

The Bangalore Metro Railway (Procedure for Claims) Rules, 2011

UNION OF INDIA

India

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Rule

THE-BANGALORE-METRO-RAILWAY-PROCEDURE-FOR-CLAIMS-RULES of 2011

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The Bangalore Metro Railway (Procedure for Claims) Rules, 2011 Published vide Notification New Delhi, the 25th May, 2011 Ministry of Urban Development G.S.R. 404(E). - In exercise of the powers conferred by clause (iii) of sub-section (2) of section 56 and clause (d) of sub-section (2) of section 100 read with sub-section (3) of section 53 of the Delhi Metro Railway (Operation and Maintenance) Act, 2002 (60 of 2002), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.

(1) These rules may be called the Bangalore Metro Railway (Procedure for Claims) Rules, 2011. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these rules, unless the context otherwise requires, (a) "Act" means the Metro Railway (Operation and Maintenance) Act, 2002 (60 of 2002); (b) "Claims Commissioner" means the Claims Commissioner appointed under section 48 of the Act; (c) "applicant" means a person making an application to the Claims Commissioner under section 58 of the Act; (d) "Form" means a form appended to these rules; (e) "legal practitioner" shall have the same meaning as is assigned to it under clause (i) of section 2 of the Advocates Act, 1961 (25 of 1961); (f) "legal representative" means a person who in law represents the estate of the deceased person; (g) "Schedule" means a Schedule appended to these rules; (h) "section" means a section of the Act. (2) The words and expressions used in these rules but not defined herein and defined in the Metro Railway (Operation and

Maintenance) Act, 2002 (60 of 2002) shall have the meanings, respectively, assigned to them in that Act.

3. Procedure for filing applications.

(1)The application for payment of compensation in respect of accidents involving death of, or bodily injury to, person or damage to any property occurred in the course of working of the Bangalore Metro Railway to the Claims Commissioner shall be presented in the Form given in the Second Schedule either by the applicant in person or by his duly authorised legal representative: Provided that an application may also be sent by registered post to the Claims Commissioner. (2)The application referred to in under sub-rule (1) shall be presented in duplicate. (3)Every application shall be typed legibly in double space on one side of paper of good quality.

4. Scrutiny of appellant.

(1)The Claims Commissioner shall endorse on every application the date on which it is presented or received under rule 3 and sign the endorsement. (2)If the application on scrutiny is found to be in order, it shall be registered and given a serial number. (3)If the application on scrutiny is found to be defective and the defect noticed is formal in nature, the Claims Commissioner may allow the applicant, to rectify the same in his presence and if the defect is not formal in nature, the Claims Commissioner may allow the applicant such time to rectify the defect as he may deem fit. (4)If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Claims Commissioner may, by order and for reasons to be recorded in writing, decline to register the application and notify the applicant accordingly. (5)An appeal against the order passed under sub-rule (4) may be preferred by the person aggrieved within fifteen days from the date of such order and such appeal shall be dealt with and disposed of by the Claims Commissioner.

5. Notice to Metro Railway Administration.

(1)The Claims Commissioner shall issue notice to the Bangalore Metro Railway Administration to show cause against the application on a date of hearing to be specified therein. (2)The notice referred to sub-rule (1) shall be accompanied by a copy of the application. (3)If the representative of the Bangalore Metro Railway Administration does not appear on the date specified in the notice referred to in sub-rule (1), or appears and admits the claim, the Claims Commissioner shall forthwith proceed to dispose of the application. (4)If the Bangalore Metro Railway Administration contests the claim, it may file a reply along with copy of such document on which it relies on or before the date of hearing and such reply and copies of the document shall form part of the record.

6. Filing of an affidavit.

(1)The Claims Commissioner may direct the applicant and the Bangalore Metro Railway Administration to give evidence in support to their claim, if any, by affidavit. (2)Notwithstanding anything contained in sub-rule (1), where the Claims Commissioner consider necessary for just

decision of the case, he may order cross-examination of any deponent.

7. Filing of reply and other documents by the respondents.

(1)The Bangalore Metro Railway Administration may file its reply to the application and copies of the documents on or before the date of hearing of the application.(2)In reply filed under sub-rule (1), the Bangalore Metro Railway Administration shall specifically admit, deny or explain the facts stated in the application and state additional facts necessary in its reply.

8. Summary disposal of appeal.

- The Claims Commissioner may, after considering the application, summarily dismiss the application, if for reasons to be recorded in writing, he is of the opinion that there are not sufficient grounds for proceeding therewith.

9. Ex-parte hearing and disposal of application.

(1)Where on the date fixed for hearing the application or any other date to which such hearing may be adjourned, the applicant appears and the representative of the Bangalore Metro Railway Administration does not appear, the Claims commissioner may, in his discretion adjourn the hearing or hear and decide the application ex-parte.(2)Where an application has been heard ex-parte against the Bangalore Metro Railway Administration, the Bangalore Metro Railway Administration may apply to the Claims Commissioner for an order to set aside it and if the applicant satisfies the Claims Commissioner that the notice was not duly served or that its representative was prevented by any sufficient cause from appearing, the Claims Commissioner may make an order setting aside the ex-parte hearing upon such terms as it thinks fit and shall appoint the day for proceeding with the application.

10. Disposal of application in default.

(1)Where on the date fixed for hearing the application or any other date to which such hearing may be adjourned, the representative of the Bangalore Metro Railway Administration appears and the applicant does not appear the Claims Commissioner may, in his discretion adjourn the hearing or hear and decide the application in default.(2)Where an application has been heard and disposed of in default against the applicant, the applicant may apply to the Claims Commissioner for any order to set aside it and if the applicant satisfies the Claims Commissioner that the notice was not duly served or he was prevented by any sufficient cause from appearing, the Claims Commissioner may make an order setting aside the dismissal in default, upon such terms as he thinks fit and shall appoint the day the proceeding with the application.

11. Summoning of witnesses and method of recording evidence.

(1) If an application is presented by any party to the proceedings for summoning of witnesses, the Claims Commissioner shall issue summons for the appearance of such witnesses unless he considers that their appearance is not necessary for the just decision of the case. (2) The Claims Commissioner shall make a brief memorandum of substance of the evidence of every witness as the examination of the witness proceeds and such memorandum shall form part of the record: Provided that if the Claims Commissioner does not make such memorandum, he shall record the reasons for his inability to do so and shall cause such memorandum to be made in writing and shall sign the same, and such memorandum shall form part of the record.

12. Decision of the Claims Commissioner.

- The Claims Commissioner shall decide every application as expeditiously as possible on perusal of documents, affidavits and other evidence, if any, and after hearing such oral argument as may be advanced.

13. Order to be passed and signed.

(1) The claims Commissioner, after hearing the applicant and the Bangalore Metro Railway Administration, shall pass an order as he thinks fit either at once or, as soon as thereafter as may be practicable. (2) Every order of the Claims Commissioner shall be in writing and shall be signed by him. (3) An order made by the Claims Commissioner shall be executed as a decree of civil court and the provisions of the Code of Civil Procedure, 1908, so far may be, shall apply as they apply in respect of decree of a civil court.

14. Review of decision.

(1) Any person aggrieved by any order of the Claims Commissioner, on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, may apply for review of a final order not being an interlocutory order, to the Claims Commissioner. (2) Where it appears to the Claims Commissioner that there is no sufficient ground for a review he shall reject the application. (3) Where the Claims Commissioner is satisfied with the grounds made in application for review and considered it in the interest of justice, he shall allow the application: Provided that no application for review shall be allowed without previous notice to the Bangalore Metro Railway Administration or to enable it to appear and be heard in support of the order, a review of which is applied for.

15. Orders or directions by Claims commissioner.

- Nothing in these rules shall be deemed to limit or otherwise affect the power of the Claims Commissioner to pass such orders or give such directions as may be necessary or expedient to give effect to his orders or to prevent abuse of the process or to secure the ends of justice.

16. Association of experts.

(1)The Claims Commissioner may, for the purpose of determining any claim for compensation associate one or more experts possessing any knowledge of any matter relevant to the inquiry.(2)The Claims Commissioner may order for the payment of such fees or allowances to the persons associated with the inquiry under sub-rule (1), as he may consider necessary, and the same shall be paid by the Bangalore Metro Railway Administration.

17. Amount of Compensation.

(1)The amount of compensation payable in respect of death or injuries, shall be as specified in the Second Schedule.(2)The amount of compensation payable for an injury not specified in Part II or Part III of the Second Schedule but which, in the opinion of the Claims Commissioner, is such as to deprive a person of all his capacity to do any kind of work shall be four lakh rupees.(3)The amount of compensation payable in respect of any injury (other than an injury specified in the Second Schedule or referred to in sub-rule (2) resulting in pain and suffering, shall be such as the Claims Commissioner may, after taking into consideration medical evidence, besides other circumstances of the case, determine to be reasonable:Provided that if more than one injury is caused by the same accident, compensation shall be payable in respect of each such injury:Provided further that the total compensation in respect of all such injuries shall not exceed eighty thousand rupees.(4)Where compensation has been paid for any injury which is less than the amount which would have been payable as compensation if the injured person has died or the person subsequently dies of the injury, a further compensation equal to difference between the amount payable for death or amount already paid, shall be paid.(5)Compensation for loss, destruction or deterioration of goods being carried by the passenger as his personal baggage, shall be paid to such an extent as the Claims Commissioner may in all circumstances of the case, determine to be reasonable.

18. Limit of Compensation.

- Notwithstanding anything contained in rule 17, the total compensation payable under that rule shall in no case exceed four lakh rupees in respect of anyone person.The First Schedule[See rule 36(1)]Form(See rule 3)Application under section 58 of the Metro Railway (Operation and Maintenance) Act, 2002 (60 of 2002) for claims for compensation in respect of death or injury of passengers or destruction or damage to the goods being carried by them as their personal baggage.

Part I – Date and Time of the Case :

Part II – { |

| -| SI.No. | Description of documents attached | Page no. | -| 1.

2.

3.

4.

5.

6.

|||}Signature of the applicantFor use in Claims Commissioner's OfficeDate of filingOrDate of Receipt by postRegistration No.The Second Schedule[See rule 17(1)]Compensation Payable For Death And Injuries

Part I – { |

| - | Sl. No. | Nature of injury | Amount of Compensation (in Rs.) | - | (1) | (2) | (3) | - | | For death | 4,00,000 | }

Part II – { |

| - | (1) | (2) | (3) | - | (1). | For loss of both hands or amputation at highersites | 4,00,000 | - | (2). | For loss of hand and a foot | 4,00,000 | - | (3). | For double amputation through leg or thigh or amputation through leg or thigh on one side and loss of otherfoot | 4,00,000 | - | (4). | For loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential | 4,00,000 | - | (5). | For very severe facial disfigurement | 4,00,000 | - | (6). | For absolute deafness | 4,00,000 | }

Part III – { |

| - | (1) | (2) | (3) | - | (1). | For amputation through shoulder Joint | 3,60,000 | - | (2). | For amputation below shoulder with stump less than

8.

" from tip of acromion | 3,20,000 | - | (3). | For amputation from 8" from tip of acromion to less than 4½ below tip of olecranon | 2,80,000 | - | (4). | For loss of a hand or the thumb and four fingers of one hand or amputation from 4½ below space tip of olecranon | 2,40,000 | - | (5). | For loss of thumb | 1,20,000 | - | (6). | For loss of thumb and its metacarpal bone | 1,60,000 | - | (7). | For loss of four fingers of one hand | 2,00,000 | - | (8). | For loss of three fingers of one hand | 1,20,000 | - | (9). | For loss of two fingers of one hand | 80,000 | - | (10). | For loss of terminal phalanx of thumb | 80,000 | - | (11). | For amputation of both feet resulting in end-bearing stumps | 3,60,000 | - | (12). | For amputation through

both feet proximal to the metatarsophalangeal joint | 3,20,000 | - | (13). | For loss of all toes of both feet through the metatarsophalangeal joint | 1,60,000 | - | (14). | For loss of all toes of both feet proximal to the proximal Interphalangeal joint | 1,20,000 | - | (15). | For loss of all toes of both feet distal to the proximal Interphalangeal joint | 80,000 | - | (16). | For amputation at hip | 3,60,000 | - | (17). | For amputation below hip with stump not exceeding

5.

" in length measured from tip of great trochanter but not beyond middle thigh | 3,20,000 | - | (18). | For amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh | 2,80,000 | - | (19). | For amputation below middle thigh to 3½" below knee | 2,40,000 | - | (20). | For amputation below knee with stump exceeding

3.

/12" But not exceeding 5" | 2,00,000 | - | (21). | Fracture of spine with paraplegia | 2,00,000 | - | (22). | For amputation below knee with stump exceeding 5" | 1,60,000 | - | (23). | For loss of one eye without complications the other being normal | 1,60,000 | - | (24). | For amputation of one foot resulting in end-bearing | 1,20,000 | - | (25). | For amputation through one foot proximal to the metatarsophalangeal joint | 1,20,000 | - | (26). | Fracture of spine without paraplegia | 1,20,000 | - | (27). | For loss of vision of one eye without complication of disfigurement of eye ball, the other being normal | 1,20,000 | - | (28). | For loss of all toes of one foot through the metatarsophalangeal joint | 80,000 | - | (29). | Fracture of Hip-joint | 80,000 | - | (30). | Fracture of Major Bone - Femur, Tibia of both limbs | 80,000 | - | (31). | Fracture of major Bone - Humerus, Radius of both limbs | 60,000 | - | (31). | Fracture of Pelvis not involving Joint | 40,000 | - | (33). | Fracture of Major Bone - Femur, Tibia of one limb | 40,000 | - | (34). | Fracture of Major Bone - Humerus, Radius and Ulna of one limb | 32,000 | }

Part III – In the Office of the Claims Commissioner

Between..... Applicant And Metro Railway Administration

1. Particulars of the applicant:

Name and address

2. Value of claim -

3. (i) Facts of the case:

Give here a concise statement of facts in chronological order, each paragraph containing, as nearly as possible, a separate issue, fact or otherwise (ii) (a) Nature of relief sought (b) Ground of relief.

4. (i) Matters not previously filed or pending with any other Court.

(State whether the applicant had previously filed any claim, writ petition or suit regarding the matter in respect of which the present application has been made)(ii)In case the applicants had previously filed any claims, application, writ petition of suit, indicate the stage at which it is pending, and if decided, attached a certified copy of the order.

5. List of enclosures.

1.

2.

3.

4.

VerificationI, (Name of the applicant) S/o, D/o, W/o.
..... Age resident of do hereby verify that
the contents of paragraphs to are true to my personal
knowledge, and paragraphs to are believed to be true to the best of
knowledge, or the legal advice given to me, and that I have not suppressed any material
fact.Signature of the applicantFull AddressDate :Place :