



SOME FACTS RELATED TO THE MOTOR VEHICLES ACT,1988

INTRODUCTION

With the onset of modernization and globalization, the world has started moving towards a more technologically advanced system. All over world many new technologies have been introduced in the filed of transportation. We have now days various means of transport driven by technology. We have modern, sophisticated cars, buses, motor cycles, two wheelers, metros, railways , aeroplanes, ships etc. These fast moving transport vehicles save our time of travelling and helps us to reach our destination. Now a days the world is running behind vehicles driven by electricity to reduced dependence on customary fuels and save environment. Indians have not only stepped up to match the technological advancements but also made innovations, to keep at par with the world. There were days when people used to walk or use a cart for travelling. Modern techniques have made everything easier.

A Morden technology also comes with some type of disadvantages such as due to fast moving transportations the number of road accidents are increasing. Since in India till date the infrastructure related to transportation is on development stage. In many remote villages ,we do not have proper roads and means of travel. This is also cause of many accidents going unreported.

A car or a two wheeler is the most preferred vehicle for daily transportation. But the road conditions due to rains and the lack of proper attention by the appropriate authorities make it very vulnerable to accidents.

Added to that is the rash and negligent driving of people these days. The carelessness of people to the traffic rules is also one reason for many accidents.

There have been numerous cases these days where death has been caused due the negligent driving of a person. The accident could have been avoided if the car was being driven carefully.

The Motor Vehicles Act, 1988 was enacted to provide proper and appropriate compensation to victims in case of accident.

FCS DEEPAK P. SINGH

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com



HISTORY OF LEGISLATIONS ON MOTOR VEHICLES ;

Similar to the all other existing laws on different subject matters, the lawmakers made sure to incorporate legislations with respect to motor vehicles as well. The effectiveness of the same is yet to be discussed.

The British Government in India passed the Fatal Accidents Act in 1885 to provide equal rights to those injured or killed in accidents. The Act established a procedure and the right of selected legal heirs to seek compensation from the negligent party. For a long time, the law served its purpose. Due to the development in automation and the far-reaching damage to life and property that can occur in the event of an accident, it was recognised that an effective law should be enacted to provide relief to accident victims.

By amending the Motor Vehicle Act, provisions for mandatory third-party insurance and the establishment of an adjudication process for claimants have been made, with Sections 93 to 109 relating to third-party insurance and Sections 110(A) to 110(F) relating to the establishment of the Motor Accident Appeals Tribunal and ensured that claimant adjudication procedures were catered to.

Originally, the liability of the Insurance Corporation was confined to a particular amount, but after 1982, the responsibility of the Insurance Corporation was made limitless, and the Insurance Industry's protection was weakened in order to ensure that third parties get indemnity awards.

CURRENT LAW THE MOTOR VEHICLES ACT, 1988; *was enacted with the intent of simplifying and modifying the laws governing automobile accidents. When a statute is passed to reform or amend the law, the Legislature considers not only the law as it stands now, but also previous laws. A new motor vehicle law was enacted in 1988, with;*

- i) Chapter 10 of the new Motor Vehicles Act providing for interim respite.*
- ii) Chapter 11 governs third-party liability insurance for motor vehicles, whereas*
- iii) Chapter 12 governs the establishment of a Claims forum and the adjudication of claims through litigation and associated proceedings.*

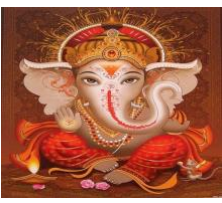


In addition, this Act aims to regulate the use of motor vehicles and to compensate those who are injured or killed in a crash, as well as their family members and dependents, if applicable.

In the event of a motor vehicle accident litigation, it is generally known that an endeavour is made to place the plaintiffs in a pre-accidental condition. The monetary remedy to be provided must be sufficient to put the wounded or claimants in the same position as if they had not suffered the loss owing to the respondent's error; however, no amount of indemnity can compensate for the loss of limb, agony, or life.

SOME LANDMARK JUDGMENTS ;

1. **Lata Wadhwa v, State of Bihar;** *An accident occurred on March 3, 1989, and many people, including children, were killed in a fire. The Court awarded a large sum of money. Although the Court stated unequivocally that the children who all died were attending an opulent school, had a bright future, and came from upper middle-class families, it cannot be said that the higher compensation awarded was for the hardship of life and the misery and anguish endured as a result of the destruction of life due to financial circumstances. In cases of children between the ages of 5 and 10, a payment of Rs.1.50 lakhs was awarded towards monetary compensation, while a sum of Rs.50,000/- was paid towards conventional compensation, the Court stated. Compensation of Rs.4.10 lakhs was paid to children aged 10 to 18 years, including standard compensation. The phrase traditional compensation has been applied to non-monetary compensation, payable for anguish and adversity as a result of death in the aforementioned case.*
2. **Santoshi Devi v. National Insurance Company Limited ;** *The Supreme Court ruled that deductions should not be made on the spur of the moment. It is also impossible to agree with the Tribunal's conclusion, which was confirmed by the High Court without explanation, that the deceased would have spent 1/3rd of his total earnings, i.e. Rs. 500/-, on personal costs. The Tribunal Officer and the educated Single judge appeared to be completely blind to the harsh facts of reality. It will be hard for a person with a monthly income of Rs.1,500/- to spend 1/3 of his income on himself and leave 2/3 for his five-member family.*



3. **State of Haryana v. Jasbir Kaur;** *The Supreme Court held that it must be kept in mind that the Tribunal created under the Act as specified in Section 168 is required to make an award determining the amount of compensation, which is to be in the true sense, damages, which look to it to be just and fair. It is important to remember that compensation for the loss of limbs or life cannot be measured in golden scales. However, it is important to remember that the compensation is not supposed to be a windfall for the victim. The compensation must be equitable, according to the law, and it cannot be a windfall; it cannot be a source of profit, but it also cannot be a pittance. The courts and tribunals have a responsibility to examine the numerous variables and calculate the appropriate amount of compensation.*

4. **Manjuri Bera v. Oriental Insurance Company ;** *A car accident claimed the life of the dead. Because the deceased had no other legal heirs, a claim petition for compensation was filed. The respondent issued a written declaration claiming that since the claimant was not financially dependent on the deceased, no compensation should be provided. Because the burden under Section 140 of the Act does not cease because there is no dependency, the deceased party's father or brothers would be eligible to demand compensation under Section 140 of the Act. Since the claimant is the legal representative of the deceased, he is entitled to compensation.*

5. **Rathnashalvan v. State of Maharashtra ;** *The person filing the compensation claim must demonstrate that the responder was negligent. It's critical to show that he's to blame for his conduct and that he's legally responsible for them. Because there is no specific definition of negligence, for the purposes of this proceeding, it would usually mean a breach of obligation caused by an omission that a reasonable man would usually do or be required to do because of the conduct of public interests, or by doing things that a decent or conscientious man would not do. 'Rashness', according to the Supreme Court, consists in hazarding a dangerous or wanton act with the awareness that it is such, and that it may cause injury. In such a circumstance, the crime consists in the possibility of committing such an act with recklessness or disregard to the consequences.*

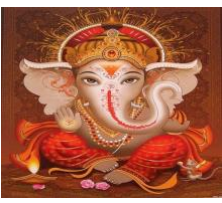


6. **Sarla Verma v. Delhi Transport Corporation** ;Rajinder Prakash died as a result of injuries sustained in a car collision with a Delhi Transport Corporation bus. The deceased was 38 years old at the time of the accident and had an untimely death. He was employed as a scientist by the Indian Council of Agricultural Research (ICAR) with a monthly salary of Rs. 3402/- and additional benefits. His widow, three young children, and parents filed a claim with the Motor Accidents Claims Tribunal for Rs.16 lakhs.

The compensation was computed by the Tribunal using the deceased's monthly income of Rs. 3402/-. It deducted one-third for the deceased's personal and living expenditures, resulting in a donation to the family of Rs. 2250 per month. The Court held that the multiplier must be chosen based on the deceased's or claimant's age, whichever is greater, and the reduction for the deceased's personal costs is frequently determined by the number of dependent family representatives.

7. **Naina Thakur v. Punjab Women's Welfare Colleges Board**; Bodh Raj was riding his motorcycle when he collided with a bus. The bus was insured and driven by respondent No. 2. Bodh Raj was killed in the accident as a result of his injuries. The widow, three little children, and the deceased's mother filed a claim petition under Section 166 of the Motor Vehicles Act, asking Rs. 75,00,000 in compensation for the deceased's death. Respondents filed a response. The Tribunal granted Rs. 15,10,000 in compensation, plus interest at 9% per annum, from the time the petition was filed till it was realised. The Court then decided that the multiplier must be determined by the deceased's or claimants' age, whichever is greater. As a result, if the parents are the claimants, the age of the parents must be taken into account while determining the multiplier.

8. **K.R. Madhusudhan v. Administrative Officer**; It was ruled that there could be a deviation from the rule of thumb. The current case is based on a different set of facts, in which there is clear and unmistakable proof that the deceased was entitled to, and in fact was bound to get a raise in income in the future, a fact that was verified by evidence on record. The current situation falls under the heading of extraordinary circumstances, rather than rule of thumb. As a result, despite the fact that the deceased was over 50 years old, he will be entitled to a raise in salary due to future potential.



CONCLUSION ;After having done an analysis of the provision and case laws, it is apparent that the provisions were made to ensure that the victims of accidents and their families do not have to suffer from the financial losses, even though the loss of a life can never be compensated. The people still tend to misuse it to run away from their liability and take up the exceptions as a shield to protect them. It is important that the implementation of these provisions is done properly as it is not just about insurance, but also for safeguarding and preventing accidents in general.

DISCLAIMER: the above article is prepared for information and knowledge of readers. It is advisable not to consider above as professional advise of the author. Please do consult with your consultant before taking any action on any part of article produced.

FCS DEEPAK P. SINGH

Mobile No. +91 9920830041

Email ID: cs.deepakpsingh@gmail.com