

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

FMAT (MV)/3/2025

Shri E.Jagan Kumar

Vs

M/S Raj Coaching Centre

Mrs. Anjili Nag, Sr. Adv.

Mr. Adarsh Ilango ... for the appellant

Mr. Rakesh Pal Gobind ... for the respondent

Mr. Shatadru Chakraborty, Sr. Adv.

Mr. Rakesh Kumar ... for the State

July 08, 2025
[AKB]
Item No.29

This appeal is against the order passed by the learned Sole Member of the Motor Accident Claims Tribunal, Andaman and Nicobar Islands, Port Blair in MACT Case No. 1 of 2014 by Order No. 76 dated 24.02.2025 wherein the learned Tribunal had rejected the claim application filed by the petitioner/claimant under Order 7 Rule 11 (c) of the Code of Civil Procedure, 1908 for non-payment of proper Court fees/stamp duty.

It is found from the impugned order that the learned Tribunal has assessed the Court Fees of Rs. 7,044/- out of which the claimant/appellant herein had paid only Rs. 20/- and as such, the learned Tribunal has rejected the claim petition as the appellant/claimant has not paid the deficit Court fees.

The petitioner has preferred the present appeal on the ground that the learned Tribunal failed to appreciate that in the Andaman & Nicobar Islands there is no need to pay any Court fee other than Rs. 20 and Rs. 20 has already been paid by the appellant at the time of filing the claim application.

This Court has taken the assistance of Mr. Shatadru Chakraborty, learned Senior Advocate appearing on behalf of the State along with Mr. Rakesh Kumar to ascertain whether the Andaman & Nicobar Administration has framed any Rules with regard to payment of Court fee/stamp duty on the amount awarded by Tribunal in the Motor Accident Claim cases.

Mr. Shatadru Chakraborty, has provided the copy of the notification dated 18.04.2006 issued under Section 176 of the Motor Vehicles Act, read with Sub Section 41 of the Section 2 of the Motor Vehicles Act, 1988 wherein in Chapter IX refers to the Claims Tribunal, which reads as follows:-

“116. Application of Claims: Every application for payment of compensation made under Section 166 shall be made in the Form-CTA and shall be accompanied by the fee of Rupees twenty only.

117. Procedure to be followed by Claims Tribunal:- (1) Examination of Applicant: On receipt of an application under rule 116, the Claims Tribunal may examine the applicant on oath, and the substance of such examination, if any shall be reduced to writing.

(2) Summary Dismissal of Application: The Claims Tribunal may, after consideration of the application and the statement, if any, of the applicant recorded under preceding sub-rule (1) dismiss the application summarily, if for reasons to be recorded, it is of the opinion that there are no sufficient grounds for proceeding therewith.

(3) Notice to the parties involved: If the application is not dismissed under sub-rule (2) above, the Claims Tribunal shall send to the owner of the motor vehicle, involved in the accident and its insurer, a copy of the application together with a notice of the date on which it will hear the application, and may call upon the parties to produce on that date any evidence which they may wish to tender.

(4) Appearance and Examination of Parties: (a) The owner of the motor vehicle and the insurer may, and if so required by the Claims Tribunal shall at or before the first hearing or within such further time as the Claims Tribunal may allow, file a written statement dealing with the claims raised in the application, and any such written statement shall form part of the record.

(b) If the owner or the insurer contests the claim, the Claims Tribunal may, and if no written statement has been filed, proceed to examine the owner and the insurer upon the claim and shall reduce the substance of the examination to writing.

(5) Summoning of Witness: If an application is presented by any party to the proceedings for the summoning of witnesses, the Claims Tribunal shall, on payment of expenses involved, if any, Issue summons for the appearances of such witness, unless it considers that their appearance is not necessary for a just decision in the case.

(6) Appearance of Legal Practitioner: The Claims Tribunal may in its discretion, allow any party to appear before it through a legal practitioner.

(7) Local Inspection: (a) The Claims Tribunal may during the course of inquiry before it, visit the site at which the accident occurred for the purpose of making a local inspection or examining any persons likely to be able to give information relevant to the proceedings.

(b) Any party to a proceeding or the representative of any such party may accompany the Claims Tribunal for a local inspection.

(c) The Claims Tribunal after making a local inspection shall note briefly in a memorandum any facts observed and such memorandum shall form part of the record of inquiry.

(d) The memorandum referred to in clause (c) above may be shown to any party to the proceedings who desires to see it and a copy thereof may, on application, be supplied to any such party.

(8) Inspection of the Vehicle: The Claims Tribunal may, if it thinks fit, require the motor vehicle involved in the accident to be produced by the owner for Inspection at a particular time and place to be mentioned by it, if necessary, in consultation with the owner.

(9) Power of Summary Examination: (a) The Claims Tribunal during a local Inspection or at any time, save at the formal hearing of a case pending before it, may examine summarily 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 not, and whether any or all the parties are present or not.

(b) No oath shall be administered to a person examined under clause (a) above.

(10) Method of Recording Evidence: The Claims Tribunal shall, as examination of witnesses proceeds, make a brief memorandum of such substance of the evidence of each witness and such memorandum shall be written and signed by the members of the Claims Tribunal and shall form part of the records, provided that evidence of any medical witness shall be taken down as nearly as may word for word.

(11) Adjournment of Hearing: If the Claims Tribunal finds that an application cannot be disposed of at one hearing, it shall record the reasons which necessitates the adjournment and also Inform the parties present on the date of adjournment hearing.

(12) Co-opting of Persons during Inquiry: (a) The Claims Tribunal may, if it thinks fit, co-opt one or more persons possessing special knowledge with respect to any matter relevant to the inquiry, to assist in holding the inquiry.

(b) The remuneration, if any, to be paid to the person(s) co-opted, shall in every case, be determined by Claims Tribunal.

(13) Framing of Issues: After framing the issues, the Claims Tribunal shall proceed to record evidence examined and the result of any local inspection, the Claims Tribunal shall proceed to frame and record Issues upon which the right decision of the case appears to depend.

(14) Determination of Issues: After framing the issues, the Claims Tribunal shall proceed to record evidence thereon, which each party may desire to produce.

(15) Diary: The Claims Tribunal shall maintain a brief diary of the proceedings on the application.

(16) Judgment and Award of Compensation: (a) The Claims Tribunal, in passing orders, shall record concisely in judgment the findings on each of the issues framed and the reason for such finding and make an award specifying the amount of compensation to be paid by the insurer and also the person or persons to whom compensation shall be paid.

(b) Where compensation is awarded to two or more persons, the Claims Tribunal shall also specify the amount payable to each of them."

This Court perused Rules 116 and 117. Rule 116 is with regard to application for claim. In the said Rule it is provided that every application for payment of compensation made under Section 166 shall be made in the Form-CTA and shall be accompanied by the fees of Rs. 20/- (Rupees twenty only). Rule 117 provides the procedure to be followed by the Claims Tribunal.

In the present appeal only the point is to be decided whether the claimant is required to be pay Court fees as assessed by the learned Tribunal.

On perusing the Rule framed by Administration being Rule 116 this Court finds that the application of the claim has to be accompanied by Rs. 20/-. There is no further provision for payment of court fee or stamp duty on the awarded amount.

This Court has also find that under Rule 118 the power vested in the Civil Court which may be exercised by the Tribunal is

- (a) Order V, Rule 9 to 13 and 15 to 39;
- (b) Order IX;
- (c) Order XIII, Rules 3 to 10;
- (d) Order XVI , Rules 2 to 21;
- (e) Order XVII and;
- (f) Order XXIII, Rules 1 to 3.

In the Rules framed by Administration under Section 176 of the Motor Vehicles Act it reveals that Order VII Rule 11 of the Code of Civil Procedure, 1908 is also not applicable

in the application filed for grant of compensation under the Motor Vehicles Act.

Considering the above this Court finds that though the Andaman & Nicobar Administration has framed Rules under Section 176 of the Motor Vehicle Act in the year 2006 and Chapter-IX deals with Claims Tribunal but in the said Rules there is no provision for payment of stamp duty or Court fees on the awarded amount, other than Rs. 20/- (Rupees Twenty Only).

This Court also finds order VII Rule 11 of the Code of Civil Procedure is also not applicable and thus the impugned order passed by the learned Tribunal being order No.76 dated 24.02.2025 wherein the learned Tribunal has rejected the claim petition under Order VII Rule 11 (c) of the Code of Civil Procedure is set aside and quashed.

MACT Case No. 1 of 204 (E.Jagan Kumar vs M/s Raj Coaching Centre) is restored in its original file. Learned Sole Member, Motor Accident Claims Tribunal is directed to disposed of MACT case No. 1 of 2014 on merit.

FMAT (MV)/3/2025 is disposed of.

(Krishna Rao, J.)