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COMMERCE & TRANSPORT (TRANSPORT) DEPARTMENT

NOTIFICATION

The 28th December, 2018

No. 10768–TRN-LC-MISC-0098-2018/T.— The following draft of certain rules which the State Government proposes to make in exercise of the powers conferred by Section 176 of the Motor Vehicles Act, 1988 (59 of 1988), and in supersession of the Odisha Motor Vehicles (Accident Claims Tribunal) Rules, 1960, except as respect things done or omitted to be done before such supersession, is hereby published as required under sub-section (I) of Section 212 of the said Act for information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the period of thirty days from the date of publication of this notification in the *Odisha Gazette*.

Any objection or suggestion which may be received from any person in respect of the said draft before the expiry of the period so specified will be considered by the State Government.

DRAFT

1. Short title and commencement:—

- (1) These rules may be called the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018;
- (2) They shall come into force from the date of their publication in the *Odisha Gazette*.

2. Definitions:—

- (1) In these rules, unless the context otherwise requires:—
 - (a) “Act” means the Motor Vehicles Act, 1988 (59 of 1988);
 - (b) “accident” means an accident involving the death of, or bodily injury to persons arising out of the use of motor vehicles, or damages to any property of a third party so arising or both;

- (c) "Claims Tribunal" means a Motor Accidents Claims Tribunal constituted under section 165 of the Act;
 - (d) "Form" means a form appended to these rules;
 - (e) "Insurance Company" means the insurance company with which a motor vehicle involved in an accident was insured for the relevant period;
 - (f) "investigating officer" means a police officer not below the rank of Sub-Inspector of a police station within whose jurisdiction an accident involving a motor vehicle occurs;
 - (g) "legal representative" shall have the same meaning assigned to it under clause (11) of Section 2 of the Code of Civil Procedure, 1908 (5 of 1908).
- (2) All other words and expressions used in these rules but not defined shall have the same meaning as have been respectively assigned to them under the Motor Vehicles Act, 1988(59 of 1988) and rules made thereunder.

3. Duties of the investigating officer in motor accident cases:—

- (1) Notwithstanding anything contained to the contrary in any other Act and Rules in force, it shall be the duty of the investigating officer, as expeditiously as possible to:—
 - (a) get the scene of accident photographed from such angles as to clearly depict, and in case of inability to do so, prepare a site plan, drawn to scale, as to indicate the lay-out and width, etc. of the road or place, as the case may be, the position of vehicle, or person, involved, and such other facts as may be relevant so as to preserve the evidence in this regard, *inter alia* for purposes of proceedings before the Claims Tribunal;
 - (b) gather full particulars of the insurance certificate or policy in respect of the motor vehicle involved in the accident and to require the production of documents mentioned in sub-section (1) of Section 158 of the Act, and thereupon either to take the same in possession against receipt, or to retain the photocopies of the same, after attestation thereof by the person producing the same;
 - (c) verify the genuineness of the documents mentioned in clause (b) by obtaining confirmation in writing from the office or authority purporting to have issued the same;

- (d) submit detailed report regarding an accident to the Claim Tribunal, in Form A by not later than thirty days of the receipt of order in Form-B accompanied by requisite documents which shall include copy of the report under section 173 of the Code of Criminal Procedure, 1973(2 of 1974), Medico Legal Certificate, post-mortem report (in case of death), first information report, photographs, site plan, photocopies of documents mentioned in clause (c), report regarding confirmation of genuineness thereof, if received, or otherwise action taken;
- (e) Furnish to the applicant information and particulars about the accident in Form A within thirty days, on receiving the application in Form C by the person who wishes to make an application for compensation and who is involved in an accident, or his next of kin, or the legal representative of the deceased, or the insurance company, as the case may be:

Provided that such information shall be given to the Insurance Company on payment of a fees of rupees ten only per page on request;

- (f) not to release and impound the vehicle involved in the accident, when it is found that it is not covered by policy of insurance of third party risks, taken in the name of the registered owner, or when the registered owner fails to furnish copy of such insurance policy, and bring this to the notice of the Magistrate having jurisdiction over the area, where the accident occurred.
- (g) report to the Magistrate mentioned in clause (f), as to why the registered owner has not been prosecuted for offence punishable under section 196 of the Act, where such prosecution has not been preferred, despite existence of acts constituting such an offence.

(2) The duties enumerated in sub-rule (1) shall be followed by the investigating officer and any breach thereof shall entail initiation of disciplinary proceeding.

4. Duties of the Registering Authority:—

It shall be the duty of the concerned registering authority to—

- (a) submit a detailed report in Form D to the Claims Tribunal regarding a motor vehicle involved in an accident or license of the driver thereof within fifteen days of the receipt of direction in Form-E;

- (b) furnish within fifteen days, the requisite information in Form D on receiving the application in Form F, by the person who wishes to make an application for compensation or who is involved in an accident arising out of use of motor vehicle or his next of kin, or to the legal representative of the deceased or to the Insurance Company, as the case may be:

Provided that the information shall be given to the insurance company on payment of rupees ten only per page on request.

5. Duties of the Insurance Company:—

It shall be the duty of the Divisional Manager of the Insurance Company, as expeditiously as possible to:-

- (a) move an application in Form "C" before the investigating officer with prescribed fees and gather full information about the accident, at the earliest, after receiving information about it, or on receipt of notice from the Claims Tribunals under rule 13;
- (b) ascertain and verify facts about insurance of motor vehicle involved in the accident and confirm the same to the Claims Tribunal within thirty days of receiving notice of the claim case;
- (c) move application before the concerned registering authority in Form-F and gather information about the motor vehicle involved, and the driving license held by the driver thereof as per details mentioned in Form-D;
- (d) deposit with the written statement in the Claims Tribunal, the amount equivalent to the compensation, awardable on the principle of no fault liability under section-140 of the Act in such cases where the information received in Form-A and Form-D confirms death or permanent disability to have been caused as a result of the use of the motor vehicle covered by the insurance certificate or policy issued by it.

6. Prohibition against release of motor vehicle involved in accident:—

- (1) No court shall release a motor vehicle involved in an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy of insurance against third party risks taken in the name of registered owner or when the registered owner fails to furnish copy of such insurance policy

despite demand by investigating officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident.

- (2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy in circumstance mentioned in sub-rule(1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of satisfying the compensation that may have been awarded, or may be awarded in a claim case arising out of such accident.

7. Presumption about reports:—

The contents of reports submitted to the Claims Tribunal in Form-A and Form-D by investigating officer and concerned registering authority respectively, and confirmation under clause (b) of rule 5 by the insurance company shall be presumed to be correct, and shall be taken as evidence without formal proof, till proved to the contrary.

8. Applications for compensation:—

- (1) Every application duly filled in and signed by the applicant for payment of compensation under sub-section(1) of the Section 166 of the Act shall be made in Form-G and shall be accompanied by the fee prescribed in sub-rule(1) of rule 39 to the Claims Tribunal having jurisdiction to adjudicate upon it.
- (2) There shall be appended to every such application:—
- (a) an affidavit of the applicant to the effect that the statement of facts contained in the application is true to the best of his knowledge or belief, as the case may be, and further if the applicant has earlier preferred any claim petition with regard to the same cause of action, and if so, what was the result thereof;
 - (b) all the documents and affidavits for the proof thereof, and affidavits in support of all facts on which the applicant relies in context of his claim, entered in a properly prepared list of documents and affidavits:

Provided that the Claims Tribunal may not allow the applicant to rely in support of his claim, on any document or affidavit not filed with the application, unless it is satisfied that for good or sufficient cause, he was prevented from filing such document or affidavit earlier;

- (c) proof of identity of the applicant to the satisfaction of the Claims Tribunal, unless exempted from doing so for reasons to be recorded in writing by it;
 - (d) passport size photograph of the applicant duly attested by the conducting advocate of applicant
 - (e) reports obtained in Form-“C” and Form-“D” from investigating officer, and registering authority, respectively; and if no such report have been obtained reasons therefor;
 - (f) medical certificate of injuries, or the effect thereof, other than those included in Form C.
- (3) The Claims Tribunal may also require the applicant to furnish the following information to satisfy itself that spurious or a collusive claim has not been preferred, namely:—
- (a) full particulars of all earlier accidents in which the applicant or the person deceased, as the case may be, has been involved;
 - (b) the amount of compensation paid in such earlier accidents, name and particulars of the victim, and of the person who paid the damages; and
 - (c) connection of persons mentioned in clause (b), if any, with the applicant.
- (4) Any application which is found defective on scrutiny may be returned by the Claims Tribunal for being re-submitted after removing the defects within as pecified period not exceeding two weeks.
- (5) Every application for compensation shall be registered separately in appropriate register prescribed as per rule 36.

9. Police Reports under sub-section (6) of Section 158 of the Act and action thereon:—

- (1) The Police report in terms of sub-section (6) of Section 158 of the Act by the police shall *mutatis mutandis* be in Form-A.

- (2) On receipt of report mentioned in sub-rule (1), the Claims Tribunal shall go through the same and may call for such further information or material as considered necessary for proper and effective action in accordance with sub-section(4) of Section 166 of the Act.
- (3) The Claims Tribunal after examination of the report, further information or material, if called for, shall register the claim case thereon and, then, issue notice for appearance to all parties concerned, which would include the victim of the accident, or his/her legal representative, as the case may be, driver, owner and insurer of the vehicle involved, in Form-H.
- (4) On receipt of notice, the parties mentioned in the forgoing provision would be required to appear and declare through affidavit, if any claim case had either been preferred, or was being preferred in respect of the same cause of action, and if so, the police report treated as claim case would be tagged to such claim case preferred independently by the parties.
- (5) If the person injured, or legal representative of the person deceased do not appear in response to the notice aforementioned in the manner indicated above, the Claims Tribunal may presume that the said parties were not interested in pursuing the claim for any compensation in such proceedings, and on such presumption it shall close the case.
- (6) Unless the report under sub-rule (1) treated as claim case stands tagged to independent claim case preferred by the parties themselves, the Claims Tribunal shall call upon the person injured or legal representative of the person deceased, as the case may be, and who may have appeared in response to the notice, to submit statement of facts regarding compensation, if any claimed by them, which statement of facts shall be along the lines required to be furnished in application in Form-G.
- (7) If statement of facts about compensation claimed and basis thereof are furnished by the parties in the manner indicated in sub-rule(6), the case shall be further proceeded with in the same manner as required to deal with applications moved by the parties for compensation directly before the Claims Tribunal.

(8) If after statement of facts about compensation claimed has been furnished by the party, which subsequently commits default in appearance, the provisions of Order IX of the Code of Civil Procedure, 1908(5 of 1908) would apply:

Provided that in case the accident in question involves more than one vehicle and persons connected to all such vehicles stake claim for compensation, the police report treated as claim case shall be presumed to be a claim case preferred by each of them and absence by any one or more of such parties shall not prejudice or affect the claim of the party which continues to appear.

10. Examination of applicant:—

On receipt of an application under rule-8, the Claims Tribunal may examine the applicant on oath, and the substance of such examination, if any, shall be reduced to writing.

11. Summary disposal of application:—

The Claims Tribunal may, after consideration of the application and statement, if any, of the applicant recorded under rule 10, dismiss the application summarily, if for reasons to be recorded, it is of the opinion that there are no sufficient grounds for proceeding therewith.

12. Transfer of claim cases:—

(1) The District Judge shall have the power to transfer an application for claim from the file of one Claims Tribunal, before whom the application is pending, to any other Claims Tribunal, if;

(a) the Claims Tribunal before whom the application is pending makes such a request on grounds, personal or otherwise; or

(b) upon consideration of the application for transfer by any party to the application, the District Judge is satisfied, for reasons to be recorded in writing, that there are sufficient grounds to do so.

(2) The High Court may transfer the application from the file of one Claims Tribunal to the other Claims Tribunal for any sufficient reasons.

13. Notice to parties involved:—

If the application for claim is not dismissed under rule 11, the Claims Tribunal shall send to the opposite parties a copy of the application along with all the documents and

affidavits filed by applicant under rule 8 together with a notice in Form “I” of the date on which it will hear the application, and may call them upon to file on that date a written statement as per rule 14 in answer to the application:

Provided that, if documents filed by the applicant are voluminous, and insistence on providing copies thereof would be unnecessarily expensive or cumbersome, the Claims Tribunal may dispense with the requirement to send copies thereof to the opposite parties.

14. Appearance and examination of the parties:—

- (1) The person against whom the applicant claims relief (hereinafter referred to as ‘opposite party’) shall at or before the first hearing, or within such further time as the Claims Tribunal may allow, file a written statement dealing with the claim raised in the application, and any such written statement shall form part of the record.
- (2) The opposite party shall file with his written statement, all the documents and affidavits for the proof thereof and also affidavits in support of all facts on which he relies in context of his defence of the application, duly entered in a properly prepared list of documents and affidavits and shall give to the applicant copies of the written statement, documents and affidavits:

Provided that the Claims Tribunal may not allow the opposite party to rely in support of his defence on any document or affidavit not filed along with the written statement unless it is satisfied that, for good or sufficient cause, he was prevented from filing such document or affidavit earlier.

- (3) If the opposite party contests the claim, the Claims Tribunal may, and if no written statement has been filed, it shall, proceed to examine him upon the claim and shall reduce the substance of the examination to writing.
- (4) The Claims Tribunal may also require the opposite parties to furnish the following information, namely:—
 - (a) full particulars of all earlier accidents in which such party may have been involved, and in which the claims have been awarded at least in part;
 - (b) the amount of compensation paid in such earlier accidents, the name(s) and address of the victims and of the persons who paid the damages; and

(c) relation of persons mentioned in clause (b), if any, with the opposite party.

15. Local Inspection:—

- (1) The Claims Tribunal may, *suo moto* or at the instance of a party at any time during the course of a proceeding before it, visit the site at which the accident occurred for the purpose of making local inspection or examining any persons likely to be able to give information relevant to the proceedings.
- (2) Any party to a proceeding or representative of any such party, may accompany the Claims Tribunal for a local inspection.
- (3) The Claims Tribunal after making a local inspection shall note briefly in a memorandum any facts observed, and such memorandum shall form part of the record of proceeding.
- (4) The memorandum referred to in sub-rule (3) may be shown to any party to the proceedings who desires to see it and a copy thereof may, on application, be supplied to any such party.
- (5) The Claims Tribunal may, if any journey is undertaken for the purpose specified in this rule at the instance of a party, require the party, to deposit before hand an amount equivalent to the actual expenses likely to be incurred by it and its staff for the purpose, and draw only the amount so deposited by the parties to meet all the incidental expenditure in connection with such journey.

16. Inspection of the vehicle:—

The Claims Tribunal may, if it thinks fit, require the motor vehicle involved in the accident to be produced by the owner for inspection at a particular time and place to be mentioned by it, in consultation with the owner.

17. Power of summary examination:—

The Claims Tribunal during the local inspection or at any other time at a formal hearing of a case pending before, it may, examine summarily any person likely to be able to give information relating to such case, whether such person has been or is to be called as a witness in the case or not and whether any or all of the parties are present or not.

18. Power to direct medical examination:—

The Claims Tribunal may, if it considers necessary, direct, in Form-J, any medical officer or any board of medical officers in a Government or municipal hospital to examine the injured and issue certificate indicating the degree and extent of the disability, if any, suffered as a result of the accident, and it shall be the duty of such medical officer or board to submit the report within fifteen days of receipt of direction.

19. Co-opting of persons during inquiry:—

- (1) The Claims Tribunal may if it thinks fit, co-opt one or more persons possessing special knowledge with respect to any matter relevant to the inquiry, to assist in holding the inquiry.
- (2) The remuneration, if any, to be paid to the person co-opted shall in every case be determined by the Claims Tribunal.

20. Application for claim on principle of no fault liability:—

- (1) Every application in case of claim under Chapter X of the Act, shall be made in part II of Form-G.
- (2) The Claims Tribunal shall, for the purpose of adjudication of the application mentioned in this rule shall follow such summary procedure as it thinks fit.
- (3) The Claims Tribunal shall not reject any application made as per the provisions of Chapter X of the Act on the ground of any technical flaw, but shall give notice to the applicant and get the defect rectified.
- (4) Where the application is not accompanied by reports in Form-A and Form-D, the Claims Tribunal shall obtain whatever information is necessary from the police, medical and other authorities and proceed to adjudicate upon the claim whether the parties who were given notice appear or not on the appointed date.
- (5) The Claims Tribunal shall expeditiously proceed to award the claims on the basis of reports in Form-A and Form-D and further documents relating to injuries or treatment, if any filed with the affidavit, and report or certificate, if any, issued in compliance with directions under rule 18.
- (6) The Claims Tribunal in passing an award on such application shall also issue directions for apportionment, if required, and for securing the interests of the claimants, following the provisions of rules 26 and 27.

21. Framing of issues:—

After considering the application, the written statements, the examination of the parties, if any, and the result of any local inspection, if made, the Claims Tribunal shall proceed to frame and record the issues upon which the decision of the case appears to it to depend.

22. Determination of issues:—

- (1) After framing the issues, the Claims Tribunal shall proceed to decide them after allowing both parties to cross examine each other and the deponents, whose affidavits have been filed by the parties, on such affidavits filed with the application and the written statement and in doing so, it shall follow provision of Order XIX of the Code of Civil Procedure, 1908 (5 of 1908).
- (2) The Claims Tribunal may, if it appears to it to be necessary for just decision of the case, allow the parties to adduce such further evidence as each of them may desire to produce:

Provided that no such further opportunity shall be permitted unless it is shown that the affidavit of the witness sought to be examined at such stage could not be obtained and filed earlier, despite exercise of due diligence by, or that such evidence was not within the knowledge of the party relying on it.

23. Summoning of witnesses:—

Subject to the provisions of rule 22, if an application is presented by any party to the proceeding for the summoning of witnesses, the Claims Tribunal shall, on payment of the expenses involved, if any, issue summons for the appearance of such witness unless it considers that their appearance is not necessary for a just decision of the case:

Provided that if, in the opinion of the Claims Tribunal, the party is financially poor, it may not insist on the payment of the expenses involved and the same shall be borne by the Government:

Provided further that in case where the party succeeds in whole or in part, the expenses so incurred by the Government shall be directed to be paid to the Government by the opposite party.

24. Method of recording evidence:—

The Claims Tribunals shall, as examination of witnesses proceeds, make brief memorandum of the substance of the evidence of each witness and such memorandum shall be written and signed by the Presiding Judge of the Claims Tribunal and shall form part of the evidence:

Provided that, evidence of any expert witness shall be taken down, as nearly as may be, word for word.

25. Obtaining of supplementary information and documents:—

The Claims Tribunal shall obtain whatever supplementary information and documents, which may be found necessary from the police, medical and other authorities and proceed to adjudicate upon the claim whether the parties who were given notice appear or not on the appointed date.

26. Judgment and award of compensation:—

- (1) The Claims Tribunal in passing orders shall record concisely in a judgment, the findings on each of the issues framed and the reasons for such findings and make an award specifying the amount of compensation to be paid by the opposite party or parties and also the person or persons to whom compensation shall be paid.
- (2) The procedure of adjudicating the liability and award of compensation may be set apart from the procedure of disbursement of compensation to the legal heirs in a case of death, and where the Claims Tribunal feels that the actual payment to the claimant is likely to take some time because of the identification and determination of legal heirs of the deceased, the Claims Tribunal may call for the amount of compensation awarded to be deposited with it, and, then, proceed with the identification of the legal heirs for disbursing payment of compensation to each of the legal heirs equitably.

27. Securing the interest of claimants:—

- (1) Where any lump sum amount deposited with the Claims Tribunal is payable to a woman or a person under legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman or such person during this disability in such manner as the Claims Tribunal may direct to be paid to any dependent of the injured or heirs of the deceased or to any other person whom the Claims Tribunal thinks best fitted to provide for the welfare of the injured or the legal heir of the deceased.
- (2) Where on application made to the Claims Tribunal in this behalf or otherwise, the Claims Tribunal is satisfied that on account of neglect of the children on the part

of the parents, or on account of the variation of the circumstances of any dependent, or for any other sufficient cause, an order of the Claims Tribunal as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested applied or otherwise dealt with, ought to be varied, the Claims Tribunal may make such further orders for the variation of the former order as it thinks just in the circumstances of the case.

- (3) The Claims Tribunal shall, in the case of minor, order that amount of compensation awarded to such minor be invested in fixed deposits till such minor attains majority and the expenses incurred by the guardian or the next friend may be allowed to be withdrawn by such guardian or the next friend from such deposits before it is deposited.
- (4) The Claims Tribunal shall, in the case of illiterate claimants, order that the amount of compensation awarded be invested in fixed deposits for a minimum period of three years, but if any amount is required for effecting purchase of any moveable or immovable property for improving the income of the claimant, the Claims Tribunal may consider such a request after being satisfied that the amount would be actually spent for the purpose and the demand is not a ruse to withdraw money.
- (5) The Claims Tribunal shall, in the case of semi-literate person resort to the procedure for the deposit of award amounts set out in sub-rule(4) unless it is satisfied, for reasons to be recorded in writing that the whole or part of the amount is required for the expansion of any existing business or for the purchase of some property as specified and mentioned in sub-rule (4) in which case the Claims Tribunal shall ensure that the amount is invested for the purpose for which it is prayed for and paid.
- (6) The Claims Tribunal may in the case of literate persons, also resort to the procedure for deposit of awarded amount specified in sub-rules (4) and (5) if having regard to the age, fiscal background and state of society to which the claimant belongs and such other consideration, the Claims Tribunal in the larger interest of the claimant and with a view to ensuring the safety of the compensation awarded, thinks it necessary to order.
- (7) The Claims Tribunal may in personal injury cases, if further treatment is necessary, on being satisfied which shall be recorded in writing, permit the withdrawal of such amount as is necessary for the expenses of such treatment.

(8) The Claims Tribunal shall, in the matter of investment of money, have regard to a maximum return by ways of periodical income to the claimant and make it deposited with public sector undertakings of the State or Central Government which offers higher rate of interest.

(9) The Claims Tribunal shall, in investing money, direct that the interest on the deposits be paid directly to the claimants or the guardian of the minor claimants by the institutions holding the deposits under intimation to the Claims Tribunal.

28. Appearance of legal practitioner:—

The Claims Tribunal may, in its discretion, allow any party to appear before it through a legal practitioner.

29. Adjournment of hearing:—

If the Claims Tribunal finds that an application cannot be disposed of at one hearing, it shall record the reasons which necessitate the adjournment and also inform the parties present of the date of adjourned hearing.

30. Diary:—

The Claims Tribunal shall, maintain a brief diary of the proceedings on the application.

31. Enforcement of award of the Claims Tribunal:—

Without prejudice to its power under section 174 of the Act, the Claims Tribunal shall, for the purpose of enforcement of its award, have all the powers of a Civil Court in the execution of a decree under the Code of Civil Procedure, 1908(5 of 1908), as if the award were a decree for the payment of money passed by such court in a civil suit.

32. Vesting of powers of Civil Court in the Claims Tribunal:—

Without prejudice to the provisions of Section 169 of the Act, every Claims Tribunal shall exercise all the powers of a Civil Court, and in doing so for discharging its functions, it shall follow the procedure laid down in the Code of Civil Procedure, 1908(5 of 1908).

33. Receipt of compensation paid upon payment:—

The Claims Tribunal shall, obtain a receipt from the claimant in duplicate, one copy to be issued to the person who makes the payment and the other to be retained on the record while handing over the payment.

34. Appeal against the judgment of the Claims Tribunal:—

(1) Every appeal against the judgment of the Claims Tribunal shall be preferred in the form of a memorandum signed by the applicant or the advocate duly empowered by him in this behalf, and presented to the High Court and shall be accompanied by a certified copy of the judgment.

- (2) The memorandum shall set forth concisely and under distinct heads, the grounds of objections to the judgment appealed from without any argument or narrative, and such grounds shall be numbered consecutively.
- (3) Save as provided in sub-rules (1) and (2), the provisions of Order XLI and XXI in the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall *mutatis mutandis* apply to appeals preferred to High Court under section 173 of the Act.

35. Certified copies:—

The rules relating to the issue of certified copy as in force in Odisha for the Courts subordinate to the High Court shall *mutatis mutandis* apply in the case of the Claims Tribunal.

36. Registers:—

- (1) The Claims Tribunal shall maintain, in addition to all registers required to be maintained by a court of Additional District Judge in Odisha, the following registers:—
 - (i) Register for applications for interim award on principle of no fault liability;
 - (ii) Register for deposit of payments in the Tribunal through cheques, etc.
- (2) Claim petitions on the ground of death, permanent disability, injury and damage to property shall be entered in a separate register.

37. Custody and preservation of the records:—

The necessary documents and records relating to the cases shall be preserved in the record room for a period of six years of the satisfaction of the award, if any granted, or for a period of twelve years after the judgment and award become final, whichever is earlier.

38. Staff:—

Every Claims Tribunal shall be provided with staff similar to that provided to the Court of an Additional District Judge in Odisha.

39. Fees:—

- (1) Every application under sub-section (1) of Section 166 of the Act, for payment of compensation shall be accompanied by a fee as shown in column (2) of the table below against the claim mentioned in column (1) thereof in the form of Court fee stamps,

TABLE

| Amount of claim (1) | Amount of Court-fee (2) |
|---------------------------------------|--|
| Up to Rs.5,000/- | Rs.10/- |
| Above Rs.5,000 up to Rs.50,000/- | $\frac{1}{4}$ per cent of the amount of claim. |
| Above Rs.50,000/- up to Rs.1,00,000/- | $\frac{1}{2}$ per cent of the amount of claim. |
| Above Rs.1,00,000/- | 1 per cent of the amount of claim. |

- (2) The Claims Tribunal may, in its discretion, exempt a party from the payment of fee prescribed under sub-rule (1):

Provided that where the claim of a party is accepted, whether in full or in part, by the Claims Tribunal, the party shall be liable to pay the fees exempted under this sub-rule, at the time of receiving the award.

- (3) All applications for copies of judgments passed under these rules shall be filed before the Claims Tribunal in accordance with the relevant rules in the General Rules and Circular Orders of the High Court of Judicature, Orissa (Civil).
- (4) The fee for filling an appeal under rule 34 shall be one-half of the fee payable under sub-rule (1) according to the amount of the claim as covered by the appeal.

40. Filing of return:—

The Claims Tribunal shall furnish a quarterly return to the State Government stating the number of motor accident claim cases disposed of by it in Form-K.

FORM- A
(See rules 3,5 and 7)
Report of Investigating Officer

To.

Sir,

This is with reference to the order/application dated _____ in Case No. _____ Title _____. The requisite information is given below:-

1. Name of Police Station:
2. Station Diary entry No. / FIR No.
(Copy to be annexed)
3. Date, time and place of the accident:
4. Name and full address of the injured/deceased:
5. Name of the hospital to which he/she was removed:
(Copy of X-ray Report./Medico Legal Certificate/Post-mortem Report to be annexed.)
6. Registration number of vehicle and type of the vehicle:
(Copy to be annexed)
7. Driving license particulars:
(Copy to be annexed)
 - (a) Driving license No. and Date of expiry
 - (b) Name and address of the driver:
 - (c) Address of the issuing Authority:
 - (d) Badge No.(in case of Public Service Vehicle):
8. Name and address of the owner of the vehicle at the time of the accident:
9. Name and address of the Insurance Company with whom the vehicle was insured and the particulars of the Divisional Office of the said Insurance Company:(Copy of Cover Note/Certificate of Insurance/Policy/Receipt to be annexed)

10. Number of Insurance Policy/Insurance Certificate and the date of validity of the Insurance Policy/ Insurance Certificate:

11. Registration particulars of the vehicle (Class of the Vehicle)

(a) Registration No:

(b) Engine No:

(c) Chassis No:

12. Route Permit particulars (copy to be annexed)

13. Report about verification of Driving License, Insurance Policy, Registration Certificate permit etc. (copy of the documents to be annexed)

14. Action taken, if any and the result thereof (Copy of Report under-section 173 of the Code of Criminal Procedure, 1973 to be annexed)

Encl: (give details)

(Investigating Officer)

_____ Police Station

Verified that the contents of above report are correct as per Investigation done by the Police Station.

Inspector / Officer in-charge,

Date:

_____ Police Station.

FORM - B

(See rule 3)

Order to Investigating Officer

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL: _____

Case No:

Title: _____ Vs. _____

Subject: F.I.R. No. _____

To

The Inspector / Officer in-charge,

_____ Police Station,

Dist. - _____

ORDER

Whereas the claim petition mentioned above seeking payment of compensation has been preferred in this Tribunal in connection with the accident which is stated to be subject matter of investigation by you through FIR particulars captioned above;

And whereas the law enjoins upon you to make available to the parties concerned under the provisions of Section 160 of the Motor Vehicle Act, 1988 and to this Tribunal under the provisions of sub-section (6) of Section 158 of the said Act read with rule 150 of the Central Motor Vehicles Rules, 1989 and rule 3 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018, document in the nature of-

- (1) Identification marks and other particulars of the vehicle which caused the accident:
- (2) Name and address of the person who was driving or using the same at the time of accident:
- (3) Name and address of the person who was injured, or description of property damage;
- (4) Copy of FIR:
- (5) Report under section 173 of the Code of Criminal Procedure, 1973 with documents annexed thereto viz., report/post-mortem report / mechanical

Inspection report / photograph taken / site plan prepared / driving license /
registration certificate / permit / insurance policy / verification, if any, etc.:

(6) Any other relevant document seized:

Now, therefore, you are hereby directed to send to this Tribunal Information in Form
“A”(attached) with clear legible photocopies of all the aforesaid documents duly attested
under your personal signatures and bearing your official seal within fifteen days of the
receipt of this communication.

Given under my hand and Seal, this _____ day of- _____

Member,
Motor Accident Claims Tribunal, _____

FORM - C

(See rules 3 and 5)

Application to Investigating Officer

Case No:

Title: _____ Vs. _____

Subject: F.I.R. No. _____

To

The Inspector / Officer in-charge,

_____ Police Station,

Dist. - _____

Sir,

Whereas the applicant is a party, being the claimant/insurance company, in the claim petition above mentioned seeking payment of compensation in connection with the accident which is stated to be subject matter of Investigation through FIR particulars captioned above,

And, whereas, the law enjoins upon you to make available to the parties concerned under the provisions of Section 160 of the Motor Vehicles Act, 1988, (59 of 1988) read with rule 150 of the Central Motor Vehicles Rules, 1989 and rule 3 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018, documents in the nature of-

- (1) Identification marks and other particulars of the vehicle which caused the accident:
- (2) Name and address of the person who was driving/using the same at the time of accident:
- (3) Name and address of the person who died / injured, or description of property damaged:
- (4) Copy of FIR:
- (5) Report under section 173 of the Code of Criminal Procedure, 1973 with documents annexed thereto viz., report / post-mortem report / mechanical inspection report / photograph taken / site plan prepared / driving license / registration certificate / permit / insurance policy / verification, if any, etc.
- (6) Any other relevant document seized:

The under-signed, therefore, requests that the requisite information may kindly be furnished to him within fifteen days of the receipt of this communication.

Yours faithfully,

Dated:

()

Full Name and Address of Applicant

FORM - D

(See rules 4,5 and 7)

Report of the Registering Authority

To.

Sir,

This is with reference to the order/application dated _____ in Case
No. _____ Title _____

The requisite information is given below:-

1. Registration particulars of the vehicle:
 - a) Registration No:
 - b) Type of vehicle:
 - c) Make and model:
 - d) Engine No:
 - e) Chassis No:
 - f) Full name and address of the registered owner of the vehicle:
 - g) Particulars of insurance:
2. Driving Licence:
 - a) Driving License No. and date of issue/expiry:
 - b) Name and address of license holder:
 - c) Particulars of issuing Authority:
 - d) Badge No. in case of public service vehicle:
 - e) Detailed report if the particulars mentioned are found not genuine:
3. Route permit:
 - a) Permit No. and date:
 - b) Name and address of permit holder:
 - c) Conditions of permit:

(Registering Authority)

Verified that the contents of above report, are correct as per records of this office.

(Registering Authority)

Date:

FORM - E

(See rule 4)

Order to Registering Authority

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL: _____

Case No:

Title: _____ Vs. _____

Subject: (i) Verification of Registration Certificate of Vehicle No. _____

- a. Verification of Driving Licence No. _____ in
respect of _____ valid up to- _____ issued
by Licensing Authority _____ (Strike out
whichever is not applicable)

To.

(Registering Authority)
_____**ORDER**

Whereas the claim petition mentioned above seeking payment of compensation has been preferred in this Tribunal in connection with an accident allegedly involving Motor Vehicle, particulars of which are captioned above;

And whereas the vehicle is stated to have been registered by office under your control and the driving licence/permit aforesaid is stated to have been issued by office under your control (Strike out whichever is not applicable);

And whereas the records relating to the said registration/driving licence/permit are required to be maintained by the said officer under your control under the Central Motor Vehicles Rules, 1989;

And whereas requisite details relating to the documents aforesaid are required by this Tribunal for the purposes of Inquiry under the provisions of Section 168 of the Motor Vehicles Act, 1988 and the information you are bound to furnish in terms of rule-149 of the

Central Motor Vehicles rules, 1989 read with rule 5 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018.

Now, therefore, you are hereby directed to furnish to this Tribunal full particulars regarding the registration certificate/driving licence/permit afore said, with copies of documents in support duly attested under your personal signatures and bearing your official Seal within fifteen days of the receipt of this communication.

Given under my hand and seal, this _____ day of _____

Member,

Motor Accident Claims Tribunal, _____

FORM - F

(See rule 4)

Application to Registering Authority

Case No:

Title: _____ Vs. _____

To.

The Registering Authority,

Subject: (1) Vehicle No. _____

(2) Permit No. _____

(3) Driving Licence No. _____

In respect of _____

Whereas, the undersigned has preferred/is a party in, the claim petition mentioned above seeking payment of compensation in connection with an accident allegedly involving Motor Vehicle, particulars of which are captioned above;

And, whereas, the vehicle aforesaid is stated to have been registered by the office under your control and the driving licence/permit aforesaid is stated to have been issued by the office under your control.

And, whereas, the records relating to the said registration/driving licence/permit are required to be maintained by the said officer under your control under the Central Motor Vehicles Rules, 1989;

And, whereas, requisite details relating to the documents aforesaid are required by this Tribunal for the purposes of Inquiry under the provisions of section 168 of the Motor Vehicles Act, 1988 and which information you are bound to furnish in terms of rule 149 of the Central Motor Vehicle rules, 1989 read with rule 5 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018.

Now, therefore, the undersigned requests that full particulars regarding the registration certificate/driving licence /permit aforesaid, with copies of documents in support duly attested under your personal signatures and bearing your official seal may be furnished within fifteen days of the receipt of this application.

-

(Applicant)

(Full name, particulars and address to be given)

FORM - G

(See rules 8 and 20)

Application for grant of compensation under the Motor Vehicles Act, 1988

BEFORE MOTOR ACCIDENT CLAIMS TRIBUNAL, _____

Photograph
Of
Claimant

Petitioner

Vs.

Respondents

Sir,

The undersigned makes this application for grant of compensation as per the provisions of the Motor Vehicles Act, 1988 on the basis of the following facts and information:-

PART-I

1. Name and Father's name of the person injured/dead
(Husband's name in the case of married woman and widow):
2. Full address of the person injured/dead:
3. Age of the person injured/dead:
4. Occupation of the person injured/dead:
5. Name and address of the employer of the injured/dead:
6. Monthly income of the person injured/dead:
7. Does the person in respect of whom compensation is claimed pay income tax? If so, state the amount of the income tax (to be supported by documents):
8. Place, date and time of accident:
9. Brief particulars of the accident:
10. Name and address of police station in whose jurisdiction the accident took place or was registered:
11. Was the person in respect of whom compensation is claimed traveling by the vehicle involved in the accident? If so, give the name and place of starting the journey and destination:
12. Nature of injuries sustained and disablement, if any, caused:
13. Name and address of the Medical Officer/Practitioner if any, who attended to the injured
14. Period of treatment and expenditure, if any incurred:
15. Registration No. and type of vehicle involved in the accident:

16. Name and address of the owner of the vehicle:
17. Name of the driver of the vehicle:
18. Name and address of the insurer of the vehicle:
19. Has any claim been lodged with the owner/Insurer if so, with what result:
(necessary documents to be annexed)
20. Name and address of the applicant:
21. Relationship with the deceased/injured:
22. Title of the property of the deceased/injured:
23. Amount of compensation claimed and basis thereof:
24. Whether reports from the Investigating Officer and the Registering Authority have been obtained in Form "A" and Form "D"?
(If so, to be annexed):
25. Whether affidavit of the Applicant and witnessed as per rule 8 are annexed (give details):
26. Whether documents mentioned in rule 8 are being annexed duly indexed (give details):
27. Any other information that may be necessary and helpful in the disposal of the case:

PART-II

(To be filed if prayer is made for interim award)

28. Amount of compensation claimed as interim award.
29. Reasons for claim of interim award.
30. Whether documents mentioned in sub-rule (4) and sub-rule(5) of rule 20 have been annexed (give details)
31. Prayer

(Petitioner)

Verification

Verified, at _____ this _____ day of _____
20____, that the contents of the above application are true and correct to my knowledge and belief.

(Petitioner)

FORM - H
(See rule 9)
NOTICE

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL: _____

Case No:

In RE: Police Report under section 158(6) of the Motor Vehicles Act, 1988 treated as
Claim case under section 166(4) of the Motor Vehicles Act, 1988.

Reference FIR No. _____ of. P.S. _____

To

(Name, Description and Place of Residence)

Whereas a report under section 158(6) of the Motor Vehicles Act, 1988 has been received from Station House Officer of Police Station mentioned above with reference to FIR registered by him as per particulars given above regarding as accident involving use of a motor vehicle;

AND, WHEREAS, the report afore mentioned has been treated by this Claims Tribunal as a claim case in accordance with the Provisions of Section 166(4) of the Motor Vehicle Act, 1988, in which it appears necessary to call you upon to appear before the undersigned for further proceedings in the matter at 10.00 A.M. on _____.

Now, therefore, you are hereby given notice to appear before this Claims Tribunal in person or by a pleader duly instructed and able to answer all material questions relating to the claim case aforesaid on aforesaid date and time.

AND as the date fixed for your appearance is appointed for hearing of the claim a case, you would be required to file on or before that date an affidavit disclosing full particulars of a claim case which may have either been preferred or being preferred in respect of the same cause of action by or against you.

Take notice that in default of your appearance on the date and time aforementioned, the claim case will be heard and determined in your absence.

Given under my hand and seal of this Tribunal on this _____ day of _____.

Member,
Motor Accident Claims Tribunal, _____

FORM - I

(See rule 13)

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL: _____

Case No: _____

Title: _____ Vs. _____

NOTICE

To

(name, description and place of residence)

Whereas _____ has instituted a Motor Accident Claim Case impleading you as Respondent _____ (Copies of the application along with affidavit/ documents filed enclosed), which case has been directed to be listed before this Tribunal for hearing at 10.00 A.M. on _____.

Now therefore you are hereby given notice to appear before this Tribunal in person by a pleader duly instructed and able to answer all material questions relating to the above noted claim case on the aforesaid date and time.

And as the date fixed for your appearance is appointed for hearing of the claim case, you may file on or before that date the written statement dealing with the claim raised in the application along with all the documents and affidavits for the proof thereof and also affidavits in support of all facts on which you rely in the context of your defence of the application, duly entered in a properly prepared list of documents and affidavits, where after it shall not be permissible to rely on any further documents or affidavits except as provided in rule 14 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018.

Take notice that in default of your appearance on the date aforementioned, the claim case will be heard and determined in your absence.

Given under my hand and seal of this Tribunal, this _____ day of _____.

Member,

Motor Accident Claims Tribunal, _____

FORM - J

Direction for Medical Examination
(See rule 18)

BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL: _____

Case No:

Title: _____ Vs. _____

Photograph
of
Claimant

To

ORDER

Whereas the claim petition above mentioned seeking payment of compensation has been preferred in this Tribunal in connection with an accident involving use of Motor Vehicle, and the claimant _____
S/o.,D/o.,W/o._____, aged _____ r/o _____
whose photograph bearing his specimen signature /thumb impressing is affixed above, is alleged to have suffered injuries as a result of the said accident, which are stated to have been recorded in Medico Legal Certificate No._____ dated _____ in _____ (name of hospital),_____ ;

And, whereas, for the purpose of inquiry into the claim petition, this claim Tribunal considers it necessary to ascertain the degree and extent of disability, if any suffered as a result of the said accident by the said claimant;

Now, therefore, in exercise of powers vesting in this claims Tribunal, in terms of rule 17 of the Odisha Motor Vehicles (Accidents Claims Tribunal) Rules, 2018, the undersigned directs you to get the said claimant examined by a Medical Officer/Board of Medical

officers in your Hospital and submit report on above aspects to this Tribunal within 15 days of the receipt of this direction.

Given under my name and seal of this Tribunal, this _____ day of _____

Member,
Motor Accident Claims Tribunal, _____

Form - K

(See rule 40)

Number of motor accident claim cases disposed of by the Claims Tribunal and State Transport Appellate Tribunals for the quarter ending _____

| Sl. No. | Name of 1st Motor Accident Claims Tribunal from which the case received. | Number of claims cases pending at the beginning of the quarter. | Number of claims cases received and transferred during the quarter. | Number of claims cases disposed of during the quarter. | Total number of claims cases pending. | Amount of compensation granted. | Remarks |
|---------|--|---|---|--|---------------------------------------|---------------------------------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| | | | | | | | |

By Order of the Governor

G. SRINIVAS

Principal Secretary to the Government