

# **Bihar Motor Vehicles Accident Claims Tribunals Rules, 1961**

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### **Rule**

### **BIHAR-MOTOR-VEHICLES-ACCIDENT-CLAIMS-TRIBUNALS-RULES-1961 of 1961**

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Bihar Motor Vehicles Accident Claims Tribunals Rules, 1961Published vide Notification no. A2-301/60T. 14, dated the 5th April, 1961, Bihar Gazette (Extraordinary) dated 7.4.1961Notification no. A2-301/60T. 14, dated the 5th April, 1961. - in exercise of the powers conferred by Section 111-A of the Motor Vehicles Act, 1939 (IV of 1939), the Governor of Bihar is pleased to make the following Rules, the same having been previously published as required by sub-section (1) of Section 133 of the said Act, namely:-

#### **1. Short title and extent.**

- These Rules may be called the Bihar Motor Vehicles Accident Claims Tribunals Rules, 1961.(2)These Rules extend to the whole of the State of Bihar.

#### **2. Definitions.**

- In these Rules unless there is anything repugnant in the subject or context,-(a)'Act' means the Motor Vehicles Act, 1939 (IV of 1939);(b)'Claims Tribunal' means a Motor Accident Claims Tribunal constituted under Section 110 of the Act;(c)'Legal representative' shall have the meaning assigned to it under clause (II) of Section 2 of the Code of Civil Procedure, 1908.

#### **3. Applications.**

- Every application for payment of compensation made under Section 110-A of the Act shall be made in the Form appended to these Rules and shall be accompanied by the fee prescribed therefor in

Rule 22.

#### **4. Examination of applicant.**

- On receipt of an application under Rule 3, the Claims Tribunal may examine the application on oath, and the substance of such examination, if any, shall be reduced to writing.

#### **5. Summary dismissal of application.**

- The Claims Tribunal may, after considering the application and the statement, if any, of the applicant recorded under Rule 4 dismiss the application summarily, if for reasons to be recorded in writing, it is of the opinion that there are no sufficient grounds for proceeding therewith.

#### **6. Notice to parties involved.**

- If the application is not dismissed under Rule 5, the Claims Tribunal shall send to the owner of the Motor Vehicle involved in the accident and its insurer, a copy of the application together with a notice of the date on which it will hear the application and may call upon the parties to produce on that date any evidence which they may wish to tender.

#### **7. Appearance and examination of parties.**

(1)The owner of the motor vehicle and the insurer may, and if so required by the Claims Tribunal shall, at or before the first hearing or within such further time as the Claims Tribunal may allow, file a written statement dealing with claim raised in the application and such written statement shall form part of the record.(2)If the owner or the insurer contests the claims, the Claims, Tribunal may and if no written statement has been filed, shall proceed to examine the owner and the insurer upon the claim and shall reduce the substance of the examination to writing.

#### **8. Summoning of witnesses.**

- 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 witnesses, unless it considers that their appearance is not necessary for a just decision of the case.

#### **9. Appearance of legal practitioner.**

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

## **10. Local inspection.**

(1)The Claims Tribunal may, at any time during the course of an inquiry before it, visit the site at which the accident occurred for the purposes of making a local inspection or examining any person likely to be able to give information relevant to the proceeding.(2)Any party to a proceeding or the 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 inquiry.(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.

## **11. 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 if necessary in consultation with the owner.

## **12. Power of summary examination.**

(1)The Claims Tribunal during a local inspection or at any other time, save at a formal hearing of a case pending before it, 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 witness in the case or not, and whether any or all of the parties are present or not.(2)No oath shall be administered to a person examined under sub-rule (1).

## **13. Method of recording evidence.**

- The Claims Tribunal shall, as examination of witnesses proceeds, make a brief memorandum of the substance of the evidence of each witness and such memorandum shall be written and signed by the members of the Claims Tribunal and shall form part of the record:Provided that the evidence of any medical witness shall be taken down as nearly as may be word for word.

## **14. 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 on the date of adjourned hearing.

## **15. 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.(2)The remuneration, if any, to be paid to the persons or person co-opted shall in every case be determined by the Claims Tribunal.

## **16. Framing of issues.**

- After considering any written statement, the evidence of witnesses examined and the result of any local inspection, the Claims Tribunal shall proceed to frame and record the issues upon which the right decision of the case appears to it to depend.

## **17. Determination of issues.**

- After framing the issues, the Claims Tribunal shall proceed to record evidence thereon which each party may desire to produce.

## **18. Diary.**

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

## **19. Judgement and award of compensation.**

(1) Claims Tribunal, in passing orders, shall record concisely in a Judgement 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 insurer and also the person or persons to whom compensation shall be paid. (2) Where compensation is awarded to two or more persons, the Claims Tribunal shall also specify the amount payable to each of them.

## **20. Code of Civil Procedure to apply in certain cases.**

- The following provisions of the First Schedule to the Code of Civil Procedure, 1908, shall as far as may be, apply to proceedings before the Claims Tribunal, namely, Order V, Rules 9 to 13 and 15 to 30; Order IX, Order XIII, Rules 3 to 10; Order XVI, Rules 2 to 21, Order XVII and Order XXIII, Rules 1 to 3.

## **21. Form and number of appeals against the decision of Claims Tribunal.**

(1) An appeal against the award of a Claims Tribunal shall be preferred in the form of a memorandum stating concisely the grounds on which the appeal is preferred. (2) It shall be accompanied by a copy of the Judgement and the award appealed against.

## **22. Fees.**

- Every application under sub-section (1) of Section 110-A of the Act, for payment of compensation, shall be accompanied by a fee of rupees ten in the form of Court-fee stamps. (2) The Claims Tribunal may, in its discretion; exempt a party from the payment of fee prescribed under sub-rule (1): Provided that where a claim of a party has been accepted by the Claims Tribunal, the party shall have to pay to the prescribed fee, exemption in respect of which has been granted initially before a

copy of the Judgement is obtained.

### **23. Custody and preservation of records.**

- The necessary documents and records relating to cases under Bihar Motor Vehicles Accident Claims Tribunals Rules, 1961, shall be deposited in the record room of the District Judges or the Judicial Commissioner, as the case may be, and shall be preserved for a period of six years. The procedure in respect of preservation of such records will be the same as followed in respect of preservation of records in such offices.

### **24. [ Schemes to be framed for the investigation of accident cases and wayside, amenities, etc. [Inserted by B. M. V. (Amendment) Rules, 1989, published in Bihar Gazette on 22.7.1989.]**

(1) The State Government may, by notification in the Official Gazette, make one or more schemes to provide for- (a) an indepth study on causes and analysis of motor vehicle accident; (b) wayside amenities on highways; (c) traffic aid posts on highways; and (d) truck parking complexes along highways. (2) Every scheme made under this section by the State Government shall be laid, as soon as may be, after it is made, before the State Legislature.

### **25. Application for compensation.**

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 of the Motor Vehicles Act, 1988 may be made:- (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representative of the deceased; or (d) by any agent duly authorised by the person injured or all or any of the legal representative of the deceased, as the case may be: Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application. (2) Every application under sub-rule (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed: Provided that any claim for compensation under Section 140 of the Motor Vehicles Act, 1988 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant. (3) No application for such compensation shall be entertained unless it is made within six months of the occurrence of the accident: Provided that the Claims Tribunal may entertain the application after the expiry of the said period of six months but not later than twelve months, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time. (4) Where a Police Officer has filed a copy of the report regarding an accident to a Claims Tribunal under this Act, the Claims Tribunal may, if it thinks necessary so to do, treat the report as if it were an application for compensation under this Act.

## 26. Award of the Claims Tribunal.

(1) On receipt of an application for compensation made under Section 166 of the Motor Vehicles Act, 1988, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 162 of the Motor Vehicles Act, 1988 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be: Provided that where such application makes a claim for compensation under Section 140 of the Motor Vehicles Act, 1988 in respect of the death or permanent disablement of any person, such claim or any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter-X of the Motor Vehicles Act, 1988. (2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award. (3) When an award is made under this rule the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount in such manner as the Claims Tribunal may direct.

## 27. Appeals.

(1) Subject to the provisions of sub-rule (2) any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award prefer an appeal to the High Court: Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty five thousand rupees or fifty percent of the amount so awarded, whichever is less, in the manner directed by the High Court: Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. (2) No appeal lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees. Form of application for compensation (See Rule 3) The Motor Vehicles Accidents Claims Tribunal I, son/daughter/wife/widow of residing at.....having been injured in motor vehicle accident hereby apply for the grant of compensation for the injury sustained. Necessary particulars in respect of the injury, vehicle, etc. are given below: - I.....son/daughter/wife/widow of.....residing at....hereby apply as a legal representative/agent for the grant of compensation on account of death of/ injury sustained by Shri/Kumari/in a motor vehicle accident. Necessary particulars in respect of the deceased/injured, the vehicle etc. are given below:-

**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 deceased, if any.**
- 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 income-tax (to be supported by documentary evidence).**
- 8. Place, date and time of accident.**
- 9. Name and address of police station in whose jurisdiction the accident took place or was registered.**
- 10. Was the person in respect of whom compensation is claimed travelling by vehicle involved in accident?**
- 11. If so give the names of places of starting of journey and destination.**
- 12. Nature of injuries sustained.**
- 13. Name and address of the Medical Officer/Practitioner if any, who attended on the injured/dead.**
- 14. Period of treatment and expenditure, if any, incurred thereon (to be supported by documentary evidence).**
- 15. Registration number and the type of the vehicle involved in accident.**
- 16. Name and address of the owner of the vehicle.**
- 17. Name and address of the insurer of the vehicle.**

**18. Has any claim been lodged with the owner/ insurer. If so, with what result.**

**19. Name and address of the applicant.**

**20. Relationship with the deceased.**

**21. Title to the property of the deceased.**

**22. Amount of compensation claimed.**

**23. Any other information that may be necessary or helpful in the disposal of the claim.**

I.....solemnly declare that the particulars given above are true and correct to the best of my knowledge. Signature or thumb impression of the applicant

Notifications [Notification No. A 2/3018/63T-3859, dated the 19th July, 1963]. Subject. - Constitution of Motor Accident Claims Tribunal. In exercise of the powers conferred by sub-section (1) of Section 110 of the Motor Vehicles Act, 1939 (IV of 1939), and in supersession of notification no. A2-301/60-T-22, dated the 28th May, 1960 the Governor of Bihar is pleased to constitute for each of the areas comprised within the limits of the jurisdiction of the Patna, Gaya, Shahabad, Muzaffarpur, Saran, Champaran, Darbhanga, Bhagalpur, Saharsa, Monghyr, Purnea, Santhal Parganas, Ranchi, Hazaribagh, Palamau, Singhbhum and Dhanbad districts, a Motor Accident Claims Tribunal consisting of the District and Sessions Judge or the Judicial Commissioner, as the case may be, posted at the headquarters station of the district, for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles. S.O. 1593, dated the 17th December, 1982. - In exercise of the powers conferred by sub-sections (1) and (4) of Section 110 of the Motor Vehicles Act, 1939 (IV of 1939), the State Government is pleased to further constitute Motor Accident Claims Tribunals, beside that already constituted, for the judgeships of (i) Purnea. (ii) Santhal Parganas, (iii) Dhanbad, (iv) Giridih, (v) Gaya, (vi) Siwan, (vii) Ranchi, (viii) Monghyr, (ix) Patna, (x) Singhbhum, (xi) Muzaffarpur, (xii) Chapra, and (xiii) Hazaribagh, wherein the seniormost Additional District and Sessions Judges of respective districts including the seniormost Additional District and Sessions Judges of respective districts including the seniormost Additional District and Sessions Judge of Jamshedpur within the judgeship of Singhbhum are appointed as Claims Tribunals (to be designated as Additional Motor Accident Claims Tribunals) in their respective jurisdictions for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to persons arising out of the use of motor vehicles, or the damages to any property of a third party so arising or both and, order that the filing of the claims cases be made before the Motor Accident Claims Tribunal who may have power to transfer such cases to the Additional Motor Accident Claims Tribunal of the judgeship except, in respect to claims arising within the territorial limits, of Dalbhum Sub-division (within the judgeship of Singhbhum) in which case filing of claims shall be made before the Additional Motor Accident Claims Tribunal of Jamshedpur. S.O. 1, dated the 2nd January, 1985. - In exercise of the powers conferred by sub-sections (1) and (4) of Section 110 of the Motor Vehicles Act, 1939 (IV of 1939), the



State Government is pleased to constitute Motor Accident Claims Tribunals for the judgeships of (i) Gopalganj, (ii) Nawada, and (iii) Deoghar wherein the District and Sessions Judge of the respective districts are appointed as Claims Tribunals to be designated as Claims Tribunals in their respective jurisdictions for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death or bodily injury to persons arising out of the use of Motor Vehicles or damages to property of a third party so arising or both, and order that the filing of the claims cases be made before the Motor Accident Claims Tribunal, who may have power to transfer such cases to the Additional Motor Accident Claims Tribunal of the judgeship.