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Copy of L.No. 1 2 9 4 6 (15)/XI-12/83 dated Cuttack the 6th Dec. 1983 from Shri S.Mishra, LL.B., Special officer of the High Court of Orissa; addressed to the District Judge, Ganjam-Boudh, Berhampur

Subject: Settlement of claims of compensation under "No fault Liability" to the victims/Departments of persons involved in Motor Vehicle Accidents.

S i r,

I am directed to forward the accompanying copy of letter no.16769(110)/T dated 7.11.83 along with its enclosure from the Deputy Secretary to Govt. of Orissa, Commerce and Transport (Transport)Department, Bhubaneswar on the above subject for your information and necessary action.

Yours faithfully,

Sd/S.Mishra
Special Officer.6.12.83.

memo no. 15465 (40)
22.12.83

Office of the District Judge,
Ganjam-Boudh, Berhampur.
dt/19.12.83.

- Copy to :-
1. The Addl. District Judges, Berhampur/Phulbani;
 2. All Subordinate Courts of this Judgeship;

for information.

R. 1726
27.12.83

M. K. Mishra
For Registrar
Civil Courts, Berhampur.

Sudhakar.

Government of Orissa
Commerce and Transport (Transport) Department.

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M.No.LC-I-A-44/83 1 6 7 6 9(110) /T Bhubaneswar dt.7.11.83.

To

All Departments of Govt/All Heads of Departments.

Sub:

Settlement of claims of compensation under 'No fault liability' to the victims/dependants of persons involved in Motor vehicle accidents.

The undersigned is directed to say that the Motor Vehicle Act, 1939 has been amended by providing a new chapter namely chapter VII-A. In this chapter provision has been made about payment of compensation to the Victims/dependants of persons involved in Motor Accidents on the no fault liability principle. A copy of each of the relevant provisions of the Act. (Sections 92-A, 92-B, 92-C, 92-D and 92-E) are enclosed for reference.

a 2. The amount of compensation on 'No fault claim' is/fixed sum of Rs.15,000/- (Rupees fifteen thousand) only in the case of death and Rs.7,500/- (Rupees seven thousand and five hundred) only in the case of permanent disablement.

3. In the case of private vehicles, the liability vests on the owners and their insurers, if any but in the case of the vehicles of State Transport Undertakings, they have to be met by them out of their own Insurance Funds or Accident Reserve Funds. As far as the vehicles owned and managed by the various Departments/Heads of Departments/offices of State Government, there could be suitable provision made in their annual budget for expeditious settlement of the M.V. Accident claims and the officer nominated by the Government, controlling their vehicles can settle such claims, the payments being made out of approved budget provisions.

4. Since in such claims there is no scope for dispute either as to the quantum of compensation payable or need of proving/establishing any negligence on the part of the driver etc. the concerned Officer of the Department/Heads of Department/office can settle claims, if any, when they arise, soon after the fact of the accident is established and the victim or his legal heirs are identified.

5. They are, therefore, requested to take necessary steps for implementation of the aforesaid new provisions of the Motor Vehicles Act, 1939.

Sd/ 7.11.83
Deputy Secretary to Government.

Chapter- VIIA.Liability without fault in certain cases.

Liability to pay compensation in certain cases on the principle of no fault.

92A(1) Where the death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle, shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section(1) in respect of the death of any person shall be fixed sum of fifteen thousand rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of seven thousand five hundred rupees.

(3) In any claim for compensation under sub-section (1) the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall, the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

Provisions as to other right to claim compensation for death or permanent disablement.

92B.(1) The right to claim compensation under section 92A in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under section 92A in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 92A and also in pursuance of any right on the principle of fault, the claim for compensation under section 92A shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section(1) where in respect of the death or permanent disablement of any person, the person liable to pay compensation under subsection 92A is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first mentioned compensation and -

(a) If the amount of the first mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation;

(b) If the amount of the first-mention compensation is equal to or less than the amount of the second - mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

permanent disablement.

92C. For the purpose of this chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in sub-section (1) of section 92A if such person has suffered by reason of the accident any injury or injuries involving -

- (a) Permanent privation of the sight of either eye or the hearing of either ear, or privation of any member of joint; or
- (b) destruction or permanent impairing of the powers of any member of joint; or
- (c) Permanent disfiguration of the head or face.

applicability chapter to retain claims under Act 8 1923.

92D. The provisions of this chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's compensation Act, 1923 resulting from an accident of the nature referred to in sub-section (1) of section 92A and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

erriding effect.

92E. The provisions of this chapter shall have effect notwithstanding anything contained in any other provision of this Act or of any other law for the time being in force".

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