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## **MOTOR VEHICLE ACCIDENT COMPENSATION POST-2019: LEGISLATIVE REFORM, JUDICIAL RESPONSE, AND THE QUEST FOR JUST COMPENSATION**

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### **ABSTRACT**

The Motor Vehicles (Amendment) Act, 2019 implemented some of the major changes to the motor accident compensation system of India with the aim of promoting the protection of victims, provision of quick relief, and increase in insurance responsibility. The pivotal features of these reforms include the increase of the no-fault liability in Sections 164 and 164B, the establishment of Motor Vehicle Accident Fund, and the establishment of compensation as a socio-justice issue rather than strictly tortious liability. The effectiveness of such reforms in practice, however, should be considered in the context of judicial interpretations of the term just compensation and the continuing discrepancy between the statutory compensation and damages awarded by a court. This paper will critically review the post 2019 compensation regime, judicial trends, and reviews whether the reforms have achieved economic justice and insurance liability. It contends that although the Amendment is a progressive move, structural and implementation problems are still crippling its transformative nature.

**Keywords:** Motor Accident Compensation; Motor Vehicles (Amendment) Act, 2019; NoFault Liability; Just Compensation; Insurance Liability; Welfare Jurisprudence; Economic Justice.

## INTRODUCTION

Accidents on the road that involve motor vehicles are a significant social-economic and public safety issue in India. Road accidents have extended effects that are not just the immediate physical injury, but may lead to a long-term disability, loss of livelihood, and poverty across generations. The legal system of the compensation of motor accident therefore holds a special niche at the interplay between tort law, insurance law and constitutional welfare jurisprudence.<sup>1</sup>

Motor Vehicles Act, 1988 marked a change to a strictly fault-based regime through the application of no-fault liability and organized compensation.<sup>2</sup> However, as time passed, restrictions including low statutory compensation, delays in the process and variable awards by the judiciary compelled a radical change in the law. The Motor Vehicles (Amendment) Act, 2019 came as a reaction to these issues in order to empower the victim-focused mechanisms as well as promote the social welfare nature of the law.<sup>3</sup>

This paper discusses the effects of the 2019 Amendment on the aspects of motor accidents compensation and insurance liability, specifically no-fault liability, Motor Vehicle Accident Fund, and judicial understanding of just compensation.

## CONCEPTUAL SHIFT IN MOTOR ACCIDENT COMPENSATION LAW

The Indian law on motor accident compensation has been changed to a tortious form of law, which revolves around the facet of faults to a hybrid model, which takes into account the concept of welfare.<sup>4</sup> First, victims had to prove negligence, causation and damage that are typically characterized by delays and the difficulty in proving the same. The legislature is aware of such problems; the solution to such problems was the establishment of the no-fault systems of compensation to provide the instant relief which was not dependent on the fault. Such a shift is strengthened by the 2019 Amendment through the improvement of statutory compensation and institutionalisation of State responsibility through the establishment of an accident fund. The philosophy is a transformation of social risk management rather than individual where the road accidents are considered as a social risk and that the society requires to take care of it.

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<sup>1</sup> Ratanlal & Dhirajlal, *The Law of Torts* (27th ed., LexisNexis 2023).

<sup>2</sup> Motor Vehicles Act, 1988, Statement of Objects and Reasons

<sup>3</sup> Motor Vehicles (Amendment) Act, 2019, Statement of Objects and Reasons

<sup>4</sup> Law Commission of India, 85th Report (1980)

## 2.1. NO-FAULT LIABILITY UNDER SECTION 164: SCOPE AND SIGNIFICANCE

The Motor Vehicles Act, 2019, amended, section 164, has considerable improvements on the compensation that is to be paid on no-fault basis. Before the amendment of 2019, the no-fault compensation was addressed under Section 140 of the Act, which offered considerably lesser amounts of 50,000 in case of death and 25, 000 in the case of permanent disablement.<sup>5</sup> These sums were now very nominal and could no longer meet the needs of the economic challenges facing victims of motor accidents especially with the increasing medical bills and loss of livelihood. The fact that Section 140 is replaced by the more generous compensation regime in Section 164 is thus an intentional legislative reaction to the ineffectiveness of the previous regime, and a restatement of the welfare-oriented nature of the motor accident compensation law.<sup>6</sup> The provision attempts to provide immediate financial relief to the victims or their relatives by repairing compensation at 5,000,000 in case of death and 2,50,000 in case of grievous harm with the intention of not having to establish a case of negligence.<sup>7</sup>

This is because the statutory drafting of Section 164 creates the absolute liability thus abolishing the historic defences that could be enacted by insurers and vehicle owners. This is a turning point in regard to the accident compensation being seen as an issue of statutory right but not discretionary compensation. The judicial interpretation has always been that compensation in Section 164 does not depend on fault-based claims and functions as a floor of relief.<sup>8</sup>

The fixed compensation in Section 164 though, poses a matter of adequacy, especially when it comes to cases of young earning members or permanent disability. Although this provision guarantees speed and certainty, it stands a risk of underestimating the actual economic loss, hence compelled to seek judicial redress on the basis of claims founded on fault.<sup>9</sup>

## SECTION 164B AND THE MOTOR VEHICLE ACCIDENT FUND

Among the greatest inventions of the 2019 Amendment is the addition of Section 164B that

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<sup>5</sup> Motor Vehicles Act, 1988, § 140

<sup>6</sup> Law Web, *How the new Amendment Act 2019 Will Change Motor Accident Claim Litigation in India* (May 2024), available at lawweb.in.

<sup>7</sup> Motor Vehicles Act, 1988, § 164

<sup>8</sup> *National Insurance Co. Ltd. v. Sinitha*, (2012) 2 SCC 356

<sup>9</sup> P. S. Narayana, “No-Fault Liability under the Motor Vehicles Act: A Welfare Approach”, (2018) 5 SCC (J) 12

creates the Motor Vehicle Accident Fund.<sup>10</sup> The Fund is also supposed to compensate cases of hit-and-run and uninsured vehicle accidents and immediate medical treatment of victims of accidents.

The legalization of the Fund is a step towards addressing the historical gaps experienced in the previous Solatium Scheme that was plagued by a lack of coverage and effectiveness. Institutionalisation of a special fund is an acceptance by the legislature that not every accident victim is sufficiently safeguarded by use of the private insurance mechanisms.

Constitutionally, Motor Vehicle Accident Fund is in line with the duty of the State in Article 21<sup>11</sup> to safeguard life and individual liberty and in Article 39A,<sup>12</sup> which requires the availability of justice. The Fund represents a collective responsibility model, as it is built on the realization that road safety and accident compensation is a societal issue.

Although the idea is strong, the practical value of the Fund is based on timely introduction, open administration and sufficient financing. Operationalisation and ambiguity in terms of contribution mechanisms will lead to watering down the transformative purpose of the provision.

### **JUDICIAL INTERPRETATION OF “JUST COMPENSATION”**

Indian courts have interpreted the concept of just compensation in the section 168 of the motor vehicles act in a broad way.<sup>13</sup> The judicial interpretation has always focused on the fact that the compensation should be just and reasonable and relative to the loss incurred and should not be arbitrary and overly generous.

Cases like the *Sarla Verma v. The Delhi Transport Corporation*<sup>14</sup> and *National Insurance Co. Ltd. v. Pranay Sethi*<sup>15</sup> has brought about the standardisation of computations in calculating compensation especially by use of multiplier method and identification of future prospects. These were determined in order to minimize inconsistency and bring predictability in awards.

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<sup>10</sup> Motor Vehicles Act, 1988, § 164B

<sup>11</sup> Constitution of India, art. 21.

<sup>12</sup> Constitution of India, art. 39A.

<sup>13</sup> Motor Vehicles Act, 1988, § 168

<sup>14</sup> *Sarla Verma v. DTC*, (2009) 6 SCC 121

<sup>15</sup> *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680

Later case law broadened compensation to include more forms other than pecuniary loss. The Supreme Court understood filial and parental consortium in *Magma General Insurance Co. Ltd. v. Nanu Ram*, the judiciary sensitivity to the emotional and relationship aspects of loss.<sup>16</sup>

Judicial interpretation therefore does not focus on compensation only as the restitution of the economy, but as a comprehensive solution to both real and imaginary damage.

### **3.1. DISPARITY BETWEEN STATUTORY COMPENSATION AND JUDICIAL AWARDS**

The notable problem of the post-2019 regime is that the difference between the statutory compensation of Section 164 and the judicial awards of Section 166 is growing.<sup>17</sup> Whereas statutory compensation guarantees speed and certainty, judicial awards tend to be significantly higher than fixed amounts as they seek to be compensatory of actual loss of earnings, dependency and future prospects.

This duality produces a conflict between efficiency and adequacy. Victims who choose no fault compensation are relieved immediately but they might be undercompensated, and those who choose fault-based claims are likely to spend long in court despite the possibility of getting more.

There is no system to align statutory compensation with judicial standards and it creates inefficiency in its uniformity as well as risks the delivery of unequal justice to the equally placed victims.

### **INSURANCE LIABILITY AND THE WELFARE ORIENTATION OF THE ACT**

The extended compensation scheme is bound to raise the insurance liability on the insurers. Yet, the judicial rulings have always confirmed the fact that the Motor Vehicles Act remains a positive law that tries to protect the lives of the victims and not the business interests.

Courts have limited the extent of technical defences that can be used by insurers and have focused on insurers as responsible social actors in terms of ensuring timely compensation.<sup>18</sup>

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<sup>16</sup> *Magma General Insurance Co. Ltd. v. Nanu Ram*, (2018) 18 SCC 130

<sup>17</sup> Motor Vehicles Act, 1988, § 166

<sup>18</sup> *National Insurance Co. Ltd. v. Swaran Singh*, (2004) 3 SCC 297

This method indicates a jurisprudential change in the rigid interpretation of contract by strict contract to the welfare interpretation.

Although the issues of premium increase and insurers solvency still have a point to play, they cannot compete with the basic idea of victim protection integrated into the statutory framework.

### **TOWARDS A HARMONISED COMPENSATION FRAMEWORK**

The post-2019 regime of compensation is also a progressive move in the direction of economic justice, but its successful implementation is conditional on structural consistency and administrative cost-efficacy. To achieve lawful intent, it is necessary to periodically revise statutory compensation, effectively operationalise the Motor Vehicle Accident Fund and incorporate no-fault compensation with final judicial awards.<sup>19</sup>

A middle way, where interim statutory compensation, which can be adjusted to meet final awards, can be introduced, would be a solution that ensures victims are not kept waiting or undercompensated.

### **CONCLUSION**

The Motor Vehicles (Amendment) Act, 2019 marks a paradigmatic turn in the Indian understanding of the compensation of the motor accidents victims, which supports the ideas of no-fault liability, collective liability, and social justice. Improved statutory compensation and establishment of the Motor Vehicle Accident Fund reflects legislative determination to protect the victims.

Nevertheless, the continued difference between the compensation as provided by law and that awarded by the courts points to the necessity of an increase in harmonisation. The reforms will fail to be fully realised, unless the reforms are effective and reviewed on a regular basis. An intermediate approach between the statutory certainty and judicial sensitivity is needed to change the motor accident compensation into an effective tool of economic and social justice.

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<sup>19</sup> K. Rajasekharan, *Vehicle Accident Compensation under No-fault Liability*, Lawwatch (July 2023), available at lawwatch.in (explaining Section 164 and its effect).