the shortcomings and mistakes of their department and Railway. They were requested to provide the specified form for the details of Items looted in the above-said incident, but specified form was not provided to the plaintiffs, however it was necessary as per rules to provide the same to the plaintiffs and other passengers, but the request of complainants were not heard. And instead, with the intention to avoid the filing of case, complainants were forced to give very brief details of the incident on a plain paper. Being constrained and on finding no other way, complainants wrote the brief details of incident on a plain paper and gave the same to the Officer Incharge of G.R.P.S. at Rangiya Station and as per his directions details of items looted from the complainant and others was mentioned on a paper separately at the Police Station and its entry was made vide Case No. 28/2004 under section 395 IPG, information of which was given by the Officer Incharge, G.R.P.S. Rangiya himself to the complainant.

5. That thereafter, complainant No. 1 made continued correspondence with defendant and requested them for payment of Rs. 59,725/- for the jewellery and cash looted from him and his daughter complainant No. 2, but no action was taken by the Defendants. Defendants are responsible for this unfortunate incident and loot with complainants and other affected passengers. The services of defendants remained full of deficiencies. If defendants and their subordinate employees had performed their duties diligently, this incident of loot would have not occurred. Complainants were helpless due to the occurrence of this incident, they completed the remaining journey with lot of difficulties in the absence of funds. It caused lot of mental harassment and physical hardship and financial losses to the complainants, for which they demand the compensation of Rs. 40,000/- from the defendants. As the defendants are not paying any attention on the complaints/requests of the complainants, therefore complainants have no other way except to file this complaint."

Reply to the paras 4 and 5 filed by the Railways

4. That the contents of Para No. 4 of the complaint are not admitted as the concerned coach T.T.E. & conductor of the said train after arrival at Rangiya got the information of the incidence from the passenger and assisted the affected passengers to lodge F.I.R. at Govt. Railway Police at Rangiya.

5. That the contents of Para No. 5 of the complaint are not admitted and requires strict proof thereof. It is further stated that no further correspondence was made by the complainant with OP's at any point of time. Moreover, the case is under

investigation by Govt. Railway Police, Rangiya and the police is yet to inform the development of the case etc. to the OP's.

Railway Report submitted by Officer-in-Charge, Rangia FRPS

To: **The Senior Superintendent of Railway Police,
Assam, Pandu, Guwahati.** Date: 20/02/2026

Sub: **Disposal outcome of Case No. 28/2004 registered at GRPS/RNY U/S- 395 IPC.**

Ref: **Memo No. GRP/CR/Misc-07(Vol-1)/2025/4486 dated 03/12/2025.**

Sir,

With due respect, I have the honour to report that on 28/08/2004, Complainant Prafulla Kalita, S/O Sri Tarani K. Kalita, C/O- Station Superintendent, New Bongaigaon, lodged an FIR at Rangia GRPS. The FIR stated that at about 04:05 hrs, around 5-6 unknown miscreants committed dacoity in Train No. 5610 UP Avadh Assam Express, Coach No. 849 N, between Nalbari and Ghagrapar Railway Stations at KM 345/6 while the train was in motion. They looted cash and valuable articles worth approximately Rs. 10,000 (Rupees Ten Thousand only) from passengers and fled after pulling the chain.

In this regard, Rangia GRPS Case No. 28/2004, U/S- 395 IPC had been registered and investigated. After investigation the case is submitted in CS vide Rangia GRPS CS No. 09/2005, Dated. 31/07/2005.

It is learnt that the above-mentioned case is disposed in acquittal in the Court of Sessions Judge, Nalbari, Assam, against the arrested accused persons on 09/08/2011 vide Sessions Case No. 107/2010, however, the acquittal order has not been received yet.

Further, petitions were submitted before the Hon'ble Chief Judicial Magistrate, Nalbari, Assam, and the Hon'ble Sessions Judge, Nalbari, for the outcome of the case. But copy of the judgment is yet to be received.

Submitted for your kind perusal and necessary action.

Yours faithfully,
Shri Ananta Prasad Patra
OFFICER IN-CHARGE
RANGIA G.R.P.S
ASSAM G.R.P.

HM
1

Copy of FIR

Copy of FIR

To
The OC/RNY/GRPS
Dt 28/8/04

Sub: Ezhara

Sir,

I have the honour to state that today (28/8/04) at about 04.05 hrs around 5 (five) 6 (six) nos of unknown miscreants committed Dacoity in T/No. 5610 UP A/A/Assam Exp train in Coach No. 8849 NF attached with above train in btw NLV - GOE at K.M. 345/6 in running condition and looted away cash valuables articles from the passengers valued about 10,000/- miscreants fled away after chain pulling at KM No. 345/6.

I therefore request you to cause enquiry into the matter have take necessary action accordingly.

Sd/- Prafulla Kalita
GD/5610 UP A/Assam Exp
S/o Sri Tarani Kanta Kalita
Dt of birth 01-3-61
DT 28/8/04

Received and registered
Rangia GRPS Case No. 28/2004
U/s 395 IPC

Sd/- Jitendra Chakraborty SI
O/C RNY GRPS
DT 28/8/04

8. The principal controversy which arises for consideration in the present Revision Petition is whether, in the facts and circumstances of the present case, the Consumer Fora were competent to entertain the complaint filed by the Petitioners alleging deficiency in service on the part of the Railway Administration on account of failure to provide adequate safety and security to passengers travelling in a reserved coach. At the outset, it is not in dispute that the Petitioners were *bona fide* passengers travelling in a reserved sleeper coach of Train No. 5610, Awadh-Assam Express. The Petitioners had purchased valid railway tickets and were availing the

services of the Railway Administration for consideration. Their case is that during the night journey, in complainant's reserved compartment, six to seven armed persons entered Sleeper Coach No. S-8 and robbed the passengers of cash, jewellery and other valuables. This fact is not controverted and the fact of robbery or untoward incident is accepted by the respondent-Railways. The Petitioners specifically alleged that no attendant or security personnel/train escort was present in the coach during the occurrence, despite the incident continuing for a considerable period. The occurrence was not merely an allegation subsequently made by the Petitioners before the Consumer Forum. The incident was reported to the Railway Police at Rangiya and Case No. 28/2004 under Section 395 IPC was registered. The District Forum also noticed the correspondence of the Railway authorities acknowledging the incident and the registration of the said criminal case. Thus, as per Mr. Madhurendra Kumar, the counsel for the petitioner, the occurrence of a robbery in the train cannot be discarded altogether merely because the subsequent criminal proceedings did not result in conviction of the accused. The counsel further submitted that the petitioner along with her daughter also suffered the loot, theft and loss of their luggage consisting of items described in the complaint in para 3, of an amount of Rs.55,000/-, in violation of the internal instructions for the safety of passengers and their luggage the TTE or Railway Police were not present in the coach, the entry doors of the coach were not fastened during the occurrence of this admitted incident which facilitated the entry of the robbers in the coach and thus there was palpable negligence and deficiency in service and hence the jurisdiction of the District Forum was rightly invoked and exercised and the State Commission had no authority or jurisdiction to re-visit the issue of maintainability of the complaint and to interfere with the well-reasoned order of the District Forum. Additionally, it is submitted placing reliance on the following decisions, that in terms of section 3 of the Act, the consumer commissions have jurisdiction to entertain the present complaint:

1. *Kamukayi & Ors. Vs. Union of India in Civil Appeal No. 3799 of 2023 decided on 16.05.2023.*
2. *Union of India Vs. Prabhakaran Vijaya Kumar & Ors. in Civil Appeal No. 6898 of 2002 decided on 05.05.2008.*
3. *Northern Railway Vs. Balbir Singh in R.P. No. 9 of 2015 decided on 26.11.2024*
4. *Dilip Kumar Chaturvedi Vs. Union of India & Ors. in R.P. No. 1104 of 2019 decided on 14.10.2024*

5. *General Manager, Northern Railway Vs. Himanshu Bohra* in R.P. No. 997 of 2021 decided on 05.12.2023.
6. *Indian Railway & Ors. Vs. Smt. Uma Agarwal* in R.P. No. 1099 of 2020 decided on 25.07.2023.
7. *Surendra Singh Vs. Divisional Railway Manager, Northern Central Railway & Ors.* in R.P. No. 648 of 2015 decided on 07.12.2022.
8. *Union of India & Ors. Vs. J.S. Kunwar I* (2010) CPJ 90 (NC)
9. *G.M. South Central Railway Vs. Dr. R.V. Kumar & Anr. 2* in R.P. No. 2154 of 2004 decided on 04.01.2005.
10. *Union of India Vs. Sanjiv Dilsukhrai Dave* in R.P. No. 1690 of 2000 decided on 23.10.2002.
11. *Mrs. M. Kanthimathi & Anr. Vs. Government of India, Ministry of Railways* in R.P. No. 1158 of 2001 decided on 08.11.2002.

9. Mr. Verma on behalf of the Railways, has principally relied upon and supported the order of the State Commission and referred Sections 123(c), 124-A and 13(1-A) of the Railway Claims Tribunal Act and Section 15 thereof to contend that the Consumer Fora had no jurisdiction. Mr. Verma placed reliance on the following decisions:

1. *Ajay Kumar Banerjee & Ors. Vs. Union of India & Ors.* AIR 1984 SC 1130,
2. *Maya Mathew Vs. State of Kerala & Ors.* in Civil Appeal No. 1833 of 2005 decided on 18.05.2010,
3. *Ramnath Panjiyar Vs. Urban Electric Supply Division & Ors.* IV (2014) CPJ 143 (NC).

10. We having perused the decisions relied upon by the parties, find that it is indeed true that Section 123(c) of the Railways Act includes robbery or dacoity in or on a passenger train within the expression "untoward incident", and that the Railway Claims Tribunal Act provides a statutory remedy in respect of claims falling within the said provisions. However, the complaint before the District Forum was founded not upon the occurrence of robbery but upon the alleged failure of the Railway Administration to provide reasonable safety and security to passengers travelling in a reserved coach, coupled with the alleged failure of the Railway personnel to provide proper assistance immediately after the occurrence. The Petitioners specifically pleaded that no attendant or security escort was present in the coach and that the robbers remained in the coach for a considerable period. The District Forum, after considering the material on record, recorded a finding that the Railway Administration was deficient in providing the services in as much as the TTE or RPF personnel were neither present in the coach nor were the doors during night hours as required under the Railway's extant instructions, were not fastened and hence the

Railway was liable to compensate the Petitioners. In that context and on those facts, it is rightly submitted by Mr Madhurendra Kumar that the Consumer Commission has jurisdiction. The decision in *Vijay Bhargava*, which was a case of “accidental fall”, wherein there was no allegation at all of any role, leave aside any deficiency in service, on the part of the Railways, in our opinion, is not applicable to the facts in the present case. The recent decision of this Commission in *Northern Railway Vs. Balbir Singh in R.P. No. 9 of 2015* has reiterated, a settled position of law, that the remedy before the Consumer Fora being in addition to and not in derogation of the other available remedies, the allegations of negligence and deficient conduct of the Railway and its employees shall remain entertainable by the Consumer Fora. The said decision has re-surveyed the previous decisions including the provisions of the Railways Act and the Railway Claims Tribunals Act referred to and relied upon by the State Commission and held the Railways liable for deficiency. Notably, Mr. Verma’s submissions could not effectively counter the legal position as emerging from the said and other decisions relied upon by the petitioner. Relevant portion of the judgement of this Commission in the case of *Northern Railway (supra)* is reproduced below:

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3. Brief facts of the case, as emerged from the RP, Order of the State Commission, Order of the District Commission and other case records are that: -

The complainant booked two railway tickets for going to Kolkata alongwith his family. The tickets were from Delhi to Patna and then from Patna to Kolkata. The dates of journey were for 06.11.2011 and 09.11.2011 respectively. The complainant and his family members boarded the train from Patna and while the train was on its way to Kolkata the complainant found that his two suitcases have been stolen. The complainant tried to pull the chain but the train did not stop even on the pulling of the chain. On the next station the complainant reported the matter to GRP but they asked the complainant to report the matter to General Railway Police Station Jhajha, where the luggage was stolen. The complainant reported the matter to police station Jhajha and a case was registered by them. As per complainant, the suit cases were containing some gold, cash and clothes and the total loss amounted to Rs.1,00,000/-. The complainant contacted the OP many times. As the OP has not redressed the grievance of the complainant. Hence, the complainant filed complaint before the District Forum with the prayer that the OP be directed to pay an amount of Rs.1,00,000/- to the complainant i.e. value of the luggage, jewellery and cash etc. and also to pay Rs.50,000/- as compensation and Rs.11,000/- as litigation expenses to the complainant.

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14. *In the present case, there are concurrent findings of both the Fora(s) below against the OP Railways as regards negligence and deficiency in service on the part of the OP Railways. It was on account of lack of evidence on the list of items in the suit-cases and their value, which were stolen that District Forum did not allow the compensation sought towards value of items lost but only a compensation of Rs.10,000/- for mental agony, physical harassment and deficiency in service, along with litigation cost of Rs.5100/-. The State Commission confirmed these findings of District Forum. As regards question of liability of Railways with respect to loss/theft of luggage of passengers in a reserved Coach, as has been held by this Commission in many cases, which have been cited in the preceding paras, Railways will be responsible for the theft or loss of the luggage carried by passengers in the reserved Coach if it is established that such loss or theft occurred due to negligence or misconduct on the part of the Railways or any of its employees. Further, such acts of deficiency in service on the part of Railways are covered under the provisions of Consumer Protection Act, as remedies under this Act are in addition to remedies under other special statutes. Hence, we are of the considered view that State Commission has given a well-reasoned order and we find no reason to interfere with the same. There is no illegality or material irregularity or jurisdictional error in the order of the State Commission, hence the same is upheld. Accordingly, the Revision Petition is dismissed."*

11. Equally importantly, the issue of jurisdiction had already been considered by the State Commission in the earlier proceedings arising out of the same complaint and the majority view was that the Consumer Forum at Bareilly had jurisdiction and the matter was remanded to the District Forum for decision on merits. The District Forum thereafter proceeded on the basis of the said majority decision and adjudicated the complaint on merits. The District Forum specifically recorded that the said earlier decision of the State Commission had not been challenged and had consequently attained finality. It therefore proceeded to decide the complaint on merits as per directions of the State Commission, which directions, having thereafter remained uncontested, have become final. In our considered view, though an issue of jurisdiction may ordinarily be examined at any stage, if and where there is a statutory bar to the jurisdiction, the peculiar history of the present matter would warrant otherwise. Otherwise also section 3 of the Act provides positively for maintainability in the present case. The State Commission's order therefore needs reversal on this count.

12. Having held that the complaint was maintainable, we firstly note that as stated in the complaint and as per the material available on record including the additional documents brought on record by the respondents, there is no specific averment, evidence or explanation on record as to (i) whether the complainant was at all impacted or affected by the alleged robbery and if yes, what is the evidence of

the alleged items in fact carried by the petitioner and the value thereof (ii) the fact that the robbers threatened or took away any of the alleged items from person or luggage of the revisionist, and (iii) why no formal complaint detailing the event and the loss suffered by the petitioner was filed with concerned RPF or Railway Authorities either immediately after the incident or within reasonable time thereafter (iv) Why no credible and contemporaneous evidence of any communication at all with the Railway Authorities after the incident and before filing of the complaint could be placed on record by the petitioner so as to support the contention of "multiple communications". (v) Why no formal notice was issued to the Railways about the fact of loss or the amount of loss before filing the complaint In that light, we have to consider the question of quantum of compensation, though even the merits of the claim itself may be questionable in view of the FIR and the final report placed on record by the Respondents, but which we in light of the passage of considerable time, decline to go into in the specific facts of the case. The Petitioners claimed Rs.59,725/- towards the value of cash, jewellery, wristwatch and other articles allegedly looted, besides Rs.40,000/- towards mental and physical harassment. The District Forum awarded Rs.65,000/- with interest and Rs.3,000/- towards litigation expenses. We have carefully examined the evidence relating to the alleged loss. The District Forum noticed a receipt for the Titan wristwatch amounting to Rs.1,550/- and another document relating to purchase of jewellery for Rs.54,000/-. On that basis, it concluded that the loss suffered by the Petitioners was at least Rs.55,000/-. At the same time, the Respondents disputed the genuineness of the jewellery receipt and the fact that the ornaments were indeed were looted and also the Petitioners' claim regarding the exact value of the articles. We also cannot lose sight of the fact that the FIR/initial criminal record contained a different valuation of the articles allegedly looted, whereas the consumer complaint claimed Rs.59,725/-. Further, the actual recovery of the allegedly looted articles has not been established before us. The criminal proceedings also did not culminate in conviction of the accused. These circumstances make it difficult to accept the entire amount of Rs.59,725/- claimed by the Petitioners as conclusively proved. At the same time, the aforesaid discrepancies cannot completely defeat the Petitioners' claim. The fact that the incident was reported to the Railway Police, that a criminal case under Section 395 IPC was registered, and that the Railway authorities themselves acknowledged the occurrence of robbery, lends sufficient support to the Petitioners'

case that they on preponderance of probability, may have suffered some reasonable loss due to robbery during the journey when the safety and security of the life and property through presence of TTE and the Railway Protection Force guards and fastening of doors of reserved coaches during 10 PM to 6 Am, as mandated by the Railway's internal circular stood violated resulting into deficiency in service.

13. The Petitioners were travelling in a reserved sleeper coach and had a legitimate expectation that reasonable arrangements would be made by the Railway Administration for the safety and security of passengers. The allegation that no attendant or security escort was present during the occurrence, coupled with the fact that the robbers were allegedly able to remain in the coach for a considerable period and flee after the robbery, constitutes sufficient basis, on the balance of probabilities applicable to consumer proceedings, to hold that there was deficiency in service on the part of the Railway Administration. However, considering the discrepancies regarding the exact quantum of loss, the nature of the documentary evidence produced, the absence of recovery or evidence of value of the allegedly looted articles and the fact that the Petitioners have not been able to establish the entire claimed amount of Rs.59,725/- to the requisite degree, we are not inclined to affirm the award of Rs.65,000/- passed by the District Forum. Taking an overall view of the facts and circumstances of the case, including the failure of the Railway Administration to provide adequate security in the reserved coach and the inconvenience, mental agony and hardship suffered by the petitioners, as well as the uncertainty regarding the exact value of the articles allegedly lost, we consider a consolidated compensation of Rs.20,000/- to be just, reasonable and proportionate after considering the evidence on record. The said amount shall be treated as inclusive of compensation towards the loss suffered, mental agony and litigation expenses, so as to avoid duplication of relief.

14. The Revision Petition is accordingly consigned with directions as above. The impugned order dated 02.01.2015 passed by the State Commission, Uttar Pradesh, in First Appeal No. 438/2010 is set aside. Consequently, the order dated 15.02.2010 passed by the District Forum-II, Bareilly in Complaint Case No. 85/2005 is modified to the extent indicated herein. The Respondents/Opposite Parties are directed to pay a consolidated sum of Rs.20,000/- (Rupees Twenty Thousand only) to the Petitioners/Complainants, towards compensation for the deficiency in service, loss and mental agony suffered by them, inclusive of litigation expenses. The aforesaid

amount of Rs.20,000/- shall be paid within two months from the date of this order failing which, the amount shall carry simple interest @ 6% per annum from the expiry of the aforesaid period until payment. The Revision Petition stands disposed off on the above terms.

Sd/-

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(A.P. SAHI, J.)
PRESIDENT

Sd/-

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(BHARATKUMAR PANDYA)
MEMBER

Pawan/ej