



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವಿಶೇಷ ಪತ್ರಿಕೆ

ಭಾಗ - IV-A	ಬೆಂಗಳೂರು, ಸೋಮವಾರ, ಅಕ್ಟೋಬರ್ ೧೧, ೨೦೧೦ (ಆಶ್ವಯುಜ ೧೯, ಶಕ ವರ್ಷ ೧೯೩೨)	ಸಂ. ೧೦೫೪
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Urban Development Secretariat

NOTIFICATION

No. UDD 120 PRJ 2010 (P-5), Bangalore, Dated: 8th October, 2010

The draft of the following rules which the Government of Karnataka proposes to make in exercise of powers conferred by Section 24 of Mysore Tramways Act, 1906 (Mysore Act, II) is hereby published as required under Sub Section (1) to (5) of Section 26 of Mysore Tramways Act, 1906, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after thirty days from the date of its publication in the Official Gazette.

Any objection or suggestion which may be received by the State Government from any person in respect of a said draft before the expiry of the period specified above will be considered by the State Government. The objections and suggestions may be addressed to Principle Secretary to Government (Additional Chief Secretary as the case may be), Urban Development Department, Vikas Soudha, Bangalore 01.

DRAFT RULES

THE BANGALORE METRO RAIL (CLAIMS PROCEDURE) RULES, 2010

In exercise of the powers conferred by Section. 24 of the Mysore Tramways Act, the State Government hereby makes the following rules, namely:-

1. Short title and commencement.-

- (1) These rules may be called the Bangalore Metro Rail (Claims Procedure) Rules, 2010.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires,-
 - (a) "Act" means the Mysore Tramways Act, 1906.
 - (b) "accident" means accident which is of the nature as defined/described under Rule 2 sub-rule 1 clause 1 of the Bangalore Metro Rail Corporation General Rules 2010.

(c) "applicant" means a person making an application for compensation arising out of an accident to the Claims Commissioner and includes:

- (1) The person who has sustained the injury or suffered any loss or;
- (2) All or any of the dependants of the deceased where death has resulted from the accident; or
- (3) An agent duly authorized by the person injured or all or any of the dependants of the deceased, as the case may be:

"Provided that where all the dependants of the deceased have not joined in any such application for the compensation, the application shall be made on behalf of or for the benefit of all the dependants of the deceased and the dependants who have not so joined shall be impleaded as respondents to the application.

Explanation: For the purpose of this Section the word "dependant" shall have the same meaning as given to it in (b) of Section. 123 of the Railways Act, 1989 (24 of 1989)

(d) "Claims Commissioner" means the Claims Commissioner appointed by the State Government by a notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death or bodily injury to person or damage to any property arising out of the working Metro Rail.

(e) "form" means a form appended to these rules;

(f) "legal practitioner" shall have the same meaning assigned under clause (i) of Section 2 of the Advocates Act, 1961 (25 of 1961);

(g) "legal representative" means a person who in law represents the estate of the deceased;

(h) "Schedule" means a Schedule appended to these Rules;

(i) "Section" means a section of the Act.

(2) All other words and expressions used herein but not defined shall have the same meanings respectively assigned to them in the Act.

3. Qualifications for appointment as Claims Commissioner

A person shall not be qualified for appointment as Claims Commissioner unless he is or has been a judicial officer not less than the rank of a District and Sessions Judge for at least 3 years.

4. Term of office

The Claims Commissioner shall hold office for such term as maybe specified by the State Government.

5. Resignation and Removal

1) The Claims Commissioner may, by notice in writing under hand address to the State Government, resign his office.

2) The Claims Commissioner maybe removed from his office by an order of the State Government on the ground of proved misbehavior or incapacity after an inquiry in which he had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

3) The procedure for investigation of misbehavior or incapacity of the Claims Commissioner referred to in sub-sec (2) shall be such as maybe prescribed.

6. Salary and allowances and other conditions service of Claims Commissioner

The salary and allowances payable to, and the other terms and conditions of service of the Claims Commissioner shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Claims Commissioner shall be varied to his disadvantage after his appointment.

7. Procedure and powers of Claims Commissioner-

- 1) The Claims Commissioner shall have all the powers of a civil court for the purpose of taking evidence on oath, enforcing attendance of witness and compelling the discovery of production of documents and material objects.
- 2) The Claims Commissioner shall be deemed to be a civil court for all the purpose of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- 3) In enquiring into and determining any claims for payment of compensation may, the Claims Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he may deem fit.
- 4) Subject to any that may be made in this behalf, the Claims Commissioner may, for the purpose of determining any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the enquiry, to assist him in holding the enquiry.
- 5) The Claims Commissioner shall have powers to pass such interim and final order as the circumstance may require, including orders for payment of costs.

8. Procedure for filing applications. -

- 1) The application for payment of compensation in respect of accidents involving death of, or bodily injury to person or damage to any property arising out of the working of the Metro Rail to the Claims Commissioner shall be presented in the form given in the Annexure either by the applicant in person or by his duly authorized person.
- 2) An application referred to in sub-rule (1) may also be sent by registered post to Claims Commissioner.
- 3) The application under sub-rule (1) or sub-rule (2) shall be presented in duplicate.
- 4) Every application shall be typed legibly in double space on one side of paper of good quality.

9. Scrutiny of application.-

- 1) The Claims Commissioner or the staff authorised by him shall endorse on every application the date on which it is represented or received through post under rule 3 and sign the endorsement.
- 2) If the application on scrutiny is found to be in order, it shall be registered and given a serial number.
- 3) If the application on scrutiny is found to be defective and the defect noticed is formal in nature, the Claims Commissioner may allow the applicant, to rectify the same in his presence and if the defect is not formal in nature, the Claims Commissioner or the staff authorized by him may allow the applicant such time to rectify the defect as he may deem fit.
- 4) If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Claims Commissioner may, by order and for reasons to be recorded in writing, reject to register the application and notify the applicant accordingly.

10. Decisions of the claims commissioner -

- (1) Any question as to the liability of Metro Rail administration to pay compensation or as to the person to whom such compensation is payable, shall be determined by an order of the claims commissioner;
- (2) Every order made under sub section (1) shall be final.

11. Saving as to certain rights

- (1) Notwithstanding in any other law for the time being in force, where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under any other law in force, the person entitled to compensation may claim such compensation only once either under this Act or under any other law in force.
- (2) Nothing in sub section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for compensation for death or personal injury or any sum payable under any policy of insurance.

12. Notice to Metro Rail Administration.-

- 1) The Claims Commissioner shall issue notice to Metro Rail Administration to show cause against the application on a date of hearing to be specified therein. Such notice shall be accompanied by a copy of the application.
- 2) If the representative of Metro Rail Administration does not appear on the date specified in the notice, or appears and admits the claim, the Claims Commissioner shall forthwith proceed to dispose off the application.
- 3) If the Metro Rail Administration contests the claim, it may file a reply along with copies of such document on which it relies on or before the date of hearing and such reply and copies of the document shall form part of the record.

13. Filing of an Affidavit.-

- 1) The Claims Commissioner may direct the parties to give evidence, if any, by affidavit.
- 2) Notwithstanding anything contained in sub-rule (1) where the Claims Commissioner if considers necessary for just decision of the case, he may order cross-examination of any deponent.

14. Filing of reply and other documents by the respondents.-

- 1) Metro Rail Administration may file its reply to the application and copies of the documents on or before the date of hearing of the application.
- 2) In reply filed under sub-rule (1), the Metro Rail Administration shall specifically admit, deny or explain the facts stated in the application and state additional facts necessary in its reply and may also request the Claims Commissioner to summon any document which is in possession of any other person or Authority and to give evidence in that regard.

15. Summary disposal of application.-

The Claims Commissioner may, after considering the application, summarily dismiss the application, for the reasons to be recorded in writing and he is of the opinion that there are no sufficient grounds for proceeding therewith.

16. Ex-parte hearing and disposal of application.-

- 1) Where on the date fixed for hearing the application or any other date to which such hearing may be adjourned, the applicant appears and the representative of Metro Rail Administration

does not appear, the Claims Commissioner may, at his discretion adjourn the hearing or hear and decide the application ex-parte.

- 2) Where an application has been heard ex-parte against the Metro Rail Administration, the latter may apply to the Claims Commissioner for an order to set aside it and if the Metro Rail Administration satisfies the Claims Commissioner that the notice was not duly served or that its representative was prevented by any sufficient cause from appearing, the Claims Commissioner may make an order setting aside the ex-parte hearing upon such terms as it thinks fit and shall appoint the day for proceeding with the application.

17. Disposal of application in default.-

- 1) Where on the date fixed for hearing the application or any other date to which such hearing may be adjourned, the representative of Metro Rail Administration appears and the applicant does not appear, the Claims Commissioner may, at his discretion adjourn the hearing or decide by passing an order on the application Ex-parte or may dispose off the application by passing such other suitable order as the Claims Commissioner deems fit under the circumstances.
- 2) Where an application has been heard and disposed off in the absence of the applicant, the latter may apply to the Claims Commissioner for setting aside the order and if the applicant satisfies the Claims Commissioner that the notice was not duly served or he was prevented by any sufficient cause from appearing, the Claims Commissioner may make an order setting aside the dismissal in default or any such order upon such terms as he thinks fit and shall appoint the day the proceeding with the application.

18. Powers of Claims Commissioner.-

The Claims Commissioner shall have, for the purposes of discharging his functions under the Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witness or documents;
- (f) reviewing his decisions;
- (g) dismissing an application for default or passing an order ex-parte; and
- (h) setting aside any order of dismissal of any application for default or any order passed by him ex-parte.

19. Summoning of witnesses and method of recording evidence.-

- 1) If an application is presented by any party to the proceedings for summoning of witnesses, the Claims Commissioner shall issue summons for the appearance of such witnesses unless he considers that their appearance is not necessary for the just decision of the case or he is of the opinion that securing the presence of that witness is not practically possible or desirable.

- 2) The Claims Commissioner shall make a brief memorandum of substance of the evidence of every witness as the examination of the witness proceeds and such memorandum shall form part of the record:
- 3) Provided that if the Claims Commissioner does not make such memorandum, he shall record the reasons for his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record.

20. Decision of the Claims Commissioner.-The Claims Commissioner shall decide every application as expeditiously as possible on perusal of documents, affidavits and other evidence, if any, and after hearing such oral argument as may be advanced.

21. Order to be passed and signed.-

- 1) The Claims Commissioner, after hearing the applicant and the Metro Rail Administration, shall pass an order as he thinks fit either at once or, as soon as thereafter as may be practicable or on the day if so fixed for that purpose.
- 2) Every order of the Claims Commissioner shall be in writing and shall be signed by him and shall be pronounced in open Court.
- 3) An order made by the Claims Commissioner shall be executed as a decree of civil court and the provisions of the Code of Civil Procedure, 1908, so far may be, shall apply as they apply in respect of decree of a civil court.

22. Review of decision.-

- 1) Any person considering himself aggrieved by any order of the Claims Commissioner, on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain review of such order, may apply for review of a final order not being an interlocutory order, to the Claims Commissioner within a period of thirty days from the date of the order.
- 2) Where it appears to the Claims Commissioner that there is no sufficient ground for a review, he shall reject the application.
- 3) Where the Claims Commissioner is of the opinion that the application for review should be granted, he shall grant the same:
- 4) Provided that no such application shall be granted without previous notice to the Metro Rail Administration or to enable it to appear and be heard in support of the order, a review of which is applied for.

23. Orders or directions by the Claims Commissioner.-The Claims Commissioner may pass such orders or give such directions as may be necessary or expedient to give effect to his orders or to prevent abuse of the process or to secure the ends of justice.

24. Inherent powers of the Claims Commissioner.- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Claim Commissioner to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the office of the Claims Commissioner.

25. Association of experts. -

- 1) The Claims Commissioner may, for the purpose of determining any claim for compensation choose one or more experts possessing any knowledge of any matter relevant to the inquiry.
- 2) Compensation, if any, to be paid to the persons associated with the inquiry, as per sub-rule (1) shall be determined by the Claims Commissioner and paid by Metro Rail Administration.

26. Amount of compensations.-

- 1) The amount of compensation payable in respect of death or injuries, shall be as specified in the Schedule.
- 2) The amount of compensation payable for an injury not specified in Part II or Part III of the Schedule but which, in the opinion of the Claims Commissioner, is such as to deprive a person of all his capacity to do any kind of work, shall be Rs. 4 lakhs (four lakh rupees).
- 3) The amount of compensation payable in respect of any injury (other than an injury specified in the Schedule or referred to in sub-rule(2) resulting in pain and suffering, shall be such as the Claims Commissioner may, after taking into consideration medical evidence, besides other circumstances of the case, determine to be reasonable:

Provided that if more than one injury is caused by the same accident, compensation shall be payable in respect of each such injury:

Provided further that the total compensation in respect of all such injuries shall not exceed Rs.80,000 (eighty thousand rupees).

- 4) Where compensation has been paid for any injury which is less than the amount which would have been payable as compensation if the injured person has died or the person subsequently dies of the injury, a further compensation equal to difference between the amount payable for death or amount already paid, shall become payable.
- 5) Compensation for loss, destruction or deterioration of goods being carried by the passenger as his personal baggage, shall be paid to such an extent as the Claims Commissioner may in all circumstances of the case, determine to be reasonable.

27. Limit of compensation.- Notwithstanding anything contained in rule 19, the total compensation payable under that rule shall in no case exceed Rs. 4 lakhs (four lakh rupees) in respect of any one person.

SCHEDULE

(See rule 19)

COMPENSATION PAYABLE FOR DEATH AND INJURIES**PART I**

For death

Amount of
Compensation
(in Rs.)
4,00,000

PART II

(1) For loss of both hands or amputation at higher sites	4,00,000
(2) For loss of hand and a foot	4,00,000
(3) For double amputation through leg or thigh or amputation through leg or thigh on one side and loss of other foot	4,00,000
(4) For loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	4,00,000
(5) For very severe facial disfigurement	4,00,000
(6) For absolute deafness	4,00,000

PART III

(1) For amputation through shoulder joint	3,60,000
(2) For amputation below shoulder with stump less than 8" from tip of acromion	3,20,000
(3) For amputation from 8" from tip of acromion to less than 4 ½" below tip of olecranon	2,80,000
(4) For loss of a hand or the thumb and four fingers of one hand or amputation from 4 ½" below space tip of olecranon	2,40,000
(5) For loss of thumb	1,20,000
(6) For loss of thumb and its metacarpal bone	1,60,000
(7) For loss of four fingers of one hand	2,00,000
(8) For loss of three fingers of one hand	1,20,000
(9) For loss of two fingers of one hand	80,000
(10) For loss of terminal phalanx of thumb	80,000
(11) For amputation of both feet resulting in end-bearing stumps	3,60,000
(12) For amputation through both feet proximal to the metatarsophalangeal joint	3,20,000
(13) For loss of all toes of both feet through the metatarsophalangeal joint	1,60,000
(14) For loss of all toes of both feet proximal to the proximal interphalangeal joint	1,20,000
(15) For loss of all toes of both feet distal to the proximal interphalangeal joint	80,000
(16) For amputation at hip	3,60,000
(17) For amputation below hip with stump not exceeding 5" in length measured from tip of great trochanter but not beyond middle thigh	3,20,000
(18) For amputation below hip with stump exceeding 5" in length measured from tip of great trochanter but. not beyond middle thigh	2,80,000
(19) For amputation below middle thigh to 3\6" below knee	2,40,000
(20) For amputation below knee with stump exceeding 3\6" but not exceeding 5"	2,00,000
(21) Fracture of Spine with paraplegia	2,00,000
(22) For amputation below knee with stump exceeding 5"	1,60,000
(23) From loss of one eye without complications the other being normal.	1,60,000
(24) For amputation of one foot resulting in end-bearing	1,20,000
(25) For amputation through one foot proximal to metatarsophalangeal joint	1,20,000
(26) Fracture of Spine without paraplegia	1,20,000
(27) For loss of vision of one eye without complication of disfigurement of eye ball, the other being normal	1,20,000
(28) For loss of all toes of one foot through the metatarsophalangeal joint	80,000
(29) Fracture of Hip -joint	80,000
(30) Fracture, of Major Bone-Femur, Tibia of both limbs	80,000
(31) Fracture of Major Bone-Humerus, Radius of both limbs	60,000
(32) Fracture of Pelvis not involving joint	40,000
(33) Fracture of Major Bone - Femur, Tibia of one limb	40,000
(34) Fracture of Major Bone-Humerus, Radius and Ulna of one limb	32,000

ANNEXURE**FORM**

(See rule 3)

Application under section 58 of the Metro Rail (Operation, and Maintenance) Act, 2002 as amended by Metro Rail (Amendment) Act, 2009 for claims for compensation in respect of death or injury of passengers or destruction or damage to the goods being carried by them as their personal baggage.

PART I

Date of the Case :

Time of the Case:

PART II

Sl. No.	Description of documents attached	Page No.
1.		
2.		
3.		
4.		
5.		
6.		

Signature of the Applicant

For use in Claims Commissioner's Office

Date of filing

Or

Date of Receipt by post

Registration No.

PART III

In the Office of the Claims Commissioner Between

.....Applicant

and

Metro Rail Administration

1. Particulars of the applicant:

Name and address

2. Value of claim _____

3. (i) Facts of the case:

Give here a concise statement of facts in chronological order, each paragraph containing, as nearly as possible, a separate issue, fact or otherwise)

(ii) (a) Nature of relief sought

(b) Ground of relief.

4. (i) Matters not previously filed or pending with any other Court.

(State whether the applicant had previously filed any claim, writ petition or suit regarding the matter in respect of which the present application has been made)

(ii) In case the applicants had previously filed any claims, application, writ petition of suit, indicate the stage at which it is pending, and if decided, attached a certified copy of the order.

5. List of enclosures.

1.

2.

3.

4.

Verification

I, _____ (Name of the applicant) S/o, D/o, W/o
 _____ Age _____ resident of _____ do hereby verify that the
 contents of paragraphs _____ to _____ are true to my personal knowledge,
 and paragraphs _____ to _____ are believed to be true to the best of
 knowledge, or the legal advice given to me, and that I have not suppressed any material fact.

Date: _____

Signature of the applicant

Place: _____

Full Address

By order and in the name of Governor of Karnataka,

KOUSALYA

Under Secretary to Government
 Urban Development Department