

- (b) uses or attempts to use a single pass or a single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) The person referred to in sub-section (1) shall also be liable to pay the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has traveled, or where there is any doubt as to the station from which the train originally started, or if the tickets of passengers traveling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or, in case of their having been examined more than once, were last examined.

(3) The excess charge referred to in sub-section (2) shall be a sum equal to the ordinary single fare referred to in that sub-section or fifty rupees, whichever ever is more.

(4) Notwithstanding anything contained in Sec. 65 of the Indian Penal code, (45 of 1860) the court convicting an offender may direct that the person in default of payment of any fine inflicted by the court shall suffer imprisonment for a term which may extend to six months.

### **Comment**

Section 137 provides for punishment for traveling or attempting to travel fraudulently without a pass or ticket.

Penal Provision : The law in its wisdom seeks to punish the guilty who commits the sin and not the person, who is innocent.

### **138. Levy of excess charge and fare for traveling without proper pass or ticket or beyond authorized distance.**

(1) If any passenger,-

(a) being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on a demand being made therefore under Sec. 54, or

(b) travels in a train in contravention of the provisions of Sec. 55, he shall be liable to pay, on the demand of any railway servant authorized in this behalf, the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has traveled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers traveling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or in the case of their having been examined more than once, were last examined.

(2) If any passenger , -

(a) travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket; or

(b) travels in or on a carriage beyond the place authorized by his pass or ticket,

he shall be liable to pay, on the demand of any railway servant authorized in this behalf, any difference between the fare paid by him and the fare payable in respect of the journey he has made and the excess referred to in sub-section (3)

(3) The excess charge shall be a sum equal to the amount payable under sub-section (1) or sub-section (1) or sub-section (2), as the case may be, or fifty rupees, whichever is more :

Provided that if the passenger has with him a certificate granted under sub-section (2) of Sec. 55, no excess charge shall be payable.

(4) If any passenger liable to pay the excess charge and the fare mentioned in sub-section (1) or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on a demand being made therefore under one or other of these sub-sections, as the case may be, any railway servant authorized by the railway administration in this behalf may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first or second class, as the case may be, for the recovery of the sum payable as if it were a fine and the Magistrate if satisfied that the sum is payable shall order it to be so recovered, and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month but not less than ten days.

(5) Any sum recovered under sub-section (4) shall, as and when it is recovered, be paid to the railway administration.

### Comment

Sec. 138 provides for levy of excess charge and fare for traveling proper pass or ticket or beyond authorized distances and for punishment in case of refusal or failure to pay fare and excess charge.

**139. Power to remove persons.-** any person failing or refusing to pay the fare and the excess charge referred to in Sec. 138 may be removed by any railway servant authorized in this behalf who may call to his aid any other person to effect such removal.

Provided that nothing in this section shall be deemed to preclude a person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket.

Provided further that a woman or a child if unaccompanied by a male passenger, shall not be so removed except either at the station from where she or he commences her or his journey or at a junction or terminal station or station at the headquarters of a civil district and such removal shall be made only during the day.

### Comment

Section 139 empowers the railway servant to remove persons from railway on failure or refusal to pay fare and excess charge.

**140. Security for good behavior in certain cases.-** (1) When a court convicting a person of an offence under Sec. 137 or Sec. 138 finds that he has been habitually committing or attempting to commit that offence and the court is of opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may at the time of passing the sentence on the person, order him to execute a bond with or without sureties for such amount and for such period not exceeding three years as it deems fit.

(2) An order under sub-section (1) may also be made by an appellate Court or by the High Court when exercising its power of revision.

### Comment

Section 140 provides for execution of bond for good behaviour in cases mentioned therein.

**141. Needlessly interfering with means of communication in a train.-** If any passenger or any other person, without reasonable and sufficient cause, makes use of, or interferes with any means provided by a railway administration in a train for communication between passengers and the railway servant in