

The Orissa Motor Vehicles (Accidents Claims Tribunal) Rules, 1960

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Rule

THE-ORISSA-MOTOR-VEHICLES-ACCIDENTS-CLAIMS-TRIBUNAL-RULES of 1960

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The Orissa Motor Vehicles (Accidents Claims Tribunal) Rules, 1960[Chapter-I [Inserted vide Notification No. 4935-T./10.4.1985.] Preliminary]

1. Short title, extent and commencement.

(1)These rule may be called the Orissa Motor Vehicle (Accidents Claims Tribunal) Rules, 1960.(2)These rules shall extend to the whole of Orissa.(3)These rules shall come into force at once.

2. Definitions.

- In these rules, unless the context otherwise requires-(a)"Act" means the Motor Vehicles Act, 1939 (4 of 1939);(b)"Claims Tribunal" means a Motor Accidents Claims Tribunal constituted under section 110 of the Act;[(b-1) "Form" means a Form appended to these rules;] [Inserted vide Notification No. 4935-T./10.4.1985.](c)"Legal representative" shall have the meaning assigned to it under Clause (11) of section 2 of the Code of Civil Procedure, 1908.[Chapter-II] [Inserted vide Notification No. 4935-T./10.4.1985.] Claims under section 110-A of the Act (Claims based on fault)

3. Applications.

- Every application for payment of compensation made under section 110-A shall be made [in Form COF] [Substituted vide Notification No. 4935-T./10.4.1985.] and shall be accompanied by the fee prescribed therefore in Rule 22:

4. Examination of applicant.

- On receipt of an application under Rule 3, the Claims Tribunal may examine the applicant 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 proceedings 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 applications 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 the claims raised in the application, and any such written statement shall form part of the record.(2)If the owner or the insurer contests the claim, the Claims Tribunal may, and if no written statement has been filed, it 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 purpose of making a local inspection or examining any persons

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 or person in charge of the vehicle 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, 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.(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 information the parties present of the date of adjournment hearing.

15. Co-opting 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 person(s) co-opted shall in every case be determined by the Claims Tribunal.

16. Framing of issue.

(1)After considering any written statement the evidence of the witnesses examined and the result of any local inspection, the Claims Tribunal shall proceed to frame and record the issue upon which the right decision of the case appears to it to depend.(2)Notwithstanding anything contained in Sub-rule (1) the Claims Tribunal may drop the proceedings at any stage in its discretion if the claim is admitted by the owner or insurer.

17. Determination and issues.

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

18. [[Substituted vide Notification No. 15955-T./22.9.1984.]

The Claims Tribunal shall maintain a brief diary of the proceedings and shall also maintain a register in the following proforma :]Form of register of motor accident claims cases

Serial No.	Place, date and time of the accident	Name and address of Police stations in whose jurisdiction the accident took place	Name of the victim of the accidentdeceased/injured, his age and occupation	Monthly income of the victim deceased/injured as stated in the petition	Name(s) of legal representative(s) and his/theirrelationship with the deceased victim in case of death	
1	2	3	4	5	6	
Registration No. and type of vehicle involved inthe accident		Name and address of the owner of the vehicle	Name and address of the insurer of the vehicle	Name and address of the applicant(s)	Whether the claim relates to death, bodily injuryor damage to property due to the accident	Relationship of the applicant with the deceasedin case the claim relates to death in accident
7		8	9	10	11	12
Value of the property involved in accident andthe extent of damage to property as stated in the petition		Amount of compensation claimed	Date of disposal of the case or award, if any,made by the Claims Tribunals		Relief granted by the Claims Tribunal	Result of appeal with date of order in appeal
13		14		15	16	17

19. Judgement and award of compensation.

(1)The Claims Tribunal, in passing order shall record concisely in a judgement the findings on each of the issue 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, so far as may be, apply to proceedings before the Claims Tribunals, 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 XVIII and Order XXIII Rules 1 to 3.

21. Form of appeal.

(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.

- [(1) 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 as shown in Column (ii) against the claim mentioned in Column, (i) in the form of Court-fee stamps, namely;] [Substituted vide Notification No. 6796-T./25.4.1970.]

Amount of claim(i)	Amount of Court-fee(ii)
(1) Up to R. 5,000	Rs. 10
(2) Above Rs. 5,000 up to Rs. 50,000	¼ per cent of the amount of claim
(3) Above Rs. 50,000 up to Rs. 1,00,000	½ per cent of the amount of claim
(4) 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.] [Substituted vide Notification No. 12941-T./24.8.1983.][(2-A) All application for copies of judgements passed under these rule shall be filled 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).] [Inserted vide Notification No. 12941-T./24.8.1983.](3)[The fee for filling an appeal under Rule 21 shall be one-half of the fee payable under Sub-rule (1) according to the amount of the claim as covered by the appeal.] [Inserted vide Notfn. No. 16500-T./6.10.1970.]

23. [[Inserted vide Notification. No. 15599/23.8.1980.]

The Claims Tribunal shall furnish a quarterly return Tribunals and State number of motor accident claim cases disposed of by him to the State Government in the proforma, namely.]ProformaNumber of motor accident claims cases disposed of by the Claims Tribunal and State Transport Appellate Tribunal (acting as Second Motor Accident Claims Tribunal) 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	Total number of claims cases awaiting disposal	Number of claims cases disposed of during the quarter	Amount of compensation granted	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

N.B. - The amount of compensation granted by the Court to be paid by different parties such as Government L.I.C. etc., may be specified in the remarks column.)[Chapter-III [Chapter III including Rules 24 to 32 inserted vide Notification No. 4935-T./10.4.1985.] Claims under Chapter VII-A of the ActClaims without fault in certain cases

24. Application for claim.

- Every application in the case of a claim without fault under Chapter VII-A of the Act shall be made in Form CWF.

25. Fees.

- Every application for a claim under Chapter VII-A shall be accompanied by a fee of ten rupees in the form of Court-fee stamp.

26. Application not to be rejected on technical flaw.

- The Claims Tribunal shall not reject any application made as per the provisions of Chapter VII-A of the Act on the ground of any technical flaws, but shall give notice to the applicant and get the defect rectified.

27. Notice to owner and insurer.

(1)The Claims Tribunal shall give notice to the owner and the insurer, if any, of the motor vehicle involved in the accident, directing them to appear on a date not later than ten days from the date of issue of notice. The date fixed for such appearance shall also be not later than fifteen days from the

receipt of the claim application.(2)The notice under Sub-rule (1) shall state that in case the owner or the insurer, if any, fails to appear on the date appointed, the Tribunal will proceed ex parte on the presumption that they have no contention to make against the award of compensation.

28. Manner of adjudication claims.

- The Claims Tribunal shall, for the purpose of adjudicating and awarding a claim under Chapter-VII-A of the Act, following the procedure of summary trial contained in the Code of Criminal Procedure, 1973.

29. Award of claim.

- The Claims Tribunal shall obtain whatever information is necessary from the Police, Medical and other authorities and proceed to award the claim whether the parties who were given notice, appear or not, on the appointed date.

30. Basis to award the claim.

- The Claims Tribunal shall proceed to award the claim on the basis of-(i)oral evidence;(ii)certified copy of the Register of Motor Vehicles registered in the district and/or registration certificates of the motor vehicle involved in the accident;(iii)insurance certificate or policy relating to the insurance of the motor vehicle against the Third Party risk;(iv)copy of First Information Report;(v)post-mortem certificate or certificate of injury from the Medical Officer;(vi)the nature of the treatment given by the Medical Officer who has examined the victim; and(vii)Bed Head Ticket and/or discharge certificate of the hospital or dispensary where the injured/the deceased received treatment.

31. Limitations for disposal of application.

- The Claims Tribunal, before whom an application for compensation under Chapter VII-A of the Act has been made shall dispose of such application within forty-five days from the date of receipt of such application.

32. Payment of compensation by Claims Tribunal.

(1)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 case of death.(2)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 the Tribunal and then proceed with the identification of the legal heirs for deciding the payment of compensation to each of the legal heirs.][[Form 'COF'] ['Form COF' substituted vide SRO No. 189/85/10.4.1985.]]Form of application for compensation[On Fault] [Substituted vide SRO No. 189/85/10.4.1985.]ToThe Motor Accidents Claims Tribunals.....I son/daughter/wife/widow of residing at having been injured/having

sustained damage in motor vehicle accident hereby apply for the grant of compensation for the injury/damage sustained. Necessary particulars in respect of the injury, damage, vehicle, etc., are given below :I/We.....son(s)/daughter(s)/wife/widow of residing at hereby apply, as a legal representative/agent for the grant of compensation on account of death or injury sustained by Shri/Kumari/Shrimati....son/daughter/wife/widow of Shri/Shrimati.....who died/was injured in a motor accident.Necessary particulars in respect of the deceased/injured, the vehicle, etc., given below :

- 1. Name and father's name of the person injured/dead (Husband's name in the case of the married woman and widow)...**
- 2. Full address of the person injured/dead.....**
- 3. Age of the person injured/dead.....**
- 4. Occupation of the persons 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, time of the 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 the vehicle involved in the accident? If so, give the names of places of starting of journey and destination.....**
- 11. Nature of the injuries sustained.....**
- 12. Name and address of the Medical Officer/Practitioner, if any, who attended on the injured/dead.....**

- 13. Period of treatment and expenditure, if any incurred thereon (To be supported by documentary evidence).....**
- 14. Registration No. and the type of the vehicle involved in accident..**
- 15. Name and address of the owner of the vehicle.....**
- 16. Name and address of the insurer of the vehicle.....**
- 17. Has any claim been lodged with the owner/insurer ? If so, with what result.....**
- 18. Name and address of the applicant(s).....**
- 19. Relationship with the addressed.....**
- 20. Title to the property of the deceased.....**
- 21. Amount of compensation claimed.....**
- 22. Other legal representatives, if any, of the deceased with their address and relationship with the deceased.....**
- 23. Any other information that may be necessary or helpful in the disposal of the claim.....**
- 24. Does the vehicle involved in the accident bear compulsory insurance against the damage to the property of the third party including public property and if so the value thereof.....**
- 25. Did the insurer make any vexatious attempt of refute his liability for compensation of damage to the property.....**
- 26. (a) Does the applicant require the insurer to make a special deposit for payment of any claims in respect of damage of the property that are unreasonably delayed.....**

(b) Does the widow or minor applicant of the deceased require to get her/his decretal money through post office or Bank.....

27. (a) Was any suit filed In any Civil Court for claiming compensation for damages to the property

(b) If any such suit is filed, the result of the suit may be indicated or if it is pending the stage may be indicated.....(c) The amount of claim in the Civil Court may be mentioned.....

28. (a) Whether the applicant is in custody or possession of the damaged property after the accident.....

(b) The names of persons who are likely to claim a share in the damaged property with their full present address and whether all of them are duly notified regarding accident and the extent of damaged property involving the accident.....(c) Whether any inventory of the damaged property was prepared, if so by whom and whether the copy of the same is attached to the application; and if not attached, the reasons for the same and also when it can be made available to the Tribunal without unreasonable delay.....

29. (a) Nature of injury sustained to the property.....

(b) Rough estimate of the market-value of the property before accident.(c) Value of the property after the accident with reasons therefor.....

30. [Whether any claim under section 92-A of the Motor Vehicles Act, 1939 has been made and if so, its present position.....

I.....solemnly declare that the particulars given above are true and correct to the best of my knowledge.] [Inserted vide SRO No. 189/85/10.4.1985.][Form 'CWF'] [Inserted vide Notification No. 4938/10.4.1985.][See Rule 24]Form of application for compensation without faultToThe Motor Accidents Claims Tribunals.....I.....son/daughter/wife/widow of 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 belowI son/daughter/wife/widow of.....residing at hereby apply, as legal representative/agent for the grant of compensation on account of death of Shri/Kumari/Shrimati.....son/daughter/wife/widow of Shri/Shrimati....who died/was injured in a motor vehicle accident.Necessary particulars in respect of the deceased/injured, the vehicles 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. Place, date and time of the accident.....**
- 6. Name and address of police-station in whose jurisdiction the accident took place or was registered.....**
- 7. Was the person in respect of whom compensation is claimed travelling by the vehicle involved in the accident? If so, give the name of place of starting of journey and destination.....**
- 8. Nature of injuries sustained and continuing effect, if any, of the injury.....**
- 9. Name and address of the Medical Officer/Practitioner, if any, who attended on injured/dead.....**
- 10. Nature of the injury and whether it caused permanent disablement or not.....**
- 11. Registration number and the type of the vehicle involved in the accident.....**
- 12. Name and address of the owner of the vehicle.....**
- 13. Name and address of the insurer of vehicle.....**
- 14. Number and details of certificate of insurance or the Policy of insurance.....**
- 15. Has any claim been lodged with the owner/insurer and if so, with what result.....**
- 16. Name and address of the applicant.....**
- 17. Relationship with the deceased.....**

18. Whether he has been paid any compensation out of the Solatium Fund.....

19. 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-impressionof the applicant