

अण्डमान तथा
Andaman And



निकोबार राजपत्र
Nicobar Gazette

असाधारण
EXTRAORDINARY
प्राधिकार से प्रकाशित
Published by Authority

सं. 97, पोर्ट ब्लेयर, गुरुवार, 06 जून, 2019
No. 97, Port Blair, Thursday, June 06, 2019

**ANDAMAN AND NICOBAR ADMINISTRATION
DIRECTORATE OF TRANSPORT**

NOTIFICATION

Port Blair, dated the 6th June, 2019.

No.97/2019/F.No.3-49/MVD/MACTR/2018.— Whereas, the Draft Andaman and Nicobar Islands Motor Vehicle (Amendment) Rules, 2019 were published in The Daily Telegrams in its issue dated 22nd Nov. 2018 inviting suggestions/objections from those likely to be affected before the final publication of the said Rules, giving a period of 60 days for filing of suggestions and objections.

AND, WHEREAS, no suggestions / objections have been received.

Now, therefore, in exercise of the powers conferred by Section 176 of the Motor Vehicle Act, 1988 read with Sub-Section (41) of Section 2 thereof, the Lt. Governor (Administrator), Andaman and Nicobar Islands makes the following amendments in Chapter IX of the Andaman and Nicobar Islands Motor Vehicle Rules, 2006 (relating to Claims Tribunal), namely:-

1. Short title and commencement :-

- (1) These Rules may be called the A & N Islands Motor Vehicles (Amendment) Rules, 2019.
- (2) These Rules shall come into force on the date of their publication in the Official Gazette.

2. In the A & N Islands Motor Vehicles Rules, 2006 (hereinafter referred to as the Principal Rules), in Chapter IX, in Rule 116, the following clause shall be inserted, namely :-

"116-A. Duties of Investigating Police Officer in motor accident cases :-

Notwithstanding anything contained to the contrary in any other rules in force, it shall be the duty of the Investigating Police Officer, as expeditiously as possible to-

a) get the scene of accident photographed and in case of inability to do so, prepare a site plan 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/policy in respect of the motor vehicle involved in the accident and verify the genuineness by obtaining confirmation in writing from the authority purporting to have issued the same;

c) submit detailed report regarding an accident to the Claim Tribunal, in the prescribed Form by not later than thirty days of the receipt of notice, accompanied by the requisite documents which shall include copy of 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 (b), report regarding confirmation of genuineness thereof, if received, or otherwise action taken;

d) furnish to the applicant information and particulars about the accident in prescribed form within thirty days, on receiving the application 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;

(e) 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 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;

(f) report to the Magistrate mentioned in clause (e), 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 facts constituting such an offence".

"116-B. Duties of the Registering Authority :- It shall be the duty of the concerned Registering Authority to-

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

(b) furnish within fifteen days, the requisite information on receiving the application in the prescribed Form, by the person who wishes to make an application for compensation or who is involved in an accident arising out of his 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 information shall be given to the insurance company on payment of rupees ten only, per page".

"116-C. Duties of the Insurance Company:- It shall be the duty of the Divisional Manager/ Branch Manager / Manager of the insurance company, as expeditiously as possible, to-

(a) move an application in the prescribed Form before the investigating police 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 Tribunal;

(b) ascertain and verify facts about insurance of motor vehicle(s) 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 the prescribed Form and gather information about the motor vehicle(s) involved, and the driving licence(s) held by the driver(s) thereof;

(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 from Investigating Officer and Registering Authority confirms death or permanent disability to have been caused as a result of the use of the motor vehicle covered by the insurance certificate/policy issued by it".

"116-D. 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 police 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 circumstances 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 police 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.

3. In Rule 117 of the Principal Rules :-

(a) The sub rule (16) shall be substituted, namely :-

“(16) 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 specifying the amount payable to each of them 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”.

(b) In the Rule 117 of the Principal Rules, the following sub-rules shall be inserted, namely:-

“(17). Securing the interest of claimants:

(i) 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 heir of the deceased.

(ii) 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.

(iii) 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. 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.

(iv) 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.

(v) 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 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.

(vi) The Claims Tribunal may in the case of literate persons also resort to the procedure for deposit of awarded amount specified in sub-rule (iv) and (v) 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.

(vii) 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,

(viii) 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.

(ix) 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".

"(18) Enforcement of award of the Claims Tribunal :- Subject to the provisions of 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".

4. Rule 119 of the Principal Rules shall be substituted namely :-

"119. Appeal against the judgment of the Claims Tribunal :-

(i) 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 copy of the judgment.

(ii) The memorandum shall set forth concisely and under distinct heads, the ground of objections to the judgment appealed from without any argument or narrative, and such grounds shall be numbered consecutively.

(iii) Save as provided in sub-rules (i) and (ii), the provisions of Order XLI 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".

By order and in the name of the Lieutenant Governor,
Andaman and Nicobar Islands.

Sd./-
(Abhishek Dev, IAS)
Secretary (Transport)