

CHAPTER IX

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

108. Definitions -

In this chapter -

(a) "authorised insurer" means an insurer in whose case the requirements of the Insurance Act, 1938 (IV of 1938), are complied with, and include the Government when the business of insuring motor vehicles against third party risk is carried on by it ; and

(b) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of sub-section (2) of section 110 ; and includes a cover note complying with such requirements as may be prescribed, and where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be;

(c) "property" includes roads, bridges, culverts, cause ways, trees, posts and mile: stones

(d) "third party" includes the Government.

109. Necessity for insurance against third party risk - (1) No person shall on. except as a passenger or cause or allow any other person to use a motor vehicle in a public place. unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be a policy of insurance complying with the requirements of this Chapter.

Explanation - A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy

(2) Sub-section (1) shall. not apply to any motor vehicle owned by or on behalf of the Government other than the motor vehicles used for Government purposes connected with any commercial enterprises :

Provided that the Government shall establish and maintain a fund in accordance with the rules made in that behalf under th4s Ordinance for meeting any liability arising out of the use of any of its vehicle or any person in its employment may incur to third parties., or to indemnify any damage to property of a third party or, the, death or bodily injury of any person caused by or arising out of the use of an unidentified motor vehicle.

(3) The Government may by order exempt from the operation or sub-section (1) any motor vehicle owned by any of the following authorities, namely -

(a) the Government, if the vehicle is used for Government purposes unconnected with any commercial enterprises;

(b) any local authority

(c) Bangladesh Road Transport Corporation

Provided that such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with 1 ht rule made in that behalf under this Ordinance for meeting any. liability arising out of the use of any vehicles of that authority or any person in its employment may incur to third parties.

110. Requirements of policies and limits of liability - (1) in order. to comply with the requirements of this Chapter a policy of insurance must be a policy which -

(a) is issued by a person who is' an authorised insurer or by a co-operative society allow the under section 125 to transact the business of an insurer, and

(b) insures the persons or classes of persons specified in the policy to the extent as may be

prescribed from time to time -

(i). against any liability which may be incurred by him in respect of the death or bodily injury to any person. or damage to any property of a third party cause by or arising out of the use of the vehicle in a public place;

(ii) against the death or bodily injury to any passengers of a public service vehicle caused by or arising out of the use of the vehicle in a public

Provide that a policy shall not be required -

(i) to cover liability in respect or the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment, other than a liability arising under the Workmen's Compensation Act, 1923 (VIII of 1923), in respect of the death of, or bodily injury to, any such employee -

(a) engaged in driving the vehicle, or

(b) if it be a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it be a goods vehicle, being carried in the vehicle, or

(ii) except where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, to cover liability in respect of the death of or bodily injury to persons being carried in or upon entering or mounting or alighting from the vehicle at the time of the occurrence of the event out of which a claim arises, or

(iii) to cover any contractual liability.

Explanation - For the removal of doubts, it is hereby declared that the death of, or bodily injury to, any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of the use of a vehicle in a public place, notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the prescribed particulars of any conditions subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(3) Where a cover note issued by the insurer under the provision of this Chapter or the rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover-note, notify the fact to the registering authority in whose records the vehicles to which the cover-note relates has been registered or to such other authority as the Authority may prescribe.

(4) Notwithstanding anything elsewhere contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of person specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person.

111. No fault liability - (1) Notwithstanding anything contained in this Ordinance or in any other law for the time being in force, the victim of a motor accident or his heir as the case may be, shall be entitled to get compensation from the insurer or, in absence of valid insurance policy, from the owner of the motor vehicle involved in the accident such amounts as may be prescribed under cl4usc (b) of sub-section (1) of section 110 in respect of death, permanent disablement or loss of any limbs or any other injury to the victim of the motor accident.

(2) If the insurer or owner or the motor vehicle concerned fails, to pay the compensation under sub-section (1) within thirty days of the demand made to him in this behalf in writing by the victim or his heir, as the case may be, the compensation may be recovered as a public

demand.

112. Duty of insurers to satisfy judgements against persons insured In respect of third party risks - (I) If, after a certificate of insurance has been issued under sub-section (2) of section 110 in favour of the person by whom a policy has been effected, judgement in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 110 being a liability covered by the terms of the policy is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or pay have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder as if he were the judgement debtor, in respect of the ability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgements.

(2) No sum shall be payable by an insurer under sub-sections (1) in respect of any judgement unless before or after the commencement of the proceedings in which the judgement is given the insurer had notice through the Court of the bringing of the proceedings, or in respect of any judgement so long as execution is stated thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely -

(a) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability, and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening of the accident the insurer has commenced proceedings for cancellation of the certificate after compliance with the provisions of section 122 ; or

(b) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely -

(i) a condition excluding the use of the vehicle -

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or (d) without side car being attached where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or

(iii) a condition excluding liability, for injury caused or contributed to by condition of war, riot or civil commotion; or

(c) that the policy is void on the ground that it was obtained by the non disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where a certificate of insurance has been issued under sub-section . (2) of section 110 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance, of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 110 be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provision of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(5) In this section the expressions "material fact" and "material particular" mean, respectively, a fact or particular of such a nature as to influence the judgement of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy of which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(6) No insurer to whom the notice referred to in sub-section (2) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgement as is referred to in sub-section (1) otherwise than in the manner provided for in sub-section (2).

113. Rights of third parties against insurers on insolvency of the insured - (1) Where under any contract of insurance effected in accordance with the provisions of this Chapter a person is insured against liabilities, which he may incur to third parties then -

(a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or

(b) where the insured person is a company, in the event of winding order being made or a resolution for a voluntary winding up being part with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of an), property comprised in or subject to the charge, if, either before or after that event any such liability is incurred by the insured person, his right, against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provisions of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a . policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but -

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and

(b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party nothing in this Chapter shall affect the rights of the third party against the insured in respect of the balance.

114. Duty to give information as to insurance - (1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 110 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was injured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so injured if the insurer had not avoided or cancelled the policy, not shall he refuse, if he was or would have been so injured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency or in the event of a winding up order being made or a resolution for a voluntary winding up order being passed with respect to any

company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 113, and for the purpose of enforcing such rights, if any, and any such contract of insurance as purport whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the person therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

115. Settlement between insurers and insured persons – (1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 110 shall be valid unless such third party is a party to the settlement.

(2) where a person who is insured under a policy issued for the purposes of this chapter has become insolvent, or where, if such insured person is a company, a winding up order has been passed with respect to the company no agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

116. Saving in respect of sections 113, 114 and 115 – (1) For the purposes of sections 113, 114 and 115, a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

(2) The provisions of sections 113, 114 and 115 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

117. Insolvency of insured persons not to affect liability of insured or claims by third parties – Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of section 113 shall, notwithstanding anything in this Chapter not affect any liability of that person of the nature referred to in clause (1) of sub-section (1) of section 110; but nothing in this section shall affect any rights against the insurer conferred under the provisions of sections 113, 114 and 115 on the person to whom the liability was incurred.

118. Effect of death on certain causes of action – Notwithstanding anything contained in section 306 of the Succession Act, 1925 (XXXIX of 1925) the death of a person in whose

favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

119. Effect of certificate of insurance – When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then –

(a) if and so long as the issued to the insured described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

120. Transfer of certificate of insurance – (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, proposed to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within fifteen days of the receipt of such application. by the insurer, the insurer has not intimated the insured and such other person his refusal to transfer the certificate and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(2) The insurer to whom any application has been made under sub-section (1) shall transfer to the other person the certificate of insurance and the policy described in that certificate unless he considers it undesirable having regard to –

(a) the previous conduct of the other person –

(i) as a driver of motor vehicle; or

(ii) as a holder of the policy of insurance in respect of any such vehicle ;or

(b) any conditions which may have been imposed in relation to any such policy held by the applicant; or

(c) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him.

(3) Where the insurer has refused to transfer in favour of the person to whom the motor vehicle has been transferred the certificate of insurance and the policy described in that certificate, he shall refund to such transferee the amount, if any, which under the terms of the policy he would have had to refund to the insured for the unexpired term of such policy.

121. Duty to surrender certificate on cancellation of policy – (1) Whenever the period of cover under a policy of insurance issued under the provisions of this Chapter is terminated or suspended by any means before its expiration by effluxion of time, the insured person shall within seven days after such termination or suspension deliver to the insurer by whom the policy was issued the latest certificate of insurance given by the insurer in respect of the said policy, or, if the said certificate has been lost or destroyed, make an affidavit to that effect.

(2) Whoever fails to surrender a certificate of insurance or to make an affidavit, as the case may be, in accordance with provisions of this section shall be punishable with fine which may extend to thirty taka for everyday that the offence continues subject to a maximum of one

thousand taka.

122. Duty of insurer to notify registering authority cancellation or suspension of the policy – Whenever a policy of insurance issued under the provisions of this Chapter is cancelled or suspended by the insurer who has issued the policy, the insurer shall within seven days notify such cancellation or suspension to the registering authority in whose records the registration of the vehicle covered by the policy of insurance is recorded or to such other authority as may be prescribed.

123. Production of certificate of insurance – (1) Any person driving a motor vehicle in any public place shall on being so required by a police officer not below the rank of Sub-inspector of police in uniform authorised in this behalf by the Authority or any Inspector of Motor Vehicles or other persons authorised in this behalf by the Government produce the certificate of insurance relating to the use of the vehicle.

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving bodily injury to another person, the driver of the vehicle does not at the time produce the certificate of insurance to a police officer, he shall produce the certificate of insurance at the police-station at which he makes the report required by section 104.

(3) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate to such police-station as may have been specified by him to the police officer or to the other authority who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police-station at which he reported the accident.

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.

(4) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the Authority to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 109 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(5) In this section the expression "produce his certificate of insurance" means produce for examination the relevant certificate or insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 109.

124. Production of certificate of insurance on application for authority to use vehicle – The Authority may make regulations requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those to the effect that either –

(a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or

(b) the vehicle is a vehicle to which section 109 does not apply.

125. Co-operative insurance – (1) The Authority may on the application of a co-operative society of transport vehicle owners registered or deemed to have been registered under the Co-operative Societies Ordinance, 1985 (1 of 1985) or under an Act of Parliament governing the registration of Co-operative Societies allow the society to transport the business of an insurer for the purposes of this Chapter, subject to the following conditions, namely –

(a) the society shall establish and maintain a fund of not less than two hundred thousand taka for the first fifty vehicles or fractional part thereof and pro rata for every additional vehicle in the possession of members of and insured with the society and the said fund shall be lodged in such custody as the Government may prescribe by rules and shall not be

available for meeting claims or other expenses expect in the event of the winding up of the society;

(b) the insurance business of the society shall except to the extent permitted under clause (d) be limited to transport vehicle owned by its members, and its liability shall be limited as specified in clause (b) of sub-section (2) of section 110;

(c) the society shall if required by the Government re-insure against claims above such amount as may be specified by the Government;

(d) the society may, if permitted by the Government and subject to such conditions and limitation as may be imposed by it, accept re-insurance from other societies allowed to transact the business of an insurer under this section;

(e) the provisions of this Chapter, in so far as they relate to the protection of third parties and to the issue and production of certificates, shall apply in respect of any insurance effected by the society;

(f) an independent authority not associated with the society shall be appointed by the Government to facilitate and assist in the settling of claims against the society;

(g) the society shall operate on an insurance basis, that is to say –

(i) it shall levy its premium in respect of a period not exceeding twelve months, during which period the insured shall be held covered in respect of all accidents arising, subject to the limits of liability specified in clause (b) of sub-section (1) of section 110;

(ii) it shall charge premiums estimated to be sufficient, having regard to the risks, to meet the capitalised value of all claims arising during the period of cover, together with an adequate charge for expenses attaching to the issue of policies and to the settlement of claims arising thereunder;

(h) the society shall furnish to the Controller of Insurance the returns required to be furnished by insurers under the provisions of the Insurance Act, 1938 (IV of 1938), and the Controller of Insurance may exercise in respect thereof any of the powers exercisable by him in respect of returns made to him under the said Act ; and

(i) the society shall, in respect of any business transacted by it of the nature referred to in clause (ii) of the proviso to sub-section (1) of section 110, be deemed to be an insurer within the meaning of sub-section (1) of section 10 and sub-section (6) of section 13 of the Insurance Act, 1938 (IV of 1938).

(2) The provisions of the Insurance Act, 1938 (IV of 1938), relating to the winding up of insurance companies shall to the exclusion of any other law inconsistent therewith and subject to such modification as may be prescribed, apply to the winding up of a co-operative society allowed to transact the business of an insurer under this section as if it were an insurance company; but save as here in before provided, the Insurance Act, 1938 (IV of 1938), shall not apply to any such society.

126. Duty to furnish particulars of vehicle involved in accident – A registering authority or the officer in charge of a police-station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it.

127. Claims tribunals – The District Judge having jurisdiction over the area shall constitute Motor Accidents Claims Tribunal (hereinafter referred to as Claims Tribunal) for that area for the purposed of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, or damages to any property of persons arising out of the use of motor vehicles;

Provided that, in such districts where there is no District Judge, the Government may appoint a person who is or has been a District Judge to be Claims Tribunal.

128. Application for compensation – (1) An application for compensation arising out of an accident for the nature specified in section 127 may be made –

(a) by the person who has sustained injury or whose property has been damaged or
(b) where the death has resulted from the accident, by all of or any of the legal heirs of the deceased ; or

(c) by any agent duly authorised by the person injured or by all or any of the legal heirs of the deceased, as the case may be :

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

(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred and shall contain such particulars as may be prescribed.

(3) No application for compensation under this section shall be entertained unless it is made within six months of the occurrence of the accident:

Provided that the Claims Tribunal may entertain the application after expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

129. Option regarding claims for compensation cases – Notwithstanding anything contained in any other law for the time being in force where the death or bodily injury to any person gives rise to a claim for compensation under this Ordinance or any other law, the person entitled to compensation may claim such compensation under this Ordinance and also under any other law.

130. Procedure to be followed by Claims Tribunal – On receipt of an application for compensation made under section 128, the Claims Tribunal shall, after issuing a notice under registered post (acknowledgement due) to the owner or owners and the insurer of the motor vehicle concerned or any other party affected or connected and after giving the parties an opportunity of being heard, hold an enquiry into the claim and may make an award determining the amount of compensation which appears to be just, and specifying the person or persons to whom the compensation shall be paid, and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by any other party, by all or any of them, as the case may be.

131. Procedure and powers of Claims Tribunal – (1) In holding an enquiry under section 130, the Claims Tribunal may subject to any regulations that may be made in this behalf, follow such summary procedure as it thinks fit for quick adjudication of any claim.

(2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and on enforcing the attendance of witness and of compelling the discovery of an production of documents and material objects and for such other purposes as may be prescribed, and the Claims Tribunal shall be deemed to be a Civil Court for all purposes of section 195 and Chapter XXXV of the code of Criminal Procedure, 1898 (Act V of 1898).

(3) Where in the course of any enquiry the Claims Tribunal is satisfied that –

(a) there is collusion between the person making the claim and the person against whom the claim is made ; or

(b) the person against whom the claim is made has failed to contest the claim;
it may, for reasons to be recorded by it in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.

(4) Subject to any regulations that may be made in this behalf, the Claims Tribunal may, for the purpose of adjudication upon the claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the enquiry to assist it in holding the enquiry.

132. Award of compensatory costs in certain cases – (1) Any Claims Tribunal adjudicating upon any claim for compensation under this Ordinance may, in any case, where it is satisfied for reasons to be recorded by it in writing that –

(a) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or

(b) any party or insurer has put forward a false or vexatious claim or defence, such as Claims Tribunal may make an order for the payment by the party who is guilty of misrepresentation, by whom such claim or defence has been put forward, of special costs by way of compensation to the insurer or as the case may be, to the party against whom such claim or defence has been forward :

Provided that in case of void and defective policy, the Claims Tribunal may make an order for payment by the insurer to the party affected.

(2) No person or insurer against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of such misrepresentation, claim or defence as is referred to in sub-section (1).

(3) Any amount awarded by way of compensation under this section in respect of any misrepresentation, claim or defence shall be taken into accounts in any subsequent suit for damages, for compensation in respect of such misrepresentation, claim or defence.

133. Appeals – Any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court Division :
Provided that the High Court Division may entertain the appeal after expiry of the said period of ninety days, if it is satisfied that the appellants was prevented by sufficient cause from preferring the appeal in time.

134. Recovery of money due under award – Where any money is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the money, issue a certificate for the amount, which shall be executed as a decree of a Civil Court.

135. Bar on the jurisdiction of Civil Courts – No Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for any area, and no Civil Court shall have power to issue injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation under this Ordinance.

136. Power to make regulations – (1) The Authority may make regulations for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for –

(a) the forms to be used for the purposes of this Chapter;

(b) the making of applications for and the issue of certificates of insurance;

(c) the issue of duplicated to replace certificates of insurance mutilated, defaced, lost or destroyed;

(d) the custody, production, cancellation and surrender of certificates of insurance;

(e) the records to be maintained by insurers of policies of insurance issued under this Chapter;

(f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;

(g) the furnishing of information respecting policies of insurance by insurers;

(h) adapting the provisions of this Chapter to vehicles brought into Bangladesh by persons making only a temporary stay therein by applying those provisions with prescribed modifications;

(i) the form of application for claims for compensation and the particulars it may contain, the fees, if any, to be paid in respect of such application;

- (j) the procedure to be followed by a Claims Tribunal in holding an enquiry under this Chapter;
- (k) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;
- (l) the form and manner in which, and the fees, if any, on payment of which an appeal may be preferred against an award of a Claims Tribunal; and
- (m) any other matter which is to be or may be, prescribed.