

18

## ASSAM ACT XVIII OF 1955

### THE ASSAM STATE ROAD TRANSPORT (AMENDMENT) ACT, 1955

(Passed by the Assembly)

(Received the assent of the President on the 27th August 1955)

[Published in the *Assam Gazette*, dated the 7th September 1955]

*An*

*Act*

*to amend the Assam State Road Transport Act, 1954*

WHEREAS it is expedient to amend the Assam State Road Transport Act, 1954 (Assam Act XXX of 1954) hereinafter called the Principal Act, for the purpose hereinafter appearing :

It is hereby enacted in the Sixth Year of the Republic of India as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Assam State Road Transport (Amendment) Act, 1955.

(2) It shall have the like extent as the Principal Act.

(3) It shall come into force on the day on which the Principal Act comes into force.

**2. Insertion of new Sections to Assam Act XXX of 1954.**—After Section 7 of the Principal Act the following new Sections shall be inserted, namely :—

**“7A. Principles and methods of determining compensation.**—

(1) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7, the State Government or any officer or authority empowered by it in this behalf cancels any permit or modifies the terms thereof so as to (i) render ineffective beyond a specified date any permit or class of permits or (ii) reduce and curtail the number of vehicles or routes covered by any permits ; there shall be paid by the State Government to the holder of the permit compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement on the scale specified in the Second Schedule it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the State Government shall appoint as arbitrator a person who is, or has been, or qualified for appointment as, a judge of a High Court ;

(c) the State Government or the person to be compensated may, in any particular case, nominate a person having expert knowledge of the matter under consideration as an assessor to assist the arbitrator and where such nomination is made by either party, the other party may also nominate another person as assessor for the same purpose ;

(d) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;

[ Price : 2 as. or 2 d.]

- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid, and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable ;
- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;
- (g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to the arbitration under this section.

(2) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period for which the permit would otherwise have been effective, the amount of compensation payable to the holder of the permit on account of such cancellation or modification shall be a sum, if any, which is equal to the average net annual profit in relation to the vehicle multiplied by the unexpired period of the permit :

Provided that in no case, the amount of compensation shall be a sum which is less than the said average net annual profit.

(3) Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 the terms of any existing permit are modified so as to curtail the route of any vehicle authorised to be used thereunder, the amount of compensation payable to the holder of the permit on account of such curtailment of the route shall be a sum, if any, which bears the same proportion to the compensation payable under sub-section (2) on account of the cancellation of the permit in relation to the vehicle as the length of the route curtailed bears to the total length of the route covered by the permit.

(4) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route in lieu thereof has been offered and accepted by the holder of the permit.

(5) The average net annual profit in relation to a vehicle authorised to be used under a permit shall be in accordance with the provisions of the third Schedule with reference to the profits, if any, which have accrued to the holder of the permit in relation to the vehicle in respect of that notified route during the period for which the permit (including any renewal thereof) was effective or the period of two years, immediately preceding the date on which the order under sub-section (1) of Section 7 was made, whichever is less.

**7B. Payment of compensation.**—The amount of compensation payable under an award shall be paid by the State Government to the person or persons entitled thereto in such manner and within such time as may be specified in the award :

Provided that where the State Government fails to make the payment within the time specified in the award or agreement, it shall pay interest at the rate of  $3\frac{1}{2}$  per cent. per annum from the date on which it falls due.

**7C. Taking over of vehicles, etc.**—Upon the cancellation of a permit, the State Government shall, when the owner of the vehicle so desires

within a specified period, take over such vehicles held under the cancelled permit including spare-parts and other accessories as may be found in the opinion of the State Government in usable condition on payment of the value thereof determined in accordance with the provisions in sub-section (2).

(2) The value of the vehicle, spare-parts and other accessories taken over under sub-section (1) shall be determined by the officer prescribed as follows:—

- (a) In respect of vehicle, the value will be the cost as at the date of transfer, of replacing the vehicle by a new vehicle of a similar type, less depreciation at the rate of 25 per cent. per annum on the declining values from the date of first registration with a margin of Rs.500 either way as an allowance for the condition of the vehicle.
- (b) Spare-parts and new tyres and tubes would be valued at cost to the owner subject to a maximum of the market price obtaining at date of the transaction.
- (c) Other assets taken over by the State would be valued by negotiation.

**7D. Appeal.**—Any person aggrieved by the determination of the compensation under Section 7A or the determination of the value of vehicle, accessories, etc., under Section 7C may prefer an appeal within thirty days to the High Court of Assam and the decision of the appellate authority shall be final.”

**3. Amendment of Section 10 of Assam Act XXX of 1954.**—For sub-section (1) of Section 10 of the Principal Act the following shall be substituted, namely:—

“(1) Where there is any conflict or inconsistency between the provisions of this Act and the provisions of the Motor Vehicles Act, 1939 (Act No. IV of 1939) or any other law, then the provisions of this Act shall prevail.”

**4. Amendment of Section 13 of Assam Act XXX of 1954.**—In clause (b) of sub-section (1) of Section 13 of the Principal Act for the word “Schedule” the words “First Schedule” shall be substituted.

**5. Insertion of new schedule to Assam Act XXX of 1954.**—After Section 15 of the Principal Act the word “Schedule” shall be substituted by the words “First Schedule” and after the said schedule the following shall be added, viz,—

#### SECOND SCHEDULE

[ See Section 7 A (1) (a) ]

1. Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period for which the permit would otherwise have been effective, the amount of compensation payable to the holder of the permit on account of such cancellation or modification shall be a sum which, if the unexpired period of the permit;

- (a) exceeds 24 months, is equal to a sum of Rs.1,000 ;
- (b) exceeds 12 months, but does not exceeds 24 months is equal to the sum of Rs. 700 ;
- (c) exceeds 6 months but does not exceed 12 months is equal to a sum of Rs. 400 ;
- (d) does not exceed 6 months, is equal to a sum of Rs. 200.

2. Where in exercise of the powers conferred by clause (d) of sub-section (1) of Section 7 the terms of any existing permit are modified so as to curtail the route of any vehicle authorised to be used thereunder, the amount of compensation payable to the holder of the permit on account of such curtailment of the route shall be a sum which bears the same proportion to the compensation payable under paragraph 1 on account of the cancellation of the permit in relation to the vehicle as the length of the route curtailed bears to the total length of the route covered by the permit.

**THIRD SCHEDULE**

[ See Section 7A (5) ]

The average net annual profit in relation to a vehicle authorised to be used under a permit in respect of a notified route shall be calculated as follows:—

1. The amount of profits made during a period of two years or during the period for which the permit (including any renewal thereof) was effective, whichever is less, shall be ascertained and the amount of losses sustained during the same period shall also be ascertained.

2. If there are no profits or if the amount of the profits does not exceed the amount of the losses, the average net annual profit shall be taken to be nil.

3. If the amount of the profits exceeds the amount of the losses, the excess shall be the net profits.

4. From the net profits so found, the amount of profits for one year shall be ascertained by mathematical calculation and such profit shall be taken to be the average net annual profit.