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MOTOR VEHICLE ACT

Motor Accidents Claims Tribunal has been created by the Motor Vehicles Act, 1988. It has been constituted to provide speedier remedy to the victims of accident by motor vehicles. The Tribunal takes away jurisdiction of Civil Courts in the matters which concerns the Motor Accidents Claims Tribunal. Appeals from Claims Tribunal lies with High Courts. The appeal is limited by time and has to be filed in the High Court within 90 days from the date of award of Claims Tribunal. '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.' (Section-173). However, there is no time limit for filing motor vehicle accidents claim. But an unusual delay will demand an explanation by the Tribunal. According to Section 166 of the Motor Vehicles Act, 1988 compensation can be claimed –By the person who has sustained injury; By the owner of the damaged property;

By all or any legal representative of the deceased who died in the accident; By duly authorised agent of the injured person or all or any of the legal representatives of the deceased who died in the accident. And, the claim Petition can be filed by the following—to the Claims Tribunal having jurisdiction over the area in which the accident occurred or, to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides, or carries on business or, within the local limits of whose jurisdiction the defendant resides.

Motor Accident Claims Tribunals [MACT Courts] deal with claims relating to loss of life/property and injury cases resulting from Motor Accidents. The Claims are to be directly filed in the concerned Tribunal. MACT Courts are presided over by Judicial Officers from Delhi Higher Judicial Service. Now these Courts are under direct supervision of the Hon'ble High Courts of various States.

The Motor Vehicles Act, 1988, the Delhi Motor Accidents Claims Tribunal Rules, 2008, various other statutes and directions of the Superior Courts- Hon'ble Supreme court of India and the High Courts of various states govern the proceedings and claims before the MACT.

The Motor Vehicles Act, 1988 is a comprehensive legislation with the purpose of enhancing road safety. It also serves the purpose of welfare legislation by providing for compensation in case of loss of life or limb because of

accidents by motor vehicles. Section-2(30) of the Act defines who is the 'owner'. "Owner" is; a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement.

Following documents should accompany the Claim petition:-

1. Copy of the FIR registered in connection with said accident, if any.
2. Copy of the MLC/Post Mortem Report/Death Report as the case may be.
3. The documents of the identity of the claimants and of the deceased in a death case.
4. Original bills of expenses incurred on the treatment alongwith treatment record.
5. Documents of the educational qualifications of the deceased, if any.
6. Disability Certificate, if already obtained, in an injury case.
7. The proof of income of the deceased/injured.
8. Documents about the age of the victim.
9. The cover note of the third party insurance policy, if any.
10. An affidavit detailing the relationship of the claimants with the deceased.

The duties of the police with respect to the filing of the Accident Information Report (AIR):- The SHO of the police

station concerned within whose jurisdiction the accident has occurred has to submit an Accident Information Report (AIR) to the Claims Tribunal within 30 days of the recording of the FIR with an advance copy to the concerned Insurance Company. The police is also required to submit the documents including FIR, MLC/post-mortem report, fitness, permit and the relevant documents for assessment of compensation to the Claims Tribunal along with the report. The steps taken by Delhi Police to implement Section 158(6) of the Motor Vehicles Act, 1988:- Delhi Police has taken various steps to implement Section 158(6) of the Motor Vehicles Act on the directions of Delhi High Court in the case of **Rajesh Tyagi v. Jaibir Singh** in June, 2009.

The directions of the Hon'ble Supreme Court and Delhi High Court with respect to the Accident Information Report are as follows:- (i) The Accident Information Report has to be submitted along with attested copy of the FIR, site plan, photograph, registration cover, driving licence, permit and fitness certificate and postmortem report (in case of death) by the SHO of the concerned Police Station before the Claims Tribunal within 30 days of the FIR with a copy to the insurance company. (ii) The police shall also collect and furnish the additional particulars regarding age, income and dependants of the victim of the road accident. (iii) The police shall notify the first date of hearing to the victim or the family of the victim (in the case of death) and the driver,

owner and the insurer. If so directed, the police may secure their presence on the first date of hearing.

The procedure for investigation of motor accident claim cases by the police in terms of the directions issued by the Hon'ble Supreme Court and Delhi High Court has been summarized by Delhi High Court in **Mayur Arora v. Amit**.

The driver/owner of an un-insured vehicle involved in an accident are liable to be prosecuted under Section 196 of the motor Vehicles Act with imprisonment which may extend to three months, or with fine which may extend to ` 1000/-, or with both. The Hon'ble Supreme Court as well as Delhi High Court have issued directions to the Police to prosecute the owners/drivers of the un-insured vehicles under Section 196 of the Motor Vehicles Act.

The inquiry contemplated under Section 168 & 169 of the Motor Vehicles Act, 1988 is different from a trial. The inquiry contemplated under Section 168 of the Motor Vehicles Act arises out of a complaint filed by a victim of the road accident or an AIR filed by the police under Section 158(6) of the Motor Vehicles Act which is treated as a claim petition under Section 166(4) of the Motor Vehicles Act. These provisions are in the nature of social welfare legislation. Upon receipt of report from the police or a claim petition from the victim, the Claims Tribunal has to ascertain the facts which are necessary for passing the award. To illustrate, in the case of death of a victim in a road accident,

the Tribunal has to ascertain the factum of the accident; accident having being caused due to rash and negligent driving; age, occupation and income of the deceased; number of legal representatives and their age. If the claimants have not produced copies of the record of the criminal case before the Claims Tribunal, the Claims Tribunal is not absolved from the duty to ascertain the truth to do justice and the Claims Tribunal can summon the investigating officer along with the police record. The Delhi High Court has passed sedirections in this regard. The Delhi High Court has summarized the procedure to be followed by the Claims Tribunal in motor accidents cases in *Mayur Arora v. Amit*.

Most of the victims of the road accidents are from the lowest strata of the society and sole bread winners leaving behind large family. There is illiteracy in the country and minor children are involved. The legal representatives of the deceased have no knowledge of investment and saving. There is a danger of the money being wasted or even the victims being cheated. In order to protect the award amount from being wasted the Claims Tribunal shall examine the claimants to ascertain their financial condition to pass order with regard to the shares and mode of disbursement and the period and amount to be kept in the fixed deposit. Some portion of the award amount be immediately released to the claimants and the remaining amount be kept in the fixed

deposit in such a manner that the claimants get the same in a phased manner. The original fixed deposit receipt should be retained by the Bank in safe custody and the monthly interest be credited automatically in the savings bank account of the claimant. The maturity amount of the fixed deposit be credited automatically in the savings bank account. No cheque book to be issued to the claimants and no loan, advance or withdrawal be allowed on the fixed deposit without the permission of the Claims Tribunal.

The Delhi High Court has prepared a checklist for use of the Claims Tribunals in the case of Mayur Arora Vs. Amit. The Hon'ble Supreme Court has issued directions to the Director Generals of Police of all States in respect of AIRIn **Jai Prakash Vs. National Insurance Company**. In the same Case the directions were issued to the MACT Tribunals. In **Rajesh Tyagi v. Jaibir Singh** the Delhi High Court constituted a Committee comprising of Secretaries/nominees of the Ministries of Road Transport and Highways; Finance (Department of Insurance); Law & Justice and Company Affairs; and Joint Commissioner of Delhi Police.

Section 168 of the Motor Vehicles Act, 1988 provides that the claims tribunal shall make an award to determine the amount of compensation which appears to be “just”. In **Divisional Controller, KSRTC Vs. Mahadeva Shetty and**

Anr.,the Hon'ble Supreme Court gave exhaustive directions on just and fair compensation.