

**BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA**

O.A. No. 176/2023/EZ

IN THE MATTER OF:

IN RE-“ 3 elephants run over by goods train In Buxa Tiger Reserve” News item published in the Times of India dated 28.11.2023

...Applicant(s)

VERSUS-

Field Director Buxa Tiger Reserve, Alipurduar & ORS ...Resppndent(S)

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Filed through:-

Ashok Prasad

**ASHOK PRASAD,
ADVOCATE**

BEFORE THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH, KOLKATA

O.A. No 76/2023/EZ

IN THE MATTER OF:

IN RE-“ 3 elephants run over by goods train In Buxa Tiger Reserve” News item published in the Times of India dated 28.11.2023

...Applicant(s)

VERSUS-

Field Director Buxa Tiger Reserve, Alipurduar & ORS
...Resppondent(S)

AFFIDAVIT FOR AND ON BEHALF OF THE
NORTH FRONTIER RAILWAY (NFR)

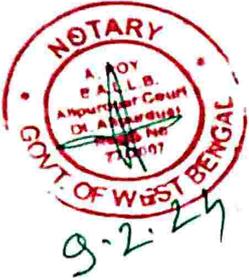
MOST RESPECTFULLY SHOWETH:

I, Anil Kumar Kushwaha aged about 35 years, employed / appointed as the Divisional Railway Manager^(w), North Frontier Railway, as Senior Divisional Engineer/III, functioning / officiating at Alipurduar Junction, do hereby solemnly affirm and declare as under:-

1. That I am the authorised signatory in the aforementioned matter. On the basis of records, I am well conversant with

Anil Kumar Kushwaha

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N.F. Railway, Alipurduar Jn.



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the facts of the case and hence, competent to swear this affidavit.

2. That I have read and understood the order dated 29.11.2023 of Hon'ble NGT, Eastern Zone Bench, and filed this Affidavit in compliance of directions given under para 9 of the said order.
3. That I have read and understood the contents of the present Affidavit and state that the contents mentioned in the Affidavit are true and correct to the best of my knowledge.

BRIEF SUBMISSIONS

4. That the O.A. No. 176/2023/EZ is a Suo Moto case filed by the Hon'ble National Green Tribunal to restrain Respondent No. 2 from proceeding any further in the matter of "3 elephants run over by goods train In Buxa Tiger Reserve" News item published on 28.11.2023 in the Times of India (TOI)'

That the Hon'ble Tribunal under its order dated 29.11.2023 quoted as follows:-

The article mentions that 3 elephants were mowed down by the goods train in Buxa Tiger Reserve near Rajabhatkhawa Shikari Gate in Alipurduar. The forest department shunted the engine at Kalchini Railway Station. It is stated that the incident took place when a herd of elephants were crossing the track between Rajabhatkhawa and Kalchini stations and at around 7.26 AM, three of the herd – an adult female and

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two calves – were run over by the train running from Guwahati to Siliguri. The article mentions that female elephants were flung about 20 feet west of the track and one calf fell 15 feet to the eastern side and the other calves were torn apart by the train.

5. That in this connection, the respectful submission is that on 27.11.2023, DN DEC NMG (Goods train) hauled by Loco No. 70099/WDG4/UDL(L/HOOD) with load 24+1, was worked by Sri Dinesh Kumar-II, LP/Goods/APDJ, Sri Ranjan Kumar, ALP/APDJ and Sri Sadhan Rabidas, Goods Train Manager/APDJ. The train passed through RVK station at 07:25 hrs. While passing at Km. 154/9-8 (between RVKKCF), ALP suddenly noticed the movement of wild elephants from Right to left on the railway track and immediately informed to LP. Accordingly, both LP & ALP applied emergency break at 7:27 hrs to stop the train, however 03 nos. Of wild elephants got dashed with the train engine and died. Out of three (03) elephants those were hit, 02 nos elephants were thrown outside the track (01 each on the left and right of the track) & 01 no. calf was trapped beneath the train and was dragged up to 73 meters till the train stopped at km. 154/8-7, LP immediately informed the matter to TM, PRC/APDJ & Divl. Control office.

The sectional speed limit was 100 KMPH at that time and the train was running at 70 kmph, as per speed chart of the train, which was within the permissible speed limit. As per verification from digital speed chart recording of long-term data & short-term data of locomotive, the speed of the train was 70 KMPH before meeting with the accident and

Asunmahar

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reduced up to "0" (stopped) within '20' seconds of time intervals covering a distance of 257 meters.

A copy of the Time Wise actives is attached herewith and marked as Annexure R-1.

6. After receiving the information from loco pilot (LP), Assistant Loco Pilot (ALP) and Train Manager (TM) railway staff rushed to spot and found three (03) elephants those were hit, 02 nos elephants were thrown outside the track (01 each on the left and right of the track) & 01 no. calf was trapped beneath the train and was dragged up to 73 meters till the train stopped at km. 154/8-7.
7. Thereafter the body of dead calf was removed from Railway track at 11:27 hrs. on 27.11.2023 jointly by the Railway & Forest officials. Thereafter, track fit certificate was issued by SSE/P. Way/RVK at site at about 11:40 hrs, for working of train with cautious speed of 25 kmph and frequent whistling. After TC was given, the 1st train 15483 DN passed the incident site at 12:30 hrs. and reached KCF station at 12:50 hrs. After dashing the elephant calf was dragged about 73 mtrs. between km 154/9 to 154/8.

8. DEPOSITION OF WITNESSES

- I. As per statements of LP, ALP, TM, weather was fair and the visibility was clear. Breathalyzer testing was done at Alipurduar Junction on 27.11.2023 before performing duty and the result found negative.

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9.2.24

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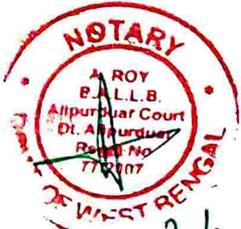
- II. The incident took place at about 07:29 hours of 27.11.2023. The weather was dear. LP's seating position was on the left-hand side. As per statement of Loco Pilot, the track was clear before the time of incident. However, the adjoining areas along the track suffered from low visibility due to its lower height from the track (about 1.5 m) and high bushes along the track. It was noted that visibility was further limited by OHE masts along the track and gate goomti of SK-126.
- IV. The dashing took place at km. 154/9-8. Gradient of the site was 1:547 down from km 154/415 to 155/015 towards RVK end. No damage to the track was noticed during the verification done at the spot of the incident.
- V. As per statement of LP & ALP, ALP had applied emergency brake immediately after seeing elephants.
- VI. As per the record of Control office and statement of SM(s)/RVK & KCF, no specific information regarding movement of wild elephant in the vicinity of the subject spot (between RVK-KCF section) were received from Forest Deptt. Moreover, crew of trains passing earlier had also not informed about the movement of any wild animal/elephants to the Station Master(s) or Control.

9. REASONS FOR FINDINGS

- I. As per rough sketch map of the accident site, visibility of the track was clear. However, the elephants suddenly appeared on the track from the side, which was a low-lying area having lot of

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9.2.24

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vegetation along the track, making it difficult for the crew to notice the movement of elephant from an adequate distance.

- II. The track was clear before the time of incident. However, the adjoining areas along the track suffered from low visibility due to its lower height from the track (about 1.5 m) and high bushes along the track. It was noted that visibility was further limited by OHE masts along the track and gate_goomty of SK-126.

10. FINDINGS

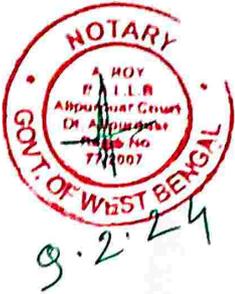
The dashing of wild elephant by the DN DEC NMG (Goods train) hauled by Loco No.70099 (WDG4/Single Cab, Long Hood working) on 27.11.2023 at about 07:29 hrs. was due to sudden appearance of wild elephants on the track, while passing through the track.

From the analysis of speedometer chart, It is revealed that train touched the maximum speed of 72 Kmph (sectional speed limit 1UUKMPH), emergency brake was applied by the Asstt, Loco Pilot at 07:29:11 hrs. (01:57:15 hrs. as per speedometer) and stopped train at 7:29:30 hrs. (01:57:34 as per speedometer) due to sudden appearance of wild elephant on the track, Sri Ravi Ranjan Kumar-I, Sr.ALP/APDJ, noticed elephant just before about 50 meters ahead and he immediately applied emergency brake to control the train. However, unfortunately, three elephants got dashed with the train.

No specific information was received by the adjacent Station Masters or APDJ Control from the officials of Forest

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Department about the movement of wild elephants near the railway track.

And last, in so far as the progress of intrusion of Detective System (IDS) at APDJ Division which is as under:-

- a. The IDS system has been already provided in the MDT-CRX section (From KM 16/4 TO 83/3) in the November, 2022.
- b. The balance sections (117.4 KM) from GLMA-CRX and MDT-APDJ and some portion of katihar division work is already sanctioned (Costing Rs. 21.4 crore approx.
- c. Tenders are already opened and trail work is under progress. After successful trial work will be awarded to the qualified agency.
- d. After award of the work, Railway will try to complete the work immediately (minimum six month).

In view of above submissions, this Hon'ble Tribunal may like to pass appropriate orders as deemed fit and proper in the interest of justice and on the basis of replies of other respondents.

Arul Kumar Karthikeyan
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VERIFICATION

I, Anil Kumar Kushwaha/ Senior Divisional Engineer/III/APDJ/N.F.Railway the above named deponent, do hereby verify that the contents of above this Counter Affidavit are true and correct on the basis of official record maintained by the answering respondent in the daily course of its business and state that neither any material has been concealed there from nor is any part of it false.

Signed and verified on this 03 Day of February, 2024 at Alipurduar

Anil Kumar Kushwaha

वरिष्ठ मंडल इंजीनियर / III
Sr. Divisional Engineer-III
DEPONENT
N.F. Railway, Alipurduar Jn.

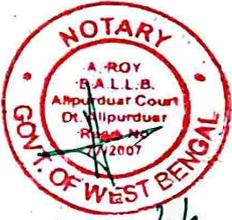
Identified by Me

Advocate

Solemnly affirm before me at
Alipurduar on 03/02/24

 3.2.24

A. ROY B.A.L.L.B.
NOTARY (ADVOCATE)
Alipurduar
Registration No.77/2007



9.2.24

To,
Sr.DSO/APDJ
No: - CNL/C/07/01/24

DATE:10.01.2024

Sub: Elephant dashed between RVK-KCF km 154/5-6 in BG- III section on 27.11.2023

Train No: DEC/NMG
Loco No: 70099(WDG-4),Shed-UDL/Eastern Railway,Schedule due-
Total Load: 25
LP: D. Kumar (II)/APDJ
ALP: Rabi Ranjan Kumar I/APDJ
TM: Sadhan Rabidas/APDJ

Train C.F at APDJ- 06:30 hrs& left APDJ at 06:50 hrs

At 07:35 hrs of 27.11.23, SM/RVK reported that DN DEC -NMG loco no : 70099 (WDG-4)LD - 25 (RVK station through at 07:20 hrs) and train dashed with an elephant at km 154/5-6 between RVK- KCF as a result 03nos of elephant of death of which 02 nos elephant outside the track (left and right) & 01 cub trapped inside the track.

DFO & other Forest officials team were present at site.

Train no-DEC/NMG empty rake is a **non schedule train originated from APDJ station ,after pit examination of the rake at APDJ.**

MPS of the section(APDJ-SGUJ) -100 KMPH

Working Loco Pilot stated that speed of the train was about 70 KMPH

Time wise actives are furnished below:

Time	Activity
07:20 hrs	DEC-NMG left RVK
07:35 hrs	SM/RVK informed that at km 154/5-6 between RVK-KCF train dashed with elephant resulting 03 nos of elephant death
07:40 hrs	Forest Officials kept informed
07:42 hrs	TI /APDJ is informed
07:50 hrs	DRM/APDJ was informed through CHC,
07:50 hrs	SSE/P Way RVK arrived at site & Sr.DSO kept informed
07:55 hrs	ADEN/West /APDJ arrived site
07:57hrs	ADFO/Raja Bhathkhawa arrived at site Elephant dashed between RVK-KCF
07:59 hrs	ADRM /APDJ is informed
08:03 hrs	ADSO/APDJ & AOM/C/APDJ was informed
08:15 hrs	ART /APDJ was called to keep ready for movement towards site.
08:45 hrs	Deputy Field Director /Alipurduar arrived at site
08:45 hrs	ASC/APDJ and ADME/P, arrived at site
08:45 hrs	ACM/APDJ with CMLs arrived at site & KCF also
08:45 hrs	DCM/APDJ arrived at Control, R Tigga, A. Mandal (LI/APDJ) arrived at site
08:45hrs	DEE/O&G/APDJ arrived at Control and then arrived site at 09:45 hrs
08:50 hrs	ADSO/APDJ arrived at site
09:05 hrs	SSE/ C &W APDJ with 04 staff arrived at site
09:15 hrs	ADEE/TRD arrived at site
09:20 hrs	Sr.DSO/APDJ arrived at site

Forwarded to
Sr.DSO/APDJ
in MS

10.1.2024

Sr.DOM/APDJ

10.1.2024

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09:25 hrs	Sr.DOM/APDJ , Sr DEN III/APDJ arrived at site
09:35 to 09:45 hrs	Statement of LP, ALP taken by DFO Forest officials at site
09:45 to 09:55 hrs	Forest officials checked the loco and coaches before allowing train movement
09:40 hrs	CDO/APDJ arrived at site
10:00 hrs	Forest officials allowed to moved the train with very cautious speed
10:05 hrs	DEC- NMG moved from site towards KCF as per instruction of higher authority with cautious speed
10:25 hrs	Sr.DSO/APDJ imposed NS 25 KMPH speed restriction for 15 days between RVK-KCF entrain section Day/Night due to elephant movement after incident.
10:30 hrs	AOM/C arrived at site
10:38 hrs	DEC /NMG has cleared the incident spot where the elephant body was inside the track with very cautious speed
11:05 hrs	ART/APDJ movement has been cancelled as per instruction of Sr.DSO/APDJ
11:15 hrs	DEC/NMG arrived at KCF (L-03)& section cleared.
11:27 hrs	Dead body of elephant cleared from track by Forest officials
11:30 hrs	Medical team arrived at KCF station and medical test of crews done by ADMO/APDJ & medical team
11:40 hrs	Track fit certificate given by SSE/PWAY/RVK for normal train running at Km 154/7-9 between RVK-KCF over elephant dashing spot and pass cautiously with frequent whistle
11:55 hrs	ASDO/APDJ has given the clearance after discussion with Forest Officials that normal train movement may be resumed .
12:00 hrs	15483 DN(Sikim Mahananda Exp) left APDJ or 90 mint late
12:50 hrs	15483 DN(Sikim Mahananda Exp) left RVK at 12:25 hrs and passed KCF station at 12:50 hrs as 1 st train passed after incident and getting track fit certificate.

Note: 1. There was a permanent speed restriction of Non stop 30 KMPH at KM 157/1-154/0 between RVK-KCF from 17:00 hrs to 05:00 hrs for Elephant Zone.

Resulting the following train suffered:

- 1) 75741UP HSA in 08:20hrs out 12:20hrs and will be short terminated at APDJ and partially train service cancelled between DBB to APDJ
- 2) 75742DN will be partially cancelled between DBB-APDJ, and will be originated Ex-APDJ.
- 2) 15483DN APDJ left 12:00hrs or 90 mint late
- 3) 15467UP controlled at MJE from 10:50hrs to 11:30hrs
- 4) 13149UP controlled at BNQ from 10:45hrs to 11:40hrs
- 5) 15777UP controlled at NKB from 11:05hrs to 12:00hrs

No freight train regulated .

This is for your information please.

Abhishek

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12.10.1.24
Sr.DOM/APDJ

V A K A L A T N A M A

BEFORE THE NATIONAL GREEN TRIBUNAL, KOLKATA/EZ

In Re: "3 elephants run over by goods train in Buxa
Tiger Reserve" News item published in the Times
of India dated 28.11.23

O.A. No. 176 of 2023

Plaintiff
Petitioners

-Versus-

GIM (NFR)

Defendant
Opposite Party

On behalf of ANIL KUMAR KUSHWAHA/Sr.DEN III/APDJ/NFR

Know all men by these presents that by Vakalatnama I/We
appoint the Advocates noted below or any of them my/our lawful
Advocate or Advocates for filing the Memorandum of appeal or petition in the
for entering Appearance

above matter for appearing in conducting and arguing the same,
for depositing or withdrawing any money in connection
therewith for moving the Court in any matter connected
therewith, for preparing the paper book in the case and for
putting in papers petitions etc. on my/our behalf for filing
taking back any documents for withdrawing suits or appeals or
petitions with permission to institute fresh suits etc. For
signing and filing petitions of compromise in connections with
said matter and for taking copies of paper form the Record and
I/We further say that any act, done by my/one said Advocate or
Advocates or by any of them after accepting this Vakalatnama,
shall be considered as my/our true and lawful act.

And I/we further hereby agree and undertake to pay the
said Advocates his or their fees are settled and all others
sums that may be necessary to carry out the requisition of the
Court and otherwise to enable the said Advocates to conduct
property. Failing which the said Advocates after notice to
me/us will be liberty to withdraw form the further conduct to
the case.

IN WITNESS WHERE OF I/We sign and execute this Vakalatnama
on this the 8th day on January, 2023,

NAME OF ADVOCATES - ASHOK PRASAD
CGSC/Sr. COUNSEL.

Vakalatnama Received
and accepted
Ashok Prasad
Apr.
9882069404

Ashok Prasad
Sr. DEN III / APDJ
वरिष्ठ मंडल इंजीनियर / III
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