

HIGH COURT OF JHARKHAND, RANCHI

ORDER

No. 02 /R&S

Dated Ranchi the 03-02-2014

In view of the Order, dated 17.12.2009, of Hon'ble Supreme Court of India passed in the matter of **Special Leave Petition (Civil) No. 11801-11804 of 2005 titled as Jai Prakash Vs National Insurance Co. Ltd & Ors**, the Hon'ble Court has been pleased to instruct all Claims Tribunals in the State to register the reports of accidents received under Section 158(6) of the Motor Vehicles Act, 1988 as applications for compensation under Section 166(4) of the Act and deal with them without waiting for the filing of claim applications by the injured or by the family of the deceased.

The Principal District Judge/ Principal Judicial Commissioner shall ensure that necessary Registers, forms and other support is extended to the Tribunal to give effect to Section 166 (4) of the Act.

That for complying with section 166(4) of the Act, the jurisdictional Motor Accident Claims Tribunals shall initiate the following steps:

- (a) The Tribunal shall maintain an Institution Register for recording the Accident Information Reports (AIRs) which are received from the Station House Officers of the Police Stations and register them as miscellaneous petitions. If any private claim petitions are directly filed with reference to an AIR, they should also be recorded in the Register.
- (b) The Tribunal shall list the AIRs as miscellaneous petitions. It shall fix a date for preliminary hearing so as to enable the police to notify such date to the victim (family of victim in the event of death) and the owner, driver and insurer of the vehicle involved in the accident. Once the claimant/s appear, the miscellaneous application shall be converted to claim petition. Where a claimant/s file the claim petition even before the receipt of the AIR by the Tribunal, the AIR may be tagged to the claim petition.
- (c) The Tribunal shall enquire and satisfy itself that the AIR relates to a real accident and is not the result of any collusion and fabrication of an accident (by any 'Police Officer – Advocate – Doctor' nexus, which has come to light in several cases).
- (d) The Tribunal shall by a summary enquiry ascertain the dependent family members / legal heirs. The jurisdictional police shall also enquire and submit the names of the dependent legal heirs.
- (e) The Tribunal shall categories the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.
- (f) Wherever the insurer does not dispute the liability under the policy, the Tribunal shall make an endeavour to determine the compensation amount by a summary enquiry or refer the matter to the Lok Adalat for settlement, so as to dispose of the claim petition itself, within a time frame not exceeding six months from the date of registration of the claim petition.

- (g) The insurance companies shall be directed to deposit the admitted amount or the amount determined, with the claims tribunals within 30 days of determination. The Tribunals should ensure that the compensation amount is kept in Fixed deposit and disbursed as per the directions contained in General Manager, KSRTC v. Susamma Thomas [1994 (2) SCC 176].
- (h) As the proceedings initiated in pursuance of Section 158(6) and 166(4) of the Act, are different in nature from an application by the victim/s under Section 166(1) of the Act, Section 170 will not apply. The insurers will therefore be entitled to assist the Tribunal (either independently or with the owners of the vehicles) to verify the correctness in regard to the accident, injuries, age, income and dependents of the deceased victim and in determining the quantum of compensation.

The aforesaid directions to the Tribunals are without prejudice to the discretion of each Tribunal to follow such summary procedure as it deems fit as provided under Section 169 of the Act.

Many Tribunals instead of holding an inquiry into the claim by following suitable summary procedure, as mandated by Section 168 and 169 of the Act, tend to conduct motor accident cases like regular civil suits. This should be avoided.

The Tribunal shall take an active role in deciding and expeditious disposal of the applications for compensation and make effective use of Section 165 of the Evidence Act, 1872, to determine the just compensation.

By order of the Court,

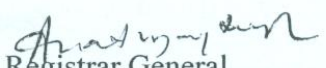
Sd/- A.V.Singh

Registrar General

Memo no. 392-415 /R&S

Dated Ranchi the 03-02-2014

Copy forwarded to the Presiding Officer, Motor Vehicle Accident Claims Tribunal, Ranchi/ Hazaribagh / All the Principal District and Sessions Judges of the State including the Principal Judicial Commissioner, Ranchi for information..


Registrar General