



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

Vol. XVII Aizawl Thursday 14. 4. 88 Chaitra 25, S.E. 1910 Issue No. 50

NOTIFICATION

No. STV.16/80, the 14th April, 1988. The following draft of rules which the Governor of Mizoram proposes to make in exercise of the powers conferred by section III-A of the Motor Vehicles Act, 1939 is hereby published as required under section 133 of the aforesaid Act for the general information of the public and notice is given that the draft Rules will be taken into consideration by the Government of Mizoram after thirty days from the date of publication of this Notification in the Mizoram Gazette. The Govt. will consider any objection or suggestion in respect of the draft Rules which may be received before the expiry of the period aforesaid. If no objection is received during the above stipulated date the rules will become effective on the expiry of the stipulated thirty days.

THE MIZORAM MOTOR ACCIDENT CLAIMS TRIBUNAL RULES 1988.

1. SHORT TITLE, extent and commencement - (1) These Rules may be called the Mizoram Motor Accident Claims Tribunal Rules, 1988.

(2) These rules extent to the whole of the Union Territory of Mizoram.

(3) They shall come into force at once.

2. DEFINITIONS : In these Rules, unless the context otherwise required, (a) 'ACT' means the Motor Vehicle ACT. 1939 (Act 4 of 1939), (b) 'Tribunal' means the Motor Accident Claims Tribunal constituted by the Govt. of Mizoram under section 110 of the Act, (c) 'Legal representatives' shall have the meaning as assigned to it in clause (i) of section 2 of the code of Civil Procedure, 1903.

3. APPLICATION FOR COMPENSATION : (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 110 of the Act shall be made to the Tribunal in form 'A' appended to these Rules and shall be accompanied by a fee as prescribed in rule 17.

(2) The application shall be presented to the presiding Officer of the Tribunal by the person making the application or by the agent authorised in writing in this behalf.

4 EXAMINATION OF APPLICANT — On receipt of the application under rule 3, the Tribunal may examine the applicant on oath and the substance of such examination shall be reduced into writing.

5. Summary dismissal of the application — (1) If, after considering the application and the statement of the applicant under rule 4, the Tribunal is of the opinion that there are no sufficient grounds for proceeding with the claim, it shall dismiss the application summarily and record the reason for doing so.

(2) Notwithstanding anything contained in sub-rule (1), the application may be rejected on any of the following grounds, namely :—

- (a) that it has not been made by the person competent to do so under the Act.
- (b) that it has not been made within the period prescribed under the Act.
- (c) that it has not been properly signed and verified by the person making it, or
- (d) that proper fees have not been paid there-for

(3) Dismissal of the application under clause (a), (c) or (d) of sub-rule (2) will not bar the making of a fresh application in a proper manner.

6. EXAMINING THE OPPOSITE PARTIES AND SUMMONING OF WITNESS

(1) If the application is not dismissed under rule 5 the Tribunal may call upon the applicant to produce evidence in support of his application and shall also send to the owner of the Motor Vehicle involved in the accident, the insurer of the vehicle and any other opposite party named in the application a copy of the application. The applicant shall be heard or the written statement filed.

(2) If the owner, insurer or any other opposite party contests the application, the tribunal shall proceed to examine them and may also issue summons for the appearance of any witness unless it considers that his appearance is not necessary for arriving at a just decision of the case.

7. APPEARANCE OF LEGAL PRACTITIONER — The Tribunal, may at its discretion, allow any party to be presented by a legal practitioner duly authorised.

8. LOCAL INSPECTION — (1) The Tribunal may at any time during the course of the proceedings visit the site at which the accident occurred for the purpose of making a local inspection of examining any person has been called as a witness or not, provided no oath shall be administered to any person so examined.

(2) Any party to the proceedings or its representative may, if it so desires, accompany the tribunal on the local inspections.

(3) After the local inspection the Tribunal shall prepare a note stating the facts observed and such note shall form part of the record as is relevant to the case and such note shall form part of the records of the proceedings.

(4) The note referred to in sub-rule (3) may be supplied to any party to the proceedings if the same is applied for.

9. **INSPECTION OF THE VEHICLES** — The Tribunal may, if it considers necessary, require that the motor vehicle involved in the accident be produced by the owner for inspection at a particular time and place as it may decide.

10. **METHOD OF RECORDING EVIDENCE** — The Tribunal shall, as the examination of any witness proceeds, make a brief memorandum of the substance of the evidence tendered by him and such memorandum shall be signed by the member or members of the Tribunal and shall form part of the records.

Provided that the evidence tendered by any witness as medical expert shall be taken down as nearly as may be word for word,

11. **ADJOURNMENT OF HEARING** — If the Tribunal finds that the case cannot be disposed of at one or more bearing it may be adjourned from time to time and record the reasons for doing so and shall inform the parties present of the next date fixed for hearing.

12. **TENDERING OF EXPARTE OPINION** — (1) The Tribunal may, if it considers necessary, summon one or more persons possessing special knowledge with respect to any matter relevant to the case for tendering his expert opinion.

(2) Remuneration, if any, to be paid to the person tendering expert opinion under sub-rule (1) shall be determined by the Tribunal.

13. **FRAMING OF ISSUES** — (1) After considering the written statement, the evidence of the witnesses and the result of the local inspection, the Tribunal shall frame the issue upon which the decision of the case appears to depend.

(2) After the issues are framed the Tribunal shall proceed to record the evidence thereon which any party to the case may desire to produce.

14. **MAINTENANCE OF DIARY** — The Tribunal shall maintain a brief diary of the proceedings on any application made under these rules.

15. **JUDGEMENT AND AWARD OF COMPENSATION** — (1) On completion of hearing the Tribunal shall pronounce its judgement record concisely its finding on each of the issues framed and the reasons for such finding and make an award specifying the amount of compensation to be paid by the concerned party and shall also determine the persons to whom the compensations shall be paid.

(2) Where the compensation awarded is to be paid to two or more persons the Tribunals shall also specify the amount to be paid to each of them separately.

(3) While pronouncing the judgement and making the award the Tribunal shall read the operative part of the award in the language understood by the claimant or claimants and it shall also explain that they are entitled to the amount of compensation so awarded. In case the Tribunal cannot read or explain it in the language of the claimant, it shall have it interpreted by any other person in the language or languages the claimant or claimants understand.

16. APPLICATION OF THE CODE OF CIVIL PROCEDURE — The following provisions of the code of Civil Procedure, 1908 shall as far as may be practicable, apply to proceedings before the Tribunal namely:—

- (a) Rules 9 to 13 and 15 to 30 of Order V
- (b) Rules 3 to 10 of Order IX
- (c) Rules 2 to 21 of Order XVI
- (d) Orders XVII, and
- (e) Rules 1 to 3 of orders XXIII

17. Fees— (1) A fees of Rupees ten shall be paid for each application for compensation under these rules.

(2) The fee under sub-rule (1) shall be paid in court fee

(3) The Tribunal may, if is considers it fit and proper, exempt the application from payment of the fees under this rule.

(Vanhela Pachuaa)
Secretary to the Govt. of Mizoram,
Transport Department.

From 'A' (See Rule-3)

To

The Presiding Officer,
Motor Accidents Claims Tribunal,
Aizawl, Maghalaya.

I _____ son/daughter/wife/widow of _____
residing at _____ having been injured in Motor accident hereby apply
for the grant of compensation for the injury sustained. Necessary particulars in
respect of the injury, vehicles etc. are given below

'Or'

I _____ son/daughter/wife/widow of _____ residing at _____ hereby apply
as a legal representative/agent for the grant of compensation on account death of
injury sustained by Shri/Kumari/Shrimati _____ son/daughter/wife/
widow of Shri/Shrimati _____ who died/was injured, in a motor vehi-
cle accident.

Necessary particulars in respect of the deceased, injured, the vehicle, etc, are
given below. :—

1. Name and father's or Mother'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 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 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 the documentary evidence).
14. Registration number 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.
19. Relationship with the deceased.
20. Title to the property of the deceased.
21. Amount of compensation claimed.
22. 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 of thumb impression of the applicant).