



**Seminar
on
The Role of Police Personnel
in
Motor Vehicles Accident Cases
(BACKGROUND MATERIAL)**



Date : 23rd March, 2013 (Saturday)

Venue : Nyaya Sadan, Ranchi

Organised by :

"NYAYA SADAN"

Jharkhand State Legal Services Authority

Near A.G. Office, Doranda, Ranchi

Phone : 0651-2481520, Fax : 0651-2482397

Email : jhalsaranchi@gmail.com, Website : www.jhalsa.nic.in



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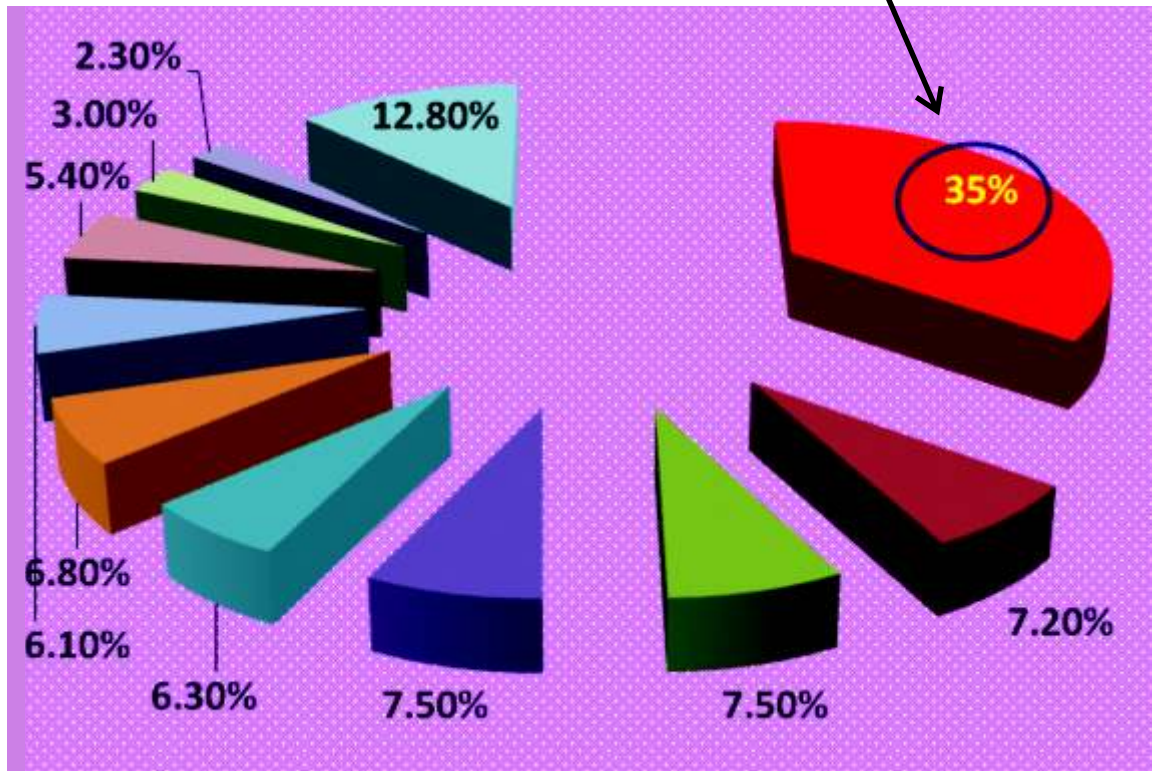
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Percentage Share of Various Cases of accidental deaths during 2011 (Natural and Un-Natural Causes)

N.C.R.B.

- BY ROAD ACCIDENT
- BY RAIL ROAD & OTHER RLY ACCIDENT
- BY POISONING
- BY DRAWNING
- BY FIRE
- BY SUDDEN DEATH
- BY NATURAL CAUSES
- BY CAUSES NOT KNOWN
- BY FALLS
- BY ELECTROCUTION
- BY OTHER NATURAL CAUSES



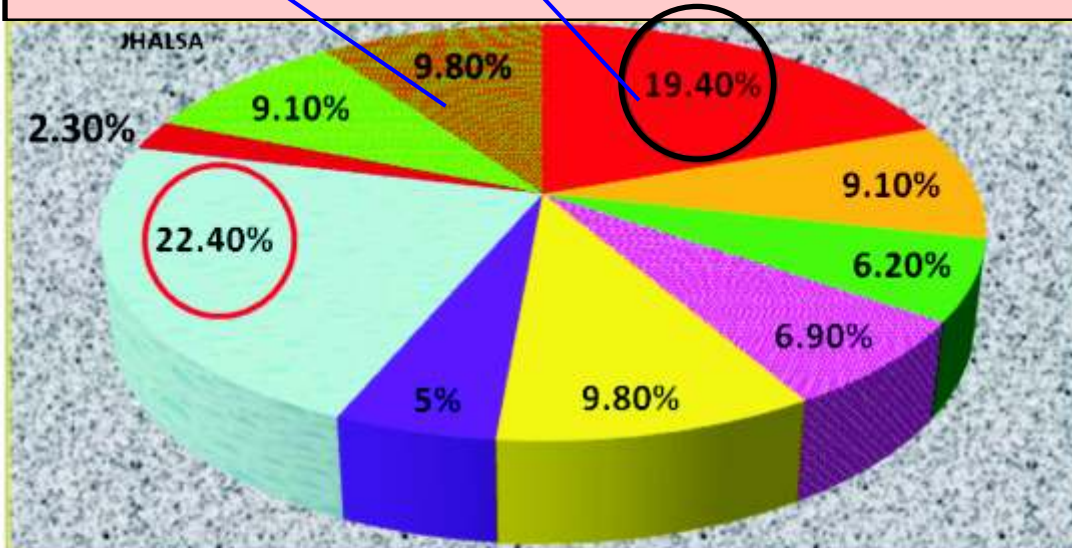


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Road Accident Deaths by Type of Vehicles
(Percentage Share)

N.C.R.B.

- Truck/Lorry
- Bus
- Temo/Van
- Jeep
- Car
- Three wheeler
- Two wheeler
- Bicycle
- Pedestrian
- Other



Road Accident Deaths by Type of vehicle

Government Private

N.C.R.B.





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TRAFFIC AND ROAD ACCIDENT CLOCK 2011

452	Deaths and 1298 injuries per day due to Traffic Accidents
375	Deaths per day and 1284 injuries per day due to Road Accidents
77	Deaths and 14 injuries per day due to Rail-Road and other Railway Accidents
73	Deaths per day by Truck/Lorry and 84 deaths by Two-wheeler

N.C.R.B.

Table-1 (L)
Rate of Accidental Deaths in Cities (with rate higher than parent state) during 2011

N.C.R.B.

SL.No.	City	Rate in City	Rate in Parent State
(1)	(2)	(3)	(4)
1	ASANSOL	107.1	23.3
2	KANPUR	76.0	15.1
3	PUNE	73.0	53.9
4	MEERUT	70.0	15.1
5	DURG BHILAINAGAR	69.1	60.6
6	JAIPUR	68.1	33.6
7	INDORE	65.9	50.4
8	AURANGABAD	63.9	53.9
9	RAJKOT	60.7	40.4
10	NASIK	60.0	53.9
11	VASAI VIRAR	59.0	53.9
12	JODHPUR	54.9	33.6



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13	NAGPUR	54.0	53.9
14	JABALPUR	53.5	50.4
15	BENGALURU	52.9	41.2
16	AGRA	52.2	15.1
17	KOTA	51.1	33.6
18	CHENNAI	49.1	46.5
19	LUDIANA	47.5	38.0
20	FARIDABAD	45.6	44.6
21	VIJAYAWADA	43.3	35.8
22	VARANASI	42.6	15.1
23	KOLLAM	42.4	33.3
24	VISHAKHAPATNAM	41.1	35.8
25	GHAZIABAD	37.8	15.1
26	PATNA	35.6	11.4
27	RANCHI	33.9	19.0
28	THIRUVANANTHAPURAM	33.7	33.3
29	JAMSHEDPUR	25.4	19.0
30	LUCKNOW	19.6	15.1
31	ALLAHABAD	19.1	15.1

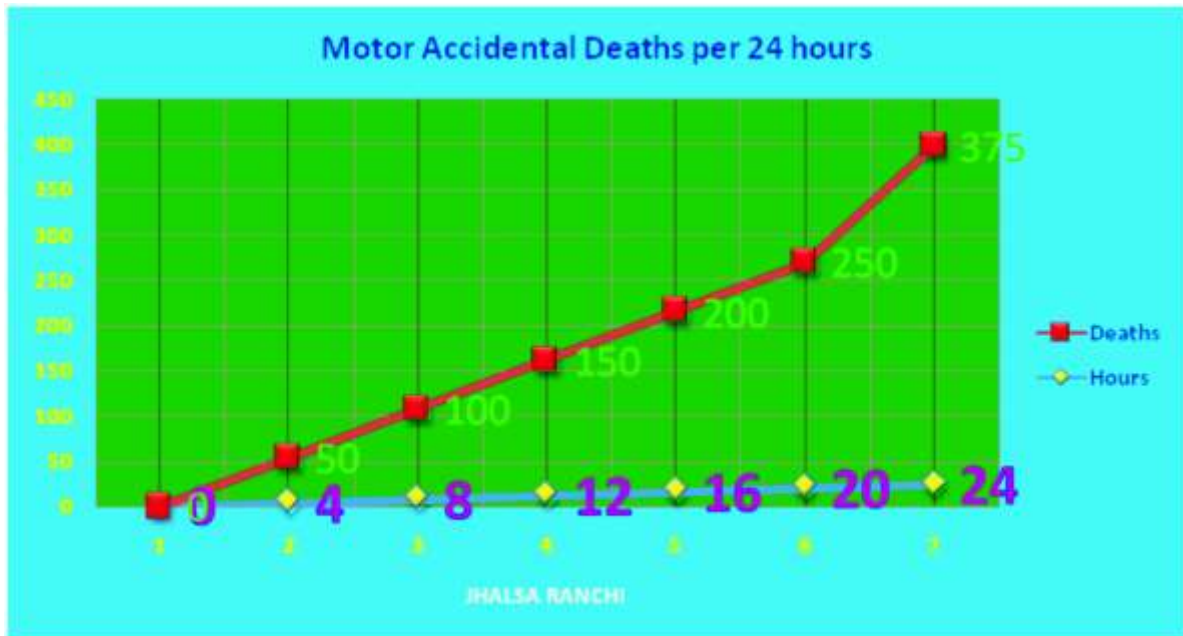
The problem is acute for most of the victims of the road accidents who are poor persons walking on the road or riding on bicycles/scooters. The victims of the road accident need the compensation immediately. The death of the sole bread-earner of the family leaving behind old and infirm parents, helpless wife, and minor children leads them to starvation. Similarly, permanent disability or an incurable injury to the sole bread earner of a family leads to equally anomalous situation. The drivers of the cars/trucks have least respect for the road users and they do not even care to stop and provide medical aid to the victims of the road accidents.

The insurance companies display little respect for the law providing for compensation to the victims of the road accidents and they wait for a case to be filed before the Motor Accidents Claims Tribunal and on receipt of summons also, no steps are taken to resolve the case and the trial goes on for years.

India has the largest number of road accidents in the world. The number of accidents in India claim more lives than in China. One lakh people die in road accidents in a year and the average number of deaths per day is more than 375, meaning thereby that more than ten persons die every hour. Motor vehicle accidents are increasing at an alarming rate.



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SECTION 158(6) MOTOR VEHICLES ACT

Section 158(6) was incorporated by an amendment in the Motor Vehicles Act in 1994 which provides that the officer in-charge of police station shall submit an (A.I.R.) Accident Information Report to the Motor Accident Claims Tribunals within 30 days of the accident and the Claims Tribunal shall treat the said report as a claim petition and conduct an inquiry into the same. This provision is not being implemented by the Jharkhand police.

ROLE OF POLICE IN MOTOR ACCIDENT CLAIM CASES

- I. Accident Information Report (AIR) Section 158(6) was incorporated in the Motor Vehicles Act in 1994 and it provides that Officer in charge of the Police Station shall send Accident Information Report (AIR) to the Claims Tribunal within 30 days of the recording of the FIR and a copy to the concerned Insurance Company. The object of Section 158 (6) of the Motor Vehicles Act is that the police should set the motor accident claim into motion as police is the first agency to take cognizance of the accident and it has the entire material required for initiating the proceedings for compensation.
2. On 28 October, 1996, a Public Interest Litigation titled **All India Lawyers Union v. GNCTD** was filed before Delhi High Court regarding non-compliance of Section 158(6) of the Motor Vehicles Act, 1988, in which notice was issued to the Delhi Police on 17 October, 1997 in reply to which Delhi Police submitted an affidavit before the Court that *the SHOs were not aware of the latest amendment of the Motor Vehicles Act and, therefore, the said provision was not complied with.* It was further submitted that the instructions were issued to all concerned to strictly comply with **Section 158(6)** of the Motor Vehicles Act, 1988. The writ petition was disposed of on 16 March, 1998 upon assurance of the Delhi Police that they shall strictly comply with the said provision.
3. Despite the aforesaid assurance of the Police and order dated, Section 158(6) was not



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complied with by the Delhi Police. Two more Public Interest Litigations were filed in Delhi High Court, namely, **All India Lawyers Union v. Union of India – C.W.P.Nos.4614/1996 and All India Lawyers Union v. Govt. of National- Capital Territory Of Delhi C.W.P. Nos. 506/1999**. An affidavit dated 6 September, 1999 was filed by DCP(HQ) of Delhi Police in CWP No.506/1999 in which it was stated that the reports regarding accident cases were being sent to concerned Claims Tribunals whereupon the Tribunals were directed to furnish the requisite information and it was noticed that the police was only sending the copies of FIRs but no reports under Section 158(6) of the Motor Vehicles Act, 1988. The High Court disposed of both the writ petitions by a common order dated 12 April, 2001 again directing the police to strictly comply with the requirements of the statutory provisions.

4. The non-compliance of Section 158(6) of the Motor Vehicles Act, 1988 was brought to the notice of the **Hon'ble Supreme Court in the case of General Insurance Counsel v. State of Andhra Pradesh**. Vide judgment dated 9 July, 2007 the Hon'ble Supreme Court directed all the State Governments and Union Territories to instruct all concerned police officers to comply with the requirements of Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules. It was further directed that periodical checking be done by the concerned Inspector General of Police to ensure that the requirements are being complied and appropriate action be taken in cases of non-compliance.

Directions of Hon'ble Supreme Court to Director Generals of Police of all States in respect of AIR

In **Jai Prakash v. National Insurance Company** the Hon'ble Supreme Court issued the following directions to the Director Generals of police of all states:-

Directions to Police Authorities

The Director General of Police of each State is directed to instruct all Police Stations in his State to comply with the provisions of Section 158(6) of the Act. For this purpose, the following steps will have to be taken by the Officers in charge of Police station the jurisdictional police stations:

- (i) Accident Information Report in Form No. 54 of the Central Motor Vehicle Rules, 1989 ('AIR' for short) shall be submitted by the police (Station House Officer) to the jurisdictional Motor Vehicle Claims Tribunal, within 30 days of the registration of the FIR. In addition to the particulars required to be furnished in Form No. 54; the police should also collect and furnish the following additional particulars in the AIR to the Tribunal: (i) The age of the victims at the time of accident; (ii) The income of the victim; (iii) The names and ages of the dependent family members.
- (ii) The AIR shall be accompanied by the attested copies of the FIR, site sketch/mahazar/photographs of the place of occurrence, driving licence of the driver, Insurance policy (and if necessary, fitness certificate) of the vehicle and post-mortem report (in case of death) or the Injury/Wound certificate (in the case of injuries). The names/addresses of injured or dependant family members of the deceased should also be furnished to the Tribunal.
- (iii) Simultaneously, copy of the AIR with annexures thereto shall be furnished to the concerned insurance company to enable the Insurer to process the claim.



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- (iv) The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim (in case of death) and the driver, owner and insurer. If so directed by the Tribunal, the police may secure their presence on the first date of hearing.

Procedure for Investigation of Motor Accident Cases by Police

The procedure for investigation of motor accident claim cases by the police under Section 158(6) of the Motor Vehicles Act read with the Delhi Motor Accidents Claims Tribunal Rules, 2008 in terms of the aforesaid directions issued by the Hon'ble Supreme Court and the High Court was summarized by Delhi High Court in **Mayur Arora v. Amit** as under:-

1. Immediately upon the receipt of the intimation of the accident, the Investigating Officer of the police shall inspect the spot of accident, prepare a site plan and also take photographs of the accident spot. The Investigating Officer shall also conduct spot inquiry by examining the eye-witnesses/bystanders.
2. The Investigating Officer shall intimate the accident to Accident Claims Tribunal within 48 hours of the accident.
3. If the particulars of insurance are available, the intimation of the accident shall also be given to the concerned Insurance Company of the offending vehicle.
4. The particulars of the accident shall also be uploaded on the website of Delhi Police.
5. Immediately upon receipt of intimation, the Insurance Company shall appoint a Designated Officer for each case. The Designated Officer shall be responsible for dealing/processing of that case and for taking decision for the amount of compensation payable in accordance with law after the Accident Information Report by the police.
6. The Investigating Officer shall collect the relevant evidence relating to the accident as well as computation of compensation.
7. The Investigating Officer shall file the Accident Information Report with the Claims Tribunal within 30 days of the accident with copy to the Insurance Company and the claimant.
8. The Accident Information Report shall be accompanied by certified copies of the FIR, site plan, photographs, registration cover, driving licence, Insurance policy, permit, MLC, post-mortem report, challan and the documents relating to the proof of age, occupation, income and the number of legal representatives and their age in death case and proof of injuries and expenditure incurred by the insured in injury cases.
9. Where the Investigating Officer is unable to complete the investigation of the case within 30 days for reasons beyond his control, such as cases of hit and run accidents, cases where the parties reside outside the jurisdiction of the Court cases, where the driving licence is issued outside the jurisdiction of the Court, or where the victim has suffered grievous injuries and is undergoing treatment, the Investigating Officer shall approach the Claims Tribunal for extension of time whereupon the Claims Tribunal shall suitably extend the time in the facts of each case.
10. The Investigating Officer shall produce the driver, owner, claimant and eye-witnesses before the Claims Tribunals along with the Accident Information Report. However, if the Police is unable to produce the owner, driver, claimant and eye-witnesses before the Claims Tribunal on the first date of hearing for reasons beyond its control, the Claims Tribunal shall issue notice to them to be served through the Investigating Officer for a date for appearance not



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later than 30 days. The Investigating Officer shall give an advance notice to the concerned Insurance Company about the date of filing of the Accident Information Report before the Claims Tribunal so that the nominated counsel for the Insurance Company can remain present on the first date of hearing before the Claims Tribunal.

11. The police shall follow the Manual prepared by them for investigation of motor accident claim cases and filed in the case of *Rajesh Tyagi v. Jaibir Singh*.
12. The Investigating Officer shall also comply with the directions given by this Court in *Rajesh Tyagi v. Jaibir Singh* and *Abdul Subhan v. State (NCT of Delhi)*. The checklist prepared by the police shall be attached to the Accident Information Report.

Prosecution of Owner/Driver of Uninsured Vehicles

1. The Hon'ble Supreme Court in the case of *Jai Prakash v. National Insurance Company* has issued following directions for Prosecution of Owner/Driver of Uninsured Vehicles Section 196 of the Act provides that whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 196 shall be punishable with imprisonment which may be extended to three months, or with fine which may extend to ` 1000/-, or with both. Though the statute requires prosecution of the driver and owner of uninsured vehicles, this is seldom done. Thereby a valuable deterrent is ignored. We therefore direct the Director Generals to issue instructions to prosecute drivers and owners of uninsured vehicles under Section 196 of the Act.
2. Delhi Police has not been prosecuting the owners and drivers of uninsured vehicles under Section 196 of the Motor Vehicles Act. The Delhi High Court issued Show Cause Notice to the Commissioner of Police on 19th August, 2009 in *Rajiv Dhawan v. Phirtuin* pursuant to which the Delhi Police has issued a Standing Order No.157/2009 for adding Section 196 of the Motor Vehicles Act in all pending investigations and for filing of supplementary challans in the cases pending trial in respect of uninsured vehicles.

Prosecution of Holders/Forgers of Fake Driving Licences

There are large number cases relating to fake driving licences and no action is taken against the fake driving licence holders as well as persons who fabricate/forged fake driving licences. Forging and holding a fake driving is a serious offence and the person holding a fake driving licence is a danger to the society inasmuch as he is not legally entitled to drive the motor vehicle and may not be knowing driving at all or his driving licence may have been suspended for involvement in some accident. The Persons holding fake driving licence are liable to be prosecuted under law. The fake driving licence holders should not be permitted to drive on the road.

Directions of Hon'ble Supreme Court

In the case of *Jai Prakash v. National Insurance Company*, the Hon'ble Supreme Court has issued following directions in this regard:

Whenever the insurance companies find that the driver of the insured vehicle possessed fake/forged driving license, they should lodge a complaint with the concerned police for prosecution. This will reduce the incidence of fake licences and increase the road travel safety.

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ROLE OF MOTOR ACCIDENT CLAIMS TRIBUNALS

Cognizance of Accident Information Report by MACT

Section 166 (4) was incorporated in the Motor Vehicles Act in 1994 and it provides that the Claims Tribunal shall treat the Accident Information Report (AIR) under Section 158(6) as a claim petition.

The object of Section 166(4) of the Motor Vehicles Act is that poor and helpless victims of the road accidents being ignorant of their rights, the cognizance of the claim for compensation be taken by the Claims Tribunal directly on the basis of the Accident Information Report of the police without the requirement of a separate claim petition by the claimant.

Directions of Hon'ble Supreme Court to the High Courts with respect to filing of AIR

In **Jai Prakash v. National Insurance Company** the Hon'ble Supreme Court has issued following directions to the Claims Tribunals:-

Directions to the Claims Tribunals

The Registrar General of each High Court is directed to instruct all Claims Tribunals in his State to register the reports of accidents received under section 158(6) of the Act 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 Registrar General shall ensure that necessary Registers, forms and other support is extended to the Tribunal to give effect to Section 166(4) of the Act.

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 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 categorise the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.



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- (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**.
- (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.

The Delhi High Court has given following directions to the Motor Accident Claims Tribunals on 8th June, 2009 in **Rajesh Tyagi v. Jaibir Singh** for enforcement of Section 166(4) of the Motor Vehicles Act:-

- (i) Maintenance of a register for recording of the FIR to be received daily from the police stations. The Accident Information Report and private claim petition filed in respect of an FIR be marked in this register.
- (ii) Maintenance of a separate institution register for registering the AIR as miscellaneous application.
- (iii) Listing of AIR on the judicial side and issuance of notice to the claimant, owner, driver and Insurance Company.
- (iv) Notice to the claimant, owner, and driver be served through the Investigating Officer.
- (v) Notice of Insurance Company be served through the nominated counsel of each company.
- (vi) AIR be listed as a separate category in the cause list as miscellaneous application.
- (vii) After appearance of the claimant, the AIR be registered as a claim petition.
- (viii) If the claimant has filed a separate claim petition, the AIR be tagged with the claim petition.

Inquiry to be Conducted by MACT

Section 168 of the Motor Vehicles Act provides that the Tribunal shall hold an inquiry into the



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claim. Section 169 provides that the Claims Tribunals shall follow such summary procedure as it thinks fit. However, it has been noticed that the Tribunals have been conducting a normal civil trial instead of an inquiry due to which the disposal of the claim petition was getting unduly delayed.

Scope of Inquiry

In **Mayur Arora v. Amit** the Delhi High Court held as under on the scope of inquiry:-

The inquiry contemplated under Section 168 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. Most of the victims of the road accident belong to the lowest strata of the society and, therefore, duty has been cast upon the police to report the accident to the Claims Tribunal and the Claims Tribunal is required by law to treat the Accident Information Report filed by Police as a claim petition. 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.

Nature of Enquiry

With respect to the nature of inquiry, the High Court accepted the following principles to be applicable to the inquiry under Sections 168 and 169 of the Motor Vehicles Act, 1988:-

1. On a fair reading of the statute, the wide power given to the Tribunal, the absence of 'onus' upon the claimant, the general position of the claimants and their where with a with the social obligation of the welfare State, all indicate that the procedure of the Claims Tribunal has to be Inquisitorial though keeping in view that most other procedures in the country are Adversarial, it would be proper to conceive and put in practice something which is a mix of the two.
2. To explain the difference, the Claims Tribunal would not be simply passive, give both the parties sufficient opportunity to adduce evidence, and at the end of the 'trial' announce who has won. At the same time, he will not assume the role of investigator and of the prosecutor apart from being the Judge in the Inquisitorial system.
3. Even in the pure Adversarial system (where, in the past, the Judge remained passive and even in civil and criminal litigation), there has been a slow and steady move towards more active participation of the Judge. There have been two factors. The first is to do greater justice by removing imbalance between the two parties (and their lawyers); and the second is to more efficiently manage the cases and bring about efficiency
4. The proceedings before the Claims Tribunal are more of an Inquiry rather than an Adversarial trial. In other words, it is not that the claimant has to allege everything which the insurance can (without bothering to ascertain the facts) deny and then the Court expects proof of one and every allegation made in the claim petition.
5. Keeping in view the wording of the statute, the use of the phrase 'hold an inquiry' as also



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- particularly the absence of the word 'trial' and; the larger purpose of the statute as demonstrated by the Statement of Objects and Reasons; observation into what has gone on; the type of the claimants; the type of the issues; and the need to bring about efficiency, procedure as are tailored to the subject has to be evolved by the Claims Tribunal.
6. The nature of the claims before the Claims Tribunal do not vary as widely as they do before a Civil Court, and there is an element of stereotype in them.
 7. The facts which are to be ascertained are usually known and it is to be found out whether those facts exist or do not exist. It is only in that sense that an Inquiry is to be carried out.
 8. Most of these facts are such which are to be proved by documents, generally as copies of records. If these are listed and summoned so that they are before the Claims Tribunal, it can make a world of a difference.
 9. There is a distinction between proof of a document and what the document proves. Some of the documents can be taken at their face value. In fact, the onus is reversed so that the evidence in proof can be asked only if there is specific denial. The photocopies of documents or entries from the Transport Department can be presumed as correct leaving the onus to disprove on one who disputes it. Every document produced does not require a proof as if it were an unregistered Will leaving a large estate to an outsider.
 10. If an allegation is denied, the respondent must state his reasons for the denial and if necessary, put forward his own version of events. Subject to certain exceptions, the general rule is that if a defendant fails to deal with an allegation, it is to be taken as an admission.
 11. If following this procedure which is generally collection of documents, a case appears to be one which can be disposed of at the first hearing, it should be so disposed of. There can, however, be cases where there is need for further inquiry. But that will have to depend upon whether a sufficient defence has been raised.
 12. If the case needs further inquiry, the Court may frame issues. Issues help as a sign post to how the matter has to be proceeded with. They are signposts of topics (facts). However, before the issues, if a prefatory note on the facts which are not in dispute or not sufficiently in dispute or facts that can be taken judicial notice of, is made, the controversy stands narrowed down, the issues are more accurately framed and serve a greater purpose.
 13. The present practice of framing the issues in a wide form calls for a change. Instead, what the Claims Tribunals as a part of 'following such procedures as it thinks fit' should do is to first go through the file and identify: (i) the chain of material facts and events (most of which are ordinarily not disputed); (ii) the scope of defences that are permissible; (iii) the factual questions that survive for decision; (iv) the missing links, and (v) the points of law which will need application to the facts and determination. After putting down a page or two of written material to depict the aforesaid, and also narrow down the controversy, frame pointed issues which bring out the factual and legal questions. The onus of the sub-issues has to be more correctly placed. The defence expected has to be not a mere denial but a positive one after the Respondents have investigated. The scope of the issues when framed could be narrow and not wide.
 14. It is not always that if issues have been framed, further evidence is required. The matter can be disposed of after hearing the arguments based on the material on record or some evidence on a specific point may be called for. In any inquiry, there is also a duty of the Court to see that



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the evidence which could have been brought is brought so that justice is done. A template for a judgment keeping in view the various types of cases that come, can be developed by Claims Tribunal in consultation with each other and then slowly perfected over time.

15. For these issues, a form which is more of a checklist can be developed and the Claims Tribunal can simply correlate the claim, the response and the material on record and then come to a conclusion whether any issue arises or is to be treated as an admitted fact or what could the pointed issue that is to be framed.
16. These principles may be kept in mind by the Claims Tribunals while dealing with the motor accident claim cases.

Summary of Procedures of MACT

In **Mayur Arora v. Amit** the Delhi High Court summarized the procedure of MACT as under:-

1. The Claims Tribunals shall examine whether the Accident Information Report is complete in all respects and shall pass appropriate order in this regard. If the Accident Information Report is not complete in any particular respect, the Claims Tribunal shall direct the Investigating Officer to complete the same and shall fix a date for the said completion.
2. The Claims Tribunals shall treat the Accident Information Report filed by the Investigating Officer as a claim petition under Section 166(4) of the Motor Vehicles Act. However, where the Police is unable to produce the claimants on the first date of hearing, the Claims Tribunal shall initially register the Accident Information Report as a miscellaneous application which shall be registered as a main claim petition after the appearance of the claimants.
3. The Claims Tribunal shall list the miscellaneous Accident Information Report (AIR) for preliminary hearing to enable the police to notify such date to the victim/family of the victim, owner, driver and insurer of the vehicle involved in the accident.
4. After the appearance of the claimants, the miscellaneous petition shall be converted and registered as a claim petition. Where the claimant(s) have filed a separate claim petition, the AIR shall be tagged to the claim petition. If no independent claim has been preferred, the Claims Tribunal shall call upon the claimant to submit statement of facts regarding compensation in Form 'G' along with documents mentioned in Rule 8 of the Rules.
5. The Claims Tribunal shall also inquire and satisfy itself that the AIR relates to real accident and that is not the result of any collusion/fabrication.
6. The notice to the claimant, owner, driver and eye-witness shall be served through the Investigating Officer of the police. The notice to the Insurance Company shall be served through the nominated counsel of each company.
7. The Claims Tribunal may examine the claimant on oath to elucidate the material information (Rule 10).
8. The Claims Tribunal may visit the site of the accident for local investigation but in such event, must prepare a brief memorandum of facts observed, making it part of the record (Rule 15).
9. The Claims Tribunal may require production of the vehicle involved in the accident for inspection (Rule 16)
10. The Claims Tribunal may summarily examine the Investigating Officer of the police, the eye-



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- witness or 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 whether any or all of the parties are present or not. The notice to the eyewitness be sent through the police (Rule 17).
11. The Claims Tribunal may direct the Medical Officer or the Board of Medical Officers to examine the injured and give opinion indicating the degree and extent of disability, if any suffered within 15 days of receipt of direction (Rule 18).
 12. The Claims Tribunal shall obtain supplementary information and documents, which may be found necessary from the police, medical and other authorities (Rule 25).
 13. If the Claims Tribunal finds that the claim petition cannot be disposed of at one hearing, it shall record the reasons which necessitate the adjournment (Rule 29).
 14. The designated officer of the Insurance company appointed within 10 days of receipt of intimation of the claim, shall take a reasoned decision with respect to the compensation payable in accordance with law to the claimant within 30 days of the receipt of the Accident Information Report and shall submit the same with the Claims Tribunal.
 15. If there is no defence under Section 149 of the Motor Vehicles Act, 1998, the Claims Tribunal may direct the Insurance companies to deposit the admitted amount according to their computation with the Claims Tribunal following the principles of Order XII Rule 6 of the Code of Civil Procedure. The Tribunal shall by a summary inquiry ascertain the dependent family members/legal heirs. The jurisdictional police shall also enquire and submit the names of the dependent legal heirs.
 16. With respect to the pending cases relating to Motor Accident Claims, all the Insurance Companies shall appoint a designated competent officer responsible for processing of each case within 10 days and such officer shall process the claim within 30 days and pass a reasoned decision/order in writing about the amount payable in accordance with law. The decision of the designated officer along with the report of the Investigator shall be filed before the learned Tribunal within 20 days of the date of the decision of the designated officer.
 17. The Tribunal shall categorize the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability. 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 inquiry 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. Where the insurer disputes the liability, the Claims Tribunal shall frame the issues.
 18. Where the Insurance Company has computed the compensation in accordance with law without any delay, has deposited the admitted amount and has contested the case only with respect to the disputed amount or has bonafide defence, the interest should be awarded according to bank rates. However, where the Insurance Company has failed to discharge its obligations or acted capriciously or arbitrarily or negligent exercise or non-exercise of power, which has resulted in harassment and mental suffering to the claimant, the Claims Tribunal may consider awarding higher interest in terms of the judgment of the Apex Court in the case of **Ghaziabad Development Authority v. Balbir Singh**.
 19. Wherever the lawyer client agreement is filed before or at the time of final hearing of the case, the cost equivalent to the reasonable fee may be awarded and the Insurance Companies be



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directed to deposit the said cost by means of a separate cheque in the name of the claimant's counsel to be deposited with the Bank along with the award amount to be released by the Bank directly to the counsel.

20. The aforesaid observations are without prejudice to the discretion of every Tribunal to follow such summary procedure as it deems fit as provided under Section 169 of the Act.
21. Where the vehicle is not insured, the Claims Tribunal shall ensure that the police has prosecuted the owner/driver of the offending vehicle under Section 196 of the Motor Vehicles Act by calling report from the Police. The Claims Tribunal shall also call for a report from concerned Metropolitan Magistrate to find out whether the owner of the offending vehicle has given security for satisfaction of the award or the vehicle has been sold in terms of Rule 6 of Delhi Motor Accidents Claims Tribunal Rules, 2008. The Claims Tribunal may also direct the owner and driver of the offending vehicle to furnish their affidavit of assets and income in Form-16A, Appendix-E under Order XXI Rule 41(2) of the Code of Civil Procedure and sufficient security under Order XXXVIII Rule 2 of the Code of Civil Procedure.
22. While conducting the inquiry, the Claims Tribunal must be on guard against fanciful or false claims. The victims may deserve sympathy, but the matter has to be approached and decided according to law. Incidence of exaggerated or false claims has to be deftly dealt with. In appropriate cases, the Claims Tribunal should not hesitate to lodge a complaint under Section 340 Cr.P.C. Similarly, the Insurance Company which puts forward an evasive or irresponsible defence is liable to be burdened with costs, but where the defence is found to be false, similar action ought to be taken against them. In order to ensure efficiency of procedures and accuracy of the result (determination of the amount), purity in the information received by the Claims Tribunal and veracity of the documents that are placed before the Tribunal, whatever be the source must be brought about.

Protection of Award Amount

Most of the victims of the road accident are from the lowest strata of the society and sole breadwinners 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. There is no uniform system for passing directions of fixed deposit and even the direction for fixed deposit varies from 3 to 10 years and it is not clear what happens to the money thereafter.





DIRECTIONS OF HON'BLE SUPREME COURT WITH REGARD TO PROTECTION AND DISBURSEMENT OF AWARD AMOUNT

The Hon'ble Supreme Court in the case of **Jai Prakash v. National Insurance Company** approved the scheme formulated at the instance of Delhi High Court and observed as under:

To protect and preserve the compensation amount awarded to the families of the deceased victim special schemes may be considered by the insurance companies in consultation with the Life Insurance Corporation of India, State Bank of India or any other Nationalized Banks. One proposal is for formulation of a scheme in consultation with Nationalized Banks under which the compensation is kept in fixed deposit for an appropriate period and interest is paid by the Bank monthly to the claimants without any need for claimants having to approach either the court or their counsel or the Bank for that purpose. The scheme should ensure that the amount of compensation is utilized only for the benefit of the injured claimants or in case of death, for the benefit of the dependent family. We extract below the particulars of a special Scheme offered by a nationalized Bank at the instance of the Delhi High Court:

- (i) The fixed deposit shall be automatically renewed till the period prescribed by the Court.
- (ii) The interest on the fixed deposit shall be paid monthly.
- (iii) The monthly interest shall be credited automatically in the saving account of the claimant.
- (iv) Original fixed deposit receipt shall be retained by the Bank in safe custody.

However, the original passbook shall be given to the claimant along with the photocopy of the FDR.

- (v) The original fixed deposit receipt shall be handed over to the claimant at the end of the fixed deposit period.
- (vi) Photo identity card shall be issued to the claimant and the withdrawal shall be permitted only after due verification by the Bank of the identity card of the claimant.
- (vii) No cheque book shall be issued to the claimant without permission of the court.
- (viii) No loan, advance or withdrawal shall be allowed on the fixed deposit without permission of the court.
- (ix) The claimant can operate the saving bank account from the nearest branch of UCO Bank and on the request of the claimant, the bank shall provide the said facility.

The Insurance companies may also consider offering an annuity instead of lump sum compensation. They may prepare an annuity scheme with the involvement of Life Insurance Corporation of India or its own actuaries, under which they can pay a monthly annuity to the widow (for life) and to minor children (till they attain majority) and in addition a lump sum at the end of 20 or 25 years to the widow. The benefit such annuity scheme may also be extended to victims who are permanently disabled in accidents. Once such schemes are in place, the victims and the Tribunal will have some choice in the manner of payment of compensation.



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Disbursement of award amount in phased manner

1. In *New India Assurance Co. Ltd. v. Ganga Devi*,³⁵ it was pointed out by the learned counsel for the claimants that the Claims Tribunals were passing directions for releasing part of the award amount and the remaining amount was kept in fixed deposit for a long period due to which the claimants are unable to meet their exigencies and have to approach the Tribunal again and again for release of the award amount. It was suggested by learned counsel for the claimants that a direction be given to the Claims Tribunal to keep the amount in fixed deposit in such a manner that the claimants get the award amount in a phased manner which will take care of their exigencies such as illness, marriage of children, education, etc. Vide order dated 20th January, 2010, the High Court directed that the Claims Tribunal to consider keeping the award amount in fixed deposit in a phased manner depending upon the financial status and financial needs of the claimants. For example, if a sum of ₹ 5,50,000/- has been awarded to the claimants, ₹ 50,000/- may be released immediately and the remaining amount of ₹ 5,00,000/- may be kept in 10 fixed deposits of ₹ 50,000/- each for a period of six months, one year, one and a half years, two years and so on till five years or one year, two years, three years and so on till ten years. If the family of the claimants have school/college going children, the maturity period of the fixed deposit receipts be kept preferably in the month of 'March' every year so that the family is able to meet the annual expenses towards the admission and tuition fee of the children.
2. In *United India Insurance Co. Ltd v. Ram Kishan* vide order dated 21st April, 2010, the Delhi High Court has directed that since the FDRs have to be retained by the Bank, Bank need not prepare the FDRs. Instead, the Bank may issue the passbook of the fixed deposit account in which the fixed deposit amount as well as the interest paid are reflected and as and when the fixed deposit gets matured, the maturity amount should automatically be credited in the Saving Bank Account of the beneficiary. This will save the botheration of the bank to prepare the FDRs and it shall also save the botheration of the beneficiary to approach the bank again and again for discharge of the FDR. The effect of this modification would be that the bank will issue two passbooks to the beneficiary, one in respect of the Saving Bank Account in which the monthly interest and the maturity amount of the fixed deposit would be credited and the other in respect of fixed deposit account.

Deposit of Award Amount and Interest

Order XXI Rule 1(a) and (2) of the Code of Civil Procedure provides that the judgment debtor shall give notice of deposit of the award amount to the decree-holder either through Court or directly to the decree-holder. Order XXI Rule 1(4) of the Code of Civil Procedure provides that the interest shall cease to run from the date of service of the notice referred to in Sub-Rule (2).

Notice of deposit of award amount and compliance

In *Sobat Singh v. Ramesh Chandra Gupta*, it was noticed by Delhi High Court that neither the Insurance Companies give any notice of deposit to the Claimants nor the Claims Tribunal give notice of deposit to the claimants as a result of which the claimants do not get the payment on time and due to delay, the Insurance companies use the money of the claimants without making payment of interest. It was also noticed by the High Court that the Claims Tribunals and the Insurance

Companies do not follow the directions given by Delhi High Court in the case of *New India Assurance Company Ltd. v. Kashmiri Lal. In Sarmaniya Bai v. Madhya Pradesh Rajya Parivahan Nigam* the Full Bench of Madhya Pradesh High Court held that the Claims Tribunal



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possess inherent jurisdiction to enforce its own award in accordance with the provisions of the Motor Vehicles Act and also according to the provisions of the Code of Civil Procedure as applicable to execution of orders and decree passed by a Civil Court. In *Rajasthan State Road Transport Corporation, Jaipur v. Smt. Poonam Pahwa* the Hon'ble Supreme Court held that Order XXI Rule 1 of the Code of Civil Procedure is applicable to motor accident claim cases and in the event of failure to give intimation of deposit, the judgment debtor would be liable to pay interest under Order XXI Rule 1(2) of the Code of Civil Procedure. On 23rd February, 2010, the High Court passed the following directions:-

1. Before or at the time of passing of the award, the Claims Tribunals shall examine the claimants to ascertain their financial condition and needs and shall pass an order with regard to their share, mode of disbursement, amount to be kept in fixed deposit and period of fixed deposit according to the financial condition of the claimants. (It has been noticed that, in many cases, the Tribunals have been passing the standard orders of disbursement and fixed deposits without examining the financial condition and needs of the claimants and the poor victims are left at the mercy of either accepting the order or again engaging the counsel to approach the Court for modification).
2. At the time of examining the Claimants, the Claims Tribunals shall also ascertain the complete address of the claimants as well as their counsel. In the award, the Claims Tribunals shall specifically direct the Insurance company and/or the owner/driver, as the case may be, to deposit the award amount with the Tribunal and/or the Bank along with the interest up-to the date of notice of deposit to the claimants with a copy to their counsel. The names and addresses of the claimants and their counsel for issuance of notice of deposit be mentioned in the award.
3. If the award amount has been directed to be deposited by the Insurance Company with the bank, copy of the award be sent to the Nodal Officer of the Bank along with the Court stamped copy of the photographs and signatures of the claimants.

The photographs and signatures of the claimants be taken at the time of examining them before or at the time of passing the award. Two sets of photographs and signatures should be taken, out of which one set should be sent to the Nodal Officer of the Bank along with the copy of the award and the second set should be retained in the Court record for future reference and/or any irregularity being pointed out. (The forwarding of the Court stamped photographs and the signatures of the claimants would ensure that no attempt is made to defraud the system). If possible, the proof of residence and the details of the Bank Account should also be collected from the claimant at the time of examining them and one stamped set of the same should also be forwarded to the Bank and the second set be retained in the Court record.

4. The Claims Tribunal shall fix a date for reporting compliance in the award itself.
The Claims Tribunals shall also direct the Insurance Company and/or driver or owner to place on record the proof of deposit of the award amount, the notice of deposit and the calculation of interest on the date fixed. Upon such proof being filed, the Claims Tribunal shall ensure that the interest up to date of notice of deposit has been deposited by all concerned.
5. If the award amount is not deposited within the time provided in the award, the Claims Tribunals shall proceed to recover/execute the award in terms of the directions of this Court in the case of **New India Assurance Company Ltd. VKashmiri Lal** which are as under:-



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- (a) While filing the written statement, the concerned insurance company is required to furnish details of its Bank account and the Bank to the Court. In case a written statement has already been filed in an existing claim, all insurance companies are required to furnish the name of the concerned Bank and their account numbers within 3 months from today.
- (b) Within a period of 30 days of the award, which is the period prescribed for depositing the amount under Section 168(3) of the Act to the High Court, the insurance company is required to tender the payment awarded by the MACT by issuing cheques in the name of the claimant(s) unless and until a stay order has been obtained from the High Court. The names of the claimants who are to be paid the amounts along with the amount payable is required to be stated in the award.
- (c) If after the expiry of 90 days which is the prescribed period for preferring an appeal under Section 173(1) of the Act, payment of the amount awarded by the MACT has not been made, notice must be issued to the Bank named by the Insurance Company directing such Bank to deposit the cheque drawn in the name of the claimant/claimants legally entitled as per the award covering the amount(s) as per the MACT award within a week of receipt of such orders and cheques should be retained for being given to the claimant.
- (d) Once the amount is deposited by cheque as per the aforesaid procedure the MACT is required to ensure that within a period of six weeks thereafter the amount is disbursed to the claimants under the supervision of the Presiding Officer by issuing the said cheque to the claimant so that the claimants are not put to undue harassment.
- (e) In case for some reason it is not possible to make the payment to the claimant within six months of the issue of the cheques in the name of the claimant, then the MACT should ensure that such cheques are returned to the Insurance Companies in lieu of fresh cheques drawn in favour of the appropriate account of the MACT which are required to be deposited in an interest bearing short term fixed deposit for a six monthly period by the MACT.
- (f) In case the MACT has to resort to the procedure prescribed under sub para (c) above which requires it to secure the amount through the banks upon a failure of the insurance company to deposit the amount within the time stipulated by Section 168(3) and the above procedure, cost of ` 5000/- payable to the claimant is required to be imposed on the Insurance Companies.
- (g) If directions given by the MACT to the Banks are not complied with, the MACT may order freezing of Bank Accounts to the extent covered by the award.
6. In all pending execution cases, the Claims Tribunals shall follow the directions of this Court in ***New India Assurance Company Ltd. v. Kashmiri Lal***. The Claims Tribunals shall direct all the Insurance Companies to provide the name of Banker and their Account number within ten days.
7. In respect of pending cheques, the Claims Tribunal shall forthwith issue the notice of deposit to the claimants as well as their counsels.
8. In respect of the expired cheques, the Claims Tribunal shall also forthwith issue notice to the Insurance Companies with direction to deposit fresh cheques within 30days.



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Directions with regard to maintenance of records by Nazirs

The record of all the awards passed by the Claims Tribunals shall be maintained by the Nazirs in chronological order according to the date of the award in such a manner that it is easy for the Naziras well as the enquiring litigants/lawyers to ascertain whether the payment of their award has been received or not. The following can be considered as a format:-

- a) Date of award
- b) Case number
- c) Title of the case
- d) Award amount³
- e) Date of deposit of the award amount
- f) Date of notice of deposit by the depositor
- g) Date of notice of deposit by the Tribunal
- h) Amount of interest up to date of notice of deposit
- i) Whether award amount and complete interest deposited
- j) Balance outstanding interest
- K) Remarks (Action taken to recover the balance interest)\

Power of MACT to Put Questions or Order Production

1. Section 165 of the Indian Evidence Act, 1872 empowers the Judge to ask any question, in any form, at any time, of any witness or of parties, about any fact, relevant or irrelevant and may order production of any document or thing. The object of Section 165 of the Indian Evidence Act is that the Judge is not merely to listen to the evidence put before him but to inquire to the utmost into the truth of the matter and question witnesses on points which the lawyers for the parties have either over looked or left obscure or wilfully avoided.
2. Section 165 of the Indian Evidence Act is reproduced hereunder:-

SECTION 165. JUDGE'S POWER TO PUT QUESTIONS OR ORDER PRODUCTION

The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved: Provided also that this Section shall not authorize any Judge to compel any witness to answer any question or produce any document which such witness would be entitled to refuse to answer or produce under Sections 121 to 131, both inclusive, if the questions were asked or the documents were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under Section 48 or 149; nor shall he dispense with primary evidence of any document, except in the cases herein before excepted.



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Directions of Hon'ble Supreme Court

In ***Jai Prakash v. National Insurance Company*** the Hon'ble Supreme Court held that 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.

Judgment of Delhi High Court with regard to powers of MACT to put questions.

In ***Somari Devi v. Ragwar Singh***, the Delhi High Court has laid down the scope of Section 165 of the Indian Evidence Act. This judgment shall help in expeditious disposal of the cases. By examining the parties and the witnesses, the Judge can reach the truth and cut short the delay. The relevant findings of Delhi High Court are reproduced hereunder:-

This section invests the Judge with plenary powers to put any question to any witness or party; in any form, at any time, about any fact relevant or irrelevant. Section 165 is intended to arm the Judge with the most extensive power possible for the purpose of getting at the truth. The effect of this section is that in order to get to the bottom of the matter before it, the Court will be able to look at and inquire into every fact whatever and thus possibly acquire valuable indicative evidence which may lead to other evidence strictly relevant and admissible. The Court is not, however, permitted to found its judgment on any but relevant statements.

A Judge, who at the trial merely sits and records evidence without caring so to conduct the examination of the witnesses that every point is brought out, is not fulfilling his duty.

Mr. Edmund Burke arguing in Warren Hastings Trial said that it is the duty of the Judge to receive every offer of evidence, apparently material, suggested to him, though the parties themselves through negligence, ignorance, or corrupt collusion, could not bring it forward. He has a duty of his own, independent of them, and that duty is to investigate the truth. If no prosecutor appears, the Court is obliged through its officer, the clerk of the arraigns, to examine and cross examine every witness who presents himself; and the Judge is to see it done effectively, and to act his own part in it.

In *Bartly v. State*, 55 Nebr 294 : 75 N.W.832 Harrison, C.J., said: "It is undoubtedly necessary that the Judge who presided should acquire as full acknowledge of the facts and circumstances of the case on trial as possible, in order that he may instruct the jury, and correctly, to the extent his duty demands, shape the determination of the litigated matters, that Justice may not miscarry, but may prevail; and doubtless, it is allowable at times, and under some circumstances, for the presiding Judge to interrogate a witness."

The object of a trial is, first to ascertain truth by the light of reason, and then, do justice upon the basis of the truth and the Judge is not only justified but required to elicit a fact, wherever the interest of truth and justice would suffer, if he did not.

18. The framers of the Act, in the Report of the Select Committee published on 1st July, 1871 along with the Bill settled by them, observed as follows:-

"Passing over certain matters which are explained at length in the Bill and report, I come to two matters to which the Committee attach the greatest importance as having peculiar reference to the administration of justice in India. The first of these rules refers to the part taken by the judge in the examination of witnesses; the second, to the effect of the improper admission or rejection of evidence upon the proceedings in case of appeal.

That part of the law of evidence which relates to the manner in which witnesses are to be examined assumes the existence of a well-educated Bar, co-operating with the Judge and relieving



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him practically of every other duty than that of deciding questions which may arise between them. I need hardly say that this state of things does not exist in India, and that it would be a great mistake to legislate as if it did. In a great number of cases probably the vast numerical majority the Judge has to conduct the whole trial himself. In all cases, he has to represent the interests of the public much more distinctly than he does in England. In many cases, he has to get at the truth, or as near to it as he can by the aid of collateral inquiries, which may incidentally tend to something relevant; and it is most unlikely that he should ever wish to push an inquiry needlessly, or to go into matters not really connected with it. We have accordingly thought it right to arm Judges with a general power to ask any questions upon any facts, of any witnesses, at any stage of the proceedings, irrespectively of the rules of evidence binding on the parties and their agents, and we have inserted in the Bill a distinct declaration that it is the duty of the Judge, especially in criminal cases, not merely to listen to the evidence put before him but to inquire to the utmost into the truth of the matter.”

The Judge contemplated by Section 165 is not a mere umpire at a wit-combat between the lawyers for the parties whose only duty is to enforce the rules of the game and declare at the end of the combat who has won and who has lost. He is expected, and indeed it is his duty, to explore all avenues open to him in order to discover the truth and to that end, question witnesses on points which the lawyers for the parties have either overlooked or left obscure or wilfully avoided.





ROLE OF INSURANCE COMPANIES IN MOTOR ACCIDENT CLAIM CASES

Direction of Hon'ble Supreme Court to Insurance Companies

The Hon'ble Supreme Court in the case of *Jai Prakash v. National Insurance Company* has given following suggestions to the insurance companies with regard to deposit of admitted amount and also cashless treatment for the victims of road accidents:-

SUGGESTIONS FOR INSURANCE COMPANIES

In cases of death, where the liability of the insurer is not disputed, the insurance companies should, without waiting for the decision of the Motor Accidents Claims Tribunal or a settlement before the Lok Adalat, endeavour to pay to the family (Legal representatives) of the deceased, and compensation as per the standard formula determined by the decisions of this Court.

In cases of injuries to any accident victim, where the liability is not disputed, their insurer should offer treatment at its cost to the injured, without waiting for an award of the Tribunal. If insurance companies can meet the bills for treatment of those who have taken a medical insurance policy, we see no reason why they should not extend a similar treatment to the accident victims of vehicles insured with them.

In countries like United Kingdom, the percentage of motor accident claims, with reference to the accidents is very low. This is because immediately after being notified of the accident, the insurer makes its own enquiries and satisfies itself about its liability and voluntarily assesses and pays the compensation to the victim. Only where the insurer denies the claim or where the victim is not satisfied with the quantum of compensation paid, the matter goes to court. There is no reason why insurance companies in India should not adopt such a procedure. In death cases, the calculation of compensation is now standardized by several decisions of this Court[for example: ***Sarla Verma v. Delhi Transport Corporation, 2009 (6) SCC 121***].

The insurers can either by relying upon the police report (AIR) or by enquiring with the family or the employer of the deceased, ascertain the three inputs required for calculation of the compensation, that is, age of the deceased, income of the deceased and number of dependent family members. With these particulars, the insurers can easily calculate the compensation and offer, either lump sum compensation or an annuity. Similarly in cases of injuries, the insurers can offer treatment in hospitals approved by it and meet the expenses or pay the bills, or if the victim has already undergone the treatment, reimburse the cost of treatment. It can also reimburse other items of special damages, the damages for pain suffering, which is also standardized in several decisions of this Court. By such voluntary payment there will be all round benefits. The insurers save interest and litigation cost and discharge their obligation to the society. The victims will be relieved from financial hardship and benefit from timely effective treatment. Burden on courts will be reduced and judicial man power can be diverted to more complex cases.

Directions of Delhi High Court to Insurance Companies

Deposit of admitted amount

In ***Rajesh Tyagi v. Jaibir Singh***, the Insurance companies have been directed to



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investigate the claim upon receipt of the AIR in terms of their Third Party Claim Procedure Manual and to submit their reply along with the copy of the investigation report and the computation of compensation according to them before the Claims Tribunals within 60 days wherever the accident, driving licence, permit, evidence and other documents relate to Delhi and 90 days where the documents relate to outside Delhi. If there is no defence under Section 149 of the Motor Vehicles Act, 1988, the Insurance Companies have been directed to deposit the admitted amount according to their

computation with their reply before the Claims Tribunal. The copy of the AIR furnished by the Police to the Insurance Company shall be sufficient notice of the institution of the claim petition before the Claims Tribunal.

Directions with respect to new cases

In order to streamline the system, Delhi High Court directed that immediately upon receipt of intimation of the claim, the Insurance Companies shall first appoint a competent designated officer who shall be responsible for processing and taking a decision in respect of that claim and the name of such officer shall be disclosed in the reply/written statement to be filed before the Claims Tribunal. The designated officer so appointed shall appoint an Investigator and after receipt of report of the Investigator, the designated officer shall take the reasoned decision in writing as to the amount payable to the claimants in accordance with law. The decision of the designated officer on the claim shall be filed along with the reply/written statement before the Claims Tribunal. If the learned Tribunal comes to the conclusion at the time of deciding the claim that the designated officer had delayed or defeated the claim, appropriate order shall be passed by the learned Tribunal in respect of the designated officer at the time of passing the award.

Directions with respect to pending cases

With respect to the pending cases relating to Motor Accident Claims in Delhi, all the Insurance Companies have been directed to appoint a designated competent officer responsible for processing of each case within 10 days and such officer shall process the claim within 30 days and pass a reasoned order in writing about the amount payable in accordance with law. The order of the designated officer along with the report of the Investigator shall be filed before the Tribunal within 20 days of the date of the order of the designated officer.

Deduction of TDS

The Insurance Companies had been deducting TDS from the interest on award amount directed to be deposited by an interim order pending final determination of the appeals. After deduction, the TDS certificate is issued in the name of the Registrar General of the Court. The claimants cannot get the refund/adjustment of the TDS deducted and they suffer loss of TDS amount to that extent.

In **National Insurance Co. Ltd. v. Kanika Saboo** Delhi High Court held that the deposit of award amount including interest with the Court under interim direction of the Court pending final determination of the appeal is only an inchoate right and, therefore, Section 194-A of the Income Tax Act does not apply and no TDS can be deducted.

Directions of other High Courts to the Insurance Companies:-

In **Ramakrishna Reddy v. Manager, HMT Ltd.** the Division Bench of Karnataka High Court held as under:-



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We may also at this stage refer to the pernicious habit of some branches of insurance companies in filing stereotyped written statements denying all and everything.

They routinely deny the insurance, then alternatively plead that even if there was an insurance, there was a breach of terms of the policy, that driver did not have a valid driving licence, and lastly there was no negligence on the part of driver of the insured vehicle. They do not bother to verify whether the insurance policy covered the risk or not and whether driver had a licence or not. We recognize that insurers are sometimes handicapped for want of full information, while giving instructions to their counsel and, therefore, the objections may be general in nature. We are also conscious that we cannot frown upon a party taking all permissible defences. But, applications for motor accident claims are not to be treated by insurers as normal private adversary litigation, where technical contentions can abound in pleadings and the sole intention is winning the *lis*. Under the policies of insurance, the insurers discharge statutory obligations towards third parties. They should do so keeping in view the object and spirit of the Act, and the position of hapless victims of motor accidents. Insurers should balance their concern to safeguard its financial interest, with their obligations as instruments of social justice, under the *Motor Vehicles Act*.

The claimants are not litigants by choice, but are constrained to approach the Tribunal, because of death of the bread-winner or injury to self, and because the owner and insurer of the vehicle involved, fail to pay the compensation. The insurer should bear in mind that the claimants are also handicapped in obtaining particulars of the insurance policy held by owner or driving licence held by the driver of the vehicle, and they solely depend upon the police for these particulars. The insurer should, therefore, verify whether there was any insurance policy or not, whether the insured was covered by insurance policy in regard to the claim or not, and whether the driver had a licence or not before filing its statement of objections and narrow down the area of controversy. If the insurers were to file 'play it safe' written statements, without verifying these aspects and mechanically denying all petition averments, the trial gets delayed and the claimants are put to misery and unjustly kept away from the direly needed compensation. It is time that insurers get rid of 'deny everything and await the award syndrome' and become responsible and responsive opponents in motor accident claims. We make it clear that the above observations are intended only for those officers of insurance companies who refuse to recognize their statutory obligations to third parties, under the insurance policies issued to the insured.

In *Ramadevsing v. Chudasma*, the Division Bench of Gujarat High Court held as under:-

So far as the funds to defend their cases are concerned, insurance company would never feel paucity of funds. They raise defences all and sundry and at times their goal is to see that the claim of the claimant, if not defeated is at least delayed. With this purpose and motive they contest the claims under the *Motor Vehicles Act*. We have not come across any case where on receipt of the notice by the claimant(s) for the claim or in service of the summons from the Claims Tribunal the insurance company, more particularly, in cases where insurance of the vehicle is not disputed, offering or making payment at least of the amount which according to it the claimants would be entitled to. We have yet to come across such gesture. The only purpose with which the insurance company depends the claim petition is to see as to how the case of the claimant is defeated and on its failure to do so, how the claim of the claimant would be reduced to a minimum and/or delayed.

Liability of the Insurance Company in Respect of Pillion Rider/Occupants in Two-Wheeler/Private Car.

1. A comprehensive/package insurance policy covers the occupants in a private car and a pillion rider on a two-wheeler and there is a specific clause in the insurance policies in this



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regard. Tariff Advisory Committee (TAC) and Insurance Regulatory and

Development Authority (IRDA) are the statutory authorities to regulate the tariff and terms and conditions of the insurance policies and there are directions of both these authorities to insurance companies to cover the occupants in a private car and a pillion rider on a two-wheeler under comprehensive/package policy.

2. All the comprehensive/package insurance policies contain a specific clause to the effect that the occupants in a private car and pillion rider on a two wheeler are covered. However, despite the clause in the policy and the directions of the TAC and IRDA, the insurance companies do not accept their liability and litigation in this regard is pending in various Courts all over the country.
3. In ***Yashpal Luthra v. United India Insurance Co. Ltd.*** Delhi High Court examined the officers of United India Insurance Co. Ltd. as well as TAC and IRDA under Section 165 of the Indian Evidence Act, 1872. All the officers admitted the liability of the Insurance Companies in such matters. The Court also issued notice to all other insurance companies. On 16th November, 2009, IRDA issued fresh circular reiterating the factual position. IRDA thereafter convened a meeting dated 26th November, 2009 of all the 17 Insurance Companies who after deliberations, admitted their liability in respect of occupants in a private car and a pillion rider on a two-wheeler under the comprehensive/package policy. All the Insurance Companies agreed to comply with the Circular dated 16th November, 2009 issued by IRDA re-stating the position relating to the liability of the insurance companies. All the Insurance Companies further agreed to withdraw the contrary plea wherever taken before the Motor Accident Claims Tribunals and to issue instructions to their respective lawyers and the operating officers within seven days. The insurance companies further agreed to withdraw all appeals filed by them before various High Courts raising this plea and also to concede the liability in respect of appeals filed by the claimants before the High Courts on the above aspect. The number of appeals pending before the High Courts have been agreed to be identified by the Insurance Companies within two weeks and the withdrawal to be done within four weeks thereafter.
4. The High Court held that where the vehicle is covered under a comprehensive/package policy, there is no need for a Motor Accident Claims Tribunal to go into the question whether the insurance company is liable to compensate for the death or injury of a pillion rider on a two-wheeler or the occupants in a private car. In view of the Tariff Advisory Committee's directives and those of the Insurance Regulatory Development Authority, such a plea was not permissible and ought not to have been raised as, for instance, it was done in the case before it. All the Motor Accident Claims Tribunals functioning in Delhi have been directed to take note and ensure that no such plea is allowed to be put forward by any insurance company.
5. In pursuance to the above judgment, large number of pending cases all over the country relating to the claims of the occupants in a private car and pillion rider on a two wheeler have come to an end, and the claimants who have been denied compensation on this ground, ultimately got the compensation due to them.

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Jharkhand State Legal Services Authority

CASE NO.: Writ Petition (Civil) 282 of 2007

on 9 July, 2007

General Insurance Council & Ors

vs

State Of Andhra Pradesh & Ors

Author: . **A Pasayat**

Bench: . **A Pasayat, P Naolekar**

PETITIONER: *General Insurance Council & Ors*

RESPONDENT: *State of Andhra Pradesh & Ors*

DATE OF JUDGMENT: 09/07/2007

JUDGMENT : **Dr. ARIJIT PASAYAT, J.**

1. Prayer in this writ petition is for direction to the various States Governments and the Union Territories to ensure that the mandate of Section 158 (6) of the Motor Vehicles Act, 1988 (in short the 'Act') is complied with without exception. It is stated that Section 158 (6) of the Act casts a statutory obligation on the concerned police officers forward to Claims Tribunal having jurisdiction about the death or bodily injury any person so recorded in the police station. Further mandate is contained in the provision about the sending copy thereof to the concerned insurer and the owner of the offending vehicle. The owner of the vehicle is obligated to forward the report to the Claims Tribunal and the insurer. The Union of India has expressed its concern about the apparent non-compliance with the requirements of the provision by letter dated 6.6.2006 of the Government of India, Ministry of Shipping Road Transport and Highways, Department of Road Transport and Highways issued circular to transport Secretaries and Commissioners of all States and Union Territories IG (Traffic) police and all the States and Union Territories highlighting non-compliance with the statutory requirements. No action has been taken to comply with the requirements of Section 158 (6).
2. There is no dispute that there is statutory requirement to comply with the requirement and actual implementation is very disheartening.
3. Section 158 (6) of the Act reads as under: "158 (6): As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer-in-charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer."
4. Rule 150 of the Central Motor Vehicles Rules, 1989 (in short the 'Rules') deals with the matter.
5. Form 54 of the Rules provides the format in which the information is to be given. The Rule and the Form read as follows:
150. Furnishing of copies of reports to Claims Tribunal.--
(1) The police report referred to in sub-section (6) of section 158 shall be in Form 54. (2) A registering authority or a police officer who is required to furnish the required information to the person eligible to claim compensation under section 160, shall furnish the information in



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Form 54, within seven days from the date of receipt of the request and on payment of a fee of rupees ten."

6. There is substance in the plea of Mr. G.N. Vahanvati, learned Solicitor General for the petitioner that if action in terms of Section 158 (6) is taken, it will rule out filing of false claim petitions and the job of the Claims Tribunals will become easier. It is stated by learned counsel that a large number of cases alleging sufficient injuries are being filed long after the accidents and this is adding to the pendency of the claims petitions. If action in terms of Section 158 (6) is taken, it will reduce considerably the filing of false claims. It has been highlighted in the writ petition as follows: "26. Some salient facts which have emerged from a detailed study on a macro level which are relevant for the purposes of the instant writ Petition may be noticed:
 - 26.1 As on date there are about 1.5 million cases pending in different Tribunals/High Courts/Supreme Court;
 - 26.2 About 4 lakh new cases involving injury/death under the Motor Vehicles Act, 1988 are reported every year;
 - 26.3 Claims under the Motor Vehicles Act, 1988 are reported after about 7 months from the date of accident;
 - 26.4 Delay in reporting the claim promotes exaggeration and frauds;
 - 26.5 Delay in reporting the claim makes investigation and fact verification extremely difficult;
 - 26.6 Adjudication of cases take about 3 to 5 years.
 - 26.7 Petitioners Insurance Companies suffer on account of higher claim cost on account of delay in the adjudication of the claim petitions.
 - 26.8 Strict implementation of Section 158(6) shall ensure speedier reporting to Insurance companies which in turn will ensure expeditious and efficient settlement of claims."
7. The language used in sub-section (6) of Section 158 mandates the police officer to forward a copy of the report to the Claims Tribunal having jurisdiction and to the concerned insurance company "as soon as any information regarding any accident involving death or bodily injury is recorded or a report under Section 158 is completed by the police officer."
8. Use of the expression 'as soon as' implies that there has to be promptitude in action. To do a thing 'as soon as possible' means to do it within a reasonable time, with an understanding to do it within the shortest possible time. [Per Dysant, J. in King's Old County Ltd. v. Liquid Carbonic Can. Corporation Ltd. (1942) 2 WWR 603]. 'As and when' and 'as soon as' are almost synonymous. Whenever these expressions are used in respect of time and place, they denote contemporaneous notion. 'As soon as' and 'forthwith' both are to be normally understood as allowing reasonable time, but latter is more peremptory than the former. But urgency is the hallmark of both expressions. Expression 'as soon as' may be stretched to mean 'as soon as' practicable. It has to be forwarded with promptitude.
9. Since there is a mandatory requirement to act in the manner provided in Section 158(6) there is no justifiable reason as to why the requirement is not being followed.
10. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the



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requirement of Section 158(6) keeping in view the requirement indicated in Rule 159 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials.

11. The writ petition is accordingly disposed of.

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MOTOR ACCIDENT CLAIMS: Procedural Delays in Adjudication / Settlement

Jai Prakash v. National Insurance Co. , SLP (Civil) Nos. 11801-11804 of 2005; Decided on 17-12-2009 (SC) [R.V.Raveendran, Dr. Mukundakam Sharma and K.S. Radhakrishnan, JJ.]

Considering consequential hardship to the victims and their families due to the procedural delays in adjudication/settlement of claims by Motor Accidents Claims Tribunals, the Supreme Court has issued directions to the police authorities and Claims Tribunals to expedite and streamline the adjudication of motor vehicle claims and disbursement of compensation.

The Director General of Police of each State is directed to instruct all police stations in his State to comply with the provisions of section 158(6) of the Motor Vehicles Act.

The Registrar General of each High Court is directed to instruct all Claims Tribunals in his State to register the reports of accidents received under section 158(6) of the Act as applications for compensation and deal with them without waiting for filing of claim applications by the victims.

The insurance companies shall be directed to deposit the admitted amount or the amount determined, with the Claims Tribunal within 30 days of determination. In cases of death, where the liability of the insurer is not disputed, the insurance companies should, without waiting for the decision of the Motor Accidents Claims Tribunal or a settlement before the Lok Adalat, endeavour to pay to the family of the deceased, and compensation as per the standard formula determined by the decisions of the Supreme Court of India. In cases of injuries to any accident victim, the insurer should offer treatment at its cost to the injured, without waiting for an award of the Tribunal.

Where there is no insurance cover for a vehicle, the owner should be directed to offer security or deposit an amount, adequate to satisfy the award that may be ultimately passed, as a condition precedent for release of the seized vehicle involved in the accident.

Rajesh Tyagi & Ors. vs Jaibir Singh & Ors. on 28 May, 2009

Author: **J.R. Midha**

ORDER 28.5.2009

1. Section 158(6) was incorporated in the Motor Vehicles Act, 1988 in the year 1994. Section 158(6) provides that the SHO of the Police Station shall send the Accident Information Report to the Motor Accident Claims Tribunals within 30 days of recording of the FIR and a copy to the concerned Insurance Company.

Section 158(6) of the Motor Vehicles Act is reproduced as under:-

"Section 158(6) - As soon as any information regarding any accident involving death or bodily injury to any person is recorded, the officer in charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer."



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2. Rule 150 of Central Motor Vehicle Rules, 1989 provides that the Accident Information Report under Section 158(6) shall be in Form 54 which is reproduced hereunder:-

"Form 54"

[See rule 150 (1) and (2)]

ACCIDENT INFORMATION REPORT

1. Name of the police station _____
2. CR No./Traffic accident report _____
3. Date, time and place of the accident _____
4. Name and full address of the _____ injured/deceased
5. Name of the hospital to which he/she _____ was removed
6. Registration number of vehicle and _____ the type of the vehicle
7. Driving licence particulars :
(a) Name and address of the driver _____ (b) Driving licence number and date of expiry _____
(c) Address of the issuing authority _____
(d) Badge No. in case of public service vehicle _____
8. Name and address of the owner of the _____ vehicle at the time of the accident
9. Name and address of the insurance _____ company with whom the vehicle was insured and the particulars of the Divisional Officer of the said insurance company
10. Number of insurance policy/insurance _____ certificate and the date of validity of the insurance policy/insurance certificate
11. Registration particulars of the vehicle _____ (class of vehicles)
(a) Registration No. _____
(b) Engine number or motor number in the case of Battery Operated _____ vehicles
(c) Chasis No. _____
12. Route permit particulars _____
13. Action taken, if any, and the result _____ thereof"

3. The importance of this Accident Information Report by the police is that Section 166(4) mandates the Claims Tribunal to treat the Accident Information Report as an application for compensation. However, the police was not following Section 158(6) of the Motor Vehicles Act which was brought to the notice of the Hon'ble Supreme Court in the case of General Insurance Counsel vs. State of Andhra Pradesh, IV (2007) ACC 385(SC). Vide judgment dated 9th July, 2007 the Hon'ble Supreme Court directed all the State Governments and Union Territories to instruct all concerned police officers to comply with the requirements of Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules.

It was further directed that periodical checking be done by the concerned Inspector General of Police to ensure that the requirements are being complied and appropriate action be taken



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in cases of non-compliance. The directions of the Hon'ble Supreme Court in the said judgment are reproduced as under:-

"It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials."

4. On 21st April, 2009, this court issued notice to the Commissioner of Police to report whether the aforesaid directions of the Supreme Court regarding Section 158(6) of the Motor Vehicles Act are being followed. The data with respect to the compliance for the last 22 months i.e. from the date of the judgment of the Hon'ble Supreme Court was also directed to be placed on record. The particulars of the periodical checking required to be done by the Commissioner of Police in terms of directions of the Hon'ble Supreme Court were also directed to be placed on record. If any action has been taken against any erring officer for non-compliance of Section 158 (6), the same was also directed to be placed on record by an affidavit.
5. The Accident Information Report by the police under Section 158(6) is to be treated as an application for compensation by the claims Tribunal under Section 166(4) of the Motor Vehicles Act and, therefore, direction was also issued to the Claims Tribunal on 21st April, 2009 to place on record the report of compliance of Section 166(4) and the data for the last 22 months from the date of the judgment of the Supreme Court giving details as to how many reports have been received from the police and whether the same have been treated as application for compensation.
6. In pursuance to the above directions, an affidavit dated 18th May, 2009 was filed by the Dy. Commissioner of Police (Hqrs.) on behalf of the Commissioner of Police stating that the information in prescribed proforma was being sent to the Motor Accident Claims Tribunals as per Annexure-R-B containing the details of 15,378 accidents from July, 2007 to April, 2009 in which the information in the prescribed proforma had been sent to the Motor Accident Claims Tribunals.
7. On 18th May, 2009, Motor Accident Claims Tribunals also submitted their reports stating that they have not received any Accident Information Report in the prescribed proforma from the Police during the last 22 months.
8. Considering the contradictory stand taken by the Police that they have furnished the Accident Information Forms to the Tribunals during the last 22 months and the denial of the same by the Motor Accident Claims Tribunals, the Delhi Police was directed to submit the report in respect of eleven Police Stations specified in the order dated 18th May, 2009 about the compliance of Section 158(6) mentioned in their affidavit dated 18th May, 2009.
9. The learned Standing Counsel for Delhi Police has today handed over a fresh affidavit of Dy. Commissioner of Police (Hqrs.) along with the affidavits of eleven SHOs. The Dy.



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Commissioner of Police (Hqrs.) in the affidavit dated 27th May, FAO.No.842/2003 Page 5 of 18 2009 seeks to withdraw the previous affidavit dated 18th May, 2009 on the ground that the Accident Information Reports have not been furnished to the Motor Accident Claims Tribunals and incorrect statement had been made in the previous affidavit dated 18th May, 2009. The affidavits of the SHOs filed today also reveal that the Accident Information Reports were not being filed in most of the cases with the Motor Accident Claims Tribunals.

10. From the affidavit dated 27th May, 2009 filed by the Dy. Commissioner of Police (Hqrs.), it is clear that (i) Section 158(6) is not being complied with by the Police and; (ii) an incorrect affidavit has been filed before this Court.
11. The learned Standing Counsel for Delhi Police submits that Section 158(6) shall be strictly complied with in future and the Delhi Police is prepared to further streamline the system so that the victims of the road accident get compensation expeditiously.
12. Section 158(6) of the Motor Vehicles Act provides that the Police shall forward one copy of the Accident Information Report to the Motor Accident Claims Tribunal and one copy to the Insurance Company. The purpose is that immediately upon receipt of the intimation from the Police, the Insurance Company can investigate the claim and if the claim is found to be genuine, the same can be settled without the intervention of the Motor Accident Claims Tribunals.
13. It is noted that this is not the first case in which this Court has shown concern on the non-compliance of Section 158(6) of the Motor Vehicles Act.
14. On 28th October, 1996, a Public Interest Litigation titled All India Lawyers Union Vs. Govt. Of NCT - C.W.PCW-4076/1996 was filed in this Court in which notice was issued to the Commissioner of Police on 17th October, 1997 to report about the compliance of Section 158(6) of the Motor Vehicles Act, 1988. The relevant portion of the order dated 17th October, 1997 is reproduced hereunder:-

"Mr. Aggarwal has also brought to our notice the provisions of sub-Section (6) of Section 158. The said provision stipulates that as soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer Incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer. Sub-Section (4) of Section 166 provides that the Claims Tribunals shall treat any report of accidents forwarded to it under sub-Section (6) of Section 158 as an application for compensation under this Act. Learned counsel submits that he has learnt that no report under Section 158 (6) has ever been submitted to the Tribunals even though sub-Section (6) of Section 158 was brought on the statute book nearly three years ago. We would examine this aspect only after receipt of a report from the Commissioner of Police as to whether such reports have been sent or not. Let a copy of this order be sent to Commissioner of Police. Ms. Ahlawat will obtain requisite particulars from the Commissioner of Police/Police Department and file an affidavit on this aspect within three weeks."

15. In pursuance to the above order, an affidavit was filed by the Dy. Commissioner of Police (Hqrs.), Delhi Police on 18th November, 1997 in which it was stated that the SHOs were not



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aware of the latest amendment of the Motor Vehicles Act and the procedure which they were required to follow. It was further stated that instructions have now been issued to all the DCPs directing them to strictly comply with Section 158(6) of the Motor Vehicles Act. The instructions issued to the DCPs were filed as Annexure R-1 to the affidavit. The relevant portion of the affidavit is as under:-

- "2. That pursuant to the orders passed by this Hon'ble Court on 17th of October, 1997, the information was sought from all Districts D.C.Ps. in regard to the fact whether the S.H.Os. are sending the copies of the F.I.R. to the concerned Motor Accident Claim Tribunal within 30 days as per provision of Section 158 Sub-Section 6 of the Motor Vehicle Act.
3. That as per the reports received, the copy of F.I.R. in accident cases were not being sent by the S.H.Os. to the Accident Claims Tribunal probably the S.H.Os. were not aware of the latest amendment in the Motor Vehicle Act and the procedure which they were to follow. However, in the normal course they are handing over the copies of the F.I.R. to the next kin of victim, so that they can take their case to Motor Accident Claim Tribunal.
4. That now the instructions have been issued to D.C.Ps. of all Districts/Crime and Railway, I.G.I. Air Port and Traffic, Delhi/New Delhi, directing them those provisions of Sections 158 sub-section 6 of Motor Vehicle Act shall be strictly complied with. District D.C.Ps. will ensure that compliance is made by all S.H.Os. working in their jurisdiction. Copy of the instructions issued is annexed as Annexure R-1.

The above information is placed before this Hon'ble Court in compliance with the orders dated 17th of October, 1997."

16. The aforesaid report of the Police was examined by this Court on 15th December, 1997 when the Court directed the Dy. Comm. of Police (Hqrs.) to personally appear before the Court on 12th February, 1998. The relevant portion of the order dated 15th December, 1997 is reproduced hereunder:-

"In terms of directions dated 17th October, 1997, affidavit of Shri S. Vasudeva, Deputy Commissioner of Police, Head Quarter-II, Delhi has been filed. It, inter alia, states that the copy of FIR in accident cases were not being sent by the SHOs to the Accident Claims Tribunal probably for the reasons that the SHOs were not aware of the latest amendment in the Motor Vehicle Act and the procedure which they were to follow. The affidavit further states that now instructions as in annexure R-1 have been issued to Deputy Commissioners of Police of all Districts/Crime and Railway, IGI Air Port and Traffic, Delhi directing them to strictly comply with the provisions of Section 158(6) of the Motor Vehicle Act. A perusal of the affidavit and the annexure R-1 clearly shows that even now the Police Authority is totally unaware of the relevant rules and the forms in which report is required to be sent. Learned counsel for the petitioner has drawn our attention to Rule 150 of Central Motor Vehicles Rules, 1989 and Form No.54 appended to the said Rules.

We direct the concerned Deputy Commissioner of Police to be personally present in Court on the next date of hearing to, inter alia, explain whether instructions in terms of the Act and rules particularly in terms of Section 158(6) of the Act have been issued or not."

17. On 16th March, 1998, the Dy. Commissioner of Police (Hqrs.) appeared before this Court and assured the implementation of Section 158(6) of the Motor Vehicles Act and monitoring



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by the Police Headquarters. The assurance of the police was recorded by this Court and the writ petition was disposed of on 16th March, 1998. The relevant portion of the order dated 16th March, 1998 is reproduced hereunder:-

"Mr. Vasudeva, Dy. Commissioner of Police, Police Headquarter is present in Court. He has brought to our notice a Circular dated 19th December, 1997 issued to District Dy. Commissioner of Police and to Dy. Commissioner of Police (Crime) and Indira Gandhi International Airport and Traffic, bringing to the notice of the said officers the requirement of each police station under their respective jurisdiction to send information to MACT in respect of the accidents in the prescribed proforma in compliance of report on implementation of Section 158(6) of Motor Vehicle Act. From the said circular, it appears that the headquarter is monitoring the matters of sending all the FIRs by Police Stations on MACT. We hope that the Police authorities would continue to perform its functions in terms of Section 158(6) of the Act. The MACT on the receipt of the said information shall proceed in the matter in accordance with law."

18. Despite the aforesaid assurance of the Police and order dated 16th March, 1998, Section 158(6) was not complied with by the Delhi Police. Two more Public Interest Litigations were filed in this Court, namely, All India Lawyers Union Vs. Union of India - C.W.P.Nos.4614/1996 and All India Lawyers Union Vs. Govt. Of National- Capital Territory Of Delhi C.W.P. Nos. 506/1999. An affidavit dated 6th September, 1999 was filed by DCP(HQ) of Delhi Police in CWP No.506/1999 in which it was stated that the reports regarding accident cases were being sent to concerned MACT Courts as early as possible in Form 54 of Section 158(6) of the Motor Vehicles Act. The relevant portion of the affidavit dated 6th September, 1999 is reproduced hereunder:-

"2. That the reports regarding accident cases are being sent to the concerned M.C.A.T Courts as early as possible in Form 54 in terms of section 158(6) of Motor Vehicle Act 1988.

3. That, however the Delhi Police undertakes to comply with all/any directions given by this Hon'ble Court."

19. Vide order dated 17th August, 2000 in CWP No.4614/1996, Delhi Police was directed to furnish information on affidavit about the number of cases where information has been sent under Section 158(6) of the Motor Vehicles Act whereupon an affidavit was filed by Dy. Commissioner of Police (Hqrs.) of Delhi Police on 17th October, 2000 in which it was stated as under:-

"1. That pursuant to the directions passed by this Hon'ble court on 17.08.2000 the deponent submits that Police Department has already issued a Circular to all Districts with respect to the compliance of provision of Section 150 and 158 of the Motor Vehicles Act. Copy of the Circular with the proforma is enclosed herewith as Annexure - A.

2. That in compliance to the above Circular all the SHOs of the respective Police Stations are sending reports to the concerned M.A.C.T. Courts to treat them as claim Petition of the injured or deceased family member.

3. That the following are number of cases registered for fatal accidents and bodily injury and information with respect to each case has been sent to the concerned M.A.C.T. Court for further necessary action. Year Fatal Bodily injury 1999 19307626 /2000



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(Upto July) 1161 4851

4. That in view of the submissions made above it is submitted that answering respondents are fully complying with the mandatory provisions of the Motor Vehicles Act."
20. Vide order dated 19th October, 2000 in CWP No.4614/1996, the Division Bench of this Court directed the District Judge to collect the information from the Motor Accident Claims Tribunals as to the number of cases in which such information had been received and the action taken. The relevant portion of the order dated 19th October, 2000 is reproduced hereunder:-

"From the affidavit filed by the Deputy Commissioner of Police, HQ, it appears that in terms of the requirements of Section 158(6) of the Motor Vehicles Act 1988 read with Rule 150 of the Motor Vehicles 1989 report has been given to the concerned M.A.C.T. in the following number of instances:-

Year Fatal Accidents Bodily Injury 1999 19307626/2000 11614851(Up to July)Let the District Judge collect information from the different M.A.C.Ts. and furnish to this Court the number of cases where such information has been received and action under Section 158(6) of the Act or under the relevant provisions applicable to the cases noted above has been taken."
21. In pursuance to the aforesaid order, the report was submitted by the Tribunals that the police was only sending the copies of the FIRs and no reports under Section 158(6) of the Motor Vehicles Act in Form 54 of the Central Motor Vehicles Rules, 1999 had ever been sent by the Police Stations.
22. Both the aforesaid writ petitions were disposed of by this Court by a common order dated 12th April, 2001 observing that the information furnished was not in prescribed form and usually a copy of the FIR was furnished which does not meet the requirement of law. It was directed that the concerned offices should strictly comply with the requirements as stipulated in statutory provisions. The relevant portion of the judgment is reproduced hereunder:-

"7. From the reports received from the Tribunals it is clear that in a large number of cases the information furnished is not in the prescribed format. Usually a copy of the FIR is furnished. Same does not meet the requirement of law. FIR does not contain the required details in most cases. The concerned offices are to strictly comply with the requirements as stipulated in the statutory provisions.

8. It is brought to our notice that when documents are seized after accident, normally copies of those documents are not retained. It would be proper and appropriate if Xerox copies of driving license, policy of insurance and/or certificate of insurance are retained before the originals are given on Supardari. That would facilitate the claimant, insured as the case may be to get the particulars and furnish them in the claim petition. Similarly, insurer may get the details verified, and that would facilitate early disposal of claim petitions. We direct the Commissioner of Police to issue appropriate instructions in this regard to the concerned officers."
23. From the aforesaid orders, it is clear that Section 158(6) of Motor Vehicles Act, 1988 has not been implemented by Delhi Police during the last about 15 years despite two orders of this Court and one by the Apex Court. Time and again incorrect affidavits have been filed by



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Delhi Police before this Court stating that Section 158(6) of the Motor Vehicles Act was being strictly complied with and the Accident Information Reports were being sent to the Motor Accident Claims Tribunals in prescribed Form 54. The affidavit dated 18th May, 2009 also contains incorrect statement regarding the filing of the Accident Information Reports in prescribed form during July, 2007 to April, 2009. There is clear non-compliance of the orders dated 16th March, 1998 as well as 12th April, 2001 passed by this Court.

24. Considering the non-compliance of the orders dated 16th March, 1998 and 12th April, 2001 of this Court as well as the filing of affidavit dated 18th May, 2009 containing incorrect statements, show cause notice is issued initially to Dy. Commissioner of Police (Hqrs.), Delhi Police to show cause as to why action for contempt be not initiated against him, returnable on 3rd June, 2009. Let an affidavit be filed giving the names of the officers responsible non-compliance of the orders dated 16th March, 1998 and 12th April, 2001 during the last 22 months for issuance of notice to them, before the next date of hearing.
25. This case cannot be closed on the mere apology and assurance of the Police that they shall now implement the Section 158(6) of the Motor Vehicles Act, 1988. This Court twice accepted the assurance given by the Police and closed the cases in 1998 and 2001. The implementation of Section 158(6) shall be monitored by this Court for some time. Let the Police file a monthly report of the compliance of Section 158(6) with this Court. The first report relating to the month of June, 2009 be filed by 15th July, 2009 before the Registrar (Vigilance) who shall examine the same and place it on record with his comments.
26. Section 166(4) of the Motor Vehicles Act, 1988 has also not been implemented because of failure of Police to file Accident Information Reports. However, upon the filing of the Reports by the Police, Section 166(4) should be strictly implemented. The Tribunals are directed to maintain separate Institution Register for institution of the Accident Information Reports under Section 158(6) of the Motor Vehicles Act, 1988 and the cognizance of the Reports be taken on judicial side as in the case of Final Reports under Section 173 of the Code of Criminal Procedure, 1973 and the notice be issued to all concerned. If the complete information is not furnished in the Accident Information Report, the Tribunal shall fix a date for furnishing of balance information by the Police. The Tribunals shall also submit a monthly report of compliance of Section 166(4) of the Motor Vehicles Act, 1988 through the Registrar (Vigilance) of this Court. Copy of this order be sent to all the Motor Accident Claims Tribunals through the Registrar (Vigilance).
27. The learned Standing Counsel for Delhi Police submits that the Dy. Commissioner of Police (Hqrs.) regrets the lapse of non-implementation of Section 158(6) and non-compliance of the orders of this Court. It is further submitted that unconditional apology has been tendered in the affidavit dated 27th May, 2009 and Delhi Police is prepared to take all possible steps to streamline the system to ensure that Section 158(6) of the Motor Vehicles Act is strictly implemented in its true letter and spirit and the learned Amicus Curiae may give the suggestions in this regard.
28. The learned Amicus Curiae has given some suggestions to streamline the system, a copy whereof has been furnished to learned Standing Counsel for Delhi Police who seeks some time to consider the same and to submit a report on the next date of hearing. It is submitted by the learned Amicus Curiae that the Police is not strictly enforcing Sections 180/181/182/183/184/185/187/192/192A/194/195/196/197 of the Motor Vehicles Act, 1988. If the vehicle was not insured at the time of the accident, the offender should be



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prosecuted under Section 196 of the Motor Vehicles Act, 1988 which provides for punishment of imprisonments which may extend to three months, or with fine which may extend to Rupees one thousand or with both. If there is no valid permit, the offender should be prosecuted under Section 192A of the Motor Vehicles Act, 1988. The Delhi Police shall consider these suggestions and make submissions on the next date of hearing.

29. The learned Standing Counsel for Delhi Police submits that a meeting of senior Police Officers with the learned Amicus Curiae Sh. V. P. Chaudhary, Senior Advocate and Sh. Anup Bhambhani as well as Officers of the Insurance Companies shall be fixed for 30th May, 2009 at 11.00 AM in the Conference Room of the Police Headquarters to examine the suggestions given by the learned Amicus Curiae. Mr. Kanwal Choudhary, nominated counsel for the New India Assurance Co. Ltd., is present in the Court and he undertakes to inform all the insurance companies about the aforesaid meeting. The senior officers from the Insurance Companies as well as nominated counsels and the learned Amicus Curiae shall attend the meeting. The report of the Delhi Police in this regard shall be considered on the next date of hearing.
30. List for further hearing on 3rd June, 2009 at 2.30 PM. Dy. Commissioner of Police (Hqrs.) is directed to remain present in Court on the said date. FAO.No.842/2003 Page 17 of 18
31. Copy of the order be given dasti to the Standing Counsel for Delhi Police, the learned Amicus Curiae and Mr. Kanwal Choudhary, nominated Counsel for the New India Assurance Co. Ltd. Copy of this order be also sent to all the Motor Accident Claims Tribunals.

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**CHECKLIST OF POLICE FOR COMPLIANCE
OF CLAIMS TRIBUNAL PROCEDURE**

Case F.I.R. No. _____ Date _____ u/s _____

P.S. _____ Name of I.O. _____

Mobile No of I.O. _____ A.I.R. No. _____

**PART-I
IMMEDIATE ENQUIRY FORM**

(For gathering information to be submitted within 48 hours)

1. FIR No., date & u/s _____
2. Name of the Police Station _____
3. Source of Information _____
(Name, Address & Tel. No.)
 - a) Driver/Owner _____
 - b) Victim _____
 - c) Witness _____
 - d) Hospital/Medical facility _____
4. Date _____
5. Time and place of accident _____
6. Nature of Accident _____
 - a) Simple b) Grievous c) Fatal _____

(if MLC is U/O, it be clarified from the doctor if the injury could be grievous)
7. Name & address of the injured/deceased _____

8. Whether medical attendant for victim secured by erring driver/owner in terms of section 134(a) MV Act _____
9. Details of the hospital where taken _____
10. Multi angle photographs to be taken _____
11. Detailed site plan (scaled in case of fatal) _____
12. Details of the eyewitnesses (attach additional sheets, if required)
 - (I) Name _____
 - (ii) Address _____
 - (iii) Contact Number _____



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- (iv) Statement _____
13. Registration Particulars of the vehicle (if available immediately)
- (i) Registration No. _____
- (ii) Engine No. _____
- (iii) Chassis No. _____
14. If vehicle is registered outside Delhi, the name of the RTA _____ District _____ State _____
15. Insurance Details **(in grievous injury, the Insurance Certificate and verification report regarding its genuineness be submitted to MACT within 48 hrs)**
- (i) Name & address of the insurance company _____
- _____
- (ii) Policy No. _____
- (iii) Insurance certificate and validity of policy _____
16. Details of driving license of erring driver _____
- (i. whether valid for the type of vehicle being driven)**
- (ii. whether he is holding any other license -to obtain in writing from driver)**
- _____
17. Details of driving license of the victim, (wherever applicable)
- _____
18. If the D/L is issued from outside Delhi, the name of the RTA _____ District _____ State _____
19. Name and address of the owner / driver (if available)
- _____
- _____
- _____
- _____

PART-II

(For filing of detailed accident report within 30 days)

1. Collection of relevant evidences:-

- (i) Photographs of the scene of accident from all angles
- (ii) In the case of death:-
- (a) Proof of age of deceased
- Birth certificate
- School certificate



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Any other _____

(b) Proof of occupation

(c) Proof of income

Salary slip

Income tax returns

Agricultural income

Others _____

(d) No. of legal representative

(iii) In case of injuries:-

(a) Proof of injuries suffered (MLC etc.)

(b) Expenses incurred by the injured

2. Collection of relevant documents :-

(i) Driving license

(ii) R.C.

(iii) Insurance Certificate

(iv) Fitness (in case of commercial vehicle)

(v) Permit (in case of commercial vehicle)

(vi) MLC

(vii) Death certificate

(viii) P.M. Report

(ix) Birth certificate of deceased

(x) Salary slip, if employed

(xi) Certificate of employer

(xii) Income-Tax return

(xiii) Prescription slip of doctor

(xiv) Bill for medical expenses.

3. Verification of above mentioned documents:-

(i) Driving license Verified

(to be valid for vehicle being driven)

If not verified, the reason thereof _____



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- (ii) R.C. Verified
If not verified, the reason thereof _____
- (iii) Insurance Certificate Verified
If not verified, the reason thereof _____
- (iv) Fitness (in case of commercial vehicle) Verified
If not verified, the reason thereof _____
- (v) Permit (in case of commercial vehicle) Verified
If not verified, the reason thereof _____
- (vi) MLC Collected
- (vii) Death certificate Verified
If not verified, the reason thereof _____
- (viii) P.M. report Collected
If not collected, the reason thereof _____
- (ix) Birth certificate of the deceased(s) Verified
If not verified, the reason thereof _____
- (x) Salary slip Verified
If not verified, the reason thereof _____
- (xi) Certificate of employer Verified
If not verified, the reason thereof _____
- (xii) Income-Tax return Verified
If not verified, the reason thereof _____
- (xiii) Prescription slips of doctor Verified
If not verified, the reason thereof _____
- (xiv) Bill for medical expenses Verified
If not verified, the reason thereof _____

4. Whether Detailed Accident Report (DAR) filed with the claim Tribunals within 30 days or not.

- (i) Filed
- (ii) If not filed, the reason thereof _____

5. DAR shall be accompanied by the following documents:-

- (i) Report U/S 173 Cr.PC.
- (ii) FIR



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- (iii) MLC
- (iv) PM Report
- (v) Photographs
- (vi) Site Plan
- (vii) Mechanical Inspection report
- (viii) Seizure memos
- (ix) Death Certificate
- (x) Proof of age of deceased
- (xi) Occupation and income proof of deceased
- (xii) Age of the legal representatives of the deceased
- (xiii) Proof of injuries and expenses in the case of injuries along with affidavit about the verification of the said documents

6. Whether the driver, owner, claimants and eye-witness have been produced before the Claim Tribunals along with the DAR or not.

- (i) Produced
Driver _____
Owner _____
Claimants _____
Eye-witness _____
- (ii) If not produced, the reason thereof in case of
Driver _____
Owner _____
Claimants _____
Eye-witness _____

7. Whether copy of DAR has been furnished to the concerned insurance company or not.

- (i) Furnished
- (ii) If not furnished, the reason thereof _____

8. Whether copy of DAR has been furnished to the claimants or not.

- (i) Furnished
- (ii) If not furnished, the reason thereof _____

9. Whether copy of DAR has been furnished to the Secretary, Delhi Legal Services Authority, Central Office, Pre-Fab Building, Patiala House Court, New Delhi or not.

- (i) Furnished
- (ii) If not furnished, the reason thereof _____



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10. Whether an advance notice has been given to the concerned Insurance Company about the date of filing of the DAR before the Claim Tribunals or not.

- (i) Given
- (ii) If not furnished, the reason thereof _____

11. Whether the Claim Tribunal has accepted the Detailed Accident Report or not

- (i) Accepted
- (ii) If not furnished, the reason thereof _____

12. Has the investigation of the accident been completed within 30 days

Yes
No

If no, the reason beyond his control, such as

- (i) Hit & run accident
- (ii) The parties reside outside the jurisdiction of the court
- (iii) The DL is issued outside the jurisdiction of the court
- (iv) The victim has suffered grievous injuries and is still undergoing treatment
- (v) Any other reason (specify)

13. Whether the IO has approached the claim tribunal for extension of time.

Yes
No
If yes,

- (i) Date of extension of time _____
- (ii) Period of extension of time _____

14. Whether the IO has complied the points within the extension time

Yes
No

If no, reason thereof _____

Signatures of:-

Investigating Officer _____

Inspector Investigation _____

□□□



CHECKLIST PREPARED BY HON'BLE DELHI HIGH COURT FOR CLAIM TRIBUNALS

In *Mayur Arora v. Amit*, the Delhi High Court has prepared the following checklist to be used by Claims Tribunals in motor accident claim cases:-

1. Date of accident :
2. FIR No., date and under Section.....
3. Name of the Police Station
4. Name and phone No. of the investigating Officer.....
5. Registration No. of the offending vehicle.....
6. Engine and chassis No. of the offending vehicle.....
7. Name, address and phone No. of the owner of the offending vehicle
8. Name, address and phone No. :
of the driver of the offending vehicle
9. Particulars of the driving licence:-
Driving Licence No. :
Issue by :
Period : From..... to.....
Class of vehicle :
10. Particulars of the permit :
(In case of commercial vehicle)
11. Particulars of fitness certificate :
(In case of commercial vehicle)
12. Name and address of the :
Insurance Company, policy
number and period of policy
13. Name, address and phone No.:
of the designated officer of Insurance Company
14. Date of appointment :
of the designated officer of Insurance Company
15. Name of the victim :



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16. Age of the victim :
17. Occupation of the victim :
18. Income of the victim :
19. In case of death, particulars of legal representatives of the victim:-
- (i) Names of legal : representatives
 - (ii) Age of legal representatives :
 - (iii) Relationship :
20. In case of injury :
- (i) Nature of injury :
 - (ii) Disability (if any) :
 - (iii) Period of treatment :
 - (iv) Expenditure on treatment :
21. Date of filing of Accident :
- Information Report (AIR)
22. Documents filed along with AIR :
- (i) FIR :
 - (ii) MLC :
 - (iii) Post-mortem report :
 - (iv) Photographs :
 - (v) Site Plan :
 - (vi) Mechanical Inspection : Report
 - (vii) Seizure Memo :
 - (viii) Driving Licence :
 - (ix) Permit :
 - (x) Fitness Certificate :
 - (xi) Insurance Policy :
 - (xii) Notice under Section :
 - 133 of the Motor Vehicles Act
 - (xiii) Statement of the eye-witnesses :
 - (xiv) Report under Section 173, CrPC
23. Whether the police has :
- verified the aforesaid documents



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24. Date of service of AIR on the :
Insurance Company
25. Date of service of AIR :
on the claimant
26. Whether AIR is complete :
in all respects ?
27. Deficiencies in the AIR :
28. Whether the designated :
officer of the Insurance Company has submitted the report within 30 days of the AIR ?
29. Whether the Insurance Company :
has admitted the liability?
30. If so, the amount assessed by the : Insurance Company
31. Defences raised by the : Insurance Company
32. Whether the claimant has filed :
the application in Form 'G' along with the affidavit, photograph and proof of residence?
33. Name and address of the : eye-witnesses
34. Documents on record relating to:-
- (i) Proof of age of the victim :
 - (ii) Proof of occupation : of the victim
 - (iii) Proof of income of : the victim
 - (iv) In case of death:-
 - (a) Proof of number of : legal representatives
 - (b) Proof of age of legal : representatives
 - (c) Proof of relationship :
 - (v) In case of injury :
 - (a) Proof of injury :
 - (b) Proof of disability : (if any)
 - (c) Proof of period of : treatment
 - (d) Proof of expenditure : on treatment
 - e) Proof of future: : treatment
 - (f) Cost of artificial : Limb, (if applicable)
 - (g) Proof of absence : from duty



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- (h) Proof of expenses on :
conveyance incurred by injured
- (i) Proof of services of :
attendant and expenses incurred

35. Whether the above documents :
have been verified by the police





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ANNOTATIONS OF CASES

Accident Information Report under Section 158(6) and its Cognizance by the Claims Tribunal under Section 166(4) of the Motor Vehicles Act.	<i>Jai Prakash v. National Insurance Co. Ltd.</i> <i>All India Lawyers Union v. GNCTD</i> <i>All India Lawyers Union v. Union of India & All India Lawyers Union v. Govt. of National- Capital Territory Of Delhi</i> <i>General Insurance Counsel v. State of Andhra Pradesh</i> <i>Rajesh Tyagi v. Jaibir Singh</i>
Assessment of Future Loss of Earnings due to Permanent Disability.	<i>Raj Kumar v. Ajay Kumar & Anr</i> <i>Arvind Kumar Mishra v. New India Assurance Co. Ltd.</i> <i>Yadava Kumar v. D.M., National Insurance Co. Ltd</i>
Assessment of Permanent Disability	<i>Balaiah (T.) v. Abdul Majeed</i> <i>Madan Lal Papneja v. State of Haryana & Ors.</i> <i>Executive Engineer, PWD, Udaipur v. Narain Lal</i> <i>New India Insurance Company Ltd v. Rajauna</i> <i>Oriental Insurance Company Limited v. Koti Koti Reddy Oriental Insurance Co Ltd.v. Ram Prasad</i> <i>Orissa State Road Transport Corporation v. Bhanu Prakash Joshi</i> <i>Sadasihiv Krishan Adke v. M/s Time Traders</i> <i>Pratap Narain Singh Deo v. Srinvas Sabata</i>
Assessment of General Damages in Injury Cases	<i>Bhagwan Singh Meena v. Jai Kishan Tiwari</i> <i>B. N. Kumar v. D.T.C. Dr.Gop</i> <i>Ramchandani v. Onkar Singh & Ors.</i> <i>Fakkirappa v. Yallowwa & Anr.</i> <i>Iranna v. Mohammadali Khadarsab Mulla & Anr.</i> <i>Jitendra Singh v. Islam</i> <i>K.Shankar v. Pallavan Transport Corporation</i> <i>M.Jaganathan v. Pallavan Transport Corporation</i>
Award of costs.	<i>Sat Prakash v. Jagdish</i>
Compensation for death of a non-dependent spouse.	<i>Keith Rowe v. Prashant Sagar</i> <i>A. Manavalagan v. A. Krishnamurthy & Ors</i>
Compensation for death of a house wife.	<i>Arun Kumar Aggarwal v. National Insurance Company</i> <i>Lata Wadhwa v. State of Bihar</i>
Compensation for death of a child.	<i>R.K. Malik v. Kiran Pal 2006</i> <i>R.K. Malik v. Kiran Pal 2009(8)Scle 451</i> <i>Managing Director TNSTC Ltd. v. K.T. Bindu</i> <i>M.S. Grewal v. Deep Chand Sood</i> <i>United India Co. Ltd. v. Patrica Jean</i> <i>Taff Vale Rly. Co. v. Jenkins National Insurance Co.Ltd v. Farzana</i>
Compensation for death of a student pursuing professional course.	<i>New India Assurance Co. Ltd. v. Ganga Devi & Ganga Devi v. New India Assurance Co. Ltd. III (2010) ACC 6</i>
Compensation for death of a business man.	<i>Sumitra v. UP State Roadways Tpt.Corpn 2010) ACC 586</i>



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Compensation for death of a person whose income is not proved.	<i>Kiran Devi v. Surjeet Yadav</i> <i>Kanwar Devi v. Bansal Roadways</i> <i>National Insurance Co. Ltd. v. Renu Devi</i>
Compensation for death arising out of bomb blast in a motor vehicle.	<i>D.T.C. v. Meena Kumari and</i> <i>Ramkishan v. D.T.C. (2010) ACC 72</i>
Liability of Insurance Company in respect of a pillion rider on a two-wheeler and occupants in a private car under comprehensive/package policy	<i>Yashpal Luthra v. United India Insurance Co. Ltd. iii(2010) ACC 130</i>
Prosecution of Owners/Drivers of Un-insured Vehicles under Section 196 of the Motor Vehicles Act.	<i>Rajiv Dhawan v. Phirtu II (2010) ACC 927 II (2010) ACC 929</i>
Prosecution of holders/forgers of fake driving licences.	<i>New India Assurance Co. Ltd.v. Rakesh Ahuja</i>
Procedure for investigation of motor accident claim cases	<i>Abdul Subhan v. State (NCT of Delhi)</i>
Frivolous defence raised by Insurance Company.	<i>Oriental Insurance Co. Ltd v.Satpal III (2009) ACC 828</i>
Right of legal representatives of the injured to claim compensation after the death of the injured.	<i>Bajaj Allianz General Insurance Co. Ltd v. Kamla Bist</i> <i>Kannamma v. Dy. General Manager</i>
Steps to curb delay and repeated adjournments for service of respondents.	<i>Reliance General Insurance Co. Ltd. v. Rachan Devi</i>