

**VEHICLE INSURANCE POLICIES AND CLAIM SETTLEMENT  
IN MIZORAM: A SOCIO - LEGAL STUDY**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
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**VEHICLE INSURANCE POLICIES AND CLAIM SETTLEMENTS  
IN MIZORAM: A SOCIO - LEGAL STUDY**

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**Submitted**

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### **Certificate**

This is to certify the thesis entitled '**VEHICLE INSURANCE POLICY AND CLAIM SETTLEMENTS IN MIZORAM: A SOCIO – LEGAL STUDY**', submitted by Hmingthanpuii Ralte for the award of the degree of DOCTOR OF PHILOSOPHY is a research work, done under my supervision and guidance. The thesis, submitted by her has not formed the basis of the award to the scholar for any degree or any other similar title and it has not yet been submitted as a dissertation or thesis in any University. I also certify that the thesis represents objective study and independent work of the scholar.

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## **DECLARATION**

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I, Hmingthanpuii Ralte, hereby declare that the subject matter of this thesis is the record of work done by me, that the contents of this thesis did not form basis of the award of any previous degree to me or to the best of my knowledge to anybody else, and that the thesis has not been submitted by me to any research degree in any other University/Institute.

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## **List of abbreviations**

1. MoRTH- Ministry of Road Transport and Highways
2. MACT- Motor Accident Claim Tribunal
3. MCPC- Mediation and Conciliation Project Committee
4. ADRS- Alternate Dispute Redressal System
5. MACT- Motor Accident Claim Tribunal
6. MVA- Motor Vehicle Act
7. LGBT- Lesbian, Gay, Bisexual, and Transgender
8. MAMA- Motor Accidents Mediation Authority
9. CPC- Civil Procedure Code
10. MACAD- Motor Accident Claims Annuity Deposit Scheme
11. RTI- Right to Information
12. IOT- Internet of things
13. CrPC- Code of Criminal Procedure
14. ISDLS- Institute for the Study and Development of Legal Systems
15. OD - Own Damage Cover
16. FIR- First Information Report.
17. VIR-Victim Impact Report
18. RPAS - Reverse Park Alert System
19. IOT- Internet of Things
20. MSLSA- Mizoram State Legal Services Authority
21. DLSA- District Legal Services Authority
22. CAGR- Compound Annual Growth Rate
23. BIS- Bureau of Indian Standards
24. AIS - Automotive Industry Standards
25. (CVs) - Commercial Vehicles
26. ABS- Anti-Lock Braking System
27. MVF - Motor Vehicles Fund (MVF)
28. NTP - National Transportation Policy
29. iRAD- Integrated Road Accident Database

30. NIC - National Informatics Centre
31. CPC- Civil Procedure Code
32. SCRB - State Crime Record Bureau

## **CHAPTER - 1**

### **INTRODUCTION**

#### **Motor Insurance**

Motor Vehicle is one of the most important investments for human being. In certain circumstances, it reflects the security of man's life such as the incident of motor accident, unforeseen circumstances like theft, robbery, fire and so on. Driving a motor vehicle without insurance in a public place is a punishable offence under the Motor Vehicles Act, 1988 as amended on 2019<sup>1</sup>. Under the said Act, the Indian government has made third-party motor insurance being obligatory, which means that the owner of the vehicle is legally liable for any injury or damage to third-party's life or property caused by the use of their vehicle in a public or private place. This act has forced and directed the vehicle owner to mandatorily purchase motor insurance policy from a recognized insurance company. The Supreme Court Committee on "Road Safety" Chaired by Justice K.S.Radhakrishnan on 27<sup>th</sup> December, 2016 stated that "the non-insurance of vehicles cause hardship to the road accident victims in obtaining compensation that is due. The Committee examines various measures for bringing all vehicles under the third party insurance cover. In the first instance, the Committee desired that government should periodically check the vehicles to see whether the vehicle owners have complied with third party insurance cover. In case they have not complied with the third party insurance policy, the vehicles should be detained till such time the valid Insurance Certificate is obtained by the vehicle owner"

#### **Definition of motor insurance:**

Motor insurance refers to policies that offer financial assistance in the event of accidents involving vehicles. Motor insurance can be purchased for three categories of motorized vehicles, including,

**Car Insurance-** Car insurance includes personally owned four-wheeler vehicles of any type that are covered under car policy.

**Two-wheeler Insurance-** Individually owned two-wheeler vehicles, including bikes, scooty and scooters, are covered under the Two Wheeler Insurance plans.

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<sup>1</sup> Motor Vehicle (Amendment) Act 2019

**Commercial Vehicle Insurance-** This plan includes a vehicle that is used for commercial purposes, and availing of insurance for the same is an obligatory on the part of the owner. These policies ensure that business/commercial automobiles stay in the best of shapes, reducing losses significantly<sup>2</sup>.

Motor insurance is an insurance policy that covers the policyholder in case of financial losses, resulting from an accident or other damages – sustained by the insured vehicle. A comprehensive motor insurance policy covers damages to third-party and third-party property along with compensating for own losses as well<sup>3</sup>.

Motor vehicle insurance, also called automotive insurance, is a contract by which the insurer assumes the risk of any loss the owner or operator of a car may incur through damage to property or persons as the result of an accident. There are many specific forms of motor vehicle insurance, varying not only in the kinds of risk that they cover but also in the legal principles underlying them<sup>4</sup>.

### **Types of Motor Insurance Policies**

Based on the extent of cover or protection offered, motor insurance policies are of three types, namely:

- **Third-Party Liability** - This is the most basic type of motor insurance cover in India. It is the minimum mandatory requirement for all motorized vehicle owners, as per the Motor Vehicles Act of 1988. Due to the limited financial assistance, premiums for such policies also tend to be lower in comparison to the other policies. This policy plans only to pay the financial liability to the third-party affected in the accident, and thus ensuring that the vehicle owner does not face legal inconveniences due to the accident. The policy does not offer any financial assistance to repair the policyholder's vehicle after accidents however damage it might be.

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<sup>2</sup> “ Motor Insurance”, <https://www.reliancegeneral.co.in/Insurance/Motor-Insurance/Car-Insurance.aspx>, retrieved on 15<sup>th</sup> Feb, 2021

<sup>3</sup> “Everything You Wanted to Know About Motor Insurance”, <https://www.adityabirlacapital.com/abc-of-money/what-is-motor-insurance>, accessed on 16<sup>th</sup> feb, 2021

<sup>4</sup> Encyclopedia Britannica's, <https://www.britannica.com/topic/motor-vehicle-insurance>, accessed on 20<sup>th</sup> Feb, 2021

- **Comprehensive Cover / First Party Insurance**-In compared to the third-party liability insurance policy, comprehensive insurance plans offers better protection and security. Apart from covering third party liabilities, these plans also cover the expenses incurred for repairing the damages caused to the vehicle due to the accident. Additionally, comprehensive plans also offer a payout in a situation where the vehicle sustains damage due to fire, man-made and natural calamities, riots and other such incidents. It can also recover the cost of the vehicle if it gets stolen, when the owner has a comprehensive cover. One can also obtain several add-ons with their comprehensive motor insurance policy that can make it better security. Some of these add-ons policy can include zero depreciation cover, engine and gear-box protection cover, consumable cover, breakdown assistance, etc and so on.
- **Own Damage Cover (OD)** - This is a specialized type of motor insurance that insurance companies offer to consumers. This policy is made available to a person who purchased the two-wheeler or car after September 2018. To avail this, the vehicle needs to be brand new and not a second-hand vehicle. It is to be noted that to avail this standalone damage cover, the owner must already have a third party liability motor insurance policy in place as well. With its own damage cover, the owner primarily receives the same benefits as a comprehensive policy without the third-party liability benefit of the policy.

### **Motor insurance market**

The increase of income among the middle class resulted in the high demand and sale of vehicles in India in comparison to the prior generations. As the law makes it statutory for every vehicle owner for compulsory vehicle insurance, the rise in sale of vehicle policy results in the bigger market for insurance business. There was a total production of 22,655,609 units' vehicle in April 2020 to March 2021 and a total 22,933,230 vehicles including passenger vehicles, commercial vehicles, three wheelers, two wheelers, and quadric cycles in April 2021 to March

2022<sup>5</sup> . India's car insurance market is one of the fastest-growing market in the world due to the growing number of private automobiles as well as the flourishing taxi industry in the country<sup>6</sup> in addition to the compulsory insurance policy of the Government. Data and analytic firm Global Data observed that it expects India's motor insurance business to decline by 27.2% in 2020, compared to growth of 10.1% in 2019. Motor insurance forms the largest sector of the general insurance industry in India. The car insurance sector is valued at Rs70, 000 crore with insurance claims towering at a staggering 1.2 lakh crore nationally. According to a report by Mordor Intelligence premium from motor insurance in India accounted for approx 39.4per cent of the overall non-life insurance premium in the year 2018. Mentioned in the same report, the car insurance industry has registered a Compound Annual Growth Rate (CAGR) of 11.36 per cent in the study period between 2012 - 2018.

### **Benefits of Motor Insurance Policies**

Cars and bikes are increasingly more expensive with each passing day. At such a time, staying without proper insurance can lead to severe monetary losses for the owner. Listed below are some advantages of purchasing a proper insurance plan .

**Prevents Legal Hassle** – It ensures the vehicle owner to avoid any traffic fines and other illegalities that would otherwise need to be bear by the owner.

**Meets All Third-Party Liability** – In the event of accident by an insured vehicle resulting injuries to a person or damage to someone's property, the insurance policy helps the owner to meet the huge monetary expenses.

**Financial Assistance to Repair own Vehicle** - In case of motor accidents, the owner always need to spend considerable amount on repairing the vehicle, In such

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<sup>5</sup> Society of Indian automobiles manufacturer (SIAM) , <https://www.siam.in/statistics.aspx?mpgid=8&pgidtrail=9> Retrieved on 30/5/2022.

<sup>6</sup> India Car Insurance Market Getting on To the Magnanimous Mode: Projected to Grow at a CAGR of 8.0% during 2022-2028 , <https://www.globenewswire.com/news-release/2022/01/19/2369557/0/en/India-Car-Insurance-Market-Getting-on-To-the-Magnanimous-Mode-Projected-to-Grow> , Retrieved on 30/5/2022

an event, insurance plans help the owner to meet repairing expenses, and enable the owner to undertake necessary repairs immediately.

**Theft/loss covers** - In the case of stolen vehicle, the insurance policy helps to reclaim a portion of the car/bike's on-road price. The policyholder can also expect similar assistance if the vehicle is damaged beyond repair due to accidents.

Additionally, individuals who own a commercial car/two-wheeler can also avail tax benefits if they paid premiums for that vehicle.

### **Need of motor accident claim tribunal**

As there is an increase in the market of automobiles, the number of road accidents also increase which result in the need for the establishment of an accident claim tribunal as per the Motor Vehicle Act. Motor Accidents Claims Tribunal has been created by the Motor Vehicles Act, 1988. It has been constituted to provide speedier remedy through summary trial to the victims of accidents by motor vehicles. The Tribunals take away jurisdiction of Civil Courts in the matters which concerns the Motor Accidents Claims Tribunal. A total number of 4,37,396 road accidents were recorded across India in 2019, resulting in the death of 1,54,732 persons and injuries to another 4,39,262, according to the latest National Crime Records Bureau (NCRB) data. The majority (59.6 per cent) of road accidents were due to 'over-speeding' which caused 86,241 deaths and left 2,71,581 people injured, the data stated. In 2018, Indian reported 1,52,780 deaths in road crashes, while the figures stood at 1,50,093 in 2017, it showed<sup>7</sup>.

These traffic accidents resulted in injuries to 4,42,996 persons and 1,81,113 deaths during 2019. Only in the state of Uttar Pradesh there were 27,661 deaths followed by Maharashtra with 18,524 deaths and Madhya Pradesh with 13,497 deaths showing the maximum fatalities in traffic accidents among the states in the country. These three States accounted for 15.3%, 10.2% and 7.5% of total deaths in traffic accidents respectively and collectively accounted for 33.0% (59,682 out of 1,81,113) of total fatalities reported at all India level during 2019.

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<sup>7</sup> 1.54 lakh people killed in road crashes in India in 2019, over-speeding reason in 60% cases: Data, <https://economictimes.indiatimes.com/news/politics-and-nation>. Retrieved on 30/6/2022

The percentage share of traffic accidental deaths in total deaths due to 'Other Causes' has increased from 42.9% in 2015 to 43.9% in 2019. The rising trend was seen in the absolute number of deaths in 'Traffic Accidents' from 2015 to 2019. Number of deaths have increased by 1.3% from 1, 78,832 to 1, 81,113 in 2019 over 2018<sup>8</sup>. The figure shows the need of Motor Accident Claim Tribunal (MACT) in all cities in India even to the smaller districts as far as possible, to ensure speedy justice delivery to the weaker section of the society who are victims of vehicle accidents.

### **Motor Accident Claim Tribunal- growth and Development in Mizoram**

When the British entered India, a number of their laws were incorporated for the country in line with the British law. One of the important enactments was the Fatal Accidents Act, 1855 in order to provide equal rights to the persons wounded or deceased in an accident. Before the Fatal Accident Act, there was no provision under the Indian law to entertain a claim with regards to vehicle accident. Though the need to have a tribunal for vehicle accidents was felt, initially the act did not provide for the same, the case was adjudicated as a civil case in the civil courts. The Act developed a process to enable the right of designated legal heirs to seek relief from the negligence act of the driver. The law worked for a considerable period of time but due to the changing demand it was amended in 1939 which earlier replaced the act of 1914. In the year 1956 the act was again amended by adding 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 the procedures for adjudication of claimants have been catered. In 1982, the extension of Section 92(A) and 92(E) created a new principle of granting temporary relief on the grounds of "No Fault". Many people agree that death from hit and run collisions have since been provided coverage under the same provision, where the offending vehicles are not classified.<sup>9</sup> The Motor Vehicle Act, 1939 was amended in 1988 called ; The Motor Vehicle Act-1988. The new act is a beneficial piece of

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<sup>8</sup>National Crime Records Bureau (NCRB)

<sup>9</sup>Kunal Mehta, 'An analysis of law relating to Accident Claims in India' <<http://www.legalserviceindia.com/articles/km.htm>>



legislation as per the "Rule of Law", the provision shall be interpreted in favor of the victim party<sup>10</sup> and the burden of proof is liberal.<sup>11</sup> The Motor Accident Claim Tribunal was created by the Motor Vehicles Act, 1988, it came into force on 1<sup>st</sup> July, 1989 and replaced the MV (Amendment) Act 1956. It has been constituted to provide a speedier remedy to the victims of accidents by motor vehicles. The tribunal takes away the jurisdiction of Civil Courts in the matters which concerns the Motor Accidents Claims Tribunal. In 1994, this Act was further modified to add section 163A dealing with the special provision as to the payment of compensation on the structural formula to ensure social security. The legislation is still in a time of extreme transition. The Supreme Court in *National Insurance Company Vs Swaran Singh*<sup>12</sup> have observed that The Motor Vehicle Act is a welfare legislation to extend relief by way of compensation to the victim caused by vehicle accident and its provisions have to be interpreted so as to effectuate the object.

The Appeals from Claims Tribunal lies with High Courts under section 173 of the Motor Vehicle Act and the procedure to be followed in the case of appeal is mentioned under Chapter 10 of the Rules. The appeal is limited by time and has to be filed in the High Court within 90 days from the date of award by the Claims Tribunal. The High Court may entertain the appeal after the expiry of the period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.<sup>13</sup> However, there is no time limit for filing motor vehicle accidents claims. But an unusual delay will demand an explanation by the tribunal. It was held in *Mr. Gurcharan Singh Vs Yashwant Singh AIR 1992 SC 180* that, the scheme published under the old act was not affected by the repeal of the old act, notwithstanding the fact that the said application was under the old act.

According to Section 166 of the Motor Vehicles Act, 1988 compensation can be claimed by the following persons who have sustained injury, by the owner of the damaged property, by all or any legal representatives of the

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<sup>10</sup> Honorable Justice Indira Shah, " Motor accident claim and assessment of compensation", (2020), Dwivedi Law Agency, Allahabad.

<sup>11</sup> *Muzamin Vs Ranjit Singh*, 2007(4)TAC978:III(2007)ACC758(Del)

<sup>12</sup> 2004ACJ 1: 2004 (1) TAC 321

<sup>13</sup> Section 173 of Motor vehicle Act, 1988

deceased who died in the accident, by duly authorized agent of the injured person or all or any of the legal representatives of the deceased who died in the accident. The claim petition can be filed to the Claims Tribunal having jurisdiction over the area in which the accident occurred or, to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides, or carries on business or, within the local limits of whose jurisdiction the defendant resides.

The records which are mandatory to be furnished while making a claim due to motor accidents are FIR copy submitted to the closest police station, Copy of Medico Lawful Credential/ Post Mortem Certification/ Death Certificate, Identification Documentation of Claimants as needed, Original Expense Records as incurred in hospital along with medical record, Injury Certificate as appropriate, Documentation in relation to the claimant, Cover document of third party insurance scheme and Statement of facts specifying the claimant's relationship with the deceased.

The 5th January 1996, was an important turning point for the institution of Motor accident Claims Tribunal (MACT) in Mizoram as the first Motor Accident Claim tribunal was established in Aizawl, Mizoram. Prior to the year 1996, the motor accident claim petition were taken up by Transport Department and Secretariat Administration Department, Government of Mizoram, by virtue of rule 3 of the Government of Mizoram (Allocation of Business) Rules 1987; the Government of Mizoram re-allocated the matter to the Law and Judicial Department<sup>14</sup> on the 5<sup>th</sup> January 1996. On the 3<sup>rd</sup> Jan, 2000, the Government of Mizoram constituted MACT, Lunglei and the court of Additional District Magistrate (Judicial), Lunglei was assigned to administer the districts of Lunglei, Lawngtlai and Saiha as an additional charge . The existing MACT Presiding Officer in the capital city of Aizawl District continued to administer the districts of Aizawl, Champhai, Serchhip, Kolasib and Mamit. The ADM (J) Lunglei also functions as Presiding Officer in addition to his own duties as notified under Notification<sup>15</sup> from the 3<sup>rd</sup> January, 2000 [Vide, the Mizoram Gazette, Extra Ordinary; Vol. XXIV,

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<sup>14</sup> No.A.40011/1/94-GAD/Loose-1,

<sup>15</sup> No. A.51011/1/96-L&J (CSW)

28.1.2000, SE 1921, Issue No.10].<sup>16</sup> On the 30th November, 2009 the District Judge, Lunglei was vested with all the powers of a Member of the Motor Accident Claims Tribunal to try motor accident claim cases within the jurisdiction of the Lunglei Judicial District covering the administrative districts of Lunglei, Lawngtlai and Saiha vide Notification No. A. 12011/32/06-LJE, whereas the territorial jurisdiction of the Motor Accident Claims Tribunal at Aizawl stands restricted to the Aizawl Judicial District comprising of the Aizawl, Kolasib, Mamit, Champhai and Serchhip administrative districts only<sup>17</sup>. All Judicial Officers in the Grade- I (District Judge Cadre) of the Mizoram Judicial Service were designated as Member, MACT under MV Act, 1988 Vide, and Notification No. A. 12035/1/2008- LJE, Dated Aizawl, the 16th December, 2010.

## 1.1 REVIEW OF LITERATURE

A book by Dr. Krishna Pal Malik "*Motor vehicle and Railway claim tribunal (Statutory Torts)*" discusses the magnitude of the motor accident and an accident caused by a train. A number of reliable data from official sources or NCRB report was inserted with a comparison of year's wise accident claims and the evaluation of the Motor Vehicle act from the pre independent up to the post independent is fully discussed. The book also comprises claims under "Liability without fault" or "No fault liability" in the light of Supreme Court and the recommendations of Law Commission, it explains the difference between Third Party Insurance and first party insurance with the liability of the insurer. The book explains the consequences of "Hit and Run" cases under the MACT i.e Where the identity of the vehicles is not traceable with the compensation on motor vehicle accident cases on Structural Formula basis. It gives a brief description of the adjudication procedure in the Motor Accident claim tribunal with their powers of civil court for taking evidence on oath and for enforcing attendance of witnesses. The author of the book has an in-depth knowledge of the provision of the Motor Vehicle Act. The book is enlightening the public by giving a ready-made data reference from a reliable source with many important Supreme Court and High

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<sup>16</sup>“ Brief history of Mizoram judiciary”, *Official website of the district court access on 15<sup>th</sup> Feb, 2021*

<sup>17</sup> Vide, the Mizoram Gazette, Extra Ordinary, Vol. XXXVIII, 2.12.2009 Issue No. 542

Court judgments to enrich the understanding and practice use of the case. His focus on the comment of the Judges gives an idea that the new legislation is always a result of the goal and proposal of the judiciary which often result in the enactment of a new act or the amendment of the existing act. The tracing of the historical background of the act gives the reader good knowledge about the colonial period system and the post colonial period of the act. The author stated that the highest numbers of victims of road accidents were the pedestrians and next to them were the cyclists, and the scooterists who were by and large belonging to the poor strata of society in India. Apart from being a victim, large numbers of these victims are not aware of the remedies available to them because there is a prescribed procedure and the tribunal to entertain their petitions for claims of compensation. Taking into account all the difficulties and adversity faced by the victims, the present book has been written in a very simple language for benefits of the public at large, the lawyers, the insurance companies, including the researcher and law students in particular. It can also be said that all topics have been covered under the Motor Vehicles Act 1988 and it is in the Act which is available to get maximum compensation with minimum exercise. Precedents with regards to accident claim compensation by the Supreme Court and various High Courts under the Motor Vehicles Act have also been incorporated in the book.

A book by ML Bhargava, "*Law of motor accidents claims and compensation*" covers all the laws relating to claims process, the trail procedure, the award and the execution of the award in a detailed manner. The book mentions the need to have an insurance policy for every vehicle owner in the country. It explains in detail the duty of the insurer and the policyholder with the different types of payment of compensation. The payment for structural formula basis is explained specifically along with the other types of payments. It explains the claim tribunal with the historical background along with the amendments. In this book, one of the important things that is worth mentioning is that it analyzes the procedure of interim award, interim claim and interim compensation specifically. In this book, the author clearly explains the meaning of "Just compensation" which is deemed to be fair,

moderate and reasonable at the same time awardable in the proved circumstances of each particular case.

A book by Hon'ble Dr Justice Indira Shah "*Motor accident claim and assessment of compensation*" is one of the most reliable books among the Motor Accident Claim Tribunal. It consists of 50 Chapters with a number of indexes. Like the other authors, Dr Justice Indira discusses the historical background, the interpretation of statute, the claim procedure, the policy with all the important Supreme Court and High Court judgments in India. Apart from the Motor Vehicle Act, he discussed many important legal principles on the law of Torts like strict liability, No fault liability, vicarious liability, contributory negligence and so on. The reader may find all the important cases in one book, rather than searching them in several law journals. This book consists of every point of laws on motor accident dealing with damages and compensation claims arising from road accident, rash and negligent driving, contributory negligence, motor insurance, third party risks, on-fault liability, principle of assessment of compensation, passenger risks, vicarious liability, disability, and personal injury cases, etc. The book also deals with all important topics and principles having a bearing with motor accident cases and claims and elucidating richly by latest case law. It also provides the format of Victim Impact Report (VIR), list of documents collected during inquiry, schedule for compensation, list of injuries, offenses, penalties & procedure and model forms.

A book by M.P Sreenath & Lalitha Sreenath, "*Law relating to Compensation under Motor Vehicle Act*", In this book, the author gives recognition to a large number of people who got killed or maimed in motor vehicle accidents that is increasing day by day. The main dependency of such helpless people and their dependents is the compensation that they are entitled to receive under the law. The author highlighted that right from 1956; motor accident compensation law has been in a state of instability. It was in 1956 that the legislature amended the Motor Vehicles Act, 1939 by inserting several new sections and many more amendments have followed and in 1988, a new Motor Vehicles Act replaced the old one. This book explains and discusses various new rights created by the Motor Vehicles Act, 1988 for claiming compensation in case of any death or bodily injury caused in an

accident arising out of the use of a motor vehicle. The author discusses how the judiciary has from time to time interprets these statutory provisions and applies them to different facts and situations, but also to lay down the legal principles for assessing compensation depending upon the cases. The Motor Vehicles Act, 1988 does not lay down any guidelines for the identification of the items of loss to be compensated; nor does it provide any criteria for the computation of the quantum of compensation for each item of loss. The author successfully dealt with such and other important questions. The author attempts to make a comprehensive review of all aspects of the motor accident compensation law as per the new Act of 1988. The author has tried to present all the viewpoints on a given aspect with copious references to the case-law. The author does not adopt the usual section-wise commentary approach. On the contrary, he adopts a topic-wise discussion more appropriate for this subject. The rules framed by various States as far as possible under the Motor Vehicles Act, 1988 on accident claims have also been included in the appendix of the book. This book is sure to be useful not only to practicing lawyers, but also for the legal scholars and legislature.

A book by Dr. R.G. Chaturvedi, "*Law of motor accident claim and compensation*" Second edition is a comprehensive book containing judgments on motor accident claims along with precise and detailed Head Notes of each judgment. In addition to the Head Notes, it also contains specific heading of each judgment so as to provide easy access to the cases by the reader. The appendices contain provisions under the Motor Vehicles Act 1988.

A book by Hon'ble Dr Justice Indira Shah, "Commentaries On Motor Vehicle Act And Rules" is a Skyline Publications; 7th edition (1 January 2020) It is one of the most comprehensive and authoritative works on the motor vehicle laws like other books of the author. It explains and illustrates the provisions of the Act in a simple, understandable, comprehensive and systematic manner. It tends to include all current major landmark judgments of the Supreme Court and various High Courts of India. All the legislative changes are incorporated specially the motor vehicle Amendment, 2019 has been duly included by the author. It is a standard

reference and reliable book for judges, lawyers, in house counsels, law firms, students, law professors, researchers and scholars. One of the key features is a comprehensive study on the aspects relating to motor vehicle laws. It intends to update the entire major judicial and legislative developments that have taken place in this field of law and all-important judicial pronouncements have been incorporated. In this book it can be said that the author adopts a lucid and analytical approach in every chapter. In the present edition it is extensively revised to include the latest judicial as well as the legislative developments and the latest case laws as well as the legislative amendments that have come about since the last publication have been incorporated. The Motor vehicle laws Amendment Act 2019 has been incorporated at relevant places and the author has incorporated a critique on the Amendment act of 2019 to provide resourceful information about the changes that have been introduced in the field of motor vehicle laws.

A book by Kannan and Vijayaraghavan, "Motor Vehicles Laws" is a LexisNexis Publication 16th edition of September, 2019. This book is a comprehensive study on all aspects relating to Motor Vehicle Laws. It is an up to date book with all the major judicial and legislative developments that have taken place in this field of law. The author includes all the important judicial pronouncements as far as possible. In this book, the author adopts a lucid and analytical approach.

It is a book written by Justice K Kannan on "*Commentary on the Motor Vehicles Act*" who was a former judge of the Punjab and Haryana High Court, after his superannuation from Judicial Service in June 2016, he served as Chairman of the Railway Claims Tribunal (RCT) at the Principal Bench at New Delhi, India the post which he held till June 2019. It is a publication by OakBridge Publishing; First edition (1 February 2021). The book on Commentary on the Motor Vehicles Act provides a section-wise analysis on the Motor Vehicles Act, 1988 incorporating the impact of the Amendment Act of 2019, by expressing his critical view. The book gives an analysis and evaluates the working of the Act and its implementation by the various stakeholders including adjudicating authorities, insurance companies,

and enforcement agencies. In this book the author aims to explain the provisions of the Act in a simple manner by giving legislative history, judicial pronouncements, and the author's interpretation. While presenting the definition of law and judgments of the Supreme Court and High Court, the author expresses his own view and opinion on some of these decisions that are different from the interpretation adopted by the court. The book explains the new concept of 'aggregator', which is a digital intermediary for a passenger to connect with a driver for the purpose of transportation and the Central Aggregator Guidelines. In this book the author also discusses the ills that continue to invade the system such as fake licenses, poor performance of insurance companies in claim settlements disputes, and fake claims and also recommends use of technology and other methods to address these concerns. The book has proved to be very useful to policy makers, judges, lawyers, enforcement agencies, academicians, and law students. At the same time, the insurance industry will also find the book to be of interest to them especially in promoting the cause of settlements.

A book by Dr. G.S. Karkara," *Assessment of Compensation in Accidents under Motor Vehicles Act, 1988*" 2nd Reprint Edition was published in 2018 consisting of 756 pages. This book is published by the Delhi Law House, Delhi that includes the recent cases and reliable data that would be useful for the law students and researcher. It deals with every aspect of law that is important for a student. The author uses a simple and uncomplicated language that makes it more fruitful for the readers.

A book by A.S Bhatnagar, "*Motor accident compensation: how to claim, contest and assess*" includes how to claim compensation in vehicle accident, the process to contest and it assesses motor accident compensation under the Motor Vehicles Act, 1988 as amended by the Motor Vehicles (Amendment) Act, 1994 and the Motor Vehicles (Amendment) Act, 2000 (Act no. 27 of 2000) with the second schedule for chart of compensation for third party fatal accident/injury cases claims. It also includes motor accidents claims tribunal rules of various states with model forms of application & the Solatium Scheme, 1989.



A book by Basu, "*Exhaustive Commentary on Motor Accident - Claims and Compensation*" along with State accident tribunal rules - 2020 Edition is one of the most worth reviewing as it includes as many state rules relating to Motor vehicle. By reading this book, the reading can have a comparative analysis on the different rules of the state.

A book by Virendra K. Surana, "*Compensation in Motor Vehicle Accidents & Insurance Claims Manual (A Guide to Insurance Claim Protection Strategy)*" includes Life Insurance Policy Conditions & Privileges, Claims under Life Insurance, Fire Insurance Claims, Consequential Loss/ Loss of Profits Insurance, Motor Insurance, Compensation in Motor Vehicle Accidents. One of the unique features of the book is that the author includes all types of insurance like life and fire. Important judgments on Cases of Motor Vehicle Accidents are incorporated in the book along with the Claims Procedure for Insurance not only vehicle, Regulation and Legislation applicable to insurance are added in the book. The checklist of documents required under various insurance claims, protection of policyholder regulations are mentioned to help the reader for an easy claim.

A book by U.R.Sarkar (Advocate), "*Motor Accidents & Motor Insurance Claims Assessment of Compensation (in 2 Vols.)*" is the 4<sup>th</sup> edition published in the year 2015. The author in this commentary contains a comprehensive treatment of all the laws related to motor vehicles accidents and its compensation claims as per the M.V.Act 1988, Rules, Regulations and various Schemes applicable. The author incorporates Motor Accident Claims Tribunal Rules of various states with the model forms of application are also provided along with the Solatium Scheme of 1989.

An article by Swadha Rath "*Procedure and power of claim tribunal*" is an e-article. The author described the evaluation, origin and the further development of Motor Vehicle Act starting from 1914, 1939, 1988 and the actual enforcement on 1<sup>st</sup> July 1989 and states that before the amendment act of 1988, the case relating to motor accident has to be filed in the Civil Court as same as the regular procedure. It explains the process of MACT as a summary trial having the power of the Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of

witnesses and of compelling the discovery and production of documents and material objects and such other purposes as may be prescribed. The article explains the role of the Lok Adalat, the case taken up by the Lok Adalat, and states that the decision is final and the application for review of the order cannot be applied in the Motor Accident Claim Tribunal. The article discusses every detail of the procedure for claiming compensation under the Motor Vehicle Act. The role of the police, the medical practitioner, and the power of the judges, the claimant and the lawyer with the legal representatives and the dependent of the victims have been clearly defined. It highlights the recent and important landmark judgments of the Supreme Court and High Court, with the interesting citation of the judges.

An article by Justice Deepak Gupta “*Award of compensation under the Motor Vehicle Act-1988 guiding principles for motor accident claim tribunal*” is an e-article. The article mentions the common law and the development of the new law of Motor vehicle act. The author highlights the landmark judgment in relation to accident claim like *Sarla Verma vs. Delhi Transport Corporation*<sup>18</sup> where the Supreme Court rules about the eligible claimant in case of vehicle accident, the factor to be considered by the tribunal in awarding compensation and the method of multiplier for calculating the amount, *State of Haryana vs. Jasbir Kaur*<sup>19</sup> a case is also mentioned, about the “Just” compensation and the explanation of "just compensation". The author clearly explains “Fault liability” and “No fault liability” in case of accident. The status of child and women house - wife with no dependent are also clearly explained in this article.

An e-article by Sneharghya Saha “*All about law relating to Motor Accident Claims and Compensation*” is a writing relating to the relationship of torts and negligent driving under the MV Act. It explains the role of the legislature for the regularization of MV Act<sup>20</sup> from the Fatal Accident claim Act-1885. The author mentions the circumstances when the petitioner is not satisfied with the award, his right to go for an appeal in the High Court. It briefly identifies the mandatory

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<sup>18</sup> (2009) 6 S.C.C. 121.

<sup>19</sup> 2003) 7 S.C.C. 484.

<sup>20</sup> Motor Vehicle Act- 1988

documents to be produced while making a provision of claim due to motor accidents like FIR copy disclosed to the closest police station, Copy of Medico Lawful Credential/ Post Mortem Certification/ Death Certificate, Identification Documentation of Claimants as needed, Original Expense Records as incurred in hospital along with medical record, Injury Certificate as appropriate, Documentation in relation to the claimant, Cover document of third party insurance scheme and Statement of facts specifying a claimant's relationship with the deceased. The article also explains the governing principles of ascertaining the amount of compensation in case of death or permanent disability.

Prashant Singh article on, “How and When To File Claims with Motor Accidents Claim Tribunal?” explains the Motor Vehicle Act-1988 in general as a welfare legislation for the public and the incidences of loss of life, loss of limb, grievous injury, loss of property and damages of vehicle and property in motor accidents. Apart from the procedure of claiming compensation, it explains the process of licensing, registration of vehicles, role of the traffic Police in general *and* provisions which make it compulsory to have insurance of a motor vehicle against third party risk. The author explains that compensation for accidents can be claimed any time and the people who are entitled for claiming compensation are as under section-166 of the MV Act-1988. It explains how the Government has created a ‘Solatium Fund’ for the victims of “hit and run” motor accident cases in accordance with Section 163 of the Act.

Justice Jitendra N. Bhatt's article on " A round table justice through Lok-Adalat( People's Court)- A vibrant-ADR-in India" is an article cited in SCC Supreme Court Cases Journal in 2002, cited as Cite as : (2002) 1 SCC (Jour) 11. The author is a Judge, Gujarat High Court and Executive Chairman, Gujarat State Legal Service Authority, Ahmedabad. In this article the author highlights the importance of Alternate Dispute Redressal System in the Indian Judiciary. He mentions the changes brought about by The Civil Justice Reform Act (CJRA) in the United States and how the legal systems adopted and transformed the ADR system in the US. He has written that Lok Adalat is embedded in the India Panchayat

system that became diluted by the British Era. It made it clear that the traditional system of justice in India is not enough to cope with the ever growing cases, but the Lok Adalat system has always played an important role in litigation apart from the court system. In his article, the author has a detailed analysis on the role of Gujarat Legal Services Authority as a forefront role player in justice delivery.

An article by Kumar Ravish, " Significance of Lok Adalat" highlights the historical background of Lok Adalat in India. The author mentions the evolution of the Lok Adalat system in the country and the objectives for the enactment of the Legal Services Authority Act- 1987. In his article he mentions that Lok Adalat has played an important role in the third party insurance claim under the initiative of former Chief Justice of India, Justice P.N Bhagwati. He states that the Lok Adalat is the only active institution for controlling the arrears of cases in the judiciary and at the same time the institution saves the energy and time of the parties. The Legal Services Authority (Amendment) Act-1994 that came into force on 9th November, 1995 is discussed in summary. The landmark decision of the Delhi High Court in the case of Abdul Hasan and National Legal Service Authority Vs Delhi Vidyut Board and others cases are discussed where the significance of the Lok adalat is commented by Justice Anil Dev Singh.

An e-article by Meera Shah, " Consumer Protection Act, 2019: Is it beneficial for the buyer" discusses the need to have a consumer law to meet the present problem and challenges of the consumer. The author discusses the significance and role of the Act of 1986 and highlights the key features and changes brought about by the Consumer Protection (Amendment) 2019. The significant contribution of the author is that, by analyzing the new act of consumer law, the major drawback of the act is mentioned.

There is insufficient literature with regards to the role of Insurance, the insurance claim process and the system of tribunal as a whole. Most of the writers concentrated on the claim procedure in the Motor accident claim Tribunal but failed to explain the role of the enforcement agencies, Transport Department and the duty of the general public as a whole. One of the other problems is that while

reviewing the litigation and judgments of the Supreme Court and High Court, there are a huge number of cases decided by the judiciary especially the High Court of different states that made it very confusing for the scholar to rely on for further references in the research. An article or a book is very limited with regards to Motor accident claims that discusses and studies the case within the state of Mizoram. Hence, an attempt is made to fill up the gap through this research.

## **1.2 STATEMENT OF THE PROBLEM**

Most of the Insurance offices in the State of Mizoram do not have full fledged functions or engaged in joint business of Non Branch with the authorized dealer of the motor company, resulting in the absence of the recognized company surveyor/ engineer in the state. The consequences of the limited function of the company offices result in the delay of justice i.e speedy trial cannot be done in a reasonable time. It should also be noted that fake policies purchased by innocent vehicle owners hamper the justice process.

Jurisdiction of the tribunal is extensive and Mizoram is divided into only two judicial districts namely Aizawl and Lunglei for the period of the present research, recently a new judicial district namely Champhai Judicial District was created by the government. The objective of Motor accident claim tribunal is to deal with the case expeditiously but in reality, speedy trial is not practicable in Mizoram. William E. Gladstone had once said “Justice delayed, is justice denied” in his book which can be true in the case of Mizoram if the cases pending in the MACT are properly analyzed. It should also be noted that eleven administrative districts of the whole state are now classified only in three judicial districts which automatically leads to delay in deliverance of justice.

The topic on Motor Accident Claim Tribunal in Mizoram is an untainted portion of study and research. The people in general are not aware of the Insurance Policies and the claim process, which is the result of un-aware vehicle owners in Mizoram and in most of the cases when a person purchases a new vehicle they opt for buying Third Party Insurance Policy.

The Motor Vehicle Act-1988 provides for the settlement of claim compensation under section 140, 163A and 166. Till today a comparative study on how the different sections are applied in the adjudication of the claim by the tribunal is not covered to find out the most convenient and beneficial method for the victim in general. Many times a number of claims are rejected by the Insurance Company and claims are not entertained by tribunal due to different reasons.

Apart from Motor Accident Claim Tribunal the other Alternate Dispute Redressal system like Lok Adalat, State Commission and District Forum are expected to play important roles in dealing with first party/Third party claims when the owner of a vehicle is allowed to claim only for the loss/ damage of the vehicle.

### **1.3 SCOPE OF THE STUDY**

Law is living and dynamic in nature so many changes are experienced by the people. The laws relating to motor vehicles also keep on changing through amendment, new Act, rules and regulation. This research will focus mainly on the India laws and will include the colonial period. The institution of Motor Accident Claim Tribunal is analyzed during the year 2005-2020 .The institution of Lok Adalat and Consumer Forum of Mizoram are deliberated with special reference to the case of motor insurance claim during the year 2008-2020.

The researcher limit the study on Motor Accident Claim Tribunal of Aizawl Judicial District and Lunglei Judicial District of Mizoram; Alternate Dispute Redressal agency like Lok Adalat established under Legal Services authority Act, State Commission and District Forum established under the Consumer Protection Act 1986. It analyzed the role of Motor Accident Claim Tribunal along with the other forums. The study includes the analysis of the role of police, transport department, medical practitioner, insurance company, claimants and opinion of the vehicle owner in general. As far as possible, the researcher will explain the role of the Motor accident claim Tribunal as a means of social justice mechanism in modern society.

#### **1.4 SIGNIFICANCE OF THE STUDY**

The study will broaden understanding of the compensation procedures under the Motor accident claim tribunal in Mizoram. This research will enlighten the general public and make them aware about taking vehicle insurance policy and claiming compensation. The researcher's data collection and analysis will be a reliable source of information for future research and references. The Government can utilize the data for the purpose of policy matters. The data will become the first structure data in the field of accident claim in Mizoram as it is a virgin area of study.

#### **1.5 OBJECTIVES OF THE STUDY**

1. To study the development of Motor Accident Claim Tribunal in India with special reference to Mizoram
2. To find whether social justice is done to the victim party by the tribunal, and find out why dealers are selling the insurance policy of the Non- Branch company.
3. To study the different methods of compensation under the Motor Accident Claim Tribunal in Mizoram and find out how the insurance company functions in the state.
4. To find out the problems of the tribunal that result in the long litigation process in the Tribunal
5. To examine and find out the actual condition of the "Hit and Run" case in Mizoram.
6. To study the role of the State Commission, the District Forum and Lok Adalat in the trial of cases involving motor accident/lost cases.

#### **1.6 RESEARCH QUESTIONS**

1. How has the institution of MACT evolved in India and its impact on the state of Mizoram?
2. What is the role played by MACT in delivering social justice to the claimants?
3. What is the reason for the informal establishment of an Insurance Company in Mizoram?

4. What determines the preference of Motor Insurance policy by the vehicle owner and the causes of delay by the Tribunal?
5. What is the actual condition of the "Hit and Run" case in Mizoram?
6. What are the roles of ADRS like Lok Adalat, State Commission and District Forum in the adjudication process of claim settlement in Mizoram in case of damage/ loss of vehicle?

## **1.7 METHODOLOGY**

The researcher used doctrinal and non doctrinal methods of data collection. The research is a mixture of both Qualitative research and Quantitative research. Ex-post facto research is also applied to examine the data (cases) retrospectively to establish causes, relationships and their meanings.

**Primary Data:** For Primary data collection, judgmental (non probability sampling) and stratified random sampling (Probability sample) is applied, as in most of the situation the researcher have to apply her knowledge and experience in selection of sample and also that a large number of samples are impossible to be collected, a selected amount of sample will be generalized to represent the whole population. A semi-structured interview was also conducted to collect data from the lawyers and judges/ presiding officers of the Tribunal to get a reliable research outcome. Closed and open format questionnaires are conducted to collect data from the selected population to understand the reaction of the people in relation to the adjudication procedure of claims. The primary data also includes RTI, statute, Official Gazette, Govt. Recommendation, Committee Report.

**Secondary Data:** Secondary data include books, journals, newspaper, e-article, articles, research paper, website etc.

**Selection of Sample size:** The Research is concentrated on Aizawl and Lunglei Judicial Districts. Champhai Judicial District is not included as it is a newly created judicial district and does not have a Motor Accident claim Tribunal for the time being. It is important to mention here that only low percent of practicing Advocate in the Judicial District of Aizawl and Lunglei are associated with the case relating to motor accident compensation case, as a result of that, the questionnaire prepared for this research can be answered by carefully selected advocate and



teaching faculties who have expertise knowledge in the Motor Accident Claim settlement.

S.No	District		Selection method for population
1.	Aizawl District	Judicial	1) 50 - from Advocate both from the claimant and insurer 2) Interviewing of Presiding Officer, MACT, Aizawl
2.	Lunglei District	Judicial	1) 10- from Advocate both from the claimant and insurer 2) Interviewing of Presiding Officer, MACT, Lunglei

## 1.8 ORGANIZATION OF STUDY

This study, *Vehicle Insurance Policies and Claim Settlement in Mizoram: A Socio - Legal Study* begins with introduction of the study in the first chapter stating general introduction of the topic, Statement of Problem, giving an overview of literature review, research objectives, research question, methodology and selection of cases. The second chapter, "The Evolution and development of Motor Accident Claim Tribunal in India: A study on the state of Mizoram" looked into the important points on the Motor Vehicle Act 1988 and 2019. The chapter focuses on Motor Accident Claim Tribunal in India with a special reference to the state of Mizoram, and it will discuss the history of the Motor Vehicle Act from the colonial period till the development of the new amendment Act of 2019. It examines the development of motor insurance companies, growth rate of vehicles in Mizoram and a case study of MACT Mizoram from the year 2005 to 2018 in Aizawl Judicial District and Lunglei Judicial District exclusively. This chapter also analyzes the role of MACT and will find out whether justice is achieved through the Tribunals. The third chapter, "Adjudication Process of claim for compensation in Motor Accident

Claim Tribunal in the event of death and grievous injury" focuses on application for compensation, jurisdiction of claims Tribunals, options regarding claims for compensation in certain cases to claim compensation in other Acts and the award of Claims Tribunal. The procedure and power of Claims Tribunals is deliberated with the composition. The incident of Hit and Run cases under the Motor vehicle Act along with the case of Hit and Run under the Indian Penal Code is analyzed in this chapter and highlights the role of the tribunal in the execution of award and the guidelines of the higher judiciary. The fourth chapter, "Role of Alternate Dispute Redressal Forum with special reference to Lok Adalat, Consumer Forum and the State Commission in Mizoram" focus and examine the establishment, powers, Jurisdiction and the role of Lok Adalats in Accident Insurance Claim in India and Mizoram. Data is collected from Mizoram State Legal Services Authority, Aizawl District Legal Services Authority and Lunglei District Legal Services Authority as far as possible. The chapter includes the role of the District Commission and State Commission in the case of First Party /third party motor insurance claims by collecting available data from the concerned institution. This chapter covers the Judicial District of Aizawl and Lunglei to find out how the consumer rights are protected by the forum. The fifth chapter, "**Role of Motor Accident Claim Tribunal and higher judiciary in achieving social justice in the vehicle accident claim cases' ' include** the social aspect of MACT and the role of the Tribunal as a means of achieving social justice. It studies and analyzes the different judgments of cases in the Supreme Court and High Court, judgment and order of the Tribunal that result in successful compensation to the victim party. The role of MACT as a social justice mechanism is reflected in the chapter through case study. Finally, the last chapters conclude the study summarizing the key findings and answer the research questions. It also identifies markers for the future research in the subject.

## CHAPTER-II

### THE EVOLUTION AND DEVELOPMENT OF MOTOR VEHICLE ACT: THE INCEPTION OF MOTOR ACCIDENT CLAIM TRIBUNAL IN INDIA WITH SPECIAL REFERENCE TO THE STATE OF MIZORAM.

#### 2.1 Introduction

The need to have a tribunal for accidents that occur as a result of the use of vehicles was felt even before the independent era in India. The Fatal Accidents Act, 1885 was enacted by the British Colonial Government of India in order to provide equal rights to the persons wounded or deceased in an accident. The Act develops a process and the right of designated legal heirs to seek relief from the negligence act of the driver. The law worked for a considerable period of time. Then the Indian Motor Vehicles Act, 1914 was the first legislation relating to motor vehicles that were introduced in India<sup>21</sup>. The Motor Vehicles Act, 1939 was enacted to replace the act of 1914 and was applicable for all types of Motor Accidents. The Motor Vehicles Act, 1939, consolidates and amends the law relating to motor vehicles and by section 110 of the Act the State Government was empowered to constitute Motor Accident Claim Tribunals. Under the Motor Vehicles Act, 1939, the constitution of the Tribunal was discretionary with the State Government, but once the Tribunal had been constituted, its jurisdiction was exclusive as provided under Section 110(F) of the Act which barred the jurisdiction of the Civil Court in the area for which the tribunal had been constituted.<sup>22</sup> This has been amended several times to keep it up to date in the changing needs of the society. In the year 1956 the act was amended by adding 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 the procedures for adjudication of claimants have been catered. In 1982, the extension of Section 92(A) and 92(E) created a new principle of granting temporary relief on the grounds of 'No Fault'. Many people who died from hit and run collisions have since been provided

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<sup>21</sup> Saxena Garima(2020, May), "No Fault Liability under Motor Vehicles Act, 1988", Legal Bites Ed-Tech platform. Retrieved from <https://www.legalbites.in/no-fault-liability-motor-vehicles-act/>.

<sup>22</sup> Justice S.C. Mathur, "Motor Accident Claim-A Historical perspective", J.I.R.T Journal Issue 4&5, 1996

coverage under the same provision, where the offending vehicles are not classified<sup>23</sup>. A Working Group was, therefore, constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport (CIRT), Automotive Research Association of India (ARAI), and other transport organizations including, the manufacturers and the general public, Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Ministers of all States and Union territories. After this, the new act of 1988 was incorporated and Motor Vehicles Act, 1939 was repealed by section 217 of the Motor Vehicles Act, 1988. The said section 217 also repealed all laws corresponding to the Motor Vehicles Act, 1939, being in force in any state immediately before the commencement of the Act of 1988 in the respective states<sup>24</sup>. The Motor Accidents Claims Tribunal was created by the Motor Vehicles Act, 1988, it came into force on 1<sup>st</sup>, July 1989 and replaced the Motor Vehicle Act 1939 which earlier replaced the act of 1914. It has been constituted to provide a speedier remedy to the victims of accidents by motor vehicles. The Tribunals took away jurisdiction of Civil Courts in the matters which concerned the Motor Accidents Claims Tribunal. In 1994, this Act was further modified to add section 163A dealing with the special provision as to the payment of compensation on the structural formula to ensure social security. The legislation is still in a time of extreme transition at the same time some amendments were added according to the need of the changing society. In the year 2019, the Motor vehicle act was again amended by altering some of the Motor vehicle Act 1988 to secure road safety and public security.

The Appeals from Claims Tribunal lie with High Courts. The appeal is limited by time and has to be filed in the High Court within 90 days from the date

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<sup>23</sup> Kunal Mehta (2009). An analysis of law relating to Accident Claims in India. Legal service India. Retrieved from <http://www.legalserviceindia.com/articles/km.htm>>

<sup>24</sup> Tarannum Vashisht, "An overview of Motor Vehicles (Amendment) Act, 2019 (2020)", Ipleader Intellegent legal solution. retrieved from <https://blog.ipleaders.in/overview-motor-vehicles-amendment-act-2019/>

of award of the Claims Tribunal. 'The High Court may entertain the appeal after the expiry of the period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.'<sup>25</sup> However, there is no time limit for filing motor vehicle accidents claims. But an unusual delay will demand an explanation by the Tribunal. A driving license was made mandatory for any of the drivers through the provisions of the MVA, 1988. The act also required the registration of a vehicle which had a validity period of 15 years after which it could be further renewed for another 5 years

According to Section 166 of the Motor Vehicles Act, 1988 compensation can be claimed –by the person who has sustained injury; by the owner of the damaged property; by all or any legal representatives of the deceased who died in the accident; by duly authorized agent of the injured persons or all or any of the legal representatives of the deceased who died in the accident. And, the claim Petition can be filed by the following—to the Claims Tribunal having jurisdiction over the area in which the accident occurred or, to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides, or carries on business or, within the local limits of whose jurisdiction the defendant resides.

The records which are mandatory to be produced while making a provision of claim due to motor accidents are FIR copy submitted to the nearest police station, copy of Medico Lawful Credential/ Post Mortem Certification/ Death Certificate, identification documentation of claimants as needed, original expense records as incurred in hospital along with medical record, Injury Certificate as appropriate, documentation in relation to the claimant, Cover document of third party insurance scheme and statement of facts specifying a claimant's relationship with the deceased.

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<sup>25</sup> Section 173 of Motor vehicle Act, 1988

## 2.2 Key provision of Motor Vehicle Act 1988<sup>26</sup>

In the year 1988 on 14th October Motor Vehicle Act 1988 was passed by the parliament of India. This act is responsible for covering all aspects that are related to road transport vehicles. This act replaces the entire previous act relating to motor vehicle regulation. The Motor Vehicle Act, 1988 comprises 14 chapters, 217 sections and 2 Schedules in the Motor Vehicles Act, 1988. Some of the important features of the act may be briefly highlighted as given below:

1. A compulsory third party Insurance was introduced to protect and safeguard the interests of the third party who would be a probable victim of an accident or an injury by the use of a motor vehicle. This allows the victim or the third party for that matter to make claims either from the owner of the motor vehicle or from the insurance party or from both of them as needed and as given in the provisions.

It is laid down in *National Insurance Co. Ltd. v Faqir Chand*<sup>27</sup> that “third party” is to include everyone except for the contracting parties to the insurance policy. By Section 147(5) of the Motor Vehicles Act, 1988 (MVA Act), the insurer has the responsibility to indemnify the persons or the class of persons that the corresponding policy aims to cover. It is also said that no person should be allowed to use a motor vehicle without signing an insurance policy. In order to cover for its purpose as welfare legislation, the insurance company is considered to be a “State” in accordance with the definition mentioned in Article 12 of the constitution of India.

2. In the Motor Vehicle Act 1988, gratuitous passengers are excluded from “third party” coverage. Further, the Government Vehicles are exempted from insurance, under Section 146(2) and Section 146(3), which is then covered by a special fund organized for the same purpose<sup>28</sup> A passenger traveling in a private car or pillion riders driving a scooter is to be kept outside the scope of the insurance

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<sup>26</sup> Provisions of Motor Vehicles Act, "Law teacher: free law study resource"(2019, Aug), Retrieved from <https://www.lawteacher.net/free-law-essays/commercial-law/provisions-of-motor-vehicles-act-commercial-law-essay.php>

<sup>27</sup> *National Insurance Co. Ltd. Vs Faqir Chand and Ors.* 1996 ACJ 111, AIR 1995 J K 91.

<sup>28</sup> Motor vehicle Act 1988

claims. It is also held that the insurance company would not be held liable for the accident to the pillion rider as long as the scooter owner had a policy that does not cover for the rider as well. As per the 1988 Act, it is a new rule that if the owner of the goods are to travel with the goods in a vehicle, the insurance company was not to be liable in case of an accident that occurred in the process.<sup>29</sup>

3. If a person drives a vehicle without a valid fitness certificate then he/she will be liable to pay the fine up to Rs. 2000. Under section 4 of the Motor vehicle Act 1988, if a minor is caught driving a vehicle then he/she will be levied a fine of Rs. 500. While if a person allows an unauthorized person to drive then he/she will be levied a penalty of Rs. 1000<sup>30</sup>If a person is caught driving without a helmet then under the section 5 he/she will be levied a fine of Rs. 100. Under section 138(3) of the Motor vehicle act, a person found driving without the seat-belt is charged a penalty of Rs.100<sup>31</sup>. Section 3 r/w of the motor vehicle act states that if a person is found to be driving without a valid license then he/she will have to pay a penalty of Rs. 500. Also, there can be imprisonment under the same offense up to 3 months.

4. The act acknowledges the important Supreme Court ruling in *M. K. Kunhimohammed v. P. A. Ahmed Kutty*<sup>32</sup> and incorporate suggestions to raise the limit of compensation payable as a result of motor accidents in respect of death and permanent disablement in the event of there being no proof of fault on the part of the persons involved in the accident and also in hit and run motor accidents and to remove certain disparities in the liability of the insurer to pay compensation depending upon the class or type of vehicles involved in the accident. The above suggestions made by the Supreme Court have been incorporated in the Bill of the Motor Vehicles.

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<sup>29</sup> Philip Ashok Alex.(2019, September). What is The Motor Vehicles Act, 1988?. Finology Blog. Retrieved from <https://blog.finology.in/Legal-news/The-Motor-Vehicles-Act-1988>

<sup>30</sup>The Motor Vehicle Act -1988. Retrieved from <https://www.toppr.com/guides/legal-aptitude/law-of-torts/the-motor-vehicle-act-1988/>

<sup>31</sup> The Motor Vehicle Act -1988. Retrieved from <https://www.toppr.com/guides/legal-aptitude/law-of-torts/the-motor-vehicle-act-1988/>

<sup>32</sup>(1987) 4 S.C.C. 284.

5. The Solatium Scheme by the General Insurance Corporation is a noticeable contribution of the act. It provides the provision for enhanced compensation in cases of “no fault liability” and in hit and run motor accidents and the Provision for payment of compensation by the insurer to the extent of actual liability to the victims of motor accidents irrespective of the class of vehicles. The act aims at providing adequate compensation to victims of road accidents without going into long drawn procedure and enhanced penalties for traffic offenders<sup>33</sup>.

6. In a situation when the vehicles are not insured under third party risk, the responsibility will be fixed on the negligent driver or the owner of the vehicle on the principle of vicarious liability under the law of torts. Such a person will have to pay the compensation to the victim out of their own pocket. This position is also maintained where a vehicle, belonging to the Central or State Government or a corporation is exempted from being insured under Section 146(2) and (3) of the Motor Vehicle Act, 1988. It is to be noted that exemption from the requirement of getting the vehicle insured does not imply exemption from liability to pay compensation in the occurrence of an accident.

To expand the laws and to become more effective in accordance with the changing needs of the society, The Motor Vehicles (Amendment) Act 2019 has been enacted and becomes an important attempt towards the development of social justice, and the old Act of 1988 has been amended. This amendment provides some major alteration to the old Act. The Motor Vehicles (Amendment) Act 2019 has been implemented in the country since September 1, 2019. This new act is being passed by the Lok Sabha on Jul 23, 2019 and by Rajya Sabha on Jul 31, 2019. The new act has increased fines for many offenses to check the road accidents and improves the road safety measures in the country. In order to prevent the risk of road accidents; the central government has enhanced a number of penalties.

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<sup>33</sup> CS Deepak P Singh. (2022). Tax Guru Complete tax solution. Retrieved from <https://www.vakilno1.com/legalviews/motor-vehicles-accident-compensation-under-the-mv-act.html> retrieved on 22th, August, 2021



### **2.3 New features of the motor vehicles (amendment) act, 2019 are as under<sup>34</sup>**

Some of the important features of the new Motor vehicle act can be discussed as under:

#### **a) Road and Environment Health issues:**

In a situation when the vehicles are not fit to be used on roads as they cause environmental damage and harm the health of others, they have to be returned to the manufacturers of the respective vehicles. The manufacturers through this amendment are directed to take back these vehicles and have the choice either to reimburse or replace the defective vehicle with a new vehicle of the same type.

#### **b) Road Safety concern**

This Amendment boldly propagates the increase in the penalty for traffic rule offenders. This is done with the hope that the increase in fines would force the drivers to be more alert and careful on the roads. This amendment bestows more stringent rules for offenses like juvenile driving, drunken driving, over speeding, overloading and driving without a license. Stricter punishment for driving without a helmet is also incorporated in the Amendment.

#### **c) Fitness of Vehicle matters**

The Amendment has introduced provisions mandating the automated testing of vehicles for doing a fitness check. It is believed that this would help in improving road safety measures by removing from the traffic unfit vehicles. The Amendment also makes specific provision for those vehicles that deliberately violate environment and safety regulations. This Amendment promotes certification of automobiles after they are successfully tested. The regulation of this process of certification is also proposed in this Act. In addition to this, the Amendment of 2019 aims at setting testing standards at a certain level and bringing the agencies issuing automotive approvals under the Motor Vehicles Act.

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<sup>34</sup> An overview of Motor Vehicles (Amendment) Act, 2019, Ipleader intelligent legal solution.(2020, August). Retrieved from <https://blog.ipleaders.in/overview-motor-vehicles-amendment-act-2019> on 20<sup>th</sup>, August, 2021

**d) National Road Safety Board:**

Another major feature of the new Act is the provision for setting up a National Road Safety Board under the Central Government. This board is expected to advise governments of all the states in addition to the Central Government on matters of traffic management and road safety.

**e) Compensation for Victims of Road Accidents:**

Provisions have been incorporated for cashless treatment of victims of road accidents, during the golden hour. Golden hour can be termed as the time period up to one hour from the time of the accident. This period is the best time of survival chance if proper treatment is given at the maximum. An effort to enable the whole process cashless is made in the Act.

**f) Protection of Good Samaritan:**

The Act defines a "Samaritan" as a person who stands up for helping out a road accident victim immediately (Golden hour) after such an accident/misfortune takes place. It often happens in our country that these generous people are the ones who end up being the victim of harassment for their acts of kindness in the process. This Amendment provides for the good "Samaritan" with the cash award of Rs. 5000/- (Five thousand) from the Deputy Commissioner's office in every district. The act ensures that they are not harmed in any manner whatsoever. The act also protects them from any kind of civil or criminal proceedings, even in cases where they negligently cause the death of the victim. The same was implemented in Mizoram from the period 15.10.2021 to 30.3. 2026.

**g) Compulsory Insurance Policy:**

The Act instructed the Union Government to establish a Motor Vehicles Accident Fund providing compulsory insurance to all drivers of India.

#### **h) National Transportation Policy**

The Act promotes the idea of the formation of a National Transportation Policy (NTP). This NTP is to be run by the Central Government in collaboration with the Governments of all the states. This policy will structure a new framework for road transport. In addition to the new structure, priorities for the transport system would be specified in the policy.

#### **i) Training of drivers**

The Amendment strengthens the process of driving training. It is believed that this would lead to a faster issuance of licenses to the applicant. This Amendment is said to come in the wake of a shortage of commercial drivers in the country. It promulgates on the opening up of more driver training institutes for ensuring the production of better commercial drivers in India.

#### **j) National Register for Driving license and Vehicle Registration**

The Amendment puts forth the harmonization and integration of issuance of driving license with vehicle registration. This harmonization and integration would be done by the creation of a National Register for Driving License and National Register for Vehicles with the online portals of 'Sarathi' and 'Vahan'. This process would ensure the creation of a uniform system of licenses and vehicle registration throughout the country.

#### **k) Online Driving Licenses**

The Act makes a provision for online issuance of learner's license and mandating online identity verification. This would improve reliability and limit to a large extent issuance of fake licenses. This Act also further provides commercial licenses to be valid up to a period of five years instead of three years. There would now be driver training schools for the production of better drivers on roads.

#### **l) Motor Vehicles Accident Fund**

A Motor Vehicles Fund (MVF) would be constituted to provide compulsory insurance to all drivers on-road by the Central Government. This fund

would be utilized to compensate victims of road accidents and their legal heirs in case of their death in an accident.

#### **m) Better Insurance Facilities**

The Act states that there will be less escape route in the liability for Insurers Company. The driver's attendants are now to be included in third party insurance. Provisions have been inserted to ensure that if the victim's family agrees to compensation of five lakhs, the family gets it within a month. The process of claiming compensation is also simplified. The minimum compensation for hit and run cases and cases where the grievous injury is caused has also been increased.

#### **n) Penalties under the new act<sup>35</sup>**

The new Motor Vehicles Act has enhanced the penalties for driving errors. According to the Transport Ministry's press release explaining the summary of changes in the Motor Vehicle Act, it has enhanced "penalty for offenses where no penalty is specifically provided for- first offense from up to Rs 100 to Rs 500 and second/subsequent offense from up to Rs 300 to Rs 1,500."<sup>36</sup>

#### **o) Section 159 Police Report**

Section 159 of the amended act now casts a duty upon the Police officer in order to properly investigate the case and submit a report to facilitate the claim settlement. Report of the Police officer shall be submitted in the claims tribunal. Report of the officer shall be crucial in deciding the claim. Integrity and conduct of the officer shall be a major touch stone in such a case.<sup>37</sup>

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<sup>35</sup> The Motor Vehicle (Amendment) Act 2019.

<sup>36</sup> Motiani, Preeti, "*These new Motor Vehicle Act laws hike driving penalties*" , (2019, September). Retrieved From <https://economictimes.indiatimes.com/wealth/personal-finance-news/these-new-motor-vehicle-act-laws-hike-driving-penalties-from-sept-1/articleshow/>

<sup>37</sup> Akshat Chaudhary, "*An Analysis of Operational Aspects of Motor Vehicle Jurisprudence: A Comparative Perspective*" , International Journal Of Law Management & Humanities [ISSN 2581-5369], Volume 3, Issue 5, page. 69-89.

<b>Penalty</b>	<b>Old Amount</b>	<b>New Amount</b>
Penalty for offenses where no penalty is specifically provided	Rs 100 for first offense and Rs 300 for second/subsequent offense	Rs 500 for first time offense, Rs 1,500 for subsequent offense
Violation of road regulations		Rs 500 to Rs 1,000
Traveling without Ticket	Rs. 200	Rs. 500
Disobedience of orders of Authority and refusal to share information	Rs. 500	Rs. 2000
Unauthorized use of vehicles without license	Rs. 1000	Rs. 5000
Driving without license	Rs. 500	Rs. 5000
Driving despite disqualification	Rs. 500	Rs. 10000
Over-speeding	Rs. 400	Rs 1000 - Rs 2000 for light motor vehicle, Rs 2,000 - Rs 4,000 for medium passenger or goods vehicles and impounding of driving license for second/subsequent offense.
Dangerous Driving		Imprisonment of 6 months to 1 year and/or fine of Rs. 1000- Rs. 5000 for first offense and imprisonment up to 2 years and/or fine up to Rs. 10000 for second offense.
Drunken Driving		Imprisonment up to 6 months and/or fine up to Rs. 10000 for first offense and imprisonment up to 2 years and/or fine of Rs. 15000 for second offense.
Driving when mentally or physically unfit to drive	Rs 200 for first offense, Rs 500 for second/subsequent offense	First offense - Rs. 1000 and second/subsequent offense - Rs.2000
Offenses relating to accident		Imprisonment of up to 6 months and/or fine up to Rs. 5000 for first offense and imprisonment up to 1 year and/or fine up to Rs. 10000 for second offense.
Racing and speeding		Imprisonment of up to 1 month and/or fine up to Rs. 500 for first offense and imprisonment up to 1 month and/or fine up to Rs. 10000 for second offense.
Driving uninsured vehicle	fine of Rs. 1000 and/or punishment up to 3 months	Rs. 2000 and/or imprisonment up to 3 months for the first offense and fine of Rs. 4000 and/or imprisonment up to 3 months for the second offense.
Taking vehicle without lawful authority and seizing motor vehicle by force	Rs. 500	Rs. 5000
Causing obstruction to free flow of traffic	Rs. 50	Rs. 500

## **2.4 Changes of Claims under the motor vehicle act-2019**

1. Hit & Run Cases: Central Govt. u/s 161 of MV Act 2019, pay Minimum compensation in case of death in a hit & run case is Rs. 2 lakh and Minimum compensation in case of grievous injury in a hit & run case: Rs. 50,000. In the Motor Vehicle Act 1988 it was Rs. 50000/- and Rs. 25000/- respectively
2. Under the No fault Liability Principle i.e Section 164 of MV Act 2019, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim.
3. Limitation Period is Revived U/s 166(3) of MV Act 2019 and No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident
4. The defense for Insurance Company is given under section 150(2) of the Act, if there is non-receipt of premium as required under section 64VB of the insurance Act 1938 then the insurer could seek compensation as a right.
5. Section 164 C and 164 D has been added into the motor vehicle in order to ensure an effective regime with regards to the motor vehicle regulation. The Central government has been provided power in order to make rules with respect to all ancillary, incidental and related matters in motor vehicle insurance, claims as to provide a justifiable and regulatory mechanism. Section 164D empowers the State governments to make rules and regulations with respect to the matters not covered under section 163C. This additional power granted to the State governments shall ensure that there is no blanket or vacant in motor vehicle regulations.<sup>38</sup>

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<sup>38</sup> Akshat Chaudhary," *An Analysis of Operational Aspects of Motor Vehicle Jurisprudence: A Comparative Perspective*" , International Journal Of Law Management & Humanities [ISSN 2581-5369], Volume 3, Issue 5, page. 69-89.

## **2.5 Motor accident claim tribunal in Mizoram**

### **Brief history of Mizoram Judiciary<sup>39</sup>**

Before the British annexed the territory of the Lushai Hills in 1890, the chief's with the help of his village elders in their respective territorial jurisdictions had full power to administer both civil and criminal justice. After 1890, the ruling chief continued to administer justice in all civil and criminal cases except for the heinous offences like murder, rape and unnatural offences, with the enactment of the Assam Lushai Hills District (Acquisition of chiefs rights) Act, 1954 the said offence had been directly taken cognizance by the then Superintendent and his assistants. Later, the British Government in exercise of the powers conferred under section 6 of the Schedule District Act, 1874, enacted "the Rules for the regulation of the procedure of Officers appointed to administer justice in the Lushai Hills", 1906 under Notification No.12522J. Dated; 29.11.1906, It empowered both the civil and criminal justice to be administered by the Superintendent and his Assistants. Before, only the criminal cases of heinous offenses were bestowed upon them.

On 25<sup>th</sup> March, 1937, the Governor of Assam in exercise of the powers conferred under section 6 of the Schedule District Act, 1874 prescribed the revised 'Rules for the regulation of the procedure of Officers appointed to administer justice in the Lushai Hills' under No. 2530 (a) A .P. Dated the 25<sup>th</sup> March, 1937<sup>40</sup>. It canceled all previous orders in the subject and , the Deputy Commissioner and his Assistants were entrusted to administer both civil and criminal justice under rules 8 and 15 of the said rules. As per the Assam Autonomous District (Administration of justice) Act, 1960 Vide, the Assam Gazette, Extra Ordinary; Dated the 20<sup>th</sup> April, 1960, Additional Deputy Commissioners can be able to appoint for the Autonomous District either generally, or for the trial of a particular case or cases, civil or criminal, and may direct that such Additional Deputy Commissioner shall, for the general or special purposes exercise all or any of the powers of the Deputy Commissioner.

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<sup>39</sup> A brief history of Mizoram judiciary. Retrieved from [djaizawl.nic.in/history.html](http://djaizawl.nic.in/history.html) on 19<sup>th</sup>/1/22

<sup>40</sup> P.Chakraborty, "Legal Encyclopedia of Mizoram", Volume A1, page 13, 17

On 7<sup>th</sup> April, 1953 under Order No. DLC. 14/53, Aijal, the 7<sup>th</sup> April, 1953, the Lushai Hills Autonomous District (Administration of justice) Rules, 1953 was chalked out under subparagraph (4) of paragraph 4 of the Sixth Schedule to the Constitution of India. Rule 59 of the said rules of 1953 barred the Deputy Commissioner and his Assistants to try cases triable by courts established under these rules of 1953, the Assam Autonomous District Administration of Justice (Miscellaneous Provisions) Act, 1957 (Act No. XXII of 1957) effective from 15<sup>th</sup> Feb., 1958 under No. TAO/R/51/80, Shillong, the 7<sup>th</sup> Feb., 1958 enumerated that any case which at any stage after the Deputy Commissioner or an Assistant to him has taken cognizance of, transpires to be so triable shall be transferred to Courts constituted under paragraph 4 of the Sixth Schedule to the Constitution of India. It created courts of tribal to tribal cases, such as-

- (1) Village Courts in every recognized village in Mizoram
- (2) Subordinate District Council Courts at Aizawl and Lunglei and Additional Subordinate District Council Courts.
- (3) District Council Court at Aizawl.

The following Rules were promulgated to govern judiciary in the territory;-

- (1) The Pawi-Lakher Autonomous Region (Administration of justice) Rules, 1954 which later adapted or applied to the Chakma Autonomous District Council under paragraph 5 of the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.
- (2) The Pawi Autonomous District (Administration of justice) Rules, 1974.
- (3) The Lakher Autonomous District (Administration of justice) Rules, 1981.



## **2.6 Motor Accident Claim Tribunal in Mizoram (Aizawl Judicial District)**

On 12<sup>th</sup> December, 1986 Secretary to the Govt. Of Mizoram (Supply and Transport Dept) Mr. Felix Sequeira by notification constituted the for the first time Motor Accident Claim Tribunal in Mizoram with the Headquarters at Aizawl. With this notification dated 12.12.1986 Mr. K.N. Srinivasta, Secretary Law and Judicial Department was appointed to preside over the Tribunal in addition to his duty with effect from the date he takes over charge.<sup>41</sup> On 25<sup>th</sup> January, 1989 appointed Mr. P. Chakraborty Ex-Officio Jt. secretary, Law and Judicial and Jt. Secretary to the Governor of Mizoram, to preside over the Motor Accident Claim Tribunal and replace Mr. K.N. Srinivasta. The Notification dated On 25<sup>th</sup> January, 1989 was issued by Mr. Rinsanga, Secretary to the Govt. of Mizoram, Transport Department.<sup>42</sup>

The 5<sup>th</sup> January 1996, marked an important turning point for Motor accident Claims Tribunal (MACT) in Mizoram, as before the case relating to accident claims was taken up by the Transport Department and Secretariat administration department, Government of Mizoram. By virtue of rule 3 of the Government of Mizoram (Allocation of Business) Rules 1987, the Government of Mizoram re-allocated the matter of accident claim settlement to the Law and Judicial Department<sup>43</sup> on the 5<sup>th</sup> January 1996 in Aizawl. On 3<sup>rd</sup> Jan, 2000, the Government of Mizoram constituted MACT, Lunglei with the court of Additional District Magistrate (Judicial), Lunglei for the districts of Lunglei, Lawngtlai and Saiha and the existing MACT Presiding Officer in the capital Aizawl District comprised of the districts of Aizawl, Champhai, Serchhip, Kolasib and Mamit. The ADM (J) Lunglei also functions as Presiding Officer in addition to his own duties as notified under Notification<sup>44</sup> from the 3<sup>rd</sup> January, 2000 [Vide, the Mizoram Gazette, Extra Ordinary; Vol. XXIV, 28.1.2000, SE 1921, Issue No.10].<sup>45</sup> On the

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<sup>41</sup> P.Chakraborty, "Legal Encyclopedia of Mizoram", Volume A1, page 208

<sup>42</sup> P.Chakraborty, "Legal Encyclopedia of Mizoram", Volume A1, page 209

<sup>43</sup> No.A.40011/1/94-GAD/Loose-1

<sup>44</sup> No. A.51011/1/96-L&J (CSW)

<sup>45</sup> Brief history of Mizoram judiciary, Official website of the district court

30th November, 2009 the District Judge, Lunglei was vested with all the powers of a Member of the Motor Accident Claims Tribunal to try motor accident claim cases within the jurisdiction of the Lunglei Judicial District covering the administrative districts of Lunglei, Lawngtlai and Saiha by notification vide No. A. 12011/32/06-LJE, whereas the territorial jurisdiction of the Motor Accident Claims Tribunal at Aizawl stands restricted to the Aizawl Judicial District comprised of the Aizawl, Kolasib, Mamit, Champhai and Serchhip administrative districts only<sup>46</sup>. Recently, on 11<sup>th</sup> November, 2021, Champhai Judicial District was created vide Memo No.A.12011/32/2016 of-LJE comprising the area covered by the existing administrative districts of Champhai and Khawzawl. With the creation of this new district, the scope for establishment of Motor Accident Claim Tribunal is open in the said judicial district.

All Judicial Officers in the Grade- I (District Judge Cadre) of the Mizoram Judicial Service were designated as Member, MACT under MV Act, 1988 Vide, and Notification No. A. 12035/1/2008- LJE, Dated Aizawl, the 16th December, 2010.

**Table-2.1: The first presiding officer of the MACT in Mizoram is K.N. Srivastava, Mizoram Judicial Service.**

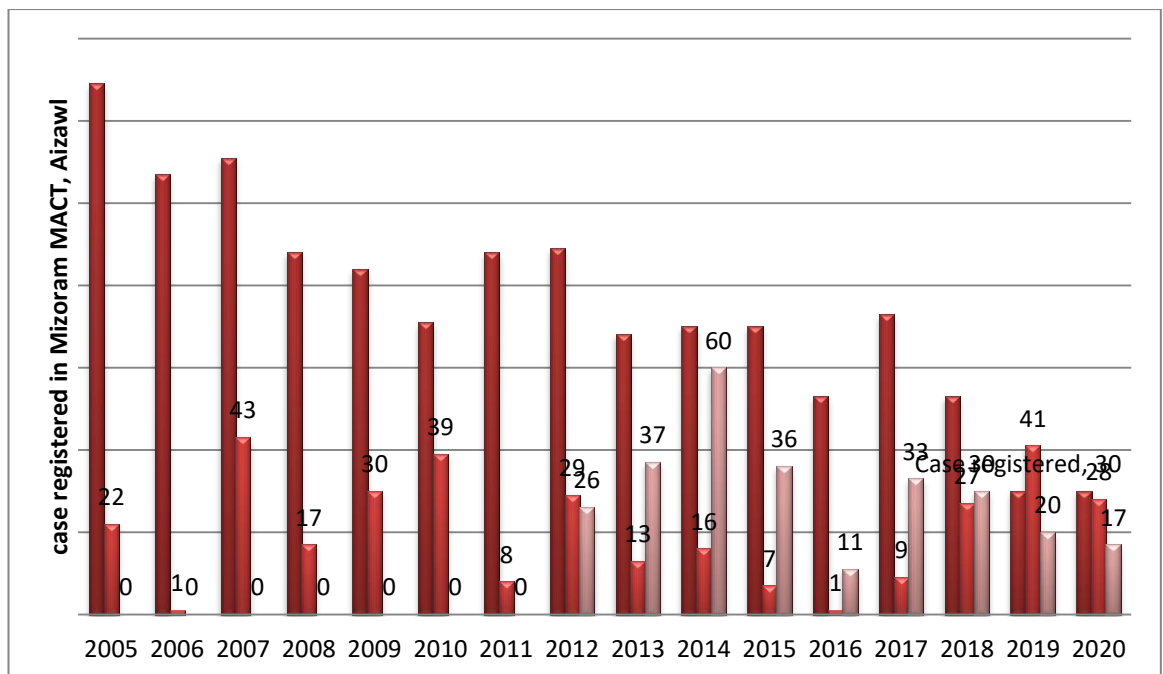
S.No	Name	Year
1.	K.N. Srivastava	12.12.1986- 1990
2.	K.Chakraborty	21.2.1990-10.7.1990
3.	Rolura Sailo	11.7.1990-30.4.1997
4.	F.K. Laihnuma	1.5.1997-29.8.2001
5.	Lalremruata	4.9.2001-27.2.2002
6.	Lala Khawbung	28.2.2002-6.9.2004
7.	R.Lalthazuala	7.9.2004-15.12.2006
8.	Lala Khawbung	15.12.2006-28.2.2010
9.	T.Saikunga	1.3.2010-22.8.2011
10.	Joel Joseph Denga	22.8.2011-3.3.2014
11.	K.L.Liana	3.3.2014-9.5.2016
12.	Marli Vankung	9.5.2016-3.8.2016
13.	K.L.Liana	5.9.2016-31.12.2020
14.	Liansangzuala	10.2.2020- 2022
15.	Lalrochami	Last during research period

<sup>46</sup> The Mizoram Gazette, Extra Ordinary, Vol. XXXVIII, 2.12.2009 Issue No. 542

**Table-2.2: Number of cases registered by MACT in Aizawl, Mizoram from the year 2005 to 2020 as on September 2021.**

Year	case registered	Miscellaneous case	Execution case	Case against Insurance Company	Case against GOM and private individual	Case withdraw & Dismissed
2005	129	22	-	101	28	
2006	107	1	-	88	19	
2007	111	43	-	95	16	
2008	88	17	-			
2009	84	30	-	68	16	11
2010	71	39	-	64	7	11
2011	88	8	-	81	7	12
2012	89	29	26	70	19	11
2013	68	13	37	64	4	13
2014	70	16	60	60	10	11
2015	70	7	36	62	8	10
2016	53	1	11	53	nil	9
2017	73	9	33	66	7	9
2018	53	27	30	49	4	6
2019	59	41	20	49	10	4
2020	30	28	17	-	-	-
<b>Total</b>	<b>1243</b>	<b>331</b>	<b>270</b>			

\*The total number of case is 1844



The number of cases registered alone by Motor Accident Claim Tribunal is the highest in the year 2005 with the total of 129 cases registered including the miscellaneous case it amounts to 151 cases. The percentage of motor

accident cases registered by the Claim Tribunal for this year amounts to 9.60% of the total case registered during the year 2005 to 2020. The lowest number of cases registered by the Tribunal was the year 2016 with the percentage of 3.44% from the total number of cases registered during the year 2005 to 2020. It is important to mention that the year 2020 had the lowest number of cases registered due to the Covid-19 pandemic. The whole country and the state government imposed a number of total lockdowns which restrained vehicle movement in the state. During the period of 2005 to 2020, only two cases registered by the MACT are forwarded to Lok adalat (As per the office record) with the object of making a compromised settlement between the parties.

The above data show the decline of cases registered in MACT from the year 2005 to 2020, it can be the result of various safety rules incorporated by the Government like the rules relating to the Anti Lock braking system. From 1<sup>st</sup> April, 2019, all four- and two-wheelers manufactured in the country have to compulsorily fit with ABS or an Anti-Lock Braking System. This direction from the government is one of the stepping stones for India as it is an important initiative to ensure safety of vehicles. ABS is an advanced braking mechanism which prevents the wheels from locking up and, consequently, prevents the vehicle from skidding under hard or panic braking, thereby avoiding accidents. ABS grants the driver/rider more control in case of sudden braking, enhances vehicle steer ability while braking and reduces the stopping distance<sup>47</sup>. As per the Ministry of Road Transport and Highway (MoRTH) the anti-lock braking system (ABS) is mandatory for Commercial Vehicles (CVs) from 1<sup>st</sup> April 2015. Initially, all new trucks launched in the N3 category (above 12 tonnes Gross Vehicle Weight) and buses in the M3 category (above 5 tonnes GVW and carrying nine passengers) will have to be

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<sup>47</sup>ABS becomes mandatory on two-wheelers, cars in India from today (2019). AutoCar India. Retrieved From <https://www.autocarindia.com/car-news/abs-on-cars-two-wheelers-to-be-mandatory-from-today-412141>

compulsorily fitted with ABS at the time of manufacturing. It will not be available as a retro fitment for existing vehicles<sup>48</sup>.

The Ministry of Road Transport and Highways issued a draft notification in December 2020 for the mandatory fitment of dual airbags. A Gazette notification followed the draft notification that made mandatory for all new cars to come fitted with dual airbags as standard from April 1, 2021. The Gazette also lays down that all existing vehicles on sale would require to be equipped with dual airbags as standard by December 31st, 2021. This mandate is based on the suggestion of the Supreme Court Committee on Road Safety as a part of safety features of the passenger of vehicles. The amendment further states that the co-driver airbag will have to conform to the AIS 145 (Automotive Industry Standards) safety norms till the Bureau of Indian Standards (BIS) specifications are notified<sup>49</sup>. Recently, The Ministry of Road Transport and Highways (MoRTH) has passed a notification stating that all helmets must bear an ISI mark, after 1<sup>st</sup> June, 2021<sup>50</sup>. The notification states that two-wheeler helmets “*shall bear the Standard Mark under a license from the Bureau of Indian Standards as per Scheme-I of Schedule-II of BIS (Conformity Assessment) Regulations, 2018*”. Thus it means that the helmet to be sold in India must bear ISI and BIS mark to reduce the sale of low-quality helmets in the country to ensure the safety of the user of two wheeler vehicles. It also states that the helmet should not be more than 1.2kg.

The average gap between the date of filing a case and the disposal of a case in MACT is 1 year to 3 years in the Motor Accident Claim Tribunal in Aizawl, some of the cases extend to more than 5 years. The right to speedy trial is one of the fundamental rights of the citizen<sup>51</sup>, and the main objectives of the incorporation of

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<sup>48</sup> Kiran Bajad, Shobha Mathur (2015). Mandatory ABS for Commercial Vehicles in India from midnight. Auto Car Professional Essential Reading for the Automotive Industry. Retrieved From <https://www.autocarpro.in/news-national/mandatory-abs-cvs-india-begins-tomorrow-8084>

<sup>49</sup> Kiran Bajad, Shobha Mathur (2015). Mandatory ABS for Commercial Vehicles in India from midnight. Auto Car Professional Essential Reading for the Automotive Industry. Retrieved From <https://www.autocarpro.in/news-national/mandatory-abs-cvs-india-begins-tomorrow-8084>

<sup>50</sup> Helmet for riders of Two Wheeler Motor Vehicles (Quality Control) Order, 2020, Ministry of Road Transport and Highway Notification

<sup>51</sup> Katar Singh Vs State of J&K Equivalent citations: 1994 SCC (3) 569, JT 1994 (2) 423

the Motor Accident Claim Tribunal is social justice to the citizens through summary trial, the reason for the delay of cases is that the state of Mizoram has only two functioning Judicial District of Aizawl and Lunglei, this wide jurisdiction of the Tribunal cause difficulties both on the side of the claimant and the adjudication. The other main reason for the delay of the adjudication process is that many of the companies do not have a branch office in another district of Mizoram and run their office only in Aizawl District. It is also pertinent to mention that, all the insurance company against whom the case has been registered does not even run a branch office in Aizawl that results in the delay of the trial process.

The case registered in the tribunal is mostly against the insurance company, next comes the Govt. of Mizoram vehicles and then private individuals who for some reason failed to have valid insurance during the time when their vehicle faced an accident. The table-3 below shows the 10 (Ten) popular name and address of the company against whom the case is registered. The company having a large number of cases in the MACT, Mizoram does not have an official address in Mizoram but at the same time the number of cases registered against them make it clear that their insurance market is quite good in the state. It is also important to mention that, the vehicle dealer in the state, and vehicle financing companies have deep responsibilities in advertising the Insurance company, they are responsible to make a balance between the safety of the innocent customer and the big corporation. As per the Presiding officer, one of the recent modern problems faced by the claimant is that, on the accident, sometimes the insurance policy owned by them, though appear to be true, becomes a fake policy. The safest way to have a genuine insurance policy is not to purchase from the private agent as many of the policies turn out to be false.

**Table-2.3: List of Insurance Company having registered cases in Motor Accident claim Tribunal, Aizawl**

S.No	Name of Insurance	Office/ correspondence
1.	ICICI Lombard General Insurance Company Ltd	Zenth House, Keshav Raw Khadya Marg Malani, Mumbai-400034 Maharashtra Legal Manager Mayur Garden, Fourth Floor ABC Bus Stop, GS Road Guwahati, 781005, Assam
2.	Cholamandalam M/s General Insurance Co. Ltd	2 <sup>nd</sup> floor, Dare House 2 NAC Bose Road, Chennai, 60001  Legal Department 4 <sup>th</sup> Floor, Aastha Plaza Oppt SB Deorah Bora Service GS Road, Guwahat, 781007
3.	Reliance Insurance Co. Ltd	2 <sup>nd</sup> Floor, A-57 Lower Zarkawt Aizawl, Mizoram  Anil Plaza( Near IDBI Building) 5 <sup>th</sup> Floor, GS Road ABC, Guwahati, 781005, Assam
4.	Future General Insurance Company	3 <sup>rd</sup> Floor, Chitrakoot Building 230A, AJC Bose Road Kolkata, 700020
5.	Oriental Insurance Company	Lalsawta Building, Zarkawt, Aizawl
6.	National Insurance Co Ltd	Near Salomon's Cave, Aizawl, Mizoram
7.	United India Insurance Co. Ltd	Thangneuva Building, Canteen Kual Aizawl
8.	New India Assurance Co. Ltd	Hrangbana Building, Chanmari, Aizawl
9.	Bajaj Allianz General Insurance Co. Ltd	Near Zarkawt, Traffic Point Aizawl
10.	SBI General Insurance Co.Ltd	First Floor, Varte Plaza, A/46, Main Street, Zarkawt, Aizawl

### **2.6.1 Motor Accident Claim Tribunal in Lunglei Judicial District**

As mentioned earlier, Lunglei Judicial District was created in 2008 by separating from the executive, by the Government after consultation with the Guwahati High Court with the order No. [Vide Notification No. A.12011/32/06-LJE, the 7th January, 2008 published in the Mizoram Gazette, Extraordinary Vol. XXXVII, 8.1.2008 Pausa 17, S.E.1929, Issue No.2] Till 2008, One Judicial Officer in the Subordinate District Council court and one Additional Subordinate court at Lunglei looked after the justice delivery system in Lunglei District. On 3<sup>rd</sup> January, 2000, the Government of Mizoram constituted MACT, Lunglei with the court of Additional District Magistrate (Judicial), Lunglei for the districts of Lunglei, Lawngtlai and Saiha. The Government of Mizoram under Notification No.A. 12011/32/06-LJE, the 30th November, 2009 invested the District Judge, Lunglei with all the powers of a Member of the Motor Accident Claims Tribunal to try motor accident claims cases within the jurisdiction of the Lunglei Judicial District covering the administrative districts of Lunglei, Lawngtlai and Saiha whereas the territorial jurisdiction of the Motor Accident Claims Tribunal at Aizawl stands restricted to the Aizawl Judicial District comprised of the Aizawl, Kolasib, Mamit, Champhai and Serchhip administrative districts only. [Vide, the Mizoram Gazette, Extra Ordinary, Vol. XXXVIII, 2.12.2009 Issue No. 542].

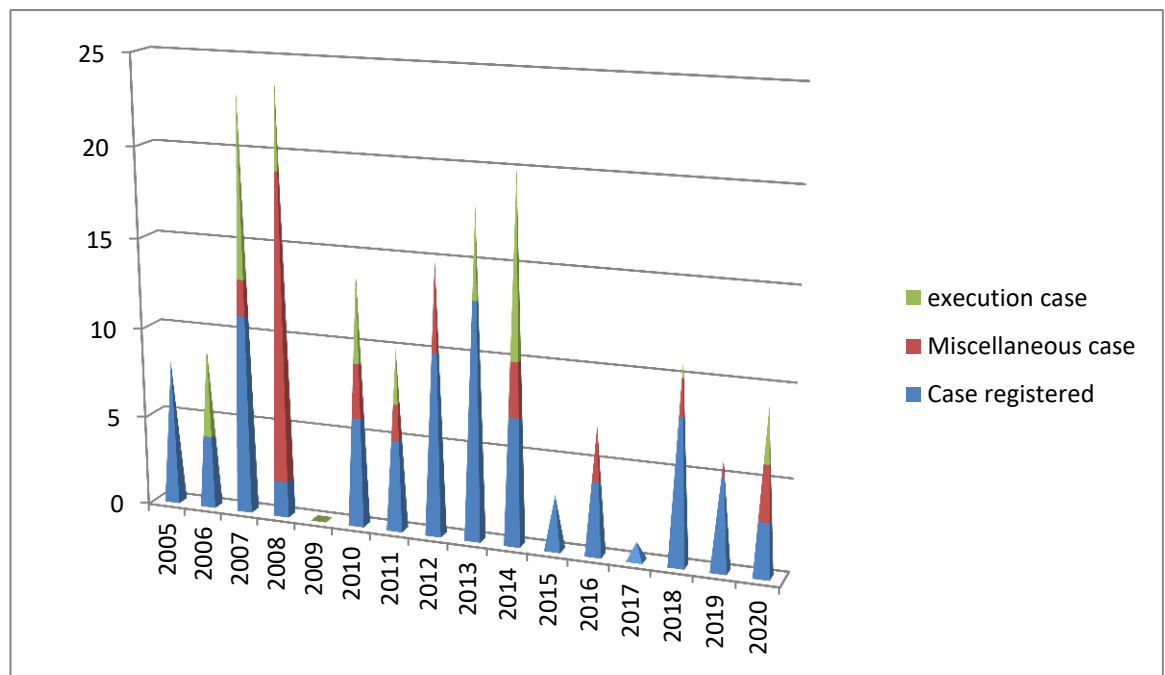
As per the MACT lunglei record, the first case of MACT was registered on 26/4/2000 and the same was disposed of in 2003. The total number of cases registered in the year 2000 was 10 cases. It is important to mention that in the district of Lunglei, only 3 insurance companies have an advocate namely the National Insurance Co.Ltd, United India insurance Co. Ltd and Oriental Insurance Company ( as on march 2022). So far as per the record of MACT, in Lunglei Judicial District there is only 3 appeal cases so far bearing the Case No 1/2000 to 3/2000.



**Table-2. 4: Number of cases registered by MACT in Lunglei from the year 2005 to 2020 as of March 2022.**

Year	case registered	Miscellaneous case	Execution case	Total	Case against Insurance Company	Case against GOM and private individual
2005	8	-	-	8	7	1
2006	4	-	5	9	3	1
2007	11	2	10	23	6	5
2008	2	17	5	24	2	-
2009	-	-	-	-	-	-
2010	6	3	5	14	5	1
2011	5	2	3	10	4	1
2012	10	5	-	15	9	1
2013	13	-	5	18	12	1
2014	7	3	10	20	7	-
2015	3	-	-	3	3	-
2016	4	3	-	7	4	-
2017	1	-	-	1	1	-
2018	8	2	1	11	6	2
2019	5	1	-	6	5	-
2020	3	3	3	9	2	1
Total	90	41	45		76	14

*In the year 2021, may be the reason for the pandemic, only one (1) case is registered with one (1) miscellaneous case. The total number of case during research period is 176.*



## **2.6.2 Detail of case record for case study from 2008 to 2018 in Motor Accident Claim Tribunal ( Aizawl Judicial District) as on Sep 2021.**

This table will highlight the detail of cases from the institution of case i.e date of registration of case by MACT<sup>52</sup> till the final payment of compensation by the insurance company/ Govt/ Private individual. Since the case record of the tribunal does not show the date of final payment in the case record, the length of case in some of the data is recorded as the date of the disposal of the case. The table shows the shortest trial duration in 6 months, the length of the trial is short due to the compromise of the parties.

The data is collected for the period between 2005 and 2020 but the analysis is done during the period of 2008 to 2018 due to lack of record during the period from 2005 to 2007. The data of 2019 and 2020 cannot be included as most of the cases registered are under trial stage and that 80% of the cases are not at the stage of disposal. It is also important to mention that, some of the cases cannot be mentioned in the table No. 8 to 12 as they are dismissed/ disposed of/ withdrawn/converted to other cases and some are still pending in the tribunal for further trial. The table shows that there is a slight development in the duration of trial periods compared to the former year. There is a highlight of pending cases in 2018 and not in the case before due to the fact that, the office of the tribunal reports that the cases before 2018 are all cleared by the tribunal and there are no more cases pending with them. Even though speedy trial is the aim of MACT,<sup>53</sup> The same cannot be fulfilled due to the aforesaid reasons, but, at the same time, it is fortunate to mention that improvement has been made by the tribunal as a result of the commitment of the officers and staff.

The data of case registered in MACT is concentrated because, even though, there is a Motor Accident Claim Tribunal in Lunglei, Judicial District, as most of the insurance companies have their office in Aizawl and not in the other district, it is always convenient for the victim party as well as the insurance

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<sup>52</sup> Motor Accident Claim Tribunal

<sup>53</sup> Motor Accident Claim Tribunal

company to file the case in Aizawl MACT. In an interview with the Presiding officer by the researcher, one of the common problems faced by the Tribunal is that of serving a summons upon the victim as well as the insurance company.

**Table-2.5: Case Detail in Motor Accident Claim Tribunal, Aizawl**

Year	R. Case	M. case Case	T. Case	Longest trial	Shortest trial	Pending case	Below 2 years	2 year above	3 year above	4 year above	5 year above
2008	88	17	105	10y 8m	1y 4m	Nil	22	13	11	7	5
2009	84	30	118	7y 3m	6m	Nil	17	14	14	7	4
2010	71	39	110	5y	9m	Nil	8	17	16	8	1
2011	88	8	96	5y 1m	1y 4m	Nil	13	32	8	9	1
2012	89	29	118	6y 3m	5m	Nil	41	14	8	2	4
2013	68	13	81	5y 3m	8m	Nil	29	11	2	4	2
2014	70	16	86	5y 4m	3m	Nil	30	6	3	4	1
2015	70	7	77	5y 1m	9m	Nil	15	21	15	Nil	1
2016	53	1	54	4y 8m	1y 1m	-	23	12	1	3	Nil
2017	73	9	82	4y 7m	9m	-	32	12	12	1	Nil
2018	53	27	80			12	21	12	Nil	Nil	Nil

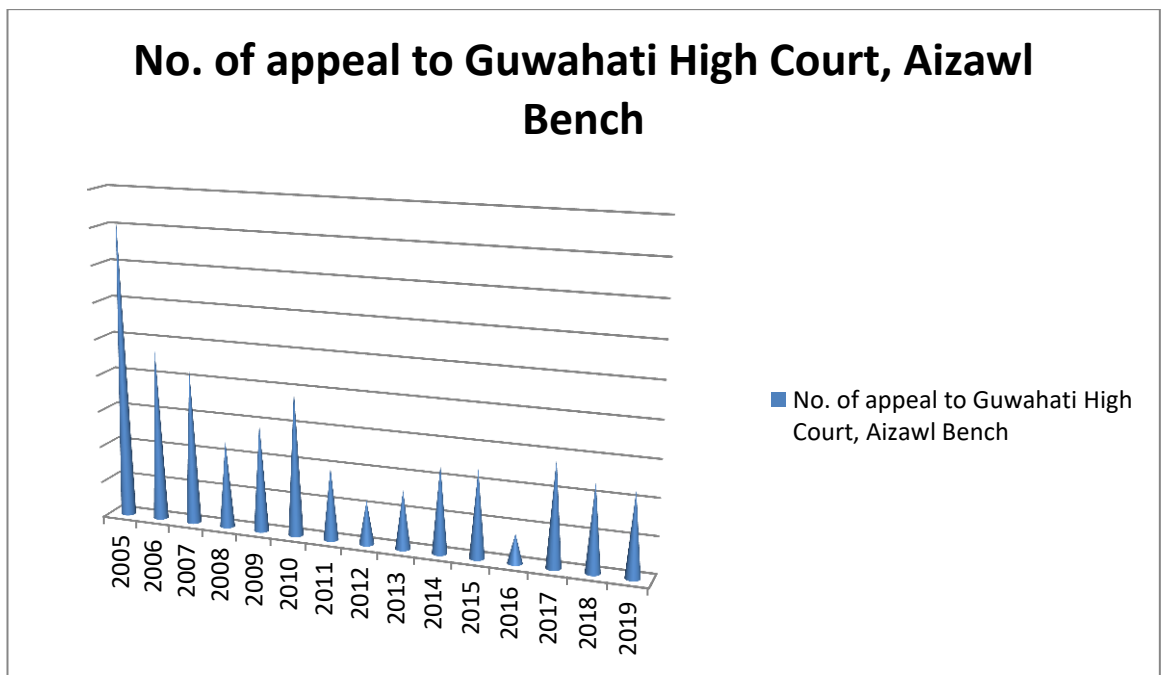
### **2.6.3 Appeal case register by Guwahati High Court, Aizawl Bench during 2005 to 2020 as on Sept, 2021(MACT Aizawl)**

Appeal to the High Court happens when the parties are not satisfied with the award of the Tribunal and within 90 days of the award is announced an appeal can be made to the High Court under section 173 of MV Act. The following table shows the number of cases appealed to the High Court from the year 2005 to 2020. The percentage of appeal is quite high in comparison with the total case registered of 1754 during the said year. The total appeal case amounts to 26% of the total number of cases registered. It is important to mention that, from the record of the MACT, Aizawl, there is no appeal to the Supreme Court with regard to the motor accident case so far. It reveals that the parties that appeal in the High Court are satisfied with the award of the Court. This incident is a very rare case in other parts of the state, as many times, in other states, the parties made an appeal to the Supreme Court. It shows that the Guwahati, High Court, Aizawl Bench is efficient enough to deal with the requirement and need in the field of the accident claim case in the current scenario.

**Table-2.6: Appeal case during 2005 to 2020 as on September 2021(MACT Mizoram Record).**

S.No	Year	No of case register
1	2005	83
2	2006	47
3	2007	43
4	2008	24
5	2009	30
6	2010	40
7	2011	20
8	2012	12
9	2013	16
10	2014	24
11	2015	24
12	2016	8
13	2017	29
14	2018	24
15	2019	23
16	2020	6
		453

\*The percentage of appeal to high court 22.43%.



## **2.7 Analysis of the of the vehicle register in Mizoram as on 10<sup>th</sup> October, 2021 from 2005 to 2020**

The below table No. 6 shows the details of vehicle registration in Mizoram from the year 2005 to 2020. It is relevant to mention that the growth of new vehicles increases every year especially in the district of Aizawl. The reason for the growth of motor vehicles in recent years may be for different reasons, such as the vehicle manufacturing industry showing a rapid growth after the year 2000. Between the years 2001 to 2010, passenger vehicle sales grew at a Compound Annual Growth Rate (CAGR) of 15.67%. of the total sales, roughly 10% were contributed by exports. Between 2000 to 2015, the average year-on-year growth rate of export of vehicles from the country was approximately 23%<sup>54</sup>. In India the auto industry is also unique in the way vehicles are purchased by consumers. Nearly 75 to 80 percent of the new vehicle purchases are done by using loans from the bank.<sup>55</sup> This financing system makes it very easy to purchase a new car even in the state of Mizoram. It is also no doubt true that, in today's world, everyone has a limited time to solve the problem of time management. Owning a vehicle becomes one of the best solutions.

The vehicle registration data proved the growth of vehicles in the state but at the same time, as shown in table-2, the cases registered against vehicle accident claims in MACT is reduced every year. As discussed earlier, the safety measures imposed by the government in various ways have proved successful. On the other hand, the vehicle owners who are not aware about the insurance policy and the claim settlement system may contribute to the decline of registered cases in the tribunal. Many vehicle owners prefer to escape the long process and technicalities in the incident of a vehicle accident. Simultaneously, in some cases, the insurance

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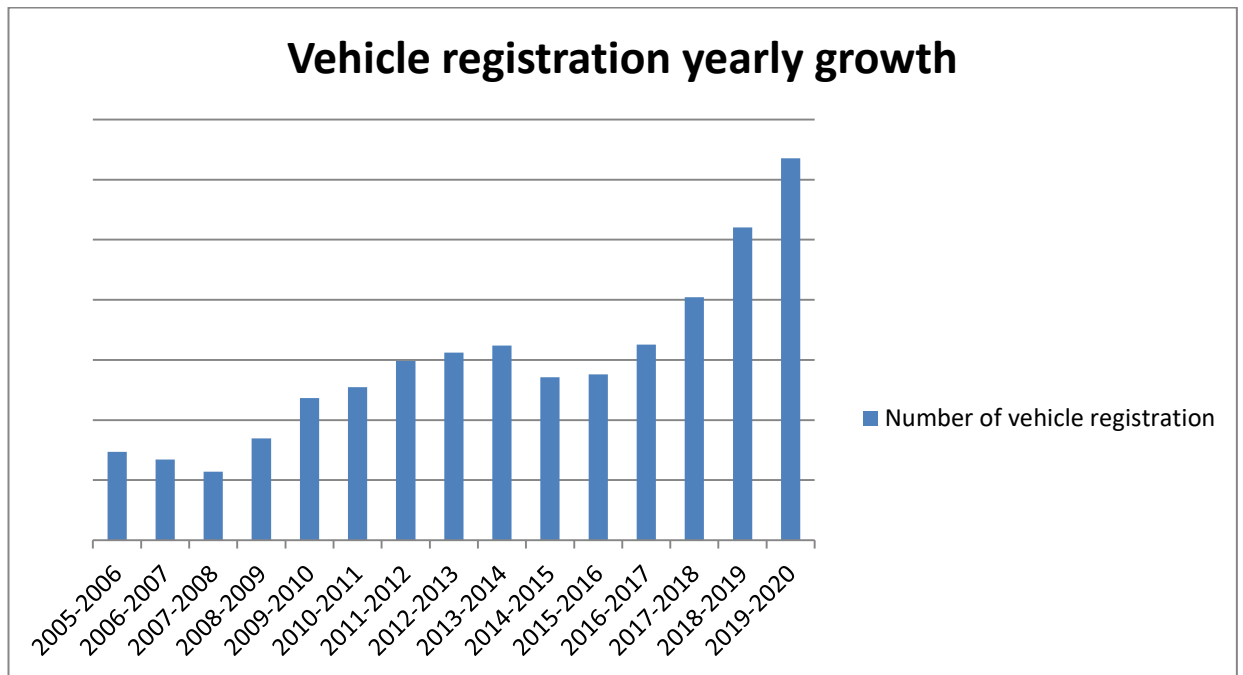
<sup>54</sup> Miglani Smita (2019). The Growth of the Indian Automobile Industry: Analysis of the Roles of Government Policy and Other Enabling Factors. Springer Link. Retrieved from//link.springer.com/chapter/10.1007/978-981-13-8102-7\_19 on 3/12/2021

<sup>55</sup> Majeed Abdul (2015). Key factors that will propel growth in auto industry. Auto Logue. Retrieved From <https://auto.economictimes.indiatimes.com/autologue/key-factors-that-will-propel-growth-in-auto-industry/557-> retrieved on 3/12/2021

companies delay their duties in the event of a vehicle accident that causes an annoyance and panic on the part of the owner that results in the failure of institution of case. It is also important to mention that insufficient and un-updated documents are the most common result of default in the institution of case in MACT. The habit of mutual agreement that is a popular practice in Mizo society can contribute to the reduction of cases in the tribunals.

**Table-2.7 Vehicle Registration in Mizoram as per Directorate of Transport, Govt of Mizoram on September, 2021**

Year	Aizawl	Lunglei	saiha	Champhai	Kolasib	Serchhip	Lawngtlai	Mamit	total
<b>2005-2006</b>	4495	751	264	525	822	361	90	46	<b>7354</b>
<b>2006-2007</b>	4409	662	276	354	601	253	85	74	<b>6714</b>
<b>2007-2008</b>	3737	552	230	290	429	217	115	117	<b>5687</b>
<b>2008-2009</b>	5916	700	167	420	514	309	190	248	<b>8464</b>
<b>2009-2010</b>	8455	1015	202	567	721	440	197	238	<b>11835</b>
<b>2010-2011</b>	8335	1317	258	640	845	547	405	378	<b>12725</b>
<b>2011-2012</b>	9407	1450	464	948	974	669	498	493	<b>14903</b>
<b>2012-2013</b>	9939	1516	523	1123	914	642	494	448	<b>15599</b>
<b>2013-2014</b>	10495	1477	445	1173	1020	767	416	405	<b>16198</b>
<b>2014-2015</b>	9227	1160	425	806	725	517	397	306	<b>13563</b>
<b>2015-2016</b>	9441	1226	471	709	712	510	432	311	<b>13803</b>
<b>2016-2017</b>	11837	1316	315	720	846	527	486	227	<b>16274</b>
<b>2017-2018</b>	14779	1507	378	827	1127	646	569	375	<b>20208</b>
<b>2018-2019</b>	19019	1966	430	1137	1463	838	643	527	<b>26023</b>
<b>2019-2020</b>	22017	2911	919	1494	1417	1272	1057	688	<b>31775</b>
<b>2020-2021</b>	17123	2123	914	1688	1391	1067	998	515	<b>25819</b>



The Motor Vehicle Act is one of the most functional and practical pieces of legislation in India. The government and the higher judiciary notice its importance for the promotion of social justice for the weaker section of the society and for this reason a number of amendments and committees have been introduced for the development and improvement of the act since the British era till today. Though many efforts are made by the Government, the state of Mizoram has only one full fledged function Motor Accident Claim Tribunal for the whole of Mizoram and one at Lunglei, but not a separate tribunal and function under District & Session Judge. In the Judicial District of Lunglei, as the workload is very heavy for the presiding officer which results in the delay of disposal. At the same time in Aizawl, the MACT has a wide coverage area that results in a huge number of cases pending before it and apparently results in a long duration of trial. As seen in table-3, most of the insurance companies selling their policy in the state have a branch office in Aizawl, even some of the renowned companies do not dare to have a branch office in Mizoram, and this created a problem for the policyholders who settle outside Aizawl district to file case in the occurrence of accident. Not only this, the communication gap is another problem faced by them since there is no office in their area to report the incidence. It is important to highlight that, movement from

one district to another in the event of a tragic state, just to file a case is a difficult option and lends them to run away from the legal proceedings.

Summary trial is one of the reasons for the incorporation of the Motor Accident Claim Tribunal in the country. In the state of Mizoram, even though a separate tribunal is constituted in Aizawl, the length of the trial duration is very long and in most of the cases, speedy trial is not incorporated due to many reasons. The average length of the trial in MACT is 2 to 3 years. It can be said that there is a denial of speedy trial in the tribunal against the parties. William Goldstone had rightly quoted that, "Justice Delay is denial of justice". The right to a speedy trial is first quoted in that landmark document of English law, the Magna Carta. Article 21 of the constitution of India declares that "*no person shall be deprived of his life or personal liberty except according to the procedure laid by law*".<sup>56</sup> Justice Krishna Iyer while dealing with the bail petition in **Babu Singh v. State of UP**, remarked, "*Our justice system even in grave cases, suffers from slow motion syndrome which is lethal to 'fair trial' whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings*".<sup>57</sup> Right to speedy trial is a concept gaining recognition and importance in today's world.

The appeal rate against the award of the MACT is quite high; this can mean that the award given by the tribunal does not meet the demand of the present society; while the award of motor accident claims in the High Court is not appealed in the Supreme Court with the hope of better award. This gives a reasonable answer that social justice is done by the High Court of Guwahati, Aizawl Bench. The data shows that, one of the active institutions for delivering justice, Lok Adalat also known as the "people's Court" do not play a big role in the motor accident claim adjudication since only 2 (two) cases are referred to it according to the case record of MACT Aizawl and Lunglei, during the selected period. Recently, in the case of

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<sup>56</sup> Myneni, SR (2011). Chapter-II Article 21 of the Indian constitution. Constitutional Law. Asian Law House, Hyderabad 2, Page 56.

<sup>57</sup> Babu Singh and Ors vs The State Of U.P on 31 January, 1978, Equivalent citations: 1978 AIR 527, 1978 SCR (2) 777



*M.R. Krishna Murthy Vs The New India Assurance Co. Ltd,*<sup>58</sup> The Supreme Court has recommended the introduction of MACAD and MAMA in the entire country for the quick disposal as well as the systematic dealing of the case. If this is successfully implemented, the role of MACT will become a secondary option in the adjudication process.

There is a reduction of cases registered in MACT while there is a rapid growth of new vehicle registration in the state. This proves that the new safety guidelines introduced by the government in the field of vehicles are quite successful. Even though there is a gray area to be improved till today, the measures taken by the concerned ministry and department bear a favorable outcome. The introduction of section 198A in the Motor Vehicle (Amendment) Act-2019, Reverse Park Alert System (RPAS) which uses sensor for object detection service to be installed by truck and buses from April, 2020 to mitigate the accident, IOT based vehicle etc are some of the important notable role of the government for curbing accident.

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<sup>58</sup> Supreme Court, Civil Appeal Nos. 2476-2477 OF 2019, (ARISING OUT OF SLP (C) NOS. 31521-31522 OF 2017)

## CHAPTER -III

### ADJUDICATION PROCESS OF CLAIM FOR COMPENSATION IN MOTOR ACCIDENT CLAIM TRIBUNAL IN THE EVENT OF DEATH AND GRIEVOUS INJURY

#### 3.1 Introduction

India is one of the biggest insurance businesses in the world. In non-life insurance business, India is ranked 15<sup>th</sup> in the world. India's share in global non-life insurance market was 0.79 per cent during 2019<sup>59</sup>. India has 57 insurance companies, out of which 24 are in the life insurance business, while 34 are non-life insurers<sup>60</sup>. The total market size of the insurance sector is believed to be US\$ 280 billion in 2020. Insurance policies are of different kinds, they are available in India for the protection and security of the vehicle owner. Third party Insurance is made mandatory in the country while the first party is an optional for the vehicle owner in the entire country. The First Party insurance focuses on the protection of the policy holder while the third party insurance focuses on the person other than the vehicle owner. It is also known as the comprehensive type of Insurance. It provides its own damage cover against the second party i.e the insurance company for any loss or damage to the first party vehicle in the event of unseen unfortunate situations like natural disasters, man made disasters, accident, fire or theft. It also covers the protection of the third party on behalf of the first party in the event of property damage, grievous injury or death. On the other hand, third party type of insurance refers to the vehicle insurance wherein the policy benefit is provided to the third party. It enables the second party to pay any legal liabilities of the first party against the third party in the form of monetary compensation. The legal liabilities of the first party arise when injury, death or property damage occurs to the third party with

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<sup>59</sup> Insurance Regulatory and Development Authority of India. Indian Insurance Market. Retrieved from [https://www.policyholder.gov.in/indian\\_insurance\\_market.aspx](https://www.policyholder.gov.in/indian_insurance_market.aspx)

<sup>60</sup> Indian Insurance Industry Overview & Market Development Analysis: India ranked 10th in life insurance 14th in non-life insurance in the world. Indian Brand Quality Foundation . Retrieved from [.https://www.ibef.org/industry/insurance-sector-india.aspx](https://www.ibef.org/industry/insurance-sector-india.aspx), on 4<sup>th</sup> Dec, 2021

his vehicle. In the case of *National Insurance Co. Ltd Vs. Faqir Chand*<sup>61</sup> The court held that “third party” is to include everyone except for the contracting parties to the insurance policy. Gratuitous passengers were excluded from the scope of being considered a “third party”<sup>62</sup>.

The businesses of non-life insurance have a huge market due to the growth and development of the automobiles industry. In the year 2020, India was the fifth-largest auto market, with 3.49 million units sold in the commercial and passenger vehicles categories. It was the seventh-largest manufacturer of commercial vehicles in 2019<sup>63</sup>.The automotive industry has come a long way in India from the 1950s when the annual production of vehicles was only 40 thousand. The three leading manufacturers of automobiles in the fifties were – Hindustan Motors, Premier Automobiles and Standard Motors, but in today's world the customers have a number of options while choosing a new car.

In today's world where insurance companies and automobile industry have a fast growing market in the country everywhere, at the same time accidents by vehicles happen every minute. To maintain a fair balance between the victim party and the company, a platform for adjudication is one of the demands for maintaining social justice. Before the enactment of Motor Vehicle Act- 1988, the suit claiming compensation has to be filed in civil court along with an ad- valorem court fee. Since the civil courts had a backlog of cases to adjudicate, the person expecting damages was not able to receive the compensation in time and due to the court fee, the victim was further discouraged not to file a case for compensation. Keeping in mind the hardship faced by the victim, remedial measures were taken in 1988 Motor Vehicle Act where a separate court for motor accident claims was formed and without paying any ad- valorem court fee. In this act, licensing of the motorists and

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<sup>61</sup> AIR 1995 J&K 91

<sup>62</sup> Chakravarty, Sangeeta (2019). Legal Service India. Retrieved from [www.legalserviceindia.com/article/I264-Third-Party-Insurance.html](http://www.legalserviceindia.com/article/I264-Third-Party-Insurance.html)

<sup>63</sup> Indian Insurance Industry Overview & Market Development Analysis: India ranked 10th in life insurance 14th in non-life insurance in the world.Indian Brand Quality Foundation . Retrieved from <https://www.ibef.org/industry/insurance-sector-india.aspx>, on 4<sup>th</sup> Dec, 2021

registration of the vehicle is mandatory as it is important for claiming compensation<sup>64</sup>.

By the Motor Vehicle Act 1988 Claim Tribunal should be established in every state for the purpose of speedy adjudication and compensation of the victim party. Claims Tribunal is defined under Chapter XII in Section 165 of the act wherein it says that, "A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both"<sup>65</sup>. The object of the MACT is to give compensation that emerges from motor vehicle accidents, resulting in death or bodily injury to persons or damage to any property of third parties. The other goal of the tribunal is to provide remedy to the victims of accidents by motor vehicles in appropriate time without any procrastination. The Motor Accident Claims Tribunals (MACT) handle those claims which are in relation to loss of life/property or those injury cases arising out of Motor Accidents exclusively. From the amendment act of 1998, the case relating to vehicle accidents will go directly to the Tribunal administered by the Judicial Officer named as a Presiding Officer, and these tribunals are under immediate supervision of the High Courts of various States. Under Section 165 (3) of the said act, the eligibility for the appointment of members is that, the member should be a Judge of a High Court or District Judge or ought to be eligible for appointment as a Judge of a High Court or District Judge<sup>66</sup>.

### **3.2: Rate of vehicle Accident in India and Mizoram:**

The procedure for the redress of road accident victims is recognized by the Government under the Motor Vehicle Act 1988 as amended in 2019, for

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<sup>64</sup> The Claims Tribunal under MVA, 1988. Legal Service India e-Journal @[www.legalserviceindia.com/legal/article-6638-the-claims-tribunal-under-mva-1988.html](http://www.legalserviceindia.com/legal/article-6638-the-claims-tribunal-under-mva-1988.html), retrieved on 5<sup>th</sup> December, 2021

<sup>65</sup> Motor Vehicle Act-1988, Section 165

<sup>66</sup> Motor Vehicle Act-1988, section 165(3)

summary trial of cases between the claimants and the insurance company or the owner of the vehicle. Before the incorporation of the Motor Vehicle Act 1988, The Government of Mizoram had instituted the Motor Accident Claim Tribunal from 1986 under the Transport Dept.<sup>67</sup> The importance of having a separate procedure under tribunal as a legislation of social justice had played a vital role in the government in line with the process for the reduction of road accidents in India. The Motor Vehicle (Amendment) Act of 2019 aims to ensure road safety and stricter rules, it also mentions a recall of vehicles that can entail undue safety risks to other motorists, the driver, and the environment. With the amendment, the Central government created the National Road Safety Board as an advisory board to manage and regulate road safety and traffic.

The third Global Ministerial Conference on Road Safety was held in Stockholm, Sweden on 19- 20 February, 2020. At this conference, all the participants including India reaffirmed their strong commitment for achieving the goals of reducing road accident related deaths by at least 50% by 2030<sup>68</sup>. The total number of cases registered by the police in India under Motor Vehicle Act is 247978 in the year 2017, 232949 in 2018 and 203540 in the year 2019<sup>69</sup>. The WHO Report on Road Traffic Injuries for 2018 has listed Road accidents as the leading cause of death for the age group 5-29 years and a growing public health concern. Due to the high rate of accident in the country, initiatives for curbing the accident was introduced by the central government, in line to it, on 12<sup>th</sup> October, 2021 the Home Minister of Mizoram launch Central Government initiative programme in Mizoram namely the Integrated Road Accident Database (iRAD) Project, the nodal department for the said project include the police department, Health and Family welfare, PWD, Transport Department and NIC Mizoram to ensure the road safety and accident.<sup>70</sup> The project will collect and analyze data from across the country to understand the causes of accidents and formulate new policies to enhance road safety.

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<sup>67</sup> P.Chakraborty, "Legal Encyclopedia of Mizoram", Volume A1, page 208.

<sup>68</sup> Ministry of Road transport and Highway official website retrieved on 28<sup>th</sup>, Aug, 2021

<sup>69</sup> National Crime Report Bureau

<sup>70</sup> Vanglaini Daily New Paper, 12<sup>th</sup> October, 2021.

A road accident may cause a loss of life/lives or grievous injury, minor injury or non-injury to road-users. An accident, which results in the death of one or more persons, is a fatal accident. Grievous injury accident is one in which one or more victims suffer serious injury requiring hospitalization. Minor injury accident is one in which the victim(s) does not require hospitalization. It is important to keep in mind that, in most of the cases, the minor injury does not amount to compensation. The details of road accidents year wise can be seen under table 1.

**Table 3. 1.Record on road accident during the year 2005 to 2020 as recorded by Ministry of Road Transport<sup>71</sup>**

Year	Total Number of Accident	Total Number of death	Total number of injured
2005	439255	94968	465282
2006	460920	105749	496481
2007	479216	114444	513340
2008	484704	119860	523193
2009	4,86,384	1,25,660	5,15,458
2010	499,628	134,513	527,512
2011	4,97,686	1,42,485	5,11,394
2012	4,90,383	1,38,258	5,09,667
2013	4,86,476	1,37,572	4,94,893
2014	4,89,400	1,39,671	4,93,474
2015	5,01,423	1,46,133	5,00,279
2016	4,80,652	1,50,785	4,94,624

<sup>71</sup> [https://morth.nic.in/sites/default/files/Road\\_Accidents\\_in\\_India\\_2008\\_compressed.pdf](https://morth.nic.in/sites/default/files/Road_Accidents_in_India_2008_compressed.pdf) retrieved on 19<sup>th</sup> Sept, 2021

2017	4,64,910	1,47,913	4,70,975
2018	4,67,044	1,51,417	4,69,418
2019	4,49,002	1,51,113	4,51,361
2020	3,66,138	1,31,714	

In the year 2019 a total of 4,49,002 road accidents were reported by States and Union Territories (UTs) causing the death of 1,51,113 people and causing injury to 4,51,361 persons. The number of 4,49,002 accidents and 1,51,113 deaths in 2019 can be termed as an average of 1,230 accidents and 414 deaths every day and nearly 51 accidents and 17 deaths every hour.<sup>72</sup> From the table, it can be seen that the number of accident cases is reduced in terms of ratio to the number of new vehicle registration in the country. One of the important reasons behind the decline in accident & accident related deaths in the year 2019 may be the result of the implementation of the new Motor Vehicle Act, 2019 that became effective from 1<sup>st</sup> September 2019. The Motor Vehicle Amendment Act 2019 included, inter-alia, provisions like hike in penalties for the traffic violations, electronic monitoring of vehicles, enhanced Penalties for juvenile driving etc and hence it is believed to have the desired impact.

In 2013, the highest accident severity was observed in Mizoram (85.1), followed by Punjab (72.6), Uttarakhand (59.1) and Bihar (49.6).<sup>73</sup> In 2014, the highest accident severity (road accident death per 100 accidents) was reported as Mizoram (78.0%), followed by Punjab (72.3%), Dadra & Nagar Haveli (67.8%) and Uttarakhand (62.3%).<sup>74</sup> The severity of victim may be high in Mizoram due to the geographical condition of the state as Mizoram is a hilly area, when an accident occurs; there is a high probability that the vehicle fell from the high steep roadside followed by the negligence of the driver and conductor. Another responsible factor

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<sup>72</sup>National crime record bureau

<sup>73</sup> Accident Severity: Road accident deaths per 100 accidents as per Ministry of Road transport and Highway website

<sup>74</sup> National crime record bureau

for the severity of accidents in the state may be that most of the people ignore seatbelt while driving a car as not wearing a seat belt is not punished in the state.

**Table-3.2 Record of road accident in Mizoram between 2005 to 2019 as recorded by Department of Transport, Govt. of Mizoram:<sup>75</sup>**

The table below shows the decrease of accidents in the state, at the same time, the death rate of the vehicle accident victim is reduced to 48 in 2019 in terms of Accident Death Ratio compared to and 45 in 2018. In the year 2019, there were a total of 62 accidents recorded, the average number of accidents daily was 0.169 during the year and 0.131 people lost their lives every day.

<b>Year</b>	<b>Total Number of Accident</b>	<b>Total Number of person death</b>	<b>Total number of person injured</b>
<b>2005</b>	96	59	127
<b>2006</b>	95	64	149
<b>2007</b>	77	50	65
<b>2008</b>	110	63	185
<b>2009</b>	86	60	203
<b>2010</b>	125	82	252
<b>2011</b>	97	81	215
<b>2012</b>	110	77	172
<b>2013</b>	114	97	264
<b>2014</b>	132	103	234
<b>2015</b>	70	72	103
<b>2016</b>	83	70	68
<b>2017</b>	68	60	55
<b>2018</b>	53	45	80
<b>2019</b>	62	48	56
<b>2020</b>	<b>53</b>	<b>42</b>	<b>NA</b>

<sup>75</sup>[https://morth.nic.in/sites/default/files/RA\\_Uploading.pdf](https://morth.nic.in/sites/default/files/RA_Uploading.pdf) retrieved on 18<sup>th</sup> September 18, 2021



### 3.3: Types of claims under the Motor accident claim tribunal

Table 3.3: The types of claims under MV Act of 1988 as amended in 2019 are as follows.

No-Fault Liability –	This liability is dealt with under Section 140 to 144 of the Act. The claimant, in this case, does not have to prove the fault on the part of the other party, there is no joint liability. But this liability arises only when the person claiming has been permanently disabled, or if he dies. The compensation that the claimant can claim is Rs 50000/- (Fifty thousand) in case of death, and Rs 25,000/-(twenty five thousand) in case of permanent disability.
Hit and Run –	Section 161 of the Act deals with the claims made under Hit and Run cases. In such cases, the accused hits the victim with his vehicle and instead of helping he chooses to run away. As per Section 161(3) in case a person is injured he is to be paid a sum of Rs 12,500/- and in case of death, his legal representatives will get Rs 25,000/-. This provision has been amended in 2019 where in case of death Rs. 200000/- is to be awarded from the Solatium scheme and in case of injury Rs. 50000/- can be claimed from the solatium fund.
Structured Formula Basis –	The Motor Vehicles Act, 1988 was amended in 1994. This amendment introduced a new section of the Act i.e., Section 163 A. According to this section a claimant does not need to prove the fault of the driver. The owner (defined under Section 2(30) of the Motor Vehicles Act, 1988) or the insurer has to compensate the claimant, but on the condition that the identity of the accused has to be revealed. Another condition under which the claimant can either file a complaint under Section 140 or Section 163 A. If his complainant has already been granted compensation under Section 140 then under this section he will only get the balancing amount. Negligence is not a criteria and there is no question of dependency in this provision
Liability based on fault	Section 166 read with 140, The person who is bringing the compensation petition should show that the respondent(Driver/owner) was negligent. It is really important to have evidence that the respondent was at fault and legally responsible for his actions and the compensation amount is higher than No fault liability. In other words, it is a Fault Liability claim – Victim/Legal Heirs of the victim have to prove in the Court of Law the wrongful act/negligence/default of the owner causing injury/death. Compensation is based on age/income/dependency etc of the party.

### 3.3.1: No fault Liability/ Absolute Liability.<sup>76</sup>

No fault liability arises when accidents occur on the road. It basically means another party who was involved in the accident has to pay compensation to the victim. The owner/insurer of the vehicle cannot escape from the liabilities by arguing that the incident was not his negligence or mistake. Whether it was the negligence of the victim or not, the driver or owner of the car will pay compensation to the suffering/victim party. The Section 140 to section 144 of the Motor Vehicle Act, 2019 deals with no-fault liability and its adjudication process. The section states that if a person died or permanently disabled due to the accident then the owner of the vehicle would be equally liable to pay compensation.<sup>77</sup> A sum of 50,000 shall be paid on the death of any person while 25,000 rupees to those who became permanently disabled.<sup>78</sup> This section prioritized claimants and they are not required to prove that the act was done wrongfully or was due to the negligence of the owner or owners of the vehicle.

During the enactment of the Motor Vehicle Act 1939, the award for compensation was provided only on the principle of “Fault”. Firstly, in the case of *Manushri Raha Vs Balakrishna.L.Gupta*<sup>79</sup> and the Law Commission of India recommended for the introduction of “No Fault” liability under the act. In the case of *Haji Zakaria Vs Naoshir*<sup>80</sup> There was a question whether the liability to pay compensation could be imposed even when there is no negligent and rash action on the part of the owner, Honorable Justice A.S.Rao and Honorable Justice Raghuvir of the supreme court did not accept the contention. The apex court opined that there could be no liability when there is absence of rash and negligent on the part of the owner or the driver of the vehicle or the vehicle. The Motor Vehicle Act – 1932 was amended by the

Motor Vehicle (Amendment) Act, 1982, as a result Section 92A to 92E was added to provide for the payment of compensation on the principle of “No

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<sup>76</sup> Harshraj, Aditi (2020, May). Doctrine Of No Fault Liability | Motor Vehicle Act, 2019 | Absolute Liability | The National TV. Retrieved from <https://thenationaltv.com/Tech/doctrine-of-no-fault-liability-motor-vehicle-act-2019-absolute-liability-the-national-tv>

<sup>77</sup> Section 140 of the Motor vehicle (Amendment) Act-2019

<sup>78</sup> Section 140 of the Motor vehicle (Amendment) Act-2019

<sup>79</sup> 1977 AIR 1158, 1977 SCR (2) 944

<sup>80</sup> AIR 1976 AP 171

Fault”. This is the first time that the country accepted the principle of “No Fault Liability”, but later on the provision was repealed. After the repeal of the provision, the Motor Vehicle Act 1988 was enacted that came into force on 14<sup>th</sup> October, 1988. In this Act Section 140 to 144 (Corresponding to the earlier section 92A to 92E) was incorporated. The Act also provides for the award of compensation resulting from an accident arising out of the use of motor vehicles.

The phrase “accident arising out of the *use* of a vehicle” was used instead of “accident *caused* by the use of a motor vehicle” by the court. This reinforces MVA, 1988 stance as welfare legislation and thus ensures the aggrieved party to make better and efficient claims. The expression “arising out of the” was used in order to widen and expand the scope of the act and what had to be covered. In the case of *Shivaji Dayanu Patil Vs Vatschala Uttam*<sup>81</sup> and in the case of *Samir Chandra Vs Assam State Transport Corporation*<sup>82</sup> the distinction was well laid out and the significance was clearly analyzed by the court.

In the case of *Shivaji Dayanu Vs Vatschala Uttam*,<sup>83</sup> A collision occurred between a truck and petrol tanker, after 4 hours an explosion took place resulting in the death of the son of the respondent. Due to the villagers trying to steal and pilfer oil from the site of the accident in those 4 hours, it led to friction which caused the explosion. The claim was permitted by the High Court but it was contested by the owners later and the insurers (the petitioners) that there was no causal relationship between the collision and the explosion that took place after four hours. In an appeal the Supreme Court interpreted the phrase “**arising out of**” to have a wider connotation.<sup>84</sup> It was ruled that causal relationships need not be direct and proximate but it was enough even if it was less immediate. The interpretation and usage of the phrase allowed the accessibility of this provision to a larger group of victims and stood still to the label of being called ‘welfare legislation’. It was found that the collision and the explosion were related events and there could be no proper inference that there was no causal relationship.

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<sup>81</sup> Appeal No. 65 of 1990, in First Appeal No. 54 of 1990

<sup>82</sup> (1998) 6 SCC 605

<sup>83</sup> 1991 AIR 1769, 1991 SCR (3) 26

<sup>84</sup> Appeal No. 65 of 1990, in First Appeal No. 54 of 1990

In the *Samir Chandra Vs Assam State Transport Corporation*<sup>85</sup> case, a bomb blast occurred at the time when the passengers were alighting after the bus was parked and was not moving any more. The negligence of the owner was assessed in this incident and hence it was declared that the accident arose out of the use of the motor vehicle. In the case of *Varalakshmi Vs APSRTC*, stones were hurled at a moving bus when the passengers were inside. The window screen was smashed in the process and a passenger was injured. Since the accident occurs out of the use of the vehicle, the owner and the insurer were held liable.<sup>86</sup>

### **3.3.2 Hit and run cases in India between 2005 to 2019.**<sup>87</sup>

The Motor Vehicles Act, 1988 is a piece of social legislation and Hit and Run provisions are designed to protect the rights of road accident victims where the identity of the motor vehicle causing the accident cannot be established. In layman's terms, hit and run incidents can be described as a case where an individual hits another and flees away from the spot. The relevant legal provision is enshrined in Section 161 (163 after amendment) of Motor Vehicles Act 1988 where a “hit and run motor accident” is defined as an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose. The Solatium Scheme came into force to compensate the victims of Hit and Run from July, 1989 and after the amendment of Motor vehicle Act, 2019 the same provision was incorporated that came into force from October 2020.

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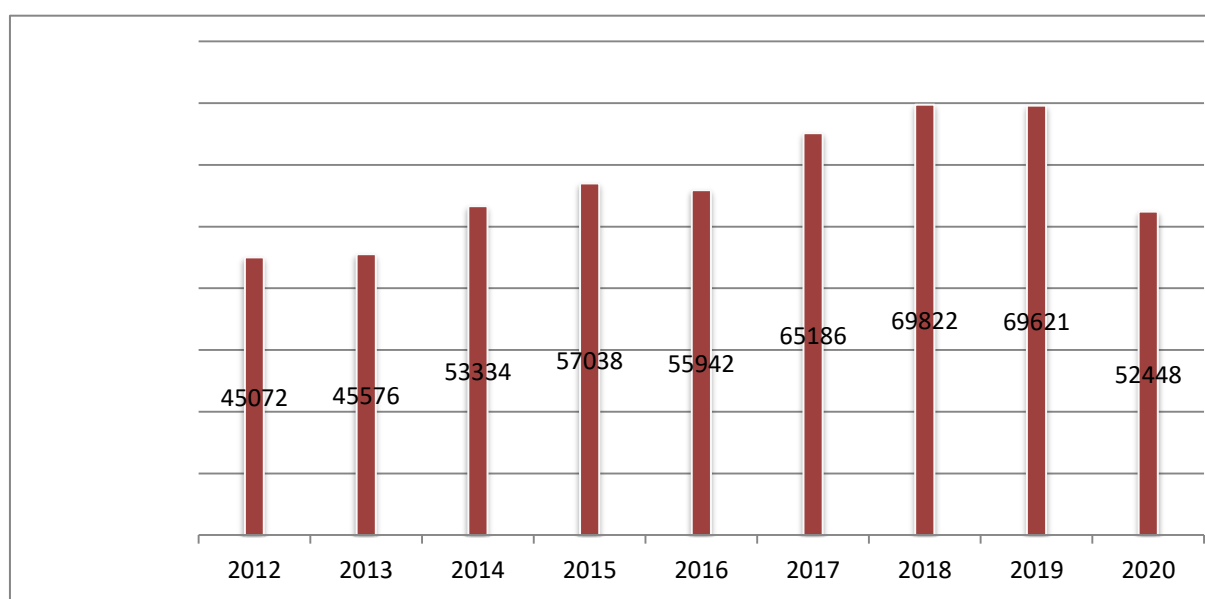
<sup>85</sup> (1998) 6 SCC 605

<sup>86</sup> *Varalakshmi v APSRTC* 2005 ACJ 384, ILR 2004 KAR 815

<sup>87</sup> [https://morth.nic.in/sites/default/files/Road\\_Accidents\\_in\\_India\\_2015.pdf](https://morth.nic.in/sites/default/files/Road_Accidents_in_India_2015.pdf) retrieved on 25<sup>th</sup> Sept, 2021

**Table-3.4 Hit and Run case in India as per the Record of Ministry of Road, Transport and Highway:**

Year	No. of hit and Run	% of Hit and run case from the total vehicle accident	Number of person killed due to hit and run	% of death due to hit and run from the total death from vehicle accident
2012	45,072			
2013	49,576	10.0%	18,702	7.7 %
2014	53,334	7.6 %	19,569	4.6 %
2015	57,083	11.4 %	20,709	14.2 %
2016	55,942	11.6%	22,962	15.2%
2017	65186	(14.0)	25866	(17.5)
2018	69822	14.9%	28619	18.9%
2019	69,621	15.5	29,354	19.4
2020	52,448	NA	NA	NA



Radhakrishnan on April 22, 2014 implemented from 1st September, 2019, the solatium for death is enhanced to Rs. 2 lakhs and for injury Rs. 50000/-. This solatium will be more effective and reasonable as compared to the previous act of 1988. The main objective of the Solatium Scheme 1989 as enacted by the central Govt. is to bear the compensation of Hit and Run.

The common issue faced in these kinds of cases is that there is a lack of direct evidence, as there is no hard evidence to put these culprits behind the bars. Due to lack of evidence it becomes difficult for the police to investigate the matter. Sometimes due to the speeding vehicles and rush it also becomes difficult for the eyewitnesses to see exactly how the accident took place due to which they are not able to help the police in investigation. The police left with no option and they have to rely on the indirect piece of evidence in such cases. It becomes very hard to identify and punish these offenders due to the reasons earlier mentioned that there was a lack of evidence and witnesses. However there are many instances when the law has convicted them as well.

#### **Hit and run claim procedure<sup>88</sup> (solatium scheme -1989)**

Filing an FIR is one of the foremost important duties of the victims and the family or if there is any eye witness, the second important task is to gather evidence as far as possible. The victim of the “hit-and-run” vehicle or his legal representative shall make an application to the Claim Enquiry Officer in each Taluka using form 1 and 2 of the scheme dealing with discharge receipt of the solatium scheme. After due enquiries, the Claims Enquiry Officer will submit a report together with certificate of post mortem or injury certificate to the claims settlement commissioner with enclose undertaking in form 5 of the said scheme, this undertaking specifies that the amount of compensation received under the Scheme will be refunded to the insurer if the injured victim or the legal representative of the deceased receives any other compensation in lieu of this amount, or under any other existing provision by law. The claims settlement commissioner may be either the District Collector or the Deputy Commissioner at

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<sup>88</sup> Consumer Education website of Insurance Regulatory and Development Authority of India @ Retrieved from [https://www.policyholder.gov.in/hit\\_and\\_run.aspx](https://www.policyholder.gov.in/hit_and_run.aspx)

the district level. He will process the claims and sanction the payment within 15 days from the receipt of the report from the Claim Enquiry Officer and communicate the sanction order to the nominated office of the Insurance Company.

It is the duty of the victim of Hit and Run to make the application within six months from the date of the accident. An application made after six months, but before 12 months from the date, may be accepted by the Claims Enquiry Officer if he is satisfied that there are reasonable grounds for the delay. If, however, the Officer is not convinced and the application is rejected, the reasons for non-acceptance will be communicated to the victim party.

The compensation under Hit and Run Accident cases are made from a Solatium Fund that is contributed by the General Insurance industry under an agreed formula. The administration of claims is done by New India Assurance Co Ltd who has nominated one Divisional Manager in each district at the District Level Committee headed by the District Collector. Before the initiation of claims, it is necessary to prove the negligence of the driver and the testimony of witnesses play an important part for a successful claim. The next important documents are a report from the Police stating that the vehicle could not be traced after careful investigation.

The table -3.4 shows that there are a certain number of hit and run cases in India. It is no doubt true that a number of hit and run cases are happening in Mizoram. An RTI was submitted to the Deputy Commissioner's Office on 24<sup>th</sup> September, 2021 to acquire information with regard to the functioning and the operation of the Solatium Scheme for the victims of "Hit and Run". The answer was received on 24<sup>th</sup> of November, 2021. The information officer gave the information that the scheme was never implemented under the Deputy Commissioner Office. This shows that it is purely a violation of the legal right of the victim of "Hit and Run" since the Government has never implemented the scheme. It is important to point out that justice is not done to the citizens to a great extent in Mizoram.

The Compensation to Victims of Hit and Run Motor Accident Scheme-2022 was enacted and published by the Central Government in the gazette

to be effective from 1st April, 2022. This new scheme replaced the Solatium Scheme-1989 for the compensation of Hit and Run case vide memo number S.O. 440(E) dated 12th June, 1989. Compensation to Victims of Hit and Run Motor Accident Scheme, 2022 is a monetary assistance scheme of the Ministry of Road Transport and Highways.<sup>89</sup> To monitor, review and administer the scheme a Standing Committee at the Centre Level is established and to monitor, to take corrective measures, to evaluate progress of the scheme there is a District Level Committee. It will be mandatory to pay the compensation within the 15 days of the compensation sanction order under the scheme. It is to be noted that the compensation amount shall be administered from the Motor Vehicle Accident Fund constituted under section 164B of Motor Vehicle Act 2019.

The procedure of claim can be initiated by submission of application as per Form-1 of the scheme along with all the relevant documents mentioned in the form as an annexure to the Claim Enquiry Officer of the Sub-Division or Taluka in which the accident took place. The Form shall also be annexed with a copy of claim raised by the hospital providing the treatment for cashless treatment payment. The undertaking mentioned in the scheme shall also be filled as per form IV and be attached with the application form. On receiving the application, the Claim Enquiry Officer will scrutinize the documents and decide whether the compensation claim is true or not and submit his report to the Claims Settlement Commissioner, as early as possible. The Claim Enquiry Officer first obtains a First Accident Report (FAR), and Postmortem report (in case of death) from the concerned authorities. If the claim is found to be correct and justified in nature, then within the 15 days of the sanction order, the amount of compensation would be transferred to the beneficiary account. When the word compensation appears, in many incidents, there are more than one claimant, so it shall be the duty of the Claim Enquiry Officer to decide the rightful claimant.

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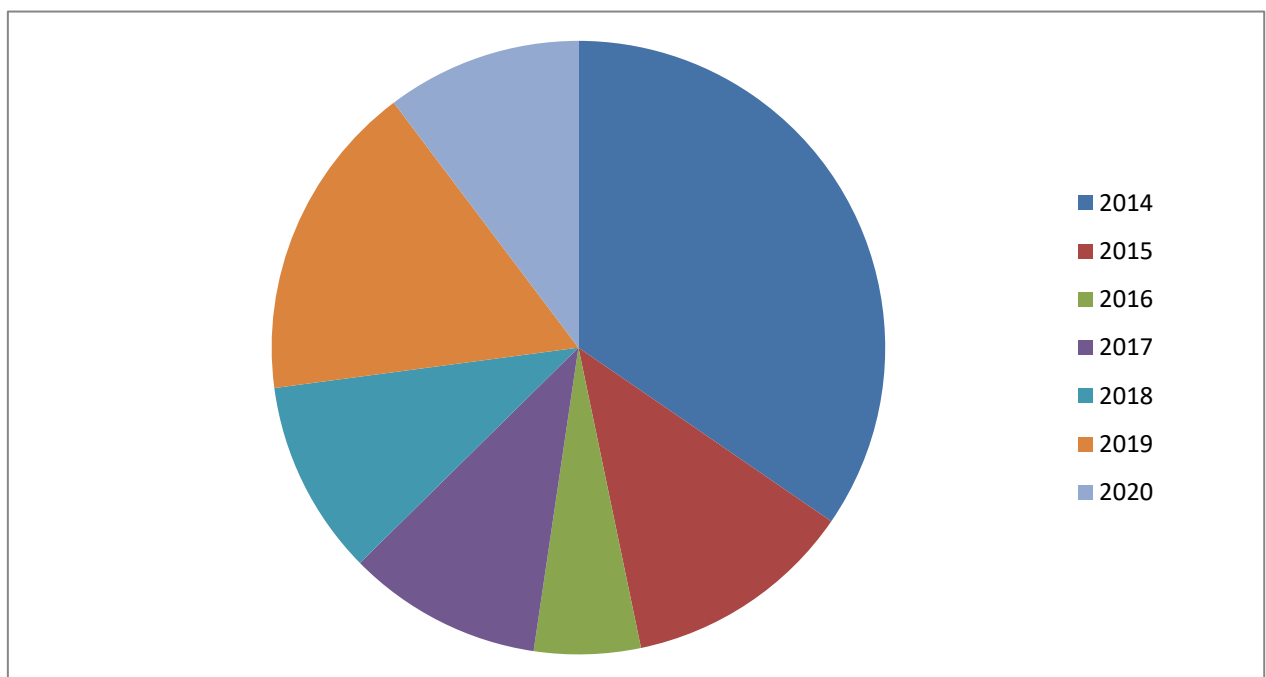
<sup>89</sup> Shahrukh, "Compensation to Victims of Hit and Run Motor Accident Scheme," 2022 <https://govtschemes.in/compensation-victims-hit-and-run-motor-accident-scheme-2022#:~:text=But%20under%20the%20Compensation%20to,50%2C000%2F-%20for>



As per the new scheme, the amount of compensation in the case of death is Rs. 2,00,000/- to be paid to the legal representatives of the deceased and in the case of grievous injury the amount of compensation is Rs. 50,000 /- to be paid directly to the injured person. The General Insurance Council will make an E-payment directly to the bank account provided by the claimant or legal representative of the deceased. In case of delay by any reason, the Claims Settlement Commissioner shall record the reason in writing.

**Table-3.5: Detail of Hit and Run case as per the State Crime Record Bureau (SCRB), Mizoram dated 25/01/22**

Year	Fatal	Grievous Injury	Minor Injury	Non Injury	Total	Death	No. of person in grievous injury	No. of person in Minor injury
2014	22	15			37	22	18	
2015	8	5			13	8	24	
2016	5	1			6	5	6	
2017	9	2			11	9	8	9
2018	9	2			11	9	9	
2019	14	1	1	2	18	14	2	
2020	6	4		1	11	9	6	8



The record of the SCRB cannot be solely depending upon the definition of Hit and Run under the Motor vehicle Act and the Indian Penal Code is very different though the term Hit and Run is used in IPC and Motor Vehicle Act. According to Section 161 of Motor Vehicles Act, Hit-and-run is defined as “an accident arising out of the use of a motor vehicle(s) the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose.” But Sections 279, 304A, and 338 of IPC are imposed on the victims of hit-and-run incidents.<sup>90</sup> In the case of hit and run under IPC, the drives are traceable in most of the incidents. The following are the ideas of "Hit and Run" under the Indian Penal Code.

1 Any person who drives rashly on the public road can be guilty of making an  
2 offense under Section 279. Imprisonment for 6 months, a fine of Rs 1000 or both can be imposed on a driver for rash driving or injuring another person on the road. The offense committed under section 279 is bailable and is cognizable by the district magistrate.

3 If a driver who is not under the influence of alcohol leads to the death of a person in an accident, the crime is reported under section 304A. The rider may face imprisonment for a year which may be extended up to 2 years with a fine of more than Rs 1000 or both. 304A is a non-bailable offense, and an individual can be convicted by lifetime imprisonment.

4 In extreme cases, the police may also report a hit and drive case under 302, which is a section related to the murder. A driver booked under Section 302, may face a death sentence or life imprisonment.

5 In case of minors involved in such cases, the act imposes 3 years of jail to the parents of the minor, along with some hefty fines.

### **3.3.3 Claim under section 163A and 166: Structured Formula Basis while calculating the amount of compensation:**

As per section 163A of The Motor Vehicles Act, 1988 as amended in the year 1994 the claimant does not need to prove the fault of the driver. The owner (defined under Section 2(30) of the Motor Vehicles Act, 1988) or the insurer has to

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<sup>90</sup> Indian Penal code

compensate the claimant, in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be. The act further explains that, for the purposes of this subsection, “permanent disability” shall have the same meaning and extent as in the Workmen’s Compensation Act, 1923 (8 of 1923). According to 163A Motor Vehicle Act sub section 2, In any claim for compensation under sub-section (1) of 163A, the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person. Sub section 3 empowers that, The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

### **3.4 Motor Accidents Claim Tribunal - The procedure for claim against Third Party Insurance/First Party Insurance**

#### **3.4.1 Claim Process under Motor Accident Claim Tribunal**

The Motor Vehicles Act 1988 is a comprehensive legislation with the purpose of enhancing road safety. It also serves the purpose of welfare legislation as it provides for compensation in case of loss of life or limb because of accidents by motor vehicles. A claimant may be either the victim himself or his legal representative.<sup>91</sup> Such a victim is entitled to compensation which appears to be just.<sup>92</sup> Compensation is awarded in respect of death, bodily injury and property damage. It is well settled that in case of motor accident claims, an endeavor is made to put the claimants in the pre-accidental position. An application for compensation arising out of an accident of the nature specified may be made before the Motor Accidents Claims Tribunal constituted for that area.<sup>93</sup> In a recent amendment (1994) of the

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<sup>91</sup> Settlement of Motor Accidents Claim with special reference to Kerala, [http://shodhganga.inflibnet.ac.in/bitstream/10603/8947/9/09\\_chapter%205.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/8947/9/09_chapter%205.pdf)

<sup>92</sup> Section 168, Motor Vehicles Act 1988.

<sup>93</sup> Section 166 (1) and (2) (By the Amendment Act 54 of 1994).

Motor Vehicles Act, 1988, the parliament has omitted the particular section as such and there is now no period of limitation prescribed.<sup>94</sup>

This shows that the Parliament does not want any statute of limitations to apply to compensation claims made under the Motor Vehicles Act. If the proviso's limitation time frame affect the victim, for which the total lifting of the statute of limitations is expected to put vehicle owners and insurers through a similar ordeal, especially the latter. While the delay may have caused hardship to the accident victims, it is likely to put insurers through a similar ordeal

The total lifting of the statute of limitations is expected to put vehicle owners and insurers through a similar ordeal, especially the latter, whose pertinent data may have been purged by the time the claim is brought. While the delay may have caused hardship to the accident victims, it is likely to put insurers through a similar ordeal.

Motor Accidents Claims Tribunal has been established by the Motor Vehicles Act 1988. It has been constituted to provide a speedier remedy to the victims of accidents by motor vehicles. The Tribunals take away jurisdiction of Civil Courts in the matters which concern the Motor Accidents Claims Tribunal. A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals for such area as may be specified in the<sup>95</sup>. Moreover, it is for the State Government to decide the number of members of a Claims Tribunal. If there are two or more members than one has to be appointed as Chairman<sup>96</sup>. A person shall not be qualified for appointment as a member of a Claims Tribunal unless he,<sup>97</sup>

(a) Is, or has been, a Judge of a High Court, or

(b) Is, or has been, a District Judge, or

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<sup>94</sup> Amendment Act 54 of 1994 (Section 166(3) of the Act, 1988).

<sup>95</sup> Section-65 of Motor Vehicle Act-1988

<sup>96</sup> Section 165 (4)Motor Vehicle Act-1988

<sup>97</sup> Section 165(3) Motor Vehicle Act-1988

(c) Also includes any person, qualified for appointment or is a High Court Judge or as a District Judge.

### **3.4.2 Jurisdiction of Motor Accident Claim tribunal**

Every application shall be made, at the option of the claimant,

1. To the Claims Tribunal having jurisdiction over the area in which the accident occurred or
2. To the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or
3. Within the local limits of whose jurisdiction the defendant resides.

Under S. 110(2) of 1939 Act the Tribunal within whose territorial jurisdiction the accident occurred alone was competent to entertain the claim. Amendment Act 54 of 1994 however added two more for viz (1) the Tribunal within whose local limits the claimant resided or carried on business, and (2) the 5 Tribunal within whose local limits the defendant resided. With this amendment the claimant now has the option to choose one out of the three fora. The consequence of the amendment is that the certainty of forum has been lost and in certain cases the owner of the vehicle and the Insurer may be put to great hardship and inconvenience, especially when the vehicle involved In the accident is a passenger bus carrying passengers residing or carrying on business at different places spread over several states.<sup>98</sup>

This position of 1939 Act was retained in Section 166 (2) of 1988 Act but, however, amendment of 1994 changed the condition as mentioned in the above paragraph. In such a situation a single accident may give rise to several claims filed at a number of places. The owner and Insurer will have to run to all the places from where they receive summons or notice till, under orders of the Supreme Court, all the claims are transferred to a Tribunal located at a particular place

### **3.4.3 Appeal when the parties are not satisfied with the award.**

Any appeal against the order of the Motor Accident Claims Tribunal lies to the High Court under section 173 of MV Act and should be filed within ninety

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<sup>98</sup> Justice Justice S. C. Mathur, " Motor Accident Claims - A Historical Perspective", J.T.R.I. JOURNAL –Issue – 4 & 5 - Year – March, 1996

days from the date of the award. No appeal shall lie against an award of the Motor Accident Claim Tribunal if the amount in dispute in the appeal is less than 10,000 rupees.<sup>99</sup> The High Court of the state may entertain the appeal after the expiry of the period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. An appeal against the high court judgment lies with the Supreme Court of India.

### **3.4.4 Procedure of filing claim compensation**

For the claimant to file a claim application he has two options:

1. First, under Section 163 A of the Act where the claim is assessed based on 'Structured Formula'.
2. Second, under Section 166 of the Act where the judge assesses the case based on the evidence available.

The application can be against any of the following people:

- Owner of the vehicle
- Driver
- Insurer

Once the complaint about the accident has been registered by the police it is to be forwarded to the Claims Tribunal within 30 days from the date the report was prepared.

#### **a) Particulars to be submitted in the Application**

Following particulars are required to be provided when a Claimant files application seeking grant of compensation

1. Name and father's name of the person injured/dead (husband's name in the case of married woman and widow).
2. Full address of the person injured/dead.
3. Age of the person injured/dead.
4. Occupation of the person injured/dead.

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<sup>99</sup> Motor vehicle act-1988

5. Name address of the employer of the insured/dead, if any.
6. Monthly income of the person injured/dead.
7. Whether the person in respect of whom compensation is claimed pay income tax (to be supported by documentary evidence)
8. Place, date and time of accident.
9. Name and address of the Police station in whose jurisdiction the accident took place or was registered.

**b) Person who can file an Application for Compensation**

An application for compensation involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, can be made—

1. By the person who has sustained the injury; or
2. By the owner of the property; or
3. Where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
4. By any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be.

Where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf or for the benefit of all the legal representatives of the deceased and the legal representatives, who have not joined, shall be impleaded as respondents to the application<sup>100</sup>. While comparing with the section 168 of the Act that empowers the tribunal to make an award determining the amount of compensation which appears to be just and specify the person or persons to whom compensation shall be paid, a distinction is noticed in between the above two sections, that is, section 166 and 168. Section 166 gives the list of persons who can apply for the compensation.

Under the traditional law the only person entitled to claim compensation was the victim. The definition of "victim" was restricted. It was confined to the person actually hurt in the accident. The dependents of the victim, in the event of his death. were not treated to be victims of the accident and were therefore not entitled to claim compensation. The maxim then operating was Actio

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<sup>100</sup> ibid

personalis moritur cum persona, meaning, personal action dies with the person. By operation of this maxim pending suit for compensation abated on the death of the claimant.<sup>101</sup> S. 11 OA was introduced in 1956, and Act No. 100 of 1956 revised the Motor Vehicles Act of 1939. "Legal representatives of the deceased" were accorded the entitlement under Clause (b) of Sub-section (1).

### **c) Quantum of compensation**

#### **Procedure for Calculating Compensation under section 166 read with section 140 of Motor Vehicle act:**

While calculating the amount of compensation, the tribunal has to keep in mind a number of factors. The Court, through each case, has widened its scope. The most popular followed judgment for applying the multiplier method is the case of *Sarla Verma v Delhi Transport Corporation*,<sup>102</sup> the Court explains the multiplier method while awarding compensation. The Court, in this case, takes into consideration the net annual value of reliance on the date of death of the deceased. The net annual loss is evaluated, keeping in mind the age of the deceased and not the age of the parents. To compensate for the loss, this amount is then multiplied by the multiplier, and the resultant is awarded as compensation. The multiplier represents the number of years upon which the loss of dependency is capitalized.

The multiplier method is fixed for the computation of loss depending upon the age of the deceased.

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<sup>101</sup> Justice Justice S. C. Mathur, " Motor Accident Claims - A Historical Perspective", J.T.R.I. JOURNAL –Issue – 4 & 5 - Year – March, 1996

<sup>102</sup> Civil Appeal No 3483 Of 2008, (Arising out of SLP [C] No.8648 of 2007)



Age of the deceased	Multiplier
15 to 25 years	18
26-30	17
31-35.	16
36-40.	15
41-45.	14
46-50.	13
51-55	11
56-60	9
61-65	7
Above 66 to 70	5

In the case of *National Insurance Company Limited v Pranay Sethi*<sup>103</sup>, the Supreme Court while reiterating the above case laid down guidelines for the assessment of compensation concerning the prospects of the deceased where the deceased is self-employed or has a fixed or permanent salary. It was held that compensation should be just in nature as well as it shall be equity, fair, and reasonable.

The guidelines given in the *Sarla Verma* case were analyzed in the Pranay *Sethi case*, and the Court added a wide perspective in this. The additions in this case were extended to the deceased not having permanent jobs. The Court focuses on the importance of a uniform principle of standardization for the assessment of compensation. However, in the case the Court ruled the benefits for others also, like, In the case of the deceased who had a permanent job (salaried) then if his age is below 40 years, between 40-50 years, and between 50-60 years the

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<sup>103</sup>Special Leave Petition (Civil) No.25590 Of 2014

additions of 50%, 30%, and 15% were to be made to the prospects of the deceased respectively. If the deceased was self-employed or had a fixed salary, then if his age is below 40 years, between 40 and 50 years, and between 50-60 years the additions of 40%, 25%, and 10% were to be made respectively. In this case, if there was any loss of consortium, loss of estate, or funeral, then he should be awarded 40,000, 15000, and 15000 respectively. Further, the Court decided that the amounts shall be increased every 3 years at a rate of 10%.

### **3.4.5 Amendment in Section 163 A<sup>104</sup>**

Vide Gazette Notification dated 22nd May, 2018, modification has been made by the Ministry of Road Transport & Highways in the provisions of Section 163 A. Compensation, on No Fault Liability basis, as per amended provisions, is as under:

- (a) Fatal Accidents – Rs.5 Lakhs (Fixed amount, irrespective of income and age)
- (b) Permanent Disablement – In case of permanent disability, the compensation payable is the disability percentage of Rs.5 lakh. The disability percentage is to be calculated as per 1st Schedule of the Workmen’s Compensation Act<sup>105</sup>.
- (c) Minor Injury – Fixed compensation of Rs.25000/-.

On and from the date of 1st day of Jan., 2019, the amount of compensation specified in clauses (a) to (c) above shall stand increased by 5% annually.

The Supreme Court Judge, Honorable Justice Ashok Bhushan & Justice M.R. Shah while dealing a case has observed that a claim under Section 163A of the Motor Vehicles Act is not maintainable against the owner and insurance company of the vehicle which was being driven by the deceased himself. In the said case, the legal heirs of the deceased filed a claim under Section 163 A Of the Motor Vehicles Act against the owner and insurance company of the vehicle which was being driven by the victim himself.<sup>106</sup>

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<sup>104</sup> <http://www.beacon.co.in/?news=compensation-motor-vehicles-act> retrieved on 5<sup>th</sup> September 5, 2021.

<sup>105</sup> <http://www.aitwa.org/home/detail?id=231> retrieved on 11th July, 2022

<sup>106</sup> <https://www.livelaw.in/top-stories/163a-claim-not-maintainable-against-owner-insurer-of-vehicle-borrowed-by-deceased-151382?infinitemscroll=1> Retrieved on 11th September, 2022

### **3.5 Option in regard to Workmen Compensation Act/ Employees Compensation Act and Motor Vehicle Act**

*Section 167 of the motor Vehicle acts runs as follow:*

"Option regarding claims for compensation in certain cases.- Notwithstanding anything contained in the Worker's Compensation Act, 1923 (8 of 1923), where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Worker's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both.<sup>107</sup>"

Section 167 of the Motor Vehicle Act, 1988 gives option to the claimants i.e the victim or the victim's family to seek compensation either under workman Compensation Act, 1923 or The Motor Vehicle Act, 1988 respectively. They cannot file a claim petition under both provisions of the Acts and gain benefit under both the legislation.

There have been few cases where applicants first claimed the compensation under one act and then tried to be compensated again under another act for the same mishap in order to gain double compensation. The Karnataka High Court judge Justice B. Manohar, J while dealing an appeal for compensation under Section 173(1) of Motor Vehicle Act. held that a claimant can only seek compensation either from the Employees Compensation Act, 1923 or Motor Vehicle Act, they cannot claim compensation under both the provisions by submitting double petition. In the said case, the claimant has received claims for compensation under Employees Compensation act and he was awarded the compensation for the death of his family in a road accident while they were proceeding on a motorcycle. Then again he was trying to claim compensation under Section 163 A of the motor vehicle act<sup>108</sup>.

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<sup>107</sup> Section 167 of the motor Vehicle acts

<sup>108</sup><https://indiankanoon.org/doc/20725110/> retrieved on 5<sup>th</sup> September 5, 2021.

In Civil Appeal No.937 of 2013 (*Insurance Company Limited vs. Dyamavva & Ors*) decided on 5th February, 2013, the victim Mr. Yalgurdappa B. Goudar died in a road accident after he left for his home completing his office work. The accident occurred when he was riding on the pillion of a motorcycle and was hit by a tripper. He was compensated by his company an amount of Rs. 3,26,140/- under workman compensation Act, 1923. Besides his claim under Workmen compensation Act, 1923, Mrs. Dyamavva Yalgurdappa, also raised a claim under section 166 of Motor vehicles act 1988 in Bagalkot MACT and was awarded a compensation of Rs. 11,44,440/-. However, the Motor Accident Tribunal ordered a deduction of compensation amount paid by his employer from this compensation amount stating that one could not ask for compensation under both the acts.

The “Employees Compensation Act, 1923” is an Act to provide payment in the form of compensation by the employers to the employees for any injuries they have suffered as a result of an accident. Earlier this Act was known as the Workmen Compensation Act, 1923 in the country. There are some circumstances when the employer is not liable to pay compensation that is as follows:

1. If the injury does not end in the entire or partial disablement of the employee for a period exceeding three days.

2. If the injury, not leading in death or permanent total disablement, is caused by an accident which is directly attributable to:

-The employee having at the time of the accident is under the influence of drink or drugs;

-The willful disobedience of the employee to an order if the rule is expressly given or expressly framed, for the purpose of securing the safety of employees; or

-The willful removal or disregard by the employee of any safety guard or other device which has been provided for the purpose of securing the safety of employees.

In the Doctrine of “added peril” is an important term in the Employees Compensation Act that is taken into consideration, When an employee performs something which is not required in his duty, and which involves extra danger, the employer cannot be held liable to pay compensation for the injuries caused. In the case of *Devidayal Ralyaram v/s Secretary of State*<sup>109</sup> it was ruled that the doctrine of added peril was used as defense and the employer was not liable for the compensation.

**3.6. Motor Accident Claim - Evidence Recorded Before Tribunal to be given weightage over contents of FIR in case of contradiction<sup>110</sup> :**

In the recent judgment, the Supreme Court While deciding the issue of negligence in a claim for motor accident , the Supreme Court has observed in the case *National Insurance Company Ltd v. Chamundeswari*<sup>111</sup> and others that "*If any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the First Information Report,*" A Bench comprising Justice Subhash Reddy and Justice Hrishikesh Roy made this observation while delivering its verdict in an appeal filed by National Insurance Company against Madras High Court's order partly allowing plea filed by wife and son of the deceased who lost his life in a motor vehicle accident. The observation was made by the Court while responding to Insurance Company's argument that in the First Information Report, it was mentioned that accident occurred only due to negligence by the deceased but such important documentary evidence was ignored by the High Court.

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<sup>109</sup> AIR 1937 Sind 288

<sup>110</sup> <https://livelaw.in/top-stories/motor-accident-claim-evidence-recorded-before-tribunal-weightage-over-contents-of-fir-supreme-court-182921> retrieved on 4<sup>th</sup> October 4, 2021

<sup>111</sup> Civil Appeal No. 6151 OF 2021 (Arising out of Special Leave Petition (C) No.4705 of 2019)

### **3.7. Road Accident Compensation in Case where both driver And the victim were negligent:**

Contributory negligence is when the claimant himself has been negligent and has contributed to the occurrence of the accident. In contributory negligence, the victim himself has contributed and therefore, his compensation gets reduced in proportion to his fault. Thus, if the victim is equally negligent and has contributed to the accident in equal measures, he would get only half the compensation.

On the other hand, Composite negligence means where the accident occurs due to the negligence of two or more persons but not the victim. In an accident involving two or more vehicles, where a third party claims damages for loss or injuries, it is said that the road accident compensation is payable in respect of the composite negligence of the drivers of those vehicles.

In such a case, each wrongdoer is jointly and severally liable to the injured for the payment of the entire damages and the injured person has the choice of proceeding against all or any of them<sup>112</sup>

### **3.8. Composite Negligence –**

In composite negligence, the accident happens because of the fault of two or more parties excluding the victim. Here, there is no fault on the part of the victim. Thus, when more than two parties are involved in an accident and claim compensation under the third-party, the compensation will be decided in respect of the composite negligence on the part of drivers of those vehicles<sup>113</sup>.

### **3.9. When the vehicle is borrowed**

When it comes to the situation of a borrowed vehicle in an accident, the judiciary has played an active role through judicial activism. Though there are different judgments as per the incidents and circumstances of the case, the court tried to ensure justice to the borrower of the vehicle as far as possible.

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<sup>112</sup>Andhra Pradesh Road Transport Corporation vs. K. Hemlatha, AIR 2008 SC 2851.

<sup>113</sup>C.S. Deepak. P. Singh, " Just compensation under the Motor vehicle Act-1988", (23rd March, 2022). Retrived from <https://taxguru.in/corporate-law/compensation-motor-vehicles-act-1988.html>

In *Bajaj Allianz General Insurance Company Ltd Vs Rakesh Sharma*,<sup>114</sup> The High Court of Punjab and Haryana High Court upheld the judgment of Chandigarh MACT by stating that a person driving a borrowed vehicle is entitled to compensation in a road accident on a par with the owner, irrespective of the negligence attributed for the same, the Punjab and Haryana high court has said. The High Court Bench said that the tribunal did not commit any error in fixing the liability against the firm. “It has to be taken into view that Section 166 of the Motor Vehicles Act is a piece of welfare legislation. It was enacted by the Parliament to provide relief to the persons, who suffered injuries in the motor vehicular accident as well as to the legal representatives of the victims, who unfortunately lost their lives in such mishaps. Strict rules of evidence and procedure are not applicable there,”<sup>115</sup>

### **3.10. Procedures that are involved documentation of Motor Accident cases for submission in the Claim Tribunal India**

In every case of accident the first thing to do is to give information (FIR) to the police as per section 154 of Criminal Procedure Code with regard to the incident by any one of the following

- 1) Anyone, a victim of a crime,
- 2) A person who has witnessed a crime or
- 3) Anyone who has information about the crime can file an FIR.
- 4) A police officer who comes to know about a cognizable offense can file an FIR himself/herself *Suo Moto*.

Even if the crime has not been committed within the jurisdiction of a particular jurisdiction, it is no ground for refusing to file the FIR. Such an FIR is also referred to as **Zero FIR** as recommended by Justice Verma Committee for the

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<sup>114</sup> 2010

<sup>115</sup> Car borrower entitled to insurance claim as much as owner: Punjab and Haryana HC. Chandigarh New, Hindustan Times. Retrieved from <https://www.hindustantimes.com/chandigarh/car-borrower-entitled-to-insurance-claim-as-much-as-owner-hc/story-IAp6rUwGMYWjo1tiCeljtN.html>

purpose of speedy justice to the victim. The FIR can be in oral and written form and it can even be through a telephonic if it is not vague and Cryptic.<sup>116</sup> The officer concerned shall after prompt enquiry, prepare a report in respect of accidents involving motor accidents. A police officer reaches the scene of crime; he has to make an arrangement to move the injured person, if any, to the nearest hospital. If the accident is fatal the body should be immediately sent to the nearest mortuary through casualty. The vehicle should not as far as possible impede the flow of traffic. The relative positions of the vehicles should be marked and the vehicles must be removed to a convenient position by the side of the road and free flow of traffic allowed. The motor vehicle inspector shall inspect the vehicle involved in the accident. He is empowered to do so, according to **Sec.136 of Motor Vehicles Act**. This report is mandatory for claiming compensation under the MACT. Witness to the occurrence has to be retained till traffic investigation staff arrives and if it is not possible, the names and addresses are to be noted down by the officer present at the scene. In the incident of accident, the owner or driver of the vehicle has to inform insurance company or the agent as soon as possible or within 7 days, and then submit all the important documents like FIR, driving license, car registration certificate, Post Mortem Report and other required information who will then arrange the surveyor to have a detail inspection of the incident to process the claim. In case of death of the third party, the claim has to be filed at MACT with the required documents against the insurer company.

In an order passed on 13th May, 2016 in case titled *Jai Prakash vs National Insurance Co*<sup>117</sup> The Bench presided by hon'ble Mr. Justice Fakkir Mohamed Ibrahim Kalifulla and Hon'ble Mr. Justice S.A. Bobde ruled that the procedure being followed by the Insurance Companies in Delhi by way of a Scheme called "Claims Tribunal Agreed Procedure" which was formulated by the Delhi High Court in the judgment dated 16.12.2009 passed in FAO No.843 of 2003 in *Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors*<sup>118</sup> shall be followed

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<sup>116</sup> Savia v. State of Rajasthan 1995 Cri.LJ 2744

<sup>117</sup> Special Leave Petition (Civil) No. 11801-11804 of 200

<sup>118</sup> FAO 842/2003



nationwide.<sup>119</sup> Direction was given to all the Registrar of the High Court to ensure that the said procedure being followed by Delhi is implemented through the Motor Accidents Claims Tribunals in coordination with the Legal Service Authorities as well as the Director General of Police of the States concerned. Under the Procedure formulated by Justice JR Midha of Delhi High Court-

1. The Accident Information Report (under Section 158(6) of the Motor Vehicle Act (Section 159 post 2019 amendment) has to be submitted along with attested copy of the FIR, site plan, photograph, registration cover, driving license, permit and fitness certificate and postmortem report (in case of death) by the SHO of the concerned Police Station before the Claims Tribunal within 30 days of the FIR with a copy to the insurance company.

2. The police shall also collect and furnish the additional particulars regarding age, income and dependants of the victim of the road accident.

The police shall notify the first date of hearing to the victim or the family of the victim (in the case of death) and the driver, owner and the insurer. If so directed, the police may secure their presence on the first date of hearing.

The procedure for investigation of motor accident claim cases by the police in terms of the directions issued by the Hon'ble Supreme Court and Delhi High Court has been summarized by Delhi High Court in *Mayur Arora v. Amit*.<sup>120</sup> According to the case, the driver/owner of an uninsured vehicle involved in an accident is liable to be prosecuted under Section 196 of the Motor Vehicles Act with imprisonment which may extend to three months, or with fine which may extend to ` 1000/-, or with both. The Hon'ble Supreme Court as well as Delhi High Court has issued directions to the Police to prosecute the owners/drivers of the uninsured vehicles under Section 196 of the Motor Vehicles Act. The inquiry contemplated under Section 168 & 169 of the Motor Vehicles Act, 1988 is different from a trial. The

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<sup>119</sup> SC revolutionizes MACT Cases pan India by extending Procedure formulated by Delhi High Court Judge(2016, May). Latest Law.com. Retrieved From [www.latestlaws.com/latest-news/sc-revolutionizes-mact-cases-pan-india-by-extending-procedure-formulated-delhi-high-court-judge](http://www.latestlaws.com/latest-news/sc-revolutionizes-mact-cases-pan-india-by-extending-procedure-formulated-delhi-high-court-judge)

<sup>120</sup> In The High Court Of Delhi At New Delhi, Mac.App.609/2009

inquiry contemplated under Section 168 of the Motor Vehicles Act arises out of a complaint filed by a victim of the road accident or an AIR filed by the police under Section 158(6) of the Motor Vehicles Act which is treated as a claim petition under Section 166(4) of the Motor Vehicles Act. These provisions are in the nature of social welfare legislation. Upon receipt of a report from the police or a claim petition from the victim, the Claims Tribunal has to ascertain the facts which are necessary for passing the award. To illustrate, in the case of death of a victim in a road accident, the Tribunal has to ascertain the facts of the accident; accident having been caused due to rash and negligent driving; age, occupation and income of the deceased; number of legal representatives and their age. If the claimants have not produced copies of the record of the criminal case before the Claims Tribunal, the Claims Tribunal is not absolved from the duty to ascertain the truth to do justice and the Claims Tribunal can summon the investigating officer along with the police record. The Delhi High Court has passed directions in this regard. The Delhi High Court has summarized the procedure to be followed by the Claims Tribunal in motor accidents cases in **Mayur Arora v. Amit**.

It is a well known fact that motor vehicles of all kinds are increasing day by day. Looking back at the year in 1897, when the first car ran on an Indian road, the present status of the country in terms of vehicles is unimaginable. There is a rapid development in all the states at the same time; the number of accident victims cannot be ignored. It is pertinent to note that, with the growth of vehicles, the Government also enforces a number of laws to deal with the safety of the vehicle user. With the growth of vehicles in the country, the business of Vehicle Insurance companies show a rapid growth as third party insurance becomes mandatory under the act. The Motor Accident Claim Tribunal established under the act became one of the most important institutions for compensating vehicle accident victims that may be based on Fault Liability or No-Fault Liability. The growing number of accidents increase the workload in the Motor Accident Claim Tribunal and in some states the objective of the MACT could not be achieved due to the long litigation. If the adversarial system of the British are not employed in the MACT,

and the cases are dealt with through the mediation process in the country, the tribunal will be more fruitful for the victim party.

The term "Hit and Run" is a popular phrase, yet, the actual meaning in terms of Motor Vehicle Act is not understood by many people. The relevant legal provision is enshrined in Section 161 of Motor Vehicles Act where a "hit and run motor accident" is defined as an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose.<sup>121</sup>The claim procedure for Hit & Run is clearly enshrined in the Solatium Scheme that came into force on 1st October, 1982. Many people in the state interpreted Hit and Run as Indian Penal Code definition when the offenders are traced and punished. In the state of Mizoram, the Solatium scheme for the compensation of the Hit and Run under the Motor Vehicle act is never implemented. It is a grave deprivation of the rights of the citizens especially who are the victims of Hit and Run. As the Motor Vehicle Act is amended and comes into force in 2019, the same provision for compensation is incorporated by the name The Compensation to Victims of Hit and Run Motor Accident Scheme-2022 with detailed procedure for the entire country. It is high time to implement the scheme by the state of Mizoram like the other states in the country to ensure that justice is done to the victim. The implementation of the scheme will also assure the achievement of the Motor Vehicle Act as welfare legislation.

One of the area for the improvement of the State Crime Record Bureau is that while making a record for crime in the state, a separate provision for Hit and Run under the Indian Penal code and Motor Vehicle Act has to be made to identify the actual victim who are entitled for The Compensation to Victims of Hit and Run Motor Accident Scheme-2022 in near future. When it comes to data collection in research especially while dealing with crime, the National and State Crime Record bureau are one of the most important primary sources, so, in this regard police play a vital role in recording and maintaining of data. Police have to be sensitized while dealing with every case for correct registration of cases.

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<sup>121</sup> Motor Vehicle Act-1988, Section 161 Sub Clause (b)

In more advanced states like Delhi, the Accident Information Report (AIR) form is filled by the police in the case of vehicle accident. This AIR as per section 156(6) of the Motor Vehicle Act 1988 should be made mandatory in all the states so that it would be purposeful for the tribunal in dealing an accident case. The AIR will give correct and direct information to the Presiding officer so that the duration of the case will be shortened. The same provision relating to AIR was reiterated by the Supreme Court in the case of *General Insurance Council vs. State of Andhra Pradesh, IV(2007) ACC 385 (SC)* where direction is given to the Police department.

## **CHAPTER-IV**

### **ROLE OF ALTERNATE DISPUTE REDRESSAL FORUM WITH SPECIAL REFERENCE TO THE SYSTEM OF LOK ADALAT, DISTRICT FORUM AND STATE COMMISSION IN MIZORAM.**

#### **4.1 Introduction:-**

This chapter focuses and examines the establishment, powers and Jurisdiction of Lok Adalats, the Role of the District Commission and State Commission in the case of First Party /third party motor insurance claim in the country with an emphasis on the state of Mizoram. In many states of the country, the Alternate Dispute Resolution System like mediation, conciliation along with the Lok Adalat and Consumer Forum have played an important role in the adjudication process especially for the weaker and fragile sections of the community who cannot afford an ordinary court. In many parts of the country, the village court system also plays an important role in litigation as a grassroots adjudication of disputes. The Gram Nyayalayas Act, 2008 was enacted for the establishment of the institution - Gram Nyayalayas at the grassroots level with the aim of providing access to justice to the citizens at their doorsteps. The act also ensures that opportunities for attaining justice are not denied to any people due to social, economic or other disabilities. The system of Gram Nyayalayas follows the practice of ancient India, wherein the communities settled their disputes among themselves without having a separate judicial system and this settlement was done by village elders and respected persons in the village for their integrity and honesty. The system of village court was very fruitful, when the Lok Adalat presided over by retired judges along with social workers, were also not effective in reaching speedy justice in some remote village areas at appropriate times.

#### **4.1.2 Alternative Dispute Resolution**

The idea of Alternative Dispute Resolution (ADR) mechanism is an effective means of providing a substitute to the conventional methods of resolving disputes. Alternative Dispute Resolution (ADR) offers to resolve all types of matters including civil, commercial, industrial and family etc, where people are not

able to start any type of negotiation and reach a settlement. To reduce the situation of pendency of cases in courts of India, Alternative Dispute Resolution (ADR) plays a significant role in India because of its convenient techniques. Alternative Dispute Resolution mechanism provides scientifically developed techniques to Indian judiciary which helps in reducing the burden on the courts. It provides various modes of settlement including, arbitration, conciliation, mediation, negotiation and Lok Adalat. In the state of Mizoram, Lok Adalat is the most common ADR recognized by the society to adjudicate disputes. The proceedings before a Lok Adalat shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of IPC.[xxix] and Every Lok Adalat shall be deemed to be a Civil Court for the purpose of Sec 195 and Chapter XXVI of Cr.P.C.(xxx).<sup>122</sup>

The idea of ADRS (Alternative Dispute Resolution System) finds its root in the Sociological School of Jurisprudence where it is believed that every change that takes place in a society has a legal influence. According to the school, law is a social phenomenon and law has some direct or indirect relation to society.<sup>123</sup>As per the school the study of law is not mere generalization, but in its logical and practical application. Montesquieu was the first French philosopher who paved the way for the origination of the sociological school of jurisprudence. In his book ‘The Spirit of Laws’, he wrote: “*law should be determined by the characteristics of a nation so that they should be in relation to the climate of each country, to the quality of each soul, to its situation and extent, to the principal occupations of the natives, whether husbandmen, huntsmen or shepherd, they should have relation to the degree of liberty which the constitution will bear, to the religion of the inhabitants, to their inclinations, riches, numbers, commerce, manners, and customs*”<sup>124</sup>. Ihering was a famous sociological jurist known for his enormous work ‘*Spirit of the law*’. He was fully against the theory of individuals welfare and favors that social interest of the society must have a priority over an

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<sup>122</sup>Legal Services Authorities Act, 1987

<sup>123</sup> Niklas Luhmann, "All collective human life is directly or indirectly shaped by law. Law is like knowledge, an essential and all-pervasive fact of the social condition". Retrieved from <https://blog.ipleaders.in/sociological-school-of-jurisprudence/> on 15/7/2022

<sup>124</sup> Charles De Secondat, Baron De Montesqui(1784), "The spirit of law", translated by Thomas Nugent. Batoche Books, 52 Eby Street South, Canada. Page 321.

individual's interest and according to him the intention of the law is to protect the interest of society at large, till today his theory is known as 'Jurisprudence of Interest' that emphasizes on the sociological aspect of the School of Law. Roscoe Pound, the developer of Social Engineering Theory believed in the functional aspect of law. According to him, the main concern of law is to satisfy the maximum number of people and also to reconcile the conflict in the interest of individuals and society.

The famous Philosopher of the Positive school of Jurisprudence Jeremy Bentham's theory i.e the "theory of utility" that rely on the principal "the greatest good of the greatest number" has been utilized for legal reform, social progress and general welfare in many part of the country. The theory has been used by the sociological jurist for legal reform, social progress and general welfare<sup>125</sup>. The greatest good of the greatest number is the most important formula of Bentham Utilitarianism. It is the central idea of his theory as such each government is obliged to adopt such policies which could give the greatest good of the greatest number<sup>126</sup>. According to him the government that works for the good of a smaller number of people is not at all a good government and called it a tyranny and unjustifiable government.

India has appreciably accepted the concept and principles of Sociological Jurisprudence and that can be noticed in the judgment that is being delivered by the High Court and the Supreme Court like in the case of *Ashok Kr Gupta & others vs State of Uttar Pradesh*<sup>127</sup>, where it was held that this court is not bound to accept an interpretation which suppresses progress or impedes social integration. At the same time, different Statutes have taken into account sociological theory while framing the laws. The Legal Services Authority Act is one of the examples that show that Sociological Jurisprudence has been widely accepted on the

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<sup>125</sup> Kriti Agarwal, "Background and Characteristics of Sociological Schools". Retrieved from [indianlawportal.co.in/background-and-characteristics-of-sociological-schools/](http://indianlawportal.co.in/background-and-characteristics-of-sociological-schools/) on 17/7/2022

<sup>126</sup> Koneru Anuradha, "A brief notes on Utilitarianism: A study on Bentham and J.S.Mill views". Retrieved from <https://blog.iplayers.in/sociological-school-of-jurisprudence/> on 15/7/2022

<sup>127</sup> (1997) 5 SCC 201

legal frontier of the country. It is to be noted that however the different scholars of the school have a divergent view, they have always one common point that the law should be studied in relation to society. This idea has a great impact on the modern legal system too.

#### **4.1.3 Important provisions of law relating to Alternative Dispute Resolution (ADR)**

1. Section 89 of the Civil Procedure Code (CPC), 1908 provides the opportunity to the people, if it appears to court there exist elements of settlement outside the court then court formulates the terms of the possible settlement and refers the same for Arbitration, Conciliation, Mediation or Lok Adalat.
2. The Acts which deal with Alternative Dispute Resolution are Arbitration and Conciliation Act, 1996 and,
3. The Legal Services Authority Act, 1987 authorized for the setting up of the National Legal Services Authority (NALSA) to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes. In every State, the State Legal Services Authority has been set up to give effect to the policies and directions of the NALSA and to give free legal services to the people and conduct Lok Adalats in the State. The SLSA is headed by Hon'ble the Chief Justice of the respective High Court who is the Patron-in-Chief of the State Legal Services Authority. Same as the State, every District in the State, has constituted a District Legal Services Authority to implement Legal Services Programmes in the District. The District Legal Services Authority (DLSA) in Mizoram is situated in the eight (8) District Courts Complex in every District and is chaired by the District Judge of the respective district.

#### **4.2 Lok Adalat**

Lok Adalat is commonly known as 'People's Court' presided over by a sitting or retired judicial officer, social activists or members of the Legal profession. National Legal Service Authority (NALSA) along with other Legal Services Institutions conducts Lok Adalats on regular intervals for exercising such jurisdiction provided under the Legal Services Authority Act-1987. All cases



pending in the regular court or any dispute which has not been filed before any court of law can be referred to Lok Adalat. Court fees are not required in Lok Adalat and no rigid procedures are followed, which makes the process speedy. If any matter pending in court is referred to the Lok Adalat and is settled subsequently, the court fee originally paid in the court when the petition filed is also refunded back to the parties.

Lok Adalats have the competence to deal with several cases like:

1. Matrimonial case
2. Unpaid loan cases
3. Family Dispute Cases
4. All damage Cases
5. Motor Accident Cases
6. Case of Unpaid Bill
7. Land acquisition Cases
8. Partition suits
9. Money Disputes
10. Compoundable civil, revenue and criminal cases
11. Arrears of retirement benefits cases

#### **4.2.2 Powers of Lok Adalat<sup>128</sup>**

The Lok Adalat shall have the powers of a civil court under the Code of Civil Procedure like,

1. Power to summon, examine, and enforce the attendance of witnesses and also to take the evidence of the case.

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<sup>128</sup>. Section 22 of Legal Services Authorities Act, 1987

2. Power for determination of any dispute coming before this court by specifying its procedure.
3. Power of requisitioning of any document or public record or copy from any court.
4. Power to enforce the production and find out any document.

#### **4.2.3 Cases can be referred for consideration of Lok Adalat as under:-**

Section 20 of the Legal Services Authority Act-1987 makes provision for Cognizance of cases by Lok Adalats.

1. By consent of both the parties to the disputes;
2. One of the parties makes an application for reference;
3. Where the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat;
4. Compromise settlement shall be guided by the principles of justice, equity, fair play and other legal principles; Where no compromise has been arrived at through conciliation, the matter shall be returned to the concerned court for disposal in accordance with Law.

#### **4.2.4 National Lok Adalat/ Permanent Lok Adalat.<sup>129</sup>**

##### **National Lok Adalat:**

Apart from Lok Adalat, National Level Lok Adalats are held at regular intervals where single day Lok Adalats are held throughout the country, in all the court's right from the Supreme Court down to the District Levels wherein cases are disposed off in huge numbers. From February 2015, National Lok Adalats are being held on a specific subject matter every month.

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<sup>129</sup> Website of National Legal Service Authority, retrieved from <https://nalsa.gov.in/lok-adalat> on 16/6/2022.

### **Permanent Lok Adalat:**

The other kinds of Lok Adalat are the Permanent Lok Adalat, organized under Section 22B of the Legal Services Authorities Act, 1987. Permanent Lok Adalats are set up as permanent bodies with a member like Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc. In permanent Lok Adalat, when the parties fail to reach a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offense. One important feature of the Permanent Lok Adalat is that the Award is final and binding on all the parties. The Pecuniary jurisdiction of the Permanent Lok Adalats is upto Rs. Ten Lakhs. The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate, taking into account the circumstances of the case, wishes of the parties like requests to hear oral statements, speedy settlement of dispute etc.<sup>130</sup>

#### **4.2.5: Award of the Lok Adalat:**

In the case of *Punjab National Bank v. Lakshmidhand Rai*<sup>131</sup>, an appeal was filed under Section 96 of the Code of Civil Procedure against the award made by a Lok Adalat. The question before the court was whether such an appeal is maintainable. So in this case it was clearly mentioned by the court that “an appeal would not lie under the provisions of Section 96 C.P.C. Lok Adalat is conducted under an independent Act i.e the Legal Service Authority Act and once the award is made by Lok Adalat the right of appeal shall be governed by the Legal Services Authority Act.” It has been specifically mentioned in S. 21(2) that no appeal shall lie against an order of a Lok Adalat.

Further, in the case of *Board of Trustees of the Port of Visakhapatnam v. Presiding Officer, Permanent, Lok Adalat-cum-Secretary,*

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<sup>130</sup> Website of National Legal Service Authority, retrieved from <https://nalsa.gov.in/lok-adalat> on 16/6/2022

<sup>131</sup> AIR 2000 MP 301, 2000 (2) MPHT 25

*District Legal Services Authority, Visakhapatnam and Anr*,<sup>132</sup> it was observed that the award is enforceable as a decree and it is final. The endeavor is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute.

#### **4.2.6 Constitution of State Legal Services Authority<sup>133</sup>**

As per section 6 of the Act, the State Legal Services Authority shall consist of the following member-

- (a) The Chief Justice of the High Court who shall be the Patron-in-Chief;
- (b) A serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and
- (c) Such a number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (d) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

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<sup>132</sup> 2000 (5) ALD 682, 2000 (5) ALT 577

<sup>133</sup> Section 6 of the Legal Services Authority Act-1987

#### **4.2.7 History of Lok Adalat in Mizoram.<sup>134</sup>**

The Legal Services Authority Act, 1987 (No.39 of 1987) was enacted on 11th October, 1987, along with the National Legal Services Rules, 1995 and in accordance with the Legal Services Authority Act, 1987 the Mizoram State Legal Services Authority Rules, 1996 and Regulations, 1998 were also framed. In compliance to the sub-section (1) of section 19 of the Legal services Authorities Act, 1987, the Legal Services Authority of Mizoram also set up Lok Adalats in every administrative districts of Mizoram to comply the Act, Rules and Regulations chalked out by the National Legal Services Authority (Lok Adalats) Regulations, 2009.

In respect to the public utility services as defined in section 22 A Sub-clause (b) of the Legal Services Authority Act of 1987, the state of Mizoram State Legal Services Authority established Permanent Lok Adalat on 8th February, 2010 for the territorial judicial districts of Aizawl and Lunglei chaired by the District & Sessions Judges respectively with two Members each in accordance with the Permanent Lok Adalat (Other terms and conditions of appointment of Chairman and other Persons) Rules, 2003 [Vide, Notification No. F. 13015/1/'05-SLSA/28, the 8th February, 2010 published in the Mizoram Gazette, Extraordinary Vol. XXXIX 24-02-2010 Issue No. 46]

#### **4.2.5 Role of Lok Adalat in adjudication of motor accident disputes in Mizoram:**

The role of Lok Adalat as a cheap and fast litigation procedure is popular. As on 30.09.2015, more than 15.14 lakhs Lok Adalats have been organized in the country since its inception. More than 8.25 crore cases have been settled by this mechanism so far in the country.<sup>135</sup> Lok adalats ensure a speedier justice delivery system because it can be easily conducted at suitable places, and can be

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<sup>134</sup> Brief History of Mizoram Judiciary, Retrieved from [djaizawl.nic.in/history.html](http://djaizawl.nic.in/history.html) on 23/7/2022

<sup>135</sup> Website of National Legal Service Authority, retrieved from <https://nalsa.gov.in/lok-adalat> on 16/6/2022

arranged very fast, in local languages, and understandable even for the illiterates. One of the advantages is that, the procedural laws and the process under the Indian Evidence Act are not strictly followed while assessing the merits of the claim by the Lok Adalat. Hence, Lok Adalats are also known as “People’s Festivals of Justice”.<sup>136</sup> Lok Adalat is the only practical evidence to show institutionalized mechanism of dispute resolution in which the parties do not have to bear any expenses on their trial, unlike the regular court process the parties do not have to pay court fee in Lok Adalat. If the case is already filed in the regular court and is referred to the Lok Adalat, the fee paid for the court fees is to be refunded in the manner provided under the Court Fees Act if the dispute is settled in Lok Adalat. This kind of refund can be termed as an incentive given to parties to negotiate for settlement. The former President of India Mrs. Prathiba Patil while delivering the inaugural address at a seminar on judicial reforms, said that “*Delays render the common man’s knock on the temple of justice a frustrating experience. Litigants are not able to lead normal lives being unsure of the verdict in their case. Terming the pending cases as an “explosion of litigation,”*”. So in the present scenario, Lok Adalat is the only tool that can reduce the arrears cases in the High Court and SubOrdinate courts.

The following table 1-3 is the data collected from Mizoram State Legal Services Authority (MSLSA), Aizawl District Legal Services Authority (ADLSA) and Lunglei District Legal Services Authority (LDLSA) through RTI. It is quite clear from the data that people do not make use of the said legal mechanism for dealing with the case relating to motor accident insurance claims. The table shows that, during the period of 2008 to 2020 there is no case relating to vehicle insurance claims at the District level. The State Legal Services authority has registered 12 during the long year of 2008 to 2020 but the disposal rate is very low. It is believed that the poor rate of claim in the Lok Adalat may be the result of lack of awareness among the people. As it is fact that legal awareness can empower

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<sup>136</sup> Kirti Dashora, "Significance of Lok Adalats in present scenario". Retrieved from <http://www.legalservicesindia.com/article/583/Significance-of-Lok-Adalats-in-present-scenario..html>

people to demand justice, accountability and effective remedies at all levels<sup>137</sup> It helps people to be stronger in terms of judicial tools. Without (legal) literacy people can get intimidated and alienated from law. This may evolve into a situation that results in people coming into conflict with the law, or being unable to obtain help from it.<sup>138</sup>In a note to the UN General Assembly 67th session, the UN Secretary General states, "the deprivations that persons living in poverty encounter throughout their lives — lack of access to quality education, reduced access to information, limited political voice and social capital — translate into lower levels of legal literacy and awareness of their rights, creating social obstacles to seeking redress".<sup>139</sup>

**Table-4.1: Case of Motor Accident claim as per Mizoram State Legal Service Authority**

**( Lok Adalat):**

The Mizoram State Legal Service Authority functions under the Guwahati High Court, Aizawl Bench. It is headed by Hon'ble Patron-in-Chief appointed from the Judge Guwahati High Court, Hon'ble Executive Chairman appointed from the Judge of Guwahati High Court and Member Secretary who is appointed from the Mizoram Judicial Service. Currently, in the state of Mizoram there are eight (8) District Legal Services Authority i.e in all the districts of Mizoram running the Lok Adalat regularly headed by MSLSA. Under the Mizoram State Legal Services Authority (MSLSA), twelve (12) numbers of cases relating to motor accident claim cases were registered during the year 2008-2020, out of which only 3 cases were disposed of by the Lok Adalat.

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<sup>137</sup> "Multiple Action Research Group - Justice through research empowerment". Retrieved 2 April 2013

<sup>138</sup> Canadian Bar Association-1992 retrieved from [https://en.wikipedia.org/wiki/Legal\\_awareness](https://en.wikipedia.org/wiki/Legal_awareness) on 16/6/2022.

<sup>139</sup> Report of the Special Rapporteur on extreme poverty and human rights" page 6 from Note by the Secretary-General on Extreme poverty and human rights for UN GA 67th session A67/278 Distri:General 9 Aug 2012 [www.ohchr.org](http://www.ohchr.org) webpage retrieved 30 March 2013 16.00 IST

S.No	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case disposed during relating to Motor insurance claim during the year 2008-2020	Date of RTI submitted by researcher
1.	12	3	28th, February, 2022

\*The total number of case registered during 2008 to 2020 is 9523, where vehicle accident insurance claim case comprised of only 12 in number.

**Table-4. 2: Case of Motor Accident claim as per Aizawl District Legal Services Authority ( Lok Adalat)**

Aizawl District legal services Authority ( Lok Adalat) has registered 528 cases during the year 2008 to 2020. Apart from the Lok Adalat, the ADLSA has twice organized the National Lok Adalat for the needy people for reaching justice free of cost. It is important to mention that, even in the National Lok Adalat organized by the ADLSA, the claim relating to Motor Accident Insurance Claim cases is not registered so far. The below table shows the need of awareness among the people about the institution of Lok Adalat and its function for adjudication of cases in a speedy manner.

S.No	Total number of case register by Aizawl District legal services Authority ( Lok Adalat)	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case disposed during relating to Motor insurance claim during the year 2008-2020	Date of RTI submitted by researcher
1.	Pre litigation-248  Post litigation- 280  Total= 528	NIL	NIL	25th, May, 2022



**Table 4. 3: Case of Motor Accident claim as per Lunglei District Legal Services Authority ( Lok Adalat)**

The below table shows that, though Lunglei is regarded as the second capital of Mizoram, the utilization of the Lok Adalat is quite few in number. It is pertinent to mention that, Lok Adalat plays an integral part of the justice delivery system in the country, but in the state of Mizoram due to lack of knowledge and awareness people have not utilized the institution to achieve its objectives. So, proper awareness among the marginalized section of the people in the district will educate them to approach the Lok Adalat in the situation of legal problems.

S.No	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case disposed during relating to Motor insurance claim during the year 2008-2020	Date of RTI submitted by researcher
1.	NIL( The total number of case register during the year 2008 to 2022, Lunglei district Lok Adalat 12 cases, and there is no case relating to motor accident insurance claim)	The total number of case disposal is 10, and there is no case relating to motor accident claims.	25th, March, 2022

#### **4.2.6 Major drawback of Lok Adalat in Mizoram**

Though Lok Adalat has played an important role in the litigation of cases in simple and less expensive ways, it is no doubt true that the system has experienced a number of drawbacks in Mizoram. Some of the major dis-advantages of Lok Adalat are:-

1. The system of Lok Adalat is brought into force with the objective to settle the cases in a speedy manner in comparison to the ordinary court system but in reality a large number of cases placed before the Lok Adalat are delayed due to irregular sittings of the Lok Adalat. The delays in some of the cases are beyond imagination and even the parties have to spend large sums in miscellaneous expenses.
2. It is a fact that majority of the cases brought before the Lok Adalat are not between living persons, but against non-living persons. For instance, Motor

Vehicles Accident Claim cases, telephone bills cases, Electricity board cases, Bank cases etc. The person to represent the case on behalf of the corporation often fails to appear in the Lok Adalat.

3. As per the Legal Service Authority Act, the presiding officers of Lok Adalat are chosen from the retired judicial officers who are assisted by other members i.e the social worker who are having prescribed qualifications and experience. But usually, these officers both the retired judicial officers and Social Worker who are appointed as the Conciliator are not in a position to convince the parties for the settlement of cases in an amicable manner, since they do not undergo a training for the purpose of conciliating the case in amicable ways. Sometimes, even the judges are influenced and rooted in the ordinary judicial process.

4. The other major drawback of the system of Lok Adalats is that it mainly aims at compromise or settlement between the parties. If the parties fail to arrive at any compromise or settlement in the process, the case is either returned to the court of law or they have to search for another system and this leaves them in a situation of dilemma. This resulted in an unnecessary delay in the dispensation of justice.

5. An amendment was made in the Legal Services Authorities Act, 1987 in the year 2002 to make Lok Adalats permanent body to settle disputes related to public utility services. The Centre and state authorities are responsible to establish Permanent Lok Adalats for determining issues pertaining to public utility services, that includes transport service, telegraph or telephone service, postal, the supply of power system, distribution of light and water to the public, public sanitation system, insurance services and other services as to be notified by the Central and State governments. There is no provision for regular monitoring of the state activities that can hamper the very intention of the act.

6. In the system of Lok Adalat, Judges are pressured to dispose of the cases quickly leading to limited consideration to the parties' rights and needs. Though the objective of Lok Adalat is speedy Justice to the parties at the same time speedy

resolutions should not impair the rights of parties. Though it is true that “Justice delayed is justice denied”, it is also true that a hurried justice is justice buried<sup>140</sup>.

7. In many instances, the lawyers are reluctant to refer the matter/ cases for settlement in Lok Adalat. This results in less registration of cases in the Lok Adalat.

8. Even though the 2002 amendment of the Legal Services Authorities Act, 1987 is to be implemented in the country, there is a great concern that the persons appointed for membership in the Permanent Lok Adalat may not necessarily have a legal background. This in-experience member may defeat the objective of the system. The act must incorporate the provision for compulsory training for the member appointed for conciliator.

9. The status of Lok Adalat can move in a reverse order if it does not improve in the adjudication process, as of now, the Lok Adalat mechanism needs to be strengthened in terms of speedy justice and to achieve the constitutional goal of “equal and social justice” to the fullest extent.

#### **4.2.7 Suggestion for the improvement of Lok Adalat to make it more effective:**

The early history of Lok Adalats can be defined by the struggle to provide legal aid in India<sup>141</sup>. This movement was spurred by the concerns of legal scholars and the judiciary who believed that the general population would not have adequate legal representation without access to free legal services<sup>142</sup>. So, in order to

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<sup>140</sup> Karishma (2020), "Lok Adalat – Advantages, Drawbacks and Solutions", <https://www.iasexpress.net/lok-adalat/>

<sup>141</sup> Whitson, *supra* note 2, at 392–93 (“The history and development of the crusade to provide legal aid in India explain[s] the particular development, goals, and purposes of the L.A. courts.”); see also BHARGAVA, *supra* note 4, at 7 (describing the LA system as an integral part of the access to justice movement in India).

<sup>142</sup> Whitson, *supra* note 2, at 392–93 (describing the concern about the lack of legal defense for those charged with criminal offenses); see also Galanter & Krishnan, *supra* note 1, at 106–07 (noting how legal-aid programs could promote the interests of various constituencies).

make the Lok Adalat system more effective, the following are some of the few suggestions for the improvement of Lok Adalat :-

1. Firstly, it is believed that there is a severe lack of resources in the Lok Adalat system, which can limit the number of cases heard. The lack of resources may include understaffing, inefficient funds leading to dispensation of remedies, and general disorganization. A sufficiency of staff, funding, and facilities would allow Lok Adalats to run more effectively, make the structure sound, and increase public confidence to depend on them. Technology awareness could also be utilized in the aspects of awareness to make the process improve, accessible and efficient.

2. Secondly, the Lok Adalat system should make a provision to include the process and characteristics of conciliation familiar to the community, especially in the tribal areas of India. This will attract the parties to have a positive attitude towards the system and compel them to use the Lok Adalat in adjudicating the problem faced by them. Like the system of village council court in Mizoram, if the local members who are trusted by the local people are incorporated as members in regards to mobile Lok Adalat, it will create a sense of genuineness in the process and procedure among the people.

3. Thirdly, Special training should be organized for the non- judicial members of the Lok Adalat with regards to the conciliation method and process. Un-trained social workers and community leaders who are often appointed as the members of Lok Adalat may hamper the justice delivery system. Due precaution and measures should be taken while appointing the conciliator for Lok Adalat.

4. Fourthly, in order to introduce the Lok Adalat system in the rural areas and show how effective it can be, the courts in India should encourage mandatory referral to Lok Adalat. India has already made an effort to make the mediation system work but has not been as successful as it could be. It is important to keep in mind that, due to certain reasons many people have a negative perception towards

Lok Adalat. Mandatory referral can create understanding of the system and help them overcome their prejudices among the parties.

5. Fifthly, In India people need to be given better information about the Lok Adalat and the possibilities of resolution. The information should include the advantages and dis-advantages of the system to make people aware and how the process works when deciding whether or not to approach the Lok Adalat . Uninformed parties often do not achieve the desired resolution to their disputes as they do not understand the process. They often end up agreeing to any offer given in the Lok Adalat believing it is their only choice. The parties must be provided with a knowledge of the Lok Adalat and conciliation process to make them understand the decision and the outcome.

#### **4.3 District Forum and State Commission constituted under the Consumer Protection Act - 1986 and Consumer Protection (Amendment) Act-2019**

The famous case of *Donoghue v. Stevenson*<sup>143</sup> is taken into account to be the landmark judgment for laws regarding product liability where the manufacturer was accountable to the court for the presence of snail in the ginger beer bottle. It is a symbol in the case regarding consumer protection and calls for the need for legislation to take care of the customers and protect the interests of the consumer. In India, the Consumer Protection Act was passed in 1986 and it came into force on 1st July 1987 that recognized the rights of the consumer for the first time. In the state of Mizoram, the same was implemented along with the rules called Mizoram Consumer Protection Rules- 1987. The main objectives of the act is to provide better protection to customers and effective safeguard against different types of exploitation like defective merchandise, deficient services and unfair trade practices. The Act conjointly ensures provisions for simple, speedy and cheap machinery for redressal of consumer's grievances in every district of the state in India. Before the enactment of the Act, consumers had very little or no information

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<sup>143</sup> 1932 SC (HL) 31

regarding the rights available to them and thus were pushed to a disadvantage while spending their hard earned money. With the advancement of technology, the practice of business has also undergone a change in the world, so, the need to have a new law for the protection of consumer rights also began. Thereafter, the new Consumer Protection Act was passed by Parliament in 2019. It came into force in July 2020 and replaced the existing Consumer Protection Act, 1986. The Digital Age has brought us in a new era of commerce and digital branding, as well as online shopping becoming one of the business trends within the reach of everyone. Digitization has provided easy access, a large variety of choices, convenient payment mechanisms, improved services and shopping as per convenience<sup>144</sup>. But at the same time, there are also associated challenges related to consumer protection and consumer rights. In order to help and address the new set of challenges faced by consumers in the digital commercial business era, the Consumer Protection Act, 2019 aims to provide timely and effective administration and settlement of consumer disputes. In this regard, the Act has also played a very active role when it comes to accident claim settlement between the owner and insurance company in the country.

The main objectives of the Consumer Protection Act, 2019 are to save the rights of the consumers by establishing authorities at different levels for timely and effective administration and settlement of consumers' disputes; the establishment of the CCPA (Central Consumer Protection Authority) by the act will protect, promote and enforce the rights of consumers. The CCPA will regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights. The act also provides provision for the establishment of the Consumer Disputes Redressal Commissions (CDRCs) at the national, state and district levels and can entertain a complaint relating to the following:

a) Overcharging or deceptive charging

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<sup>144</sup> Consumer Protection Act, 2019 - A Brief Overview, Retrieved from <https://byjus.com/free-ias-prep/consumer-protection-act-2019/#:~:text=Rights%20of%20the%20consumers%3A&text=To%20be%20protected%20from%20hazardous,and%20> on 18/6/2022

- b) Unfair or restrictive trade practices
- c) Sale of hazardous goods and services which may be hazardous to life.
- d) Sale of defective goods or services

The National CDRC (Consumer Disputes Redressal Commissions) will have a jurisdiction to hear a complaint worth more than Rs. 10 crores. The State CDRC can entertain complaints when the value of the property is more than Rs 1 crore but less than Rs 10 crore and the District CDRC will entertain complaints when the value of goods/property or service is up to Rs 1 crore or less.

One of the significant changes brought by the Consumer protection Act-2019 is the Introduction of "e-commerce" and "electronic service provider". The Act has inserted the definition of "e-commerce" Section 2(16) of the Consumer Protection Act, 2019 which means buying or selling of goods or services including digital products over digital or electronic networks. Section 94 of the Act refers to the prevention of unfair trade practices in e-commerce and direct selling and also deals with protection of interest and rights of consumers<sup>145</sup>.

Section 2(17) of the Consumer Protection Act, 2019 has introduced a vital concept of "electronic service provider" which is defined as "*a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online marketplace or online auction sites*". Section 2(37) of the Consumer Protection Act, 2019 has also included an electronic service provider under the definition of a product seller. These online marketplaces and auction sites can now be held in product liability action under the circumstances as stated in Section 86 of the Act<sup>146</sup>.

Another important change made by the new Consumer Protection Act is an introduction of a new chapter on "mediation" as an alternate dispute resolution mechanism. This new chapter will ensure to resolve the consumer dispute faster

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<sup>145</sup> The Consumer Protection Act, 2019: Key Features And Highlights, Retrieved from <https://www.mondaq.com/india/dodd-frank-consumer-protection-act/958250/the-consumer-protection-act-2019-key-features-and-highlights>

<sup>146</sup> idbi

without having to approach the Commissions and escape the procedure and formalities in the commission. In this mediation the dispute can be resolved wholly or in parts by the parties with the mediator. If the mediation is successful, the terms of such agreement shall be reduced into writing, signed by both the parties and mediator accordingly. When the consumer dispute is settled only in part, it will be the duty of the Commission to record the settlement of the issues which have been settled, and thereafter shall continue to hear the remaining issues of dispute between the parties. When the mediation process is not successful, the concern commission shall pass a suitable order and dispose of the matter accordingly. When the commission received a settlement report from the mediator he passed the order and disposed of the same within seven days.

A important concept "product liability" has been introduced by the Act wherein a product liability action against a product manufacturer can be brought by the complainant, also against product service provider or product seller, for any harm caused to the complainant on account of a defective product. The Act provides a detailed and specific breakup of the liabilities of the product manufacturer, product service provider and product seller and also circumstances under which they are not liable.

In this research, the researcher analyzed the role of Consumer Forum in Lunglei District and Aizawl District with the role of State Commission with a special focus on the vehicle accident claim cases. When it comes to the State Commission or Consumer Forum/commission, the claim for death compensation or injury is not included. The said institution mostly dealt with the problem faced by the owner of the vehicle in the incident of accident with the insurance company. When making a complaint against the insurance company, the complainant has to remember that it should be within the agreed policy. The Hon'ble Supreme Court in *National Insurance Company Ltd., Vs. Mena Agrawal*<sup>147</sup> held that, when the vehicle insured was used on hire basis as taxi or for commercial purpose, against the terms and condition of the agreed policy, the Insurance Company is not liable to pay

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<sup>147</sup> (2009) SLT 158/2009 (2) SCC 523)



compensation. As per section 66 of the Motor vehicle Act a transport vehicle cannot at all be brought on the road without obtaining the requisite permit. In normal circumstances, an FIR has to be filed as soon as possible to the Police Station having jurisdiction, in the event of an accident. It was held in *Omprakash Vs. Reliance General Insurance Company*<sup>148</sup> by Honorable Supreme Court that, wherein delay of 8 days in giving intimation to police and the Insurance Company, and the insurer cannot reject the claim purely on the ground of delay. The decision of the insurer company to reject the claim has to be based on valid and reasonable grounds. Rejection of the claims on purely technical grounds in a mechanical manner will result in loss of confidence of policy- holders in the insurance industry<sup>149</sup>. If the reason for the delay in making a claim is satisfactorily explained by the complainant, then the claim cannot be rejected on the ground of delay. It is also necessary to state that it would not be fair and reasonable to reject genuine claims which had already been verified and found to be correct by the Investigator.

#### **4.3.1 Status of Consumer Dispute Redressal Forum/ Commission in Mizoram**

The Consumer Protection Act is implemented by the Food, Civil Supplies & Consumer Affairs Department, Govt. of Mizoram. Before 20th February, 1987, the Transport Department of Mizoram and Civil Supplies Department of Mizoram was a joint Department under the name "Department of Supply and Transport" that was bifurcated on 4th June, 1987 as Civil Supplies Department and Transport Department vide notification No.STE.63/78/95 dated. 4.6.1987 and later the subject of food was added to the Civil Supplies Department and renamed it as, Food & Civil Supplies Department, Govt. of Mizoram. Thereafter, the matter relating to Consumer Affairs was allocated to the Food & Civil Supplies Department on 17th November, 2004 and the department was again renamed as "Food, Civil Supplies & Consumer Affairs Department" and till today it is known in this name. Prior to the Consumer Protection Act 2019, the State of

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<sup>148</sup> A.No. 15611/2017 out of SLP (C) No. 742 of 2015

<sup>149</sup> Bajaj Allianz General Insurance ... vs Dipak Manikrao Lodage, on 16 February, 2021 Judgement by the Maharashtra State Consumer Dispute Redressal Commission, Mumbai, Bench At Aurangabad. Retrieved from <https://Indiakanoon.Org/Doc/41647445/>

Mizoram had implemented the Consumer Protection Act - 1986 and Mizoram Consumer Protection Rules, 2000 under Section 30 subsection (2) of the Consumer Protection Act, 1986, (Central Act No. 68 of 1986).

In Mizoram the State Commission since its inception had register 253 cases out of which in 237 cases, settlement has been achieved<sup>150</sup>. The District Commission/ District Forum has registered 4,388 cases counting from the date of its inception where 4,354 has been settled as per the Vanglaini Daily Local news paper dated 21st June, 2022. The State Government has launched e-Dakhil Web portal under the scheme CONFONET run by the NIC and Department of Consumer affairs, Govt. of India. This portal will enable the consumer to lodge a complaint On-line in the State Commission or the District Commission. Before, State Consumer Helpline, Mizoram was established in the year 2009. The Office is located at the top floor of Directorate, Food, Civil Supplies & Consumer Affairs Department Building, Treasury Square, Aizawl.<sup>151</sup> The State Consumer Helpline provides a form to enable them to register the complaint and then record the matter in the presence of the complainant. After recording the complaint, necessary actions are taken by the State Consumer Helpline through phone calls and even summon both the parties to appear in the State Consumer Helpline to resolve the matters in the presence of the Staff. A Complaint can be made in writing or through a telephone to the helpline number during Government office working days.

The table below shows the details of cases registered by the Mizoram State Commission during the year 2008-2020. The case registers relating to motor insurance claims amount to 4.50% of the total number of cases registered by the State commission during the year 2008 to 2020. The Department of Food & Civil Supply is the nodal department for the State Commission and District Forum.

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<sup>150</sup> "Consumer-te'n online hmanga complaint an theihluh theihna tur Rinlian'n a hawng", Vanglaini Local News paper. Pg2 dated 21st June, 2022, Aizawl.

<sup>151</sup> [mizorampds.nic.in/consumer-affairs.htm](http://mizorampds.nic.in/consumer-affairs.htm)

**Table 4.4: Case of Motor Accident Insurance Claim case in the State Commission (Mizoram)**

S.No	Total Number of case register during the year 2008-2020	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case appeal to High Court	Date of RTI submitted by researcher
1.	89	4	NIL	21st, January, 2022

**Table 4.5: Case registered relating to Motor Accident Insurance Claim case in Consumer Forum (Aizawl).**

The table below signifies that the Consumer Forum in Aizawl District has played an active role for adjudication of justice. The RTI question relating to case registered during the year 2008 to 2020 is furnished by the forum duly but could not give the case record for the year 2019 and 2020 respectively while the question relating to case register during relating to motor insurance claim during the year 2008-2020 can be furnished for the time period. As a result of the non- furnishing of the 2019 and 2020 total case record, the percentage of the case register relating to motor insurance claim against the total number of the case record became feasible to calculate. At the same time it is worth mentioning that the Consumer Forum in the state of Mizoram is a reliable institution of justice for the consumer.

S.No	Total Number of case register during the year 2008-2020	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case appeal to High Court/State Commission	Date of RTI submitted by researcher
1.	2008-381	2008-2	As per the RTI, there is no record of appeal to the High Court or State Commission. Further there is no reference of the case to other legal institutions.	21st, January, 2022
	2009-869	2009-2		
	2010-72	2010-NIL		
	2011-55	2011-1		
	2012-46	2012-NIL		
	2013-52	2013-5		
	2014-54	2014-1		
	2015-76	2015-1		
	2016-49	2016-1		
	2017-47	2017-3		
	2018-47	2018-3		
	2019- NA	2019-1		
2020-NA	2020-2			

Total: 1748	Total:22		
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**Table 4.6 : Case registered relating to Motor Accident Insurance Claim case in Consumer Forum ( Lunglei).**

Under the Lunglei District Forum, the President is Additional District and Session Judge of Lunglei Judicial District. The data shows that there is a huge difference in the case register between Lunglei and Aizawl District Forum. A wider publicity of the consumer forum is necessary to utilize the redressal agencies at the utmost. Uninformed population cannot be expected to be aware of their rights and duties. So, for the best outcome, wider publication of the District Commission/ Forum is needed while considering the present scenario to increase the utilization rate of the institution.

S.No	Total Number of case register during the year 2008-2020	Total Number of case disposed during the year 2008-2020	Number of case register during relating to Motor insurance claim during the year 2008-2020	Number of case appeal to State Commission/ High Court	Date of RTI submitted by researcher
1.	12	10	NIL	NIL	25th, March, 2022

#### **4.3.2 President of the District Consumer Dispute Redressal Commission**

As per Rule 6 the Consumer Protection ( Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and other member of the State Commission and District Commission Rules) 2020 read with the Mizoram Consumer Protection ( Salary, allowance and condition of service of President and member of State Commission and District Commission ) Rules 2021 a Selection Committee was constituted to designate the President of State Commission and District Commission. In its committee held on 12.7.2022 the Governor is pleased to designate the following as President of State Commission and District Commission in each district of Mizoram. This appointment supersedes the Department of Food, Civil Supplies & Consumer Affairs notification No.A.12013/2/2014-FCS&CA dated 14.7.2017 and

No.A.12014/1/2021-FCS&CA dated 17.03.2022.<sup>152</sup> The decision of the Selection committee is believed to have a fruitful result and enable that in the near future the District Commission will not face a problem like vacancy of the President post.

S. No	District Commission	President
1.	Champhai	District and Session Judge, Champahi Judicial District
2.	Kolasib	Judge, Fast Track Court-cum-AD&SJ, Kolasib District
3.	Lawngtlai	Judge, Fast Track Court-cum-AD&SJ, Saiha District
4.	Lunglei	District and Session Judge, Lunglei Judicial District
5.	Mamit	Additional District & Session Judge-1, Aizawl District
6.	Serchhip	Judge, Special Court, NDPS Act, Aizawl
7.	Saiha	Judge, Fast Track Court-cum-AD&SJ, Saiha District
8.	Hnahthial	Additional District & Session Judge, Lunglei District
9.	Khawzawl	Additional District & Session Judge, Champhai District
10.	Saitual	Additional District & Session Judge-II, Aizawl District

**4.3.3 Mizoram state consumer disputes redressal commission as on 14.2.2022.**<sup>153</sup>

**State Commission:**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	Residence
1.	Hon'ble Mr. Justice Paran Kumar Phukan, Judge (Rtd.)	President	Tuikhuahtlang, Aizawl	-	Guwahati
2.	Pu M.C. Siamkunga	Member		9612331042	Capital Complex, Luangmual
3.	Dr. Lalthansangi	Member		9436143929	Mission Vengthlang
4.	Pu Lalhmingmawia	Member		9436353688	Kanan Veng, Aizawl

<sup>152</sup> Notification No.12013/1/2017-FCS&CA

<sup>153</sup> <https://fcsca.mizoram.gov.in/page/consumer-disputes-redressal-forum-district-forum-p>

5.	Pi Sanny Tochhawng	Member		9436353651	Venghlui, Aizawl
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**1. District commission, Aizawl district**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	Residence
1.	Pu Vanlalmawia, MJS (Rtd.)	President	Tuikhuahtlang, Aizawl	9436140053	Kanan Veng, Aizawl
2.	Lalrinpuia	Member	Chanmari	9774782266	Chanmari, Aizawl
3.	E. Lalmuanthangi	Member		9774618090	Bungkawn Dam Veng, Aizawl

**2. District commission, Champhai District**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	RESIDENCE
1.	Additional District & Sessions Judge, Champhai.	President	Keifang tlang, Champhai	-	
2.	Pu T. Lalthafamkima	Member		8131987890	Champhai Vengthlang North, Champhai
3.	H.T. Liankhumi	Member		9862908063	New Champhai, Champhai

**3. District commission, Hnahthial District**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	RESIDENCE
1.	(Vacant)	President		-	
2.	Pu K. Lalhunmawia	Member		9612253707	Peniel Veng, Hnahthial
3.	Liansangi Hmar	Member			Lungleng veng, Hnahthial

#### **4. District commission, Khawzawl District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>RESIDENCE</b>
1.	(Vacant)	President		-	
2.	Pu K. Ziona	Member		8575883406	Vengthar, Khawzawl
3.	Lalrozami	Member			Dinthar veng, Khawzawl

#### **5. District commission, Kolasib District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>RESIDENCE</b>
1.	Judge, Fast Track Court, Kolasib.	President	Project Veng, Kolasib	-	
2.	F. Lalmunsiamia	Member		9612522419	Park Kawn, Venglai Kolasib, Mizoram
3.	Lalremtluangi	Member		8794329131	Park Kawn, Convent Road, Kolasib

#### **6. District Commission, Lawngtlai District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>RESIDENCE</b>
1.	Judge Fast Track Court, Siaha. (Due to absence of eligible Judicial Officer at Lawngtlai)	President	Electric Veng, Lawngtlai	-	
2.	M.C. Lalrokhuma	Member		9436148776	Lawngtlai College, Lawngtlai-III, Mizoram
3.	Vanlahlupuii Fanai	Member		9436148009	Bazar Veng (Near Canara Bank), Lawngtlai, Mizoram

### **7. District Commission, Mamit District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>RESIDENCE</b>
1.	Additional District & Sessions Judge-I, Aizawl Judicial District. <i>(Due to absence of eligible Judicial Officer at Mamit)</i>	President	Dinthar Veng, Mamit.	-	
2.	P.C. Thanzuala	Member		9436144037	Mamit Bazar Veng, Mamit
3.	R. Lalramthangi	Member		9862333877	Mamit Venghlun, Mamit

### **8. District Commission, Saitual District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>RESIDENCE</b>
1.	<i>(Vacant)</i>	President		-	
2.	Pi Lalrinnungi Hmar	Member		9612075465	Keifang Venghlui, Saitual
3.	Pu R. Lalruatkima	Member		9436151894	Chhim Veng, Saitual

### **9. District commission, Lunglei District**

<b>Sl. No.</b>	<b>NAME</b>	<b>DESIGNATION</b>	<b>OFFICE</b>	<b>TELEPHONE</b>	<b>Residence</b>
1.	Additional District & Sessions Judge, Lunglei Judicial District.	President	Lunglei Venglai		
2.	Pu C. Zairemthanga	Member		9436157314	Bazar veng, Aizawl
3.	Dengsailovi Zadeng	Member			Chanmari-II, Lungl



#### **10. District commission, Serchhip District**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	RESIDENCE
1.	Additional District & Sessions Judge-II, Aizawl Judicial District. (Due to absence of eligible Judicial Officer at Serchhip)	President	New Serchhip IOC Veng	-	
2.	K. Lalrinchhana	Member		-	Bazar Veng, New Serchhip
3.	K. Zoramchhani	Member		9436329993	Venglai, Serchhip

#### **11. District Commission, Saiha District**

Sl. No.	NAME	DESIGNATION	OFFICE	TELEPHONE	RESIDENCE
1.	Judge, Fast Track Court, Siaha.	President	Siaha Vaiphi.		
2.	Pu Vanlaltlanchhunga	Member		8974844951	Government Siaha College, Siaha
3.	T.T. Duhtinthluaii	Member			Government Higher Secondary School Siaha, Mizoram

#### **4.4 Defect of Consumer Forum and State Commission in Mizoram:**

1. The consumer protection act deals with only those specific acts when there is a payment made such as electricity, telephones, banking, and so on. For example, the doctors as well as hospitals who render service free of cost like the Government hospital do not fall under the ambit of the consumer protection act. The mandatory services such as water supply, electricity supply, sanitation provided by the State or local authorities are not covered by the Act.

2. The Act recognizes only two clauses with regards to the supply of hazardous goods, but it does not impose any strict liability on those who supply such goods. Section 2 (c) clause 5 says that the goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner, and effect of use of such goods<sup>154</sup>. Section 6 which

<sup>154</sup> Consumer Protection Act- 1986

talks about the objectives of the central council, in subsection (a) says that the central council would protect the consumer against the marketing of goods and services which are hazardous to life and property.<sup>155</sup> It is also important to note that the act does not give any definition of safety requirements and the permitted hazardous levels.

3. Under the act the consumer can seek redressal only when there is actual suffering that results in loss or damage as a result of the unfair trade practice or deficiency in service or the unfair trade practices practiced by the traders. The provision for *per se* rule is not invoked. The per se rule ensures that any act or practice which prima facie appears to be unfair shall be regarded as unfair and against consumer interest as such, pending its justifications by the opposite party.<sup>156</sup>

4. The act is silent about the issue of interim injunction when the case is filed before it. The term Interim Injunction can be defined as temporary restraint of the defaulting parties. A temporary injunction is interim in nature, granted on an interlocutory application of the plaintiff. The act is also silent about the power of the Consumer Redressal Forum to register a case Sue Moto.

5. The Act prohibits the consumer to lodge a complaint to the Consumer forum if an alternative remedy is available under some other law.

6. The Act fails to impose liability on the manager, chief executive, or director where an offence has been committed by an organization. The act imposed a specific time for the dispute to be disposed of i.e a period of 90 days while the actual time duration of the dispute settlement process is much longer.

7. The Act provides six (6) rights of consumer's i.e the right to choose; the right to safety; the right to be informed; the right to be heard; the right to redress; and right to consumer education under Section 6. The Act fails to provide the right of

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<sup>155</sup> Consumer Protection Act- 1986

<sup>156</sup> Shiva Vishnoi, " Drawbacks of Consumer protection law : Analysis ". Retrieved from <https://indianlegalsolution.com/drawbacks-of-consumer-protection-law-analysis-by-a-law-student/> on 17/7/2022

consumers to a healthy environment that is one of the important rights in the modern scenario.

8. One of the major problems faced by the victim party is the execution of the order passed by the Consumer Redressal Forum. In innumerable cases, there are defaults in compliance with the orders passed by the forum.

#### **4.4.3 Suggestions for improvement in the Consumer Protection Act to be more workable.**

1. Section 2(1)(d) and 2(1)(0) of the Act should be suitably amended to modify the definition of the terms consumer and 'services' to make it clear that consideration shall not be a condition precedent in case of availing medical and municipal services provided by the government. A victim of medical negligence in a government hospital should be entitled to compensation by enlarging the definition of consumer and bringing free services provided to the public by the government<sup>157</sup>.

2. Under the present condition, the Consumer forum or the State Commission are not vested with the power to register case Suo-moto, if the power of Suo-moto is given in the redressal agencies, they will be able to act when a prima-facie case appears before them and will enable them to prevent more harm to the consumer. They should be given power to issue an interim injunction to restrain a person from carrying on any unfair trade practice as defined in the Act to do the best justice to the consumer and to protect them from further infringement.

3. The non-judicial member of the Consumer Redressal Agencies is to be carefully selected with a formal selection process and ensure the quality and competence of the member. High honorarium should be paid to the member to attract the best and qualified person available.

4. In the establishment of Consumer Forum or State Commission the act should prescribe the essential infrastructure so that they will be able to function effectively.

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<sup>157</sup> Shiva Vishnoi, " Drawbacks of Consumer protection law : Analysis ". Retrieved from <https://indianlegalsolution.com/drawbacks-of-consumer-protection-law-analysis-by-a-law-student/> on 17/7/2022

5. During the trial of cases in the Consumer redressal agencies there should be a provision that in no case more than two adjournments will be allowed. Further, a procedure must be provided that makes it incumbent on the court to immediately give a copy of the order to the parties to ensure no excuse is given for the delay in submission of appeals.

6. The consumer protection redressal forum should be empowered to publicize the name of manufacturers, traders and dealers whose goods are found to be hazardous for public safety by amending the act. If the provision is added it would deter the erring business system.

7. The Bar Council of India suggested for the inclusion of "legal service" rendered by the lawyer within the meaning of service in the Consumer Protection Amendment Act-2019. Though the duty of the lawyer is an integral part of the justice delivery system in the court of law as a Legal Officer, at the same time this cannot make them neglect their obligation to provide sufficient services to the client, as such deficiency in such services cannot be excused by the law. Thus, to overcome the issue of lawyer-client relationship, the new Act should include legal services within the definition of "Service".

8. The provision of the Central Consumer Protection Authority (CCPA) is said to be lying in the gray area of law. The act has mentioned the establishment of the CCPA which will protect, promote and enforce the rights of consumers but it is silent about the procedure for the protection, promotion and enforcement of the consumer rights. Specifically, the CCPA's roles concerning investigation, inquiries, search and seizure operations needs to be outlined (at least a workable template needs to be developed) at the same time the CCPA should be given has more 'teeth' in certain crucial matters (such as issuing guidance to producers/companies, in case

of product recalls, appeals, etc.), it (the CCPA) should be made increasingly 'approachable' in its truest sense<sup>158</sup>.

9. Since many people in India are not aware of their rights in all aspects even though awareness through television, newspaper and other media are used. The most expected method to increase the awareness among people of their rights with regards to consumer law is to include the important provision of consumer law in school syllabus.

10. No deadline is given for the establishment of the Central Consumer Protection Authority (CCPA) that can create doubt among the citizens. Even if it is established, the proper awareness relating to CCPA should be the first and foremost task of the concerned authority so as to enable the people to get help from them.

The practice of conciliation and mediation is not new in the tradition of Indian culture. For the first time Lok Adalat was organized on the 14th of March 1982 in Junagadh district of Gujarat. A fairly modified model of the Lok Adalat system which continues till today traces its roots to Chennai, where first of such kind of modern Lok Adalat was organized in the year 1986<sup>159</sup>. The institution has been developed, advanced in order to provide speedy and equitable justice at doorsteps in a very cost-effective manner through the Legal Service Authority Act 1987. During that period, the main objectives of the Lok Adalat were to reduce the burden of cases pending in the Court. Justice is sought by millions of people in the country and it is becoming difficult for the Courts to cope up with the increasing cases day by day. The infrastructure and manpower of the court was very limited and resulted in the delay of delivering judgments. Courts are clogged with cases and it is believed that the Lok Adalat would bring changes in the judicial system. The system of Nyaya Panchayats and Gram Panchayat where conciliation was adopted

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<sup>158</sup> Hemant Singh, "Consumer Protection Act, 2019: Meaning and Key Features". Retrieved from <https://www.jagranjosh.com/general-knowledge/meaning-and-features-of-consumer-protection-act-2019-1578557665-1#:~:text=Establishment%20of%2> on 18/7/2022

<sup>159</sup> Astha Dhawan, "Lok Adalat, Origin and significance". Retrieved from Mediation and Arbitration centre @ <https://viamediationcentre.org/readnews/MjQy/Lok-Adalat-Origin-Significance>

was a long practice for resolving the disputes in rural areas on an immediate basis, and fixed a date for the parties to appear in the court. It can be said that the practice of Nyaya Panchayats in the olden days is more or less similar to the Lok Adalat system in the country. Any crime or civil disputes are resolved within the village itself. In this village court, village elders, caste elders or family elders used to facilitate the process. It is true that the Lok Adalat systems have a native character and are flavored by the people.

It is quite clear that due to the blockage of cases in the court the judicial system in the country needs an Alternate Dispute Redressal System so that the court can refer the case to the ADR for speedy justice. In this regard, the Lok Adalat proved to be an important means of justice delivery system as many cases are referred to it by the Motor Accident Claim Tribunal for Third Party Insurance Claim. Since the year 1985, the Lok Adalat has played an active role in settlement of Third Party insurance claims under the initiatives of Justice P.N Bhagwati the former Chief Justice of India to ensure the claimant for speedy justice as well as the Insurance Company. Till today, settlement of dispute in Lok Adalat relating to accident claim is one of the best options for the claimant and the Insurance Company. Coming to the state of Mizoram, the Lok Adalat does not play a major role in the dispute resolution system with regards to accident claims. Many victims of accidents prefer to approach the MACT than Lok Adalat as per the case record. During the year between March 1992 to August 2001 the total number of case register in Lok Adalat of Gujarat amounts to 15,01,602 while the total number of case relating MACT is 90,755 in the total number of Lok Adalat held<sup>160</sup>. The above data shows that there is 60.31% cases relating to Motor Accident Claim during the period and thus proved that Lok Adalat is an important legal institution for Motor accident claim in India while only 12 cases are recorded by Lok Adalat, Mizoram relating to motor accident claim cases. This shows that the people in the state of Mizoram do not choose to utilize the Lok Adalat while claiming for compensation

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<sup>160</sup>Justice Jitendra N. Bhat, " A round table Justice through Lok-Adalat (Peoples' Court) - A vibrant - ADR - in India, Kerela State Legal Service Authority", Retrieved from [www.kelsa.nic.in/lokadalat.htm](http://www.kelsa.nic.in/lokadalat.htm) on 21/6/2022

or they may be ignorant about the institution. If the people approach the Lok Adalat in the event of an accident, they would surely save their time, effort and money in the situation of distress. So, again one of the most important things is proper and systematic awareness to reach the rural and illiterate section of the people to increase the utilization like the state of Gujarat. It is to be noted that the state of Gujarat has been highlighted due to the fact that, the Gujarat Legal Service Authority is the forefront in India on road map of legal service and Lok Adalat.

Mahatma Gandhi, father of the nation, has said that, "*I had learnt the true practice of law. I had learnt to find out the better side of human nature, and to enter men's hearts. I realized that the true function of a lawyer was to unite parties ruled as under. The lesson was so indelibly burnt unto me that the large part of my time, during the twenty years of my practice as a lawyer, was occupied in bringing about private compromises of hundreds of cases. I lost nothing, thereby not even money, certainly not my soul.*"<sup>161</sup> The above quote by Gandhi makes it clear that, the conciliation method aiming at compromise of the parties is one way of helping the aggrieved parties in dispute that help them escape the long process of judiciary.

*"Justice should become cheap and expeditious. Today it is the luxury of the rich and the joy of the gambler".*<sup>162</sup> The above quote makes it clear that in today's world even the legal practitioner has to be aware of the status of their client. The critical situation of the other human being should not be bait for money. It is the duty of the lawyer to advise their client to approach the Lok Adalat when they believe that it would bring speedy justice to them without the intention that the client is a money machine for the lawyer.

The Consumer Protection Act -2019 is a consumer centric law in favor of the consumers. The act also provides them with defined rights and a dispute resolution process that may enable them to resolve their grievances on a fast-track

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<sup>161</sup> Mahatma Gandhi, "*An Autobiography*", (1959), p. 97

<sup>162</sup>.D.G. Tendulkar, "*Mahatma*", Vol. 4, p. 422

basis. The inclusion of Online marketplaces and online auction sites are newly inserted under the purview of an "aggregator", and have also been a milestone improvement for the consumer which will place more responsibility on sellers with respect to the goods and services being sold and provided by them online. The new act extends the jurisdiction of National Commission, State Commission and District Commission and makes the product manufacturer liable with the service provider and product seller when the consumer rights are infringed due to defect in goods and deficiency in service. Even though certain changes are adopted in the new act the state authorities concerning water supply, electric supply are not covered by the act. The act can be invoked only when the consumers suffer actual damage or loss resulting from the unfair trade practice or deficiency in service or the unfair trade practices resorted to by a trader but *per se* rule cannot be invoked. The *per se* rule ensures that any act or practice which prima facie appears to be unfair shall be regarded as unfair and against consumer interest as such, pending its justifications by the opposite party<sup>163</sup>. If the new act provides provision for the power to issue an interim injunction, the victim party will suffer less during the trial of the case. The Institution of Consumer Redressal Forums would be more authoritative if it is empowered to take up cases suo-moto like the police have suo moto power to register an FIR when cognizable offenses happen. The major practical problem faced by the Consumer Redressal Forum is the execution of orders passed by them. In a number of cases, there is a high probability of default in compliance of the order and make the victim party hold back in long litigation. Apart from the composition and jurisdiction, a prescribed essential infrastructure for the Consumer Redressal Forum at the National, State and District level would improve the institution. The Central Consumer Protection Authority (CCPA) should be established with a wide publicity of its formation. It is a fact that, people are not aware enough of their rights and duties towards the consumer and as a consumer; unless proper and systematic awareness is given it can become a good institution

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<sup>163</sup> Shiva Vishnoi (2018), "Drawbacks of Consumer protection law", Retrieved from <https://indianlegalsolution.com/drawbacks-of-consumer-protection-law-analysis-by-a-law-student/> on 22/6/2022



without being utilized<sup>164</sup>. Though there are many points for improvement in the Consumer Protection Act-2019, the drafting was started in the year 2010, it can be said that it is one of the sincerest steps taken by the central government for enhancing consumer rights and speedy delivering of justice for the people at large. It is important to note that digitalization has changed the means of consumer shopping and buying methods i.e offline to online transaction, the new act is a positive step with regards to enhancing consumer rights, reform and development in a certain way. In Mizoram, the district often face a situation when the office of the President in the District forum is vacant due to many reasons, the decision of the Selection Committee on 12/7/2022 relating to designated President post in the District Consumer Forum/commission is believed to change the problem since the appointment is based on designation rather than individual appointment.

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<sup>164</sup> Vivek Vilas Suble, " Analysis on the consumer Protection Act-2019". retrieved from [https://www.researchgate.net/publication/340939875\\_Analysis\\_of\\_Consumer\\_Protection\\_Act\\_2019](https://www.researchgate.net/publication/340939875_Analysis_of_Consumer_Protection_Act_2019) on 19/7/2022

## CHAPTER -5

### ROLE OF MOTOR ACCIDENT CLAIM TRIBUNAL AND HIGHER JUDICIARY IN ACHIEVING SOCIAL JUSTICE IN VEHICLE ACCIDENT CLAIM CASES

#### 5.1 Meaning of Social Justice:

The term "justice" in the Preamble of the Indian Constitution indicates three distinct forms namely social, economic and political that can be secured through various provisions of Fundamental Rights and Directive Principle of State Policy. In the legal parlance social justice signifies the equal treatment of all citizens without social distinction based on caste, color, race, religion, sex and so on. It means the non- existence of any privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs, and OBCs) and women etc. In India, social justice include the protective discrimination by special provision for other backward classes of the society such as SC, ST, OBC & socially and educationally backward classes,<sup>165</sup> which is the symbol of corrective and compensatory justice.

Social justice means that everybody's human rights are respected and protected and ensured that everyone has equal opportunities. It does not guarantee that society will be perfect for everyone and everyone will always be satisfied. However in social justice, everyone will have a fighting chance of life in accordance with the law and in such a way that it is the best style in their opinion. In a society where social justice is maintained, people are not held back by systemic obstacles or discrimination. Till today it can be said that there is no clear framework for what successful social justice looks like in practice, but principles like participation are given importance. One thing that is very clear in the presence of social justice is that as long as a nation values social justice and remains committed to equality, progress is possible<sup>166</sup>. Social justice refers to a political and philosophical theory that focuses on the concept of fairness in relations between individuals in society and

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<sup>165</sup> Art 15(4) and Art 16(4) of Indian Constitution

<sup>166</sup> 10 Reasons Why Social Justice Is Important, [www.humanrightscareers.com/issues/what-does-social-justice-mean/](http://www.humanrightscareers.com/issues/what-does-social-justice-mean/) Access on 30/3/2022

equal access to wealth, opportunities, and social privileges<sup>167</sup>. It can also be defined as the equal access to wealth, opportunities, and privileges within a society<sup>168</sup>. Social justice tends to focus more on just relations among groups within society as opposed to the justice of individual conduct or justice for individuals<sup>169</sup>. The Supreme Court in the famous case of *Kesavananda Bharati* held that social justice is part of the Basic structure of the Indian constitution.<sup>170</sup> Again, in the case of *S.R Bommai v. Union of India*,<sup>171</sup> The Supreme Court held that social justice and judicial review are two important basic features of the Indian constitution.

No one can reject that social justice is the important foundation stone of the Indian Constitution although it is not defined anywhere in the constitution but it is an ideal element of feeling which is a goal of the constitution and it is also the fundamental principle of the Indian Constitution. The preamble and various Articles contained in Part IV of the Constitution promote social justice so that life of every individual becomes meaningful and he is able to live with human dignity<sup>172</sup>. The concept of social justice in the constitution includes diverse principles for the orderly growth and development of personality of every citizen in every level. Thus, the concept of Social justice is an integral part of justice in the generic sense of the constitution. Mr. Pt. Jawahar Lal Nehru former Prime Minister of the Republic India put an idea before the Constituent Assembly by stating that,

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<sup>167</sup> Social Justice: A political and philosophical theory that focuses on the concept of fairness in relations between individuals in society  
<https://corporatefinanceinstitute.com/resources/knowledge/other/social-justice/> Access on 30/3/2022

<sup>168</sup> What is Social Justice?, Access on 30/3/2022; [www.pachamama.org/social-justice/what-is-social-justice](http://www.pachamama.org/social-justice/what-is-social-justice)

<sup>169</sup> Toby Wlter , "Social Justicethe" Investopedia team, Accessed on March, 30, 2022  
[www.investopedia.com/terms/s/socialjustice.asp#:~:text=Historically%20and%20in%20theory%20the,%20economic%20or%20other%20](http://www.investopedia.com/terms/s/socialjustice.asp#:~:text=Historically%20and%20in%20theory%20the,%20economic%20or%20other%20)

<sup>170</sup> *Kesavananda Bharati v. state of kerala and others*, MANU/SC/0445/1973

<sup>171</sup> *S.R Bommai V. Union of India*, MANU/SC/0444/1994

<sup>172</sup> Dr. Shridevi S. Suvarnakhandi, " Social Justice Provision in Indian Constitution ", International Journal of Political Science (IJPS) Volume 6, Issue 3, 2020, PP 1-9 ISSN 2454-9452

*"First work of this assembly is to make India independent by a new constitution through which starving people will get complete meals and clothes, and each Indian will get the best option that he can progress himself."*<sup>173</sup>

Social justice is found to be useful for everyone in its own kind and flexible form. As mentioned earlier, though social justice is not defined anywhere in the constitution of India, it forms an ideal element of feeling which is a goal of the constitution. Feeling of social justice is a form of relative concept which is changeable by the time, circumstances, culture and ambitions of the people.<sup>174</sup> Under the Indian Constitution the use of social justice is accepted in a wider sense which includes both social and economical justice. According to Chief Justice Gajendragadkar:

*"In this sense social justice holds the aims of equal opportunity to every citizen in the matter of social & economical activities and to prevent inequalities"*.<sup>175</sup>

Thus, from the above statement, the concept of "social justice" includes a variety of principles that are essential for the orderly growth and development of every citizen. "Social justice" is then an important part of justice in the integral sense. Justice is the genus, of which social justice is one of its species<sup>176</sup>. It is a useful device to reduce the sufferings of the poor, weak, and deprived sections of the society and aims to elevate them to the level of equality to live a life with dignity. It is also an essential part of complex social change to relieve the poor to make their life livable, for greater good of the society at large; it is not a simple or single idea of a society. Its aim is to attain substantial degree of social, political and economic equality which is the legitimate expectation and constitutional goal. In a developing society like India, it is apparent that there is an

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<sup>173</sup> Shobhit Sachan, "concept of socio-economic and distributive justice", Access on April 24, 2022, [https://www.academia.edu/6526721/Concept\\_of\\_Socio\\_economic\\_and\\_Distributive\\_Justice](https://www.academia.edu/6526721/Concept_of_Socio_economic_and_Distributive_Justice)

<sup>174</sup> V.R. Krishna Iyer, Social Justice- Sunset or Dawn (1987) p.53

<sup>175</sup> P.B. Ganendragadkar, Law, Liberty and social justice (1964) p. 77, 99

<sup>176</sup> Amit Pandey and Akshita Tripathi, " Concept of Justice under Indian Constitution". Retrieved on 17/8/2022, <https://articles.manupatra.com/article-details/Concept-of-Justice-under-Indian-Constitution>

inequality of status and opportunity, thus the law acts as a catalyst for the poor to reach the ladder of social justice. So, the Constitution makes it mandatory for the state to accord justice to all members of the society in all dimension of human activity. The constitution of India ensures social justice and equality complementary and supplementary to each other to enable both to maintain their vitality in society. Due to the effort of the constitution, the term "Rule of Law" thus play a potential role in maintaining social justice to bring about equality in the society.

## **5.2 Definition of Social Justice**

**Centre of Economic and Social Justice:** "Social justice encompasses economic justice. Social justice is the virtue which guides us in creating those organized human interactions we call institutions. In turn, social institutions, when justly organized, provide us with access to what is good for the person, both individually and in our associations with others. Social justice also imposes on each of us a personal responsibility to work with others to design and continually perfect our institutions as tools for personal and social development."<sup>177</sup>

**United Nation:** "Social justice may be broadly understood as the fair and compassionate distribution of the fruits of economic growth."<sup>178</sup>

**National Association of Social Workers:** "Social justice is the view that everyone deserves equal economic, political and social rights and opportunities. Social workers aim to open the doors of access and opportunity for everyone, particularly those in greatest need."<sup>179</sup>

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<sup>177</sup> Defining Economic Justice and Social Justice, Centre for Economic and Social Justice, Retrieved on June 13, 2022, <https://www.cesj.org/learn/definitions/defining-economic-justice-and-social-justice/>

<sup>178</sup> Social Work: Professional Values, and Ethics, Walters States Community College Retrieved on June 13, 2022, <https://library.ws.edu/c.php?g=689126&p=7760216>

<sup>179</sup> *ibid*, 14

### **5.3 The principles of social justice<sup>180</sup>**

Social justice depends on five essential goals i.e human rights, access, participation, equity and diversity. Social justice cannot be achieved without these five principles.

#### **a) Human rights**

The connection between social justice and human rights has been strengthened over the years. When a society is just, it protects and respects everyone's human rights. This connection is essential since human rights are recognized globally. Various treaties help keep governments accountable. As per the definition of the United Nation, "Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more"<sup>181</sup>.

#### **b) Access**

Access to resources is an important principle of social justice and refers to the extent to which different socio economic groups receive equal access to give everyone an equal start in life<sup>182</sup>. Societies in India offer a diverse type of resources and services for the citizens, such as healthcare, food, shelter, education, and recreational opportunities to social justice for all. However, unequal access to such services often exists to some extent.

Being able to access essentials includes shelter, food, and education as they are crucial for a just society. If such an access is restricted based on factors like gender, race, or class, it leads to suffering for individuals, communities, and society

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<sup>180</sup> *ibid*, 13

<sup>181</sup> United Nation, Global Issues Human Rights, Retrieved on June 13, 2022, <https://www.un.org/en/global-issues/human-rights>, Retrieved on 13th, June, 2022.

<sup>182</sup> Corporate Finance Institute, "A political and philosophical theory that focuses on the concept of fairness in relations between individuals in society", Retrieved on July 15, 2022, <https://corporatefinanceinstitute.com/resources/knowledge/other/social-justice/>.

as a whole. Social justice activists work to increase and restore access, giving everyone equal opportunities for a good life. Access to resources is an important principle of social justice and refers to the extent to which different socio economic groups receive equal access to give everyone an equal start in life.<sup>183</sup>

### **c) Participation**

Social justice is not possible if only a few voices are heard. Unfortunately, that often happens and the voices of the marginalized and vulnerable are not recognized. Even when society tries to address problems, solutions would not work if those most affected person cannot participate in the process. Participation must be encouraged and rewarded so that everyone, especially those who do not have a chance before, can speak when there is a social justice in administration.

### **d) Equity**

Many people believe that “equality” is one of the principles of social justice, but it is “equity” that is important for the achievement of social justice in the society. The main difference between equality and equity is that, equity takes into account the effects of discrimination and aims for an equal outcome. In simple words, equity refers to how individuals are given tools specific to their needs and requirements for the improvement of socio-economic status in order to move towards similar outcomes with the others. It is in contrast with equality, where everyone is offered the same tools to move towards the same outcome. As such, it is clear that things that are equal are not equitable due to the more advanced needs of some individuals and groups. Social justice, goes along addressing equity issues, and also includes advancing policies that provide support to overcome systemic barriers.

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<sup>183</sup> Social Work: Professional Values, and Ethics, Walters States Community College Retrieved on June 13, 2022, <https://library.ws.edu/c.php?g=689126&p=7760216>

#### e) Diversity

Understanding and knowledge of diversity, appreciating the same like value of cultural differences are important because policymakers can often make better policies that take into consideration differences in communities and culture that exist among different social groups. It is also important to recognize that there are some groups that face more barriers in society and it is also important to recognize the existence of inequities. So therefore it is important that policymakers and Government servants who hold strong positions have the duty to expand opportunities for marginalized or disadvantaged groups. Discrimination in employment on the basis of factors such as race, gender, ethnicity, sex, age, and other characteristics are constant issues in society, and enforcing policies to countermand discriminatory practices are one way in which diversity is taken into consideration<sup>184</sup> so that social justice can be achieved in society.

#### 5.4 Social Justice through Motor Accident Claim Tribunal:

Speedy justice and speedy trial are the two eyes of any justice delivery system. The justice delivery system in **M.A.C.T (Motor Accident Claims Tribunal cases)** is far away from satisfactory but in many occasions serves as the justice delivery system for the development of social justice to the road accident victims and their family. Due to the above reason, Supreme Court of India, in civil appeal in the case of *M.R. Krishna Murthy V. The New India Assurance Co. Ltd and Other*<sup>185</sup>, in 2020, urged the government of India to amend the Motor Vehicle Act, 1988, suitably to incorporate mandatory mediation, and recommended making use of the National Legal Service Authority (NLSA), to work on the project and to develop a module for Motor Accident Mediation Authority (MAMA). Till the formulation of MAMA, the Supreme Court directed all MACTs to compulsorily refer motor accident cases to District Mediation Centre/ Authority for an early

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<sup>184</sup> Corporate Finance Institute, "A political and philosophical theory that focuses on the concept of fairness in relations between individuals in society", Retrieved on July 15, 2022, <https://corporatefinanceinstitute.com/resources/knowledge/other/social-justice/>.

<sup>185</sup> Supreme Court, MFA No.1393/2014



resolution of the disputes<sup>186</sup>. This is to ensure speedy, less expensive, easy procedure for the claimant that mostly comprises the weaker section of the society. The Supreme Court also directed that Motor Accident Claims Annuity Deposit Scheme (MACAD) shall be implemented by all Claim Tribunals on all India basis and for that 21 Banks, Members of Indian Banks Association, had taken decision to implement MACAD Scheme who would do the same on all India basis. The pendency of Motor Accidental Cases (hereafter MAC) data is very high in India. The total number of MAC in India, as on 2019, is 8, 66, 874, which is 13.65% of the total civil disputes pending, as per the National judicial data grid<sup>187</sup>. A total of 30.81% of the MAC are in pendency between 1 to 3 years, 11.59% are between 3 to 5 years, and 7.5% are between 5 to 10 years, and 2% are between 10 to 30 years as per the National Judicial Data Grid.<sup>188</sup>

With reference to the above case of M.R Krishna Murthy, the National Legal Service Authority, issued letter vide No. F. No. NALSA-CM/02/2019 dated 6<sup>th</sup> August, 2020, to all the State Legal Service Authority for the adoption and implementation of the Modified Claims Tribunal Accident Procedure (MCTAB) formulated by the Delhi High Court in ***Rajesh Tyagi Jaibir Singh Case***<sup>189</sup> which was reiterated in the said case requesting all the SLSA to implement the direction by the Hon'ble Supreme Court. If the proposed system were implemented in the country, the Motor Accident Claim Tribunal in every state would ensure social justice, speedy justice and in-expensive justice to the victim party by way of accessible procedure for the people in remote areas. It will also ensure equality among the people in such a way that the right to claim compensation in the case of vehicle accident can be avail in a simple and easy process.

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<sup>186</sup> Krusch Anthony, "Mandatory mediation for motor accidental disputes in India", <https://worldmediation.org/mandatory-mediation-for-motor-accidental-disputes-in-india/>. Retrieved on 4<sup>th</sup> October, 2021

<sup>187</sup> *ibid*, 22

<sup>188</sup> *ibid*, 22

<sup>189</sup> Date of Decision: 12th May, 2021 by Delhi High Court

## **5.5 Concept of Just Compensation for the achievement of Social Justice to the victim party:**

As a human being, the life of another person cannot be valued in terms of money as life is very valuable. Similarly, one cannot put any monetary value of one's limb or other part of the body. But when an accident occurs, to do the best justice, the tribunal/court have to assess the value of the loss and it is the duty of the court to assess the loss in terms of compensation for pecuniary and monetary loss and some other expenses. In this situation, the court has to consider "Just compensation" on the basis of each case. Some of the important cases relating to just compensation declared by the court and tribunals are as follows.

The Apex Court in, *Ramla and others v. National Insurance Company Limited and others*<sup>190</sup> held that "*just compensation*' is that compensation which is determined on the basis of the evidence produced. It cannot be considered as time-barred and does not give a reason to file another case for an already increased amount." The Court also held that "*the Courts have the power to award compensation more than what is claimed by the claimants*". In this case, the claimants sought an increase in compensation awarded to them by the Kerala High Court which was Rs 25,000/-. The Supreme Court stated that under the head of 'loss of dependency' the amount was not sufficient. Therefore, it enhanced the amount to Rs 28,000/-. It can be said that, considering a 'just compensation' for the victim party ensures equity for all the people.

In *Master Ayush v. The Branch Manager, Reliance General Insurance Co. Ltd. & Another*<sup>191</sup> The Supreme Court on 29/3/2022 held that "*In cases of motor vehicle accidents, though mental and physical loss cannot be computed in terms of money, there is no other way to compensate the victim except by payment of just compensation.*"<sup>192</sup> While granting compensation of 50 lakh to a five-year-old victim who lost the ability to move his legs after an accident in 2010,

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<sup>190</sup> Supreme Court, Civil Appeal No.11495 Of 2018, (Arising from Special Leave to Appeal (C) No.22334/2017)

<sup>191</sup> Civil Appeal Nos. 2205-2206 of 2022 arising out of SLP (Civil) Nos. 7238-39 of 2021

<sup>192</sup>. <https://www.barandbench.com/news/motor-accident-no-other-way-to-compensate-the-victim-except-by-payment-of-just-compensation-supreme-court-awards-50> retrieved on 30/3/22

the Bench of Justices Hemant Gupta and V Ramasubramanian held, "*The determination of damages in personal injury cases is not easy. The mental and physical loss cannot be computed in terms of money but there is no other way to compensate the victim except by payment of just compensation.*" The judgment shows that, the judiciaries in India still play an active role in the protection and promotion of human dignity without discrimination on any ground.

In *National Insurance Company Ltd. v. Pranay Sethi*<sup>193</sup> a Constitution Bench of the Apex Court held that, "*Section 168 of the Motor Vehicles Act, 1988 deals with the concept of 'just compensation' to be done by the court and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. Measuring the value of a person can never be perfect, but the aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of 'just compensation' has to be viewed through the eyepiece of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall or the condition of destitute. Simultaneously, the compensation granted cannot be an apology for the accident incident. Though the discretion vested in the Tribunal is quite wide, but it is obligatory on the part of the Tribunal to be guided by the expression, i.e., just compensation in every decision relating to accident compensation*".

In *K. Suresh Vs. New India Assurance Company Ltd. & Ors*<sup>194</sup> The Supreme Court held as follow, "*There cannot be actual compensation for anguish of the heart or for mental tribulations. The quint essentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity 'the Act') stipulates that there should be a grant of just compensation. Thus, it*

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<sup>193</sup> . <https://indiankanoon.org/doc/197590057/> retrieved on 31/3/2022

<sup>194</sup> 12 SCC 274 (2012)

*becomes a challenge for a court of law to determine “just compensation” which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance*".<sup>195</sup>

For ensuring justice, the Motor Accident Claim Tribunal has power to award the compensation above the amount claimed, so as to award compensation which was just. In this regard the following observations of the Supreme Court in *State of Haryana Vs. Jasbir Kaur, (2003) 7 S.C.C. 484*<sup>196</sup> are as follows, "*while considering the case the Tribunal has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense damages which in turn appears to it to be just and reasonable. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be just and it cannot be a bonanza; not a source of profit; but the same should not be a pittance*".

From the above cases, it becomes clear that the courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be just compensation is a vexed question. Since, there can be no golden rule applicable to all cases for measuring the value of human life or a limb due to the fact that all cases have a different person and story. Thus, measuring damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features. The court from various judgments made it clear that every method or the mode adopted for assessing compensation has to be considered in the background of **just compensation** which is the pivotal consideration. Though the expression "Just" appears to be just a wide, discretion in determining the term is vested in the tribunal and the determination has to be rational by following a

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<sup>195</sup>Dinesh Singh Chauhan, "Comparable Injuries Should Be Compensated By Comparable Awards While Granting Compensation In Motor", Access on June 26, 2022.

[www.legalserviceindia.com/legal/article-1626-comparable-injuries-should-be-compensated-by-comparable-awards-while-granting-compensat](http://www.legalserviceindia.com/legal/article-1626-comparable-injuries-should-be-compensated-by-comparable-awards-while-granting-compensat)

<sup>196</sup> *ibid*, 31

judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression just should be read as equitability, fairness and reasonableness, and non-arbitrary, if it is not so, it cannot be just.

In the case of *Hardeo Kaur & others Vs Rajastahn State Transport Corporation and other*<sup>197</sup> the court held that "*while determining the quantum of compensation, the court must be liberal and not niggardly. In a free country law must value life and limb on a generous scale*".

### **5.6 Concept of "Consortium" and "Loss of Consortium" while claiming compensation under the Motor Vehicle Act to provide the widest protection of rights:**

Loss of consortium is a type of personal injury claim typically brought by the spouse or close relative of an accident victim.<sup>198</sup> The relative (the "plaintiff") sues the person who caused the harm (the "defendant") because the person injured or killed can no longer provide the same affection, companionship, comfort, or sexual relations.<sup>199</sup>

Loss of consortium can be difficult to prove and determine a fair monetary value for purposes of compensation.<sup>200</sup> Sometimes it becomes uncomfortable to explain the private relationship and private matters in the relationship in the event of an accident by the relatives. But the following points must be proved in order to get an award for loss of consortium in the Tribunal or Court.

1. A valid marriage or domestic relationship did and does exist.
2. The victim of the injury was hurt due to another party's negligence.
3. The spouse of the injured party suffered a loss of consortium.

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<sup>197</sup> [(2018) 18 SCC 130] & (1992)2SCC567

<sup>198</sup> Amir Tikriti, "Compensating Spouse and Family of the Injured: Loss of Consortium Claims," Access on 30<sup>th</sup> October, 2022, <https://www.alllaw.com/articles/nolo/personal-injury/compensation-spouse-family-loss-consortium-claim.html>

<sup>199</sup> Ibid, 34

<sup>200</sup> WKW Explains How Loss of Consortium Works in an Injury Case, Access on 30<sup>th</sup> October, 2022, <https://www.wkw.com/legal-process/faqs/what-is-loss-of-consortium/>

4. The loss of consortium is due to sustained injury.
5. In India Loss of consortium can be claim by parents and children

### 5.6.1 Person who can file a Loss of Consortium Claim

**Spouses and Partners:** It is a long practice that only spouses could bring consortium claims in the court. The claim is primarily for compensation for the loss of sexual relations, loss of support, loss of companionship and so on. The Judiciary has relaxed this requirement to allow domestic partners to file loss of consortium claims depending on the cases.

**Children and Parents:** Indian Judiciary allows a child or parent to file a loss of consortium claim in the tribunal or court in the event of a vehicle accident. Loss of consortium in this context refers to the loss of the ability to share activities and enjoy life experiences with a parent or child.<sup>201</sup>

In *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram*<sup>202</sup> After referring to the decision in Pranay Sethi, the Apex Court held that, "*In legal parlance, 'consortium' is a compendious term which encompasses 'spousal consortium', 'parental consortium' and 'filial consortium'. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of 'company, society, co-operation, affection, and aid of the other in every conjugal relation'. Parental consortium is granted to the child upon the premature death of a parent, for loss of 'parental aid, protection, affection, society, discipline, guidance and training'. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is*

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<sup>201</sup> *ibid*, 34

<sup>202</sup> CIVIL APPEAL NO. 9581 OF 2018, (Arising out of SLP (Civil) No. 3192 of 2018)  
<https://indiankanoon.org/doc/197590057/> retrieved on 31/3/2022

*to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit".*

In the above case ( *Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram* )<sup>203</sup> The Apex Court explained consortium and held that "*Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is compensation for loss of the love, affection, care and companionship of the deceased child. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In a case where parents have lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Motor Vehicles Act*". The Apex Court further held that, the amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'loss of consortium' as laid down in *Pranay Sethi case*.

The Supreme Court of India in the case of *The New India Assurance Company vs. Somwati (2020)*<sup>204</sup> dealt with the issue of whether only the wife of the deceased in a motor vehicle accident is entitled to a consortium or whether the same can be awarded to the parents and children of the deceased as well. The concepts dealt with in this case were that of parental, filial and spousal consortium. In this case the court upheld the need for all the aforementioned forms of compensation as they all fall within the ambit of relief provided to aggrieved individuals through the

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<sup>203</sup> CIVIL APPEAL NO. 9581 OF 2018, (Arising out of SLP (Civil) No. 3192 of 2018)  
<https://indiankanoon.org/doc/197590057/> retrieved on 31/3/2022

<sup>204</sup> Nikara Liesha Fernandez, " Landmark judgments under the Motor Vehicles Act, 1988,"  
<https://blog.iplayers.in/landmark-judgments-under-the-motor-vehicles-act-1988/#:~:text=The%20Supreme%20Court%20of%20India,of%20the%20deceased%20as%20>  
retrieved on 31/3/2022

beneficial Motor Vehicles Act, 1988. Compensation on the grounds of 'loss of love and affection' was however not granted by the Court as there was no justification of providing the same under a separate head when it was deemed to be covered under the loss of consortium itself.

In the recent judgment in *United India Insurance Company Ltd. Versus Satinder Kaur and others*,<sup>205</sup> the Court was of the opinion that, "*The inclusive interpretation given to the expression "consortium" is wide enough to cover parental consortium as well as a filial consortium. Thus, the "loss of love and affection" is comprehended under the heading "loss of consortium", hence there is no justification to award compensation towards "Loss of love and affection" as a separate head*". The same issue was also discussed by the Supreme Court of India in the case of *National Insurance Company vs. Pranay Sethi*<sup>206</sup> (2017) 16 SCC 680, it held that, "*In legal parlance; "consortium" is an explanatory term which embraces other aspects of a consortium including the 'spousal consortium', 'parental consortium', and 'filial consortium'. Rights related to consortium may include companionship, comfort, love & affection, care, affection, solace, etc. which comes as a loss for the family*". The Apex Court in the above mention case Pranay Sethi laid down the three principles of consortium as under-

- (i) Spousal consortium is generally defined as rights relating to the relationship of a husband with his wife which allows compensation to the surviving spouse for loss of "companionship, company, love, affection, and each other's assistance as in every normal marital relationship."
- (ii) Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training.
- (iii) Filial consortium is the right of the parents to compensate in the case of accidental death of a child as an accident leading to the death of a child is a

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<sup>205</sup> Civil Appeal No.2705 OF 2020 (arising out of SLP (Civil) No. 28548 of 2014)

<sup>206</sup> Supreme Court, Special Leave Petition (Civil) No. 25590 OF 2014



matter of great shock and agony to the parents of the deceased, as the greatest agony for a parent is to lose their child during their lifetime.

Thus according to the Supreme Court of India, Consortium is a connection in a family which reflects the changing norms about the status and worth of actual relationships. It is to be noted that, jurisdictions in all the country have recognized the value of a child's consortium and is considered more valuable than the economic value of the compensation awarded to the parents for the loss of a child.

The amount awarded to the parents is a way to compensate for the loss for the love, affection, care and companionship of the deceased child. The Hon'ble Supreme Court through various judgments has time and again pointed out that the Motor Vehicles Act is valuable legislation bearing the objective of providing monetary relief to the victims or their families in cases related to claims for the loss of parents who have lost their minor child, unmarried son or daughter. Hence, the parents are eligible to be compensated for the "Loss of consortium" under the category of "Filial Consortium". On the other hand, the children are also entitled who have lost their parents in vehicle accident under the Act to get "Parental Consortium" for their loss. The compensation amount shall be awarded by the Court on the basis of the facts and circumstances of the case and shall be administered by the principles of awarding compensation under 'Loss of Consortium' which has been laid down by the Constitution Bench.

### **5.7 Landmark Supreme Court judgments on Motor Vehicle Act to protect the rights of victim party in the occurrence of vehicle accident<sup>207</sup>**

The Supreme Court of India has played a vital role in the protection of victims in motor vehicle accidents. In every case, the initiation of case began in the Motor Accident Claim Tribunal in the District level, when the parties are not satisfied with the award, they move to the High Court for appeal against the award of Motor Accident claim Tribunal and again if one of the parties are not satisfied

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<sup>207</sup> The Motor Vehicle Act 1988, <https://www.legitquest.com/legal-guide/the-motor-vehicle-act-1988>, Retrieved on 13/6/2022

with the award they can move to the Supreme Court. Thus, in the case of accident claim, the tribunals as well as higher judiciary are equally important.

***1) United India Insurance Co. Ltd. Vs. Sunil Kumar & Anr<sup>208</sup>.***

The Supreme Court laid down that the insurer cannot raise a plea of negligence. This case is one of the recent Supreme Court cases on Motor Vehicle Act. The major issue involved is the scope of Section 163A of the Motor Vehicle Act, 1988. This Act provides the special provisions to pay compensation on the structured formula basis.

Important points to note from the above case are:

i) Grant of compensation under Section 163A of Motor Vehicle Act on the basis of structured formula is in the nature of a final award and adjudication is made without any requirement of proof of negligence of driver/owner of the vehicles involved in the accident.

ii) Claimants are not required to establish proof of negligence and has been made explicit by Section 163A. However, the said section does not specifically exclude a possible defense of the insurer based on the negligence of the claimant. It permits such a defense to be introduced by the insurer as such a situation would go contrary to the very legislative object behind introduction of Section 163A of the Act.

***2) Mukund Dewangan Vs. Oriental Insurance Company Limited<sup>209</sup>***

In this case the Supreme Courts laid down that a driver holding a light motor vehicle license is eligible to drive a transport vehicle without any endorsement. In this landmark case, the main issues by the court was whether a driver who has a license to drive 'light motor vehicle' and is driving 'transport vehicle' of that class has to obtain an endorsement additionally for driving a transport vehicle. The issue was settled by three Judges Bench by stating that there

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<sup>208</sup> Supreme Court, Civil Appeal No. 9694 of 2013 (Special Leave Petition (Civil) No.7586 of 2012)

<sup>209</sup> supreme court, civil appellate jurisdiction, civil appeal no.5826 of 2011

is no requirement to obtain a separate endorsement for driving a transport vehicle. It was further held that in case a driver is holding a license to drive a motor vehicle, he can also drive transport vehicle of such a class without any endorsement to that effect.

### **3) *National Insurance Company vs. Pranay Sethi.*<sup>210</sup>**

Supreme Court issues guidelines on assessment of compensation in this case. This case is also mentioned in detail in chapter-2 of this research.

This landmark judgment was passed by the five Judges Constitution Bench of the Supreme Court. In this case, it has issued guidelines for computation of compensation under the Motor Vehicle Act 1988 in detail. Some important factors that have been given by the court include addition of future prospects in order to determine the multiplicand, deduction towards personal and living expenses and the selection of multiplier was also detailed on the reasonable figures on the conventional heads. In addition, the court further held that in the case where a driver holds a license to drive a light motor vehicle, he can also drive a transport vehicle without endorsement to that effect.

### **4. *Oriental Insurance Co. Ltd. Vs. Rakesh Kumar & Ors*<sup>211</sup>**

In this case, the Supreme Court held that in order to reject the insurance claim by the insurer of the insured, they have to prove that the insured has committed guilty of negligence. This case also involved whether the insurance company can be liable to pay off the compensation in case the owner of the vehicle has got the vehicle insured, however the accident took place when it was being driven by a person not holding the driving license. Base on the judgment of *United India Insurance Co. Ltd Vs Lehru*<sup>212</sup> the insurance company cannot ran away from the burden of paying compensation. This case lays down that "*unless the insurance company is able to show that there is a willful breach of the policy on the part of the insured, insurance company cannot avoid its liability. In the instant case, the*

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<sup>210</sup> Supreme Court, civil appellate jurisdiction, special leave petition (civil) no. 25590 of 2014

<sup>211</sup> Supreme Court, Special Leave Petition (civil) 9027 of 2003

<sup>212</sup> Supreme Court, CASE NO.: Appeal (civil) 1959 of 2003

*Tribunal has found that the vehicle was stolen and there was no willful breach of the terms and conditions of the insurance policy by the insured. There is no infirmity in the impugned award. Appeal dismissed".*<sup>213</sup>

#### **5. Parminder Singh Vs. New India Assurance Company Ltd. (2019).**<sup>214</sup>

In this case, the Supreme Court of India held that "*In the accident incident that causes permanent functional disability of an individual in the age group of 15-23 years old, as a result that ruin his/ her prospects of living a normal family life, having no capacity to hold a regular job in future and not having the ability to earn a living for the rest of his/her life, the functional disability of the individual can be said to be 100%. As a result, the plaintiff is entitled to lump sum compensation*". The insurance company in this case was directed to pay the enhanced compensation to the victim and recover the same from the owners and drivers of the offending vehicles later

#### **6. National Insurance Co. Ltd Vs. Swaran Singh & Ors.**<sup>215</sup>

In this case, the question involved was what are the defenses that can be used by the insurance company to prove their non-liability to pay any sum of money according to the doctrine of pay and recover. In this case the court held that, "*Only if the defense used by the insurer has formed a **fundamental part** of the accident can the insurer escape their liability*". The defenses available to the insurer are as under:-

1. When the owner of the insured vehicle or driver of the same are carrying a fake license at the time of accident.
2. When the owner of the insured vehicle or the driver of the vehicle carried no license at the time of accident.

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<sup>213</sup> idbi, 48.

<sup>214</sup> Nikara Liesha Fernandez, " Landmark judgments under the Motor Vehicles Act, 1988" <https://blog.ipleaders.in/landmark-judgments-under-the-motor-vehicles-act-1988/#:~:text=The%20Supreme%20Court%20of%20India,of%20the%20deceased%20as%20well> retrieved on 31/3/2022

<sup>215</sup> ibid, 44

3. When the owner of the insured vehicle or the driver of the same carried an expired license and no application for the same had been made to the concern authority for the renewal of the same either.
4. When the license held by the driver or owner of the vehicle carried another class of vehicle that was not mentioned in the license during the accident.
5. When a person holding a learner's license was solely driving the vehicle.

Thus, in the above mentioned situation the onus of proof is on the insurer to prove the validity of his defense. The insurer is under obligation to prove that the insured was guilty of negligence and failed to exercise reasonable care in fulfilling the policy criteria.

The same principle was applied by the Supreme Court of India in the case of *Shamanna vs. The Divisional Manager (2018)*.

In the case of *National Insurance Co. Ltd vs Laxmi Narain Dhut (2007)*<sup>216</sup>, the Supreme Court of India applied the golden rule of interpretation and came to the conclusion that fake licenses cannot be renewed by any Licensing Authority and that even if by some chance such renewal was to occur, the same cannot be said to take away the effect of the fake license by validating it. The court also shed light on the difference between third party rights and own damage cases.

**In KR Madhusudhan Vs. Administrative Officer,**<sup>217</sup> In this case, the Supreme Court held that "*the person holding an expired license would be guilty of the offense of driving a vehicle without license and insured will be liable for committing the breach of the policy*". It was held that the Insurance Company has the right to avoid the liability. From the different judgment of the Supreme Court, it

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<sup>216</sup> Supreme Court, Case No.: Appeal (civil) 1140 of 2007

<sup>217</sup> Civil Appeal No. 1923-1924 Of 2011 (Special Leave Petition (Civil) No. 16406-16407 Of 2010) | 18-02-2011

K.R.Madhusudan v. Administrative Officer

is clear that the higher judiciary recognized every person's right as well as the insurance company to a great extent.

### **5.8 House wife victim in motor accident**

Housewives are often considered non earning partners in many families. The judiciary has taken important steps by recognizing a housewife as an earner while calculating compensation in vehicle accidents. When the victim of an accident is a housewife then the settled law is “for the purpose of awarding compensation to the dependents” some pecuniary estimate has to be made of the services of housewife/mother. The amount payable to the dependants cannot be ignored on the ground that the other family member can take care of the well-being of the family as the deceased housewife did. In this regards, the legislature had fixed the notional income of a non-earning person at Rs.15, 000/- per annum and in the case of a spouse, 1/3rd income of the earning/surviving spouse for the purpose of computing the road accident compensation<sup>218</sup> as early in the year 1994.

In the case of *Bhagwan Dass Bhatia vs. Anand Pal*,<sup>219</sup> wherein a housewife aged about 53-54 years died in an accident in September 1976. A learned Single Judge of the Punjab & Haryana High Court estimated that her contribution to the household could not be less than Rs.2, 500/- per annum. So, the High Court awarded a sum of Rs.30, 000/- as compensation taking into consideration the ever-increasing cost of incidental services.

In the case of *Amar Singh Thukral, S/O Shri vs Sandeep Chhatwal, S/O Shri*<sup>220</sup> Following the decision in the above case, the learned MACT took the pecuniary value of the services rendered by the deceased housewife to her household at Rs. 2,500/- per annum. Adopting a multiplier of 16, the learned MACT awarded a sum of Rs. 40,000/- as compensation with interest at 12% per annum from the date of filing the claim petition till payment.

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<sup>218</sup> Arun Kumar Agarwal vs. National Insurance Company AIR 2010 SC 3426

<sup>219</sup> 1986 ACJ 879

<sup>220</sup> Equivalent citations: II (2004) ACC 826, 2005 ACJ 1187, 112 (2004) DLT 478, 2004 (75) DRJ 553, <https://indiankanoon.org/doc/595259/>, Retrieved on 27/6/2022

In *Mehmet v. Perry*<sup>221</sup>, the pecuniary value of a wife's services were assessed and granted under three heads:

- (a) Loss to the family of the wife's housekeeping services.
- (b) Loss suffered by the children of the personal attention of their mother, apart from housekeeping services rendered by her.
- (c) Loss of the wife's personal care and attention, which the husband had suffered, in addition to the loss of her housekeeping services.

In *Sunny Chugh vs. Darshan Lal*,<sup>222</sup> and *Shakuntala Devi vs. Delhi Transport Corporation*,<sup>223</sup> A learned Single Judge of the Punjab & Haryana High Court held that "*gratuitous services provided by a deceased housewife do indeed have a monetary value in respect of which compensation is payable to her beneficiaries, including her husband and children. It was noted that additional expenses would have to be incurred for having the household run by a servant or other domestic help instead of the wife. Apart from this, there would also be a loss of an element of security to the family. Moreover, there is no retirement age for a housewife, who is required to do housework for as long as she is physically able*". In *Sunny Chugh* the deceased housewife died in an accident in November 1974. She was about 29 years of age and her family were awarded Rs.50, 000/- as compensation. Similarly, in *Shakuntala Devi* the deceased housewife died in an accident in March 1983. She was about 30 years old and her family were awarded Rs.50, 000/- as compensation, even though the accidental death took place about 9 years later.

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<sup>221</sup> [1977] 2 All ER 529

<sup>222</sup> 1987 ACJ 812 (P&H)

<sup>223</sup> 1990 ACJ 459, <https://indiankanoon.org/doc/595259/> retrieved on April 7, 2022

In **A. Rajam vs. M. Manikya Reddy, 1989 ACJ 542**<sup>224</sup> held, inter alia, as follows:-

*"The loss to the husband and children consequent upon the death of the housewife or mother has to be computed by estimating the loss of 'services' to the family, if there was reasonable prospect of such services being rendered freely in the future but for the death. It must be remembered that any substitute to be so employed is not likely to be as economical as the housewife. Apart from the value of obtaining substituted services, the expense of giving accommodation or food to the substitute must also be computed. From this total must be deducted the expense the family would have otherwise been spending for the deceased housewife.*

*While estimating the 'services' of the housewife, a narrow meaning should not be given to the meaning of the word 'services' but should be construed broadly and one has to take into account the loss of constant 'love and affection' as also of 'personal care and attention' by the deceased to her children, as a mother and to her husband, as a wife. The award is not diminished merely because some close relation like a grandmother is prepared to render voluntary services."*

**Kirti Vs Oriental Insurance Company on 5 January, 2021**<sup>225</sup> the Supreme Court has held that, *"fixing notional income of homemakers in compensation related cases is a signal to the society that the law and the courts value housewife labor, services and sacrifices" .* Women spend more time on "unpaid caregiving services for household members" as compared to men, the apex court said citing a survey<sup>226</sup>. In far reaching development, especially in awarding compensation to road accident victims involving homemakers, the top court said that fixing of notional income for them is a "recognition of the multitude of women

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<sup>224</sup> 1989 ACJ 542 (Andhra Pradesh HC), <https://indiankanoon.org/doc/595259/> Retrieved on April 7, 2022

<sup>225</sup> (SLP(C)Nos.18728-18729/18)

<sup>226</sup> The Economic Time, " Notional income for homemakers in claims case signals law believes in their sacrifices: SC, " Jan 06, 2021, <https://economictimes.indiatimes.com/news/politics-and-nation/notional-income-for-homemakers-in-claims-case-signals-law-believes-in-their-sacrifices-sc/articleshow/> Retrieved on 31/3/2022



who are engaged in this activity, whether by choice or as a result of social/cultural norms". While deciding an appeal filed by two surviving daughters and a parent of the deceased couple which met with an accident, the bench modified the Delhi High Court order and enhanced the compensation of Rs 22 lakh to the claimants by Rs 11.20 lakh, to a total of Rs 33.20 lakh.<sup>227</sup>

### **5.9.1 Child victim in case of motor accident:**

The judiciary has played an active role to protect the rights of everyone, in case of death of children who are not dependent; it has widened the scope of compensation to the family of the child victim. The Delhi High Court has said, Parents are dependent on their children at some stage of life and it would be inequitable to deny compensation to those who lost their ward in a road accident<sup>228</sup>. The role of the Judiciary can be discussed in the following terms:

In the case of *Rajendra Singh and others Vs National Insurance Company Limited and others*<sup>229</sup> There were two victims the wife and the child, the Supreme Court held that the notional income of the first deceased is held to be Rs.5000/- per month at the time of death ( not 36000 per annum).<sup>230</sup>

The second deceased was a school going child aged about 12 years and the Supreme Court held as follows, "*She had a whole future to look forward to in life with all normal human aspirations. She died prematurely due to the accident at a very tender age for no fault of hers even before she could start to understand the beauty and joys of life with all its ups and downs. The loss of a human life untimely at childhood can never be measured in terms of loss of earning or monetary loss alone. The emotional attachments involved to the loss of the child can have a devastating effect on the family which needs to be visualized and*

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<sup>227</sup> (SLP(C)Nos.18728-18729/18)

<sup>228</sup>[https://www.business-standard.com/article/current-affairs/parents-of-road-accident-victims-entitled-to-compensation-delhi-hc-121011700391\\_1.html](https://www.business-standard.com/article/current-affairs/parents-of-road-accident-victims-entitled-to-compensation-delhi-hc-121011700391_1.html) retrieved on 7/4/2022

<sup>229</sup> CIVIL APPEAL NO(s). 2624 OF 2020 (arising out of SLP (Civil) No(s). 13964 of 2018)

<sup>230</sup> CIVIL APPEAL NO(s). 2625 OF 2020 (arising out of SLP (Civil) No(s). 16261 of 2018), 14265\_2018\_34\_1502\_22630\_Judgement\_18-Jun-2020.pdf @//main.sci.gov.in/supremecourt/2018/14265/14265\_2018\_34\_1502\_22630\_Judgement\_18-Jun-2020.pdf retrieved on 7/4/2022

*understood. Grant of non pecuniary damages for the wrong done by awarding compensation for loss of expectation in life is therefore called for. Undoubtedly the injury inflicted by deprivation of the life of the child is very difficult to quantify. The future also abounds with uncertainties. Therefore, the courts have used the expression "just compensation" to get over the difficulties in quantifying the figure to ensure consistency and uniformity in awarding compensation. This determination shall not depend upon the financial position of the victim or the claimant but rather on the capacity and ability of the deceased to provide happiness in life to the claimants had she remained alive. The compensation is for loss of prospective happiness which the claimant would have enjoyed had the child not died at the tender age. Since the child was studying in a school and opportunities in life would undoubtedly abound for her as the years would have rolled by, compensation must also be granted with regard to future prospects. It can safely be presumed that education would have only led to her better growth and maturity with better prospects and a bright future for which compensation needs to be granted under non pecuniary damages".*

*In **R.K. Malik & Anr vs Kiran Pal & Ors**<sup>231</sup> On 15 May, 2009 the Supreme Court held that, "So far as the pecuniary damage is concerned we are of the considered view both the Tribunal as well as the High Court has awarded the compensation on the basis of Second Schedule and relevant multiplier under the Act. However, we may notice here that as far as non-pecuniary damages are concerned, the Tribunal does not award any compensation under the head of non-pecuniary damages. However, in appeal the High Court has elaborately discussed this aspect of the matter and has awarded non-pecuniary damages of Rs. 75,000. Needless to say, pecuniary damages seeks to compensate those losses which can be translated into money terms like loss of earnings, actual and prospective earning and other out of pocket expenses. In contrast, non-pecuniary damages include such immeasurable elements as pain and suffering and loss of amenity and enjoyment of life. In this context, it becomes the duty of the court to award just compensation for non-pecuniary loss. As already noted it is difficult to quantify the non-pecuniary*

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<sup>231</sup>In The Supreme Court Of India, Civil Appellate Jurisdiction, CIVIL APPEAL No. 3608 OF 2009, (Arising out of SLP(C) No. 17525 of 2006)

*compensation, nevertheless, the endeavor of the Court must be to provide a just, fair and reasonable amount as compensation keeping in view all relevant facts and circumstances into consideration. We have noticed that the High Court in the present case has enhanced the compensation in this category by Rs. 75, 000/- in all connected appeals. We do not find any infirmity in that regard".*

In ***Lata Wadhawa Vs. State of Bihar***<sup>232</sup> The Supreme Court held that, " *the death of children due to fire crash must be compensated. The incident happened on 3rd March 1989 where most of the people including children were killed in a fire. The Court had awarded compensation. The Court noted that kids who passed away were studying in an extravagant school and hailed from upper middle class families. But, it cannot be said that the higher compensation granted was for hardship of life*". The Supreme Court had further pronounced that "*in cases of children between 5 to 10 years of age is compensated with Rs. 1, 50,000 and Rs. 50,000 for conventional compensation. In the case of children between 10 to 18 years must be compensated with Rs. 4, 10,000 including conventional compensation*".

The ***New India Assurance Company Limited Vs. Smt. Somwati and Others***<sup>233</sup> the Supreme Court of India in a recent ruling has observed that, "*In the Motor Accident Compensation Claims, that the children and family would also be authorized for compensation under 'Loss of consortium' in claims of Motor Accident under the Act*".

The matter in question was put forward by one of the appellant insurance company New India Assurance Company Ltd challenging the judgment of the High Court arising out of the award passed by the Motor Vehicle Claims Tribunal Act (MACT) with regard to the compensation in support of the plaintiffs under two specific categories i.e.

i. Under "Loss of Consortium" for spousal relationships only? or

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<sup>232</sup> Case No.: Writ Petition (civil) 232 of 1991

<sup>233</sup> Civil Appeal No. 3093 OF 2020, <https://taxguru.in/corporate-law/motor-vehicle-compensation-granted-children-parents.html>

ii. “Loss of love and affection” for the spouse as well as family?

With regard to “Consortium,” the issue raised was whether it is only the wife who is entitled to compensation under the consortium or the consortium is eligible to be awarded to children and parents also under the Act. The appellant’s contention was that the amount granted under the head “Loss of love and affection” is absolute without jurisdiction and further the amount granted under the head “Consortium” cannot be more than Rs.40000/- in effect and the Tribunals and the High Courts committed error in awarding amount of consortium to each of the claimant, i.e., wife, children and parents. Additionally, the wife is authorized to receive the amount of compensation paid as a consortium that is payable to the wife only which is not entitled by children, and parents. The Three-Judge Bench in *United India Insurance Company Ltd.* has categorically laid down that, apart from spousal consortium, parental and filial consortium is payable. Present Court, thus, cannot accept the submission of the learned counsel for the Appellant that, the amount of consortium awarded to each of the claimants is not sustainable. In the case of *M.S Aggarwal Vs Deep Chand Sood*<sup>234</sup> the Court held that school going children should be compensated in case of death due to vehicle accidents. It was further held that compensation should be further granted with regards to the future prospect of the child.

### **5.9.2 Compensation in the Case of Death of a Foetus**

In the case of *Prakash v. Arun Kumar Saini*<sup>235</sup>, the Delhi High Court held that *"An unborn child aged five months onwards in the mother's womb till its birth is to be treated as a child in existence. The unborn child to whom the live birth never comes is held to be a 'person' who can be the subject of an action for damages for his death. The fetus is another life in woman and loss of fetus is actually a loss of child in the offing. However, the love and affection of the parents for a seven year old child cannot be equated with that of a fetus which has yet to take birth. The love and affection develops after the birth of the child and it keeps on growing and goes*

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<sup>234</sup> (2001) 8 SCC 151.

<sup>235</sup> MAC. APP. No. 602 of 2009

*deep in the memory. The death of a seven year old child would leave deep memories and, therefore, deeper hurt. In case of the death of a child, the photographs of the child and other articles belonging to him/her keep on reminding the parents of the child and make them sad. Memories are also refreshed when parents see other children of the same age and it takes a very long time for pain and suffering to dissolve, whereas there are no such memories in case of a foetus and, therefore, lesser hurt".* In the mentioned case the Delhi High Court awarded an amount of Rs.2,50,000/- towards the death of an unborn child.

### **5.9.3 Compensation in the cases of death of a Professional/student pursuing professional course**

The compensation on the death of a professional are usually computed on the basis of earning capacity of the deceased which was held by the Hon'ble Supreme Court in the case of *Haji Zainullah Khan Vs Nagar Mahapalika*<sup>236</sup> and which was followed by the Delhi High Court in the case of *Union of India Vs Dr. Rita Pant*.<sup>237</sup> The compensation in the death of a student who is pursuing a professional course is determined according to his earning capacity after completion of the professional course as laid down in the case of *New India Assurance Company Limited Vs Ganga Devi & Ors.*<sup>238</sup> This case was decided by the Delhi High Court where the deceased had completed his MBBS and was doing a one year internship. It was proved that after completion of his internship he would have earned Rs.18, 000/- to Rs.20, 000/- per month that was taken into consideration while computation of compensation.

### **5.9.4 Compensation in Cases of no Proof of income of deceased**

In the case of *Kiran Devi Vs Surjeet Yadav*,<sup>239</sup> An accident caused to the death of a man of 44 years having no proof of income was put before the court for consideration. The minimum wages prescribed by the State Government at the time of accident occur are taken into consideration for the purpose of compensation.

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<sup>236</sup> 1994 SCC (5) 667, JT 1994 (4) 367

<sup>237</sup> MAC.APP.No.237/2005 & CM No.5641/2009

<sup>238</sup> MAC.APP.No.135/2008

<sup>239</sup> High Court Of Delhi, MAC.APP.No.511/2009

In this case the court took into account the judgments of Delhi High Court in *Kanwar Devi Vs. Bansal , Roadways*<sup>240</sup> and *National Insurance Co. Ltd. Vs Renu Devi*,<sup>241</sup> the Court took judicial notice to increase the minimum wages to meet the price index and inflation rate in India. The Delhi High Court took the average of minimum wages as Rs.4,100/- and its double to compute the loss of income and applied the multiplier of 14 to compute the loss of dependency at Rs.7,74,900/-.

### **5.10 Mediation the future of judiciary as a means of social Justice in India**

In the year 1988, 129<sup>th</sup> Law Commission's Report on Urban Litigation and Mediation as Alternative to Adjudication and the Arrears Committee Report, also known as the Justice Malimath Committee Report was published.<sup>242</sup> Considering the backlog of cases lying before the Indian courts, Justice Malimath Committee Report recommended that the parties be encouraged to refer their disputes to Alternate Dispute Resolution Mechanisms (“ADRs”).<sup>243</sup> These recommendations eventually paved the way for the Code of Civil Procedure (Amendment) Act, 1999,<sup>244</sup> which introduced Section 89 of the Code of Civil Procedure, 1908 “CPC”. Section 89 Civil Procedure Code empowered the courts to refer disputes, with the potential to be settled to ADRs (which included arbitration, conciliation, mediation, judicial settlement).<sup>245</sup> On April 9, 2005, the Tamil Nadu Mediation and Conciliation Centre, the first court annexed mediation center was inaugurated.<sup>246</sup> Thereafter, in August 2005, the Ex-chief Justice of India, Justice R.C. Lahoti, constituted a Mediation and Conciliation Project Committee for imparting mediation training for Judges.<sup>247</sup> After the year 2005, several High Courts have their own Mediation Centers and rules governing them. Realizing the potential

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<sup>240</sup> 2008 ACJ 2181

<sup>241</sup> HIGH COURT OF JUDICATURE AT PATNA, MACT No.398 of 2002

<sup>242</sup> Ankoosh Mehta, Durga Agarwal, Maitrayi Jain, " Mediation: The Future of Dispute Resolution " . Retrieved from <https://www.scconline.com/blog/post/2020/06/25/mediation-the-future-of-dispute-resolution/> on 15<sup>th</sup> October, 2022

<sup>243</sup> <https://delhicourts.nic.in/dmc/history.htm>, last visited on May 28, 2020.

<sup>244</sup> Code of Civil Procedure (Amendment) Act, 1999

<sup>245</sup> Section 89 of CPC

<sup>246</sup> <http://www.hcmadras.tn.nic.in/mashist.html> last visited on June 10, 2020

<sup>247</sup> <https://delhicourts.nic.in/dmc/history.htm> last visited on June 10, 2020

of mediation for speedy and cost-effective dispute resolution, an amendment to the Commercial Courts Act- 2015, was made in 2018, introducing Section 12-A, which mandatorily requires the parties to attempt to mediate their disputes before initiating judicial proceedings.<sup>248</sup> Recently, the Supreme Court of India in January 2020 set up a panel headed by Mr Niranjan Bhat, to recommend and draft legislation, codifying mediation practice in India to make mediation the important future legal process of the country.

Settlement of disputes in an amicable way is the long time practice of civilization. In ancient India, the mediation system has been a customary and practice in one form or the other. It has continued in many villages and is customary form in many tribal areas where Mizoram is also included by practicing the system of "Palai" a kind of mediation. So far as formal litigation system is concerned, mediation, along with other methods of Alternative Disputes Resolution, has been statutorily recognized by the Civil Procedure Code (Amendment) Act, 1999 which introduced section 89 thereto.<sup>249</sup> Mediation is a voluntary, binding process in which an impartial and neutral mediator facilitates disputing parties in reaching a settlement. A mediator does not impose a solution but creates a conducive environment in which disputing parties can resolve all their disputes.<sup>250</sup> The Supreme Court of India constituted a Mediation and Conciliation Project Committee (MCPC) in 2005 to oversee the effective implementation of Mediation and Conciliation in the country.<sup>251</sup> Hon'ble Mr. Justice N. Santosh Hegde was the first Chairman of the Mediation and Conciliation Project Committee (MCPC). In the process of Mediation, Referral Judges and Mediators play an important role between the parties to achieve the settlement with a peaceful means by placing both the parties in a win-win situation. Mandatory mediation through courts under section 89 of CPC has now a legal sanction in many states now though it was not a common

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<sup>248</sup> Section 12-A, Commercial Courts Act, 2015

<sup>249</sup> Mediation training manual of India, Mediation and Conciliation Project Committee (MCPC), Supreme court of India

<sup>250</sup> Brochure of Mediation and Conciliation Project Committee (MCPC), Supreme court of India

<sup>251</sup> idib as 49

practice before. The Court-Annexed Mediation and Conciliation Centers are now established at several courts in India and the courts have started referring cases to such centers. In the case of *Afcons Infrastructure Ltd vs Cherian Varkey construction Ltd*<sup>252</sup> The Supreme Court prescribed that all cases relating to trade, commerce, contracts, consumer disputes, matrimonial disputes between neighbors and members of societies, motor accident claims and even tortious liability could normally be mediated in the Mediation Centre. Due to the amendment in CPC and Supreme Court judgments the state of Mizoram has established the Mediation Centre in 2009 and the first Mediator Training i.e "40 hours Supreme Court Mediation training" was successfully held during 3rd-7th October, 2022 organized by the Mizoram State Legal Services Authority were 28 participants successfully completed the training programme. The Uniform Training Manual was to be applicable throughout India prepared by the MCPC, which can be used by the Trainers, Mediators, Referral judges, Litigants etc. For this purpose a Sub Committee was constituted under the chairmanship of Hon'ble Mr. Justice Cyriac Joseph, Judge, Supreme Court of India and Former Member, MCPC to prepare "Mediation Training Manual of India". Thus, the mediation process proved to be very important tools for settlement of disputes as it is friendly to the people and at the same time it avoids the technicalities and procedure to enable a peaceful environment.

In general practice of the court, after the pleadings process is complete in a particular case, but before framing issues, it is the duty of the court to fix a preliminary hearing for appearance of parties. The court will acquaint itself with the facts of the case and the nature of the dispute between the parties.<sup>253</sup> After this the court should consider whether the particular case falls under any of the categories of the cases which are required to be tried by courts and not fit to be referred to any ADR processes. If a case falls under the excluded category, the court should record a brief order citing the nature of the case and the reason why it is not fit for reference to ADR processes and continue to proceed with the framing of

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<sup>252</sup> 2010 (8) SCC 24

<sup>253</sup> *Afcons Infrastructure and Ors. Vs. Cherian Verkey Construction and Ors* [2010 (8) SCC 24]



issues and trial. If the court finds the cases fit to be referred to ADR processes the court will explain the five types of ADR processes to the parties to enable them to exercise their option. So, if the parties choose the mediation process, the case will be referred to the mediator to achieve amicable settlement.

The motor accident Claim Tribunal in the state, the High Court and the Supreme Court play an active role for doing social justice to the people through judicial activism. The principles of social justice are achieved by the protection of victim rights to the widest extent. The court makes sure of the inclusion of every section of the society like children, women and elderly people to maintain equality and justice. Though the tribunal serves as a source of social justice in the event of vehicle accidents, it is no doubt true that there is still a scope for improvement. As one of the principles of social justice is inclusion in human rights, if one has to be included in the process, a sensitization of the law and good awareness is a must on the part of the Government. One cannot avail his right unless it is made known to him. Nowadays, many people are aware of their rights, especially the vulnerable groups like women, children, older people, LGBT and transgender in the modern world. Just like those people are aware, the victim of the vehicle should be made aware of their rights as a human being. Unless sensitization and awareness are imparted among the people with regards to their rights in the event of an accident, many families can be deprived of their rights and be the direct victim of negligent drivers. So, legal awareness that reaches the victim as well as the rural areas may be important to create for achieving social justice even at the grass root level about Motor accident claim tribunal. People in general should also be aware of the Motor Vehicle act as vehicles occupy one of the basic important in our daily life, these technologies' invention's sole purpose is to make everyday life better and easier for everyone. Out of all the many innovative inventions, the one that influenced us deep enough to change our way of living has been the automobile. So, while utilizing one should have knowledge of the rules and regulation for the same.

Accessibility of the mechanism is another important factor that determines social justice to the people. In the present situation of the state of

Mizoram, the justice mechanism is far beyond the reach of the rural areas. As mentioned in the previous chapter, the state has only two Motor Accident Claim Tribunal in Aizawl and Lunglei, this makes it difficult for the village people to lodge a claim for compensation due to lack of time and high expenditure. If the proposal of the establishment of MAMA (Motor Accidents Mediation Authority) as per the case of *M.R. Krishna Murthy vs. New India Assurance Co. Ltd* is put into practice, the rural population would have a better access to the justice delivery system. Till today, no such authority has been set up by the government in Mizoram for practical purposes in the state but MAMA is believed to be incorporated soon. Since, noble intentions of the apex court in the said case cannot be doubted; their judgment will open up the pandora box that proposes to make pre-litigation mediation necessary. Apart from the non-implementation of MAMA, the limited number of tribunal in the state is another factor that hampers the judicial system in the state. The lower judiciary is significantly understaffed and there is a lack of training, education & awareness in mediation. If the ADR does a job reliably, efficiently, and cost-effectively, people will always move to the alternatives like the proposed mediation when implemented.

It is believed that Mediation system will soon be introduced in the settlement of Motor Accident Claim cases in Mizoram like the other state of the country as per the Supreme Court guideline in *MR Krishna Murty Vs New India assurance co Ltd (2019)* and *Afcons Infrastructure Ltd vs Cherian Varkey construction Ltd*. Mediation is a different form of ADR in comparison to arbitration, conciliation and Lok Adalat. Unlike litigation and arbitration, which are adversarial in nature, mediation is founded on pillars of cooperation and trust, and is similar to negotiation.<sup>254</sup> It is believed to have an impact in dealing the Motor Accident Claim to reduce the pending litigation in the High Court and the state Tribunal. In mediation, the mediator acts as a facilitator between the parties to arrive at a solution, without dictating the settlement terms. An efficient judicial system is an important pillar of a great nation, so, if the mediation process is successfully implemented in the state of Mizoram, it will be a sure milestone for the

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<sup>254</sup> <https://www.scconline.com/blog/post/2020/06/25/mediation-the-future-of-dispute-resolution/>

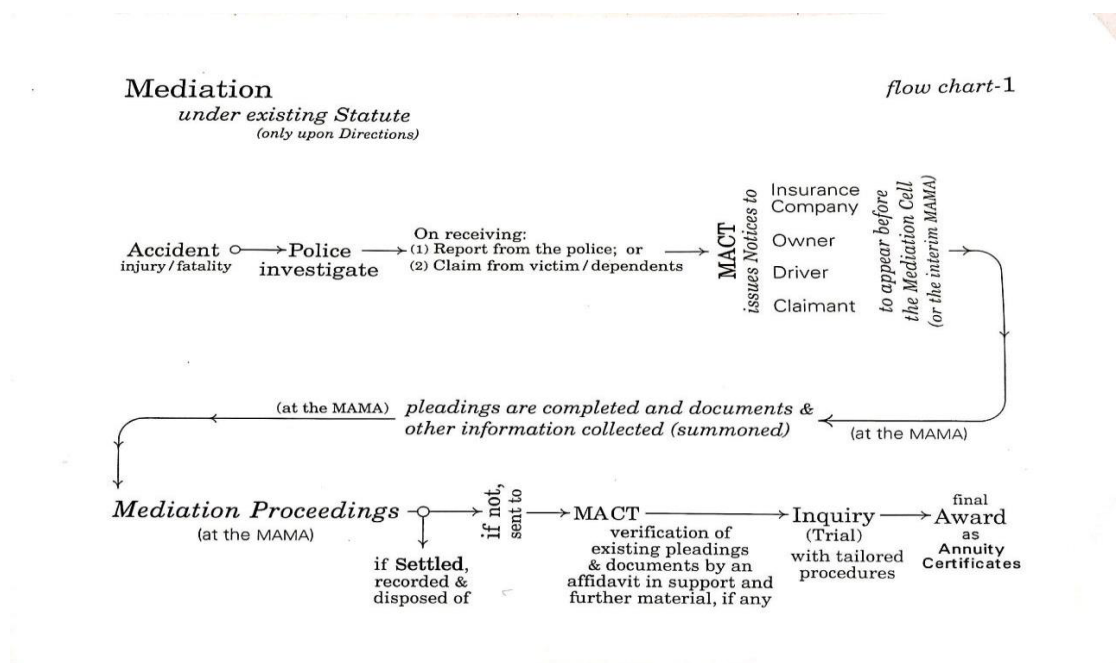
legal fraternity of the State. Mediation had now attained statutory acceptance under various Indian laws and by judicial pronouncements. Section 89 of CPC, Industrial dispute act, 1947, Company act 2013, Insolvency and bankruptcy act 2016, Commercial courts act 2015 are some of the popular statutes that recognized mediation as an important adjudication process . Flow chart: Mediation under Current statute and proposed process as per MR Krishna Murty Vs New India assurance co Ltd

**Flow chart-1**

This flow chart-1 indicates the present/current practice of mediation process.

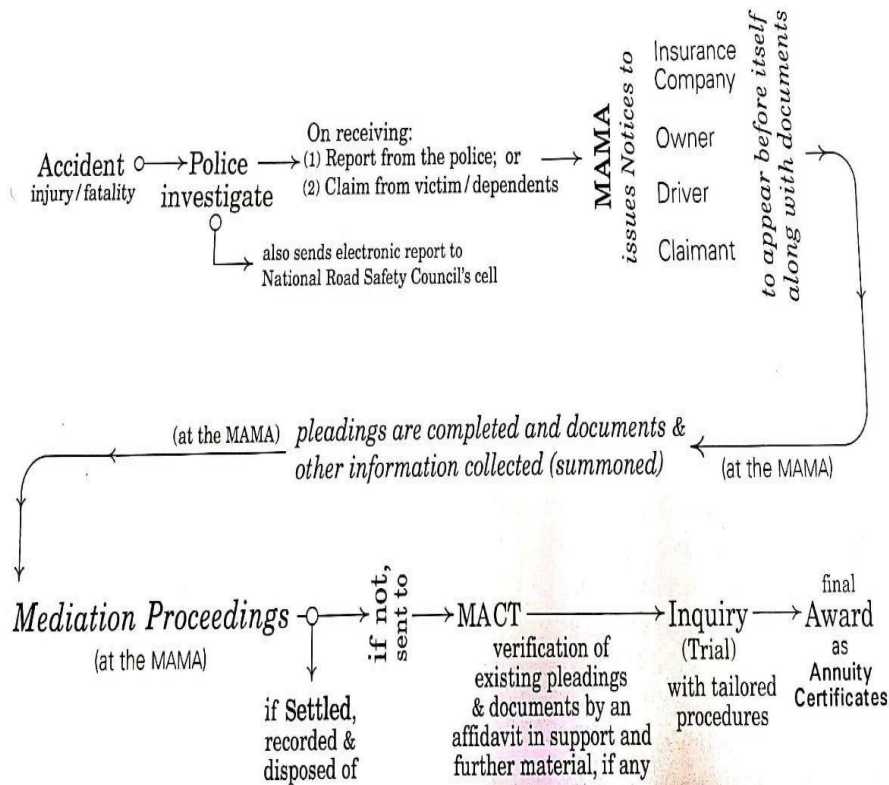
**Flow chart-2**

This flow chart-2 indicates the proposed MAMA as suggested by the Supreme Court in the case of MR Krishna Murty Vs New India assurance co Ltd



**Mediation**  
under proposed Statute

flow chart-2



In order to achieve social justice to a large extent, the law as well as the mechanism has to be very active. The Motor Accident Claim Tribunal in the state of Mizoram fails to incorporate some amendments of Motor Vehicle Act. In the year 1994, by the Motor Vehicle amendment section 158(6) was incorporated which states that a Police Officer of the Police Station shall send Accident Information Report (AIR) to the Claims Tribunal within 30 days of the recording of the FIR and a copy to the concerned Insurance Company. The object of this new Section 158 (6) of the Motor Vehicles Act is that the police is the first agency to take cognizance of

the accident and it has the entire evidence required for initiating the proceedings for compensation. Till today, this section is not followed by the police in Mizoram even though IRAG introduced by the Central Government is comply. This non compliance indirectly causes a delay of speedy justice in the court. So, if the Police Officer are sensitized in this regard, Speedy justice, which is one of the fundamental rights of the citizen incorporated under Article 21 of the Indian constitution can be achieved. It is also important to mention the judgment of Hon'ble Supreme Court in *General Insurance Council vs. State of Andhra Pradesh, IV (2007) ACC 385 (SC)*<sup>255</sup> where notice was issued to the Commissioner of Police to place on record the status on implementation of Section 158(6) of the Motor Vehicles Act along with the data of compliance for the last 22 months from the date of the judgment of the Hon'ble Supreme Court. Directions were also given to the Claims Tribunals to place on record the compliance of Section 166(4) which provides that the Claims Tribunals shall treat the report forwarded to it under Section 158(6) as an application for compensation. But, till today, Section 158(6) of the Motor Vehicle Act is not made mandatory in the state of Mizoram.

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<sup>255</sup> Development Of Law Relating To Motor Accident Claims And Important Judgments/Orders Passed By Delhi High Court, [delhicourts.nic.in/ejournals/Dev\\_Law/Introduction\\_Dev%20of%20Law.pdf](http://delhicourts.nic.in/ejournals/Dev_Law/Introduction_Dev%20of%20Law.pdf) retrieved on 11th June, 2022.

## **CHAPTER- VI**

### **CONCLUSION**

The importance of vehicles cannot be ignored in modern society. It becomes one of the primary basic needs of the people in general. Recognizing its importance, the Motor vehicle Act is passed along with the rules to regulate the uses of vehicles. As much as its importance and utility, it became one of the major causes of fatalities in the country. When there is a loss of life, injury or damage in the event of an accident, the law makes a provision to compensate the victim party through Motor Accident Claim Tribunal, Consumer Forum, Lok Adalat or other adjudication process. Though the law seems to be quite practicable from the layman's view, in reality there are a number of strengths and weaknesses in the adjudication process of law that need to be improved.

This research study particularly focuses on the role of Motor Accident Claim Tribunal in the occurrence of death and injury of parties in vehicles and includes other adjudicating processes like Consumer Forum, Lok Adalat in the judicial district of Aizawl and Lunglei. As mentioned in the previous chapter, the judicial district of Champhai cannot be included in this research as it is a newly formed district therefore, data are not available. This study also stresses on the implementation of the Motor Vehicle Act in Mizoram along with the adoption of its amendment made in this regard.

In this research, the study employed qualitative as well as quantitative methods through descriptive analysis of primary and secondary data collected. The research is an ex-post facto research as it studies the Motor Vehicle Act-1988 and Motor Vehicle Amendment Act-2019 and includes the laws that were passed even during the British era. It mainly focuses on the period between 2005 to 2019 in respect of Motor Accident Claim Tribunal and 2008 to 2020 in respect of Consumer Forum and Lok Adalat. The primary data in this research includes interviews of judges and advocates, questionnaires, Government Act, rules and regulations, judicial documents and records. On the other hand, secondary data includes existing

literature from published and unpublished books, journals, magazines, newspaper and online sources.

### **Key findings**

The innovative technology in vehicle systems has minimized the distances but it has on the other hand increased the life risk in a certain way. It is pertinent to mention that, the number of vehicles registered in Mizoram is rapidly increasing during the year 2005-2006 to 2020-2021. The rapid growth of vehicles in the state is given in table - 7 of Chapter-2. At the same time, the accident rate in Mizoram decreased in terms of the case register in Motor Accident Claim Tribunal, Aizawl and Lunglei Judicial Districts during the year 2005 to 2020 as mentioned in chapter two. Even though cases of accidental claims are decreasing, every year due to road accidents, lakhs of lives are lost and serious injuries happen to crores of people in the country. In the year 2013 and 2014 the highest severity rate of accidents in India was occupied by the state of Mizoram. It can be said that the reduction in accidental claim cases is due to the many efforts and innovation taken by the Ministry of Road Transport and Highways (MoRTH). Apart from the huge innovative roles some of the few innovative steps taken by the India Government are the approval of a National Road Safety Policy. This National Road Safety Policy outlines a number of policy measures such as encouraging safer road infrastructure including application of intelligent transport, enforcement of safety laws trauma care, promoting awareness, etc. The Road Safety Council has also been implemented to make a policy decision in matters relating to Road safety. The Government of India believed that making a mandatory airbag provision in India would save lives of the passengers in the event of accidents. The Government draft notification dated 14th January, 2022 has provided a new regulation stating that from 1st October, 2022 all the passenger vehicles should be equipped with 6 airbags to ensure the safety of vehicles in India. On 1st April, 2019, Government made the driver's side to be equipped with an airbag, that became one of the bold decisions of the Government and followed by mandatory passenger airbag from 1st January, 2022. It is important to note that whenever safety technologies are incorporated in

the vehicle, the price of the vehicle also increases to a huge extent. This may result in the situation that most of the people opted for buying a two wheeler vehicle. If the two wheeler vehicle safety measures are not incorporated, it may lead to higher accident rate due to the utilization of two wheeler vehicles and loss of life due to it. Another innovative decision with regards to the use of two wheeler users' safety is that the drivers of two wheeler vehicles are mandated to wear helmet bearing ISI mark. According to Section 129 of the Motor Vehicle Act-1988, every person driving or riding (otherwise than in a sidecar, on a motorcycle of any class or description) shall, while in a public place, wear protective headgear conforming to the standards of Bureau of Indian Standards. It is the need of the hour to save lives for two wheeler passengers and drivers. Exception is provided where this provision will not apply to a person who is a Sikh, if he is, while driving or riding on the motorcycle, in a public place, wearing a turban. It further stated that the State Government may, by rules, provide such exceptions as it may think fit as given under Motor vehicle Act. As stated earlier, the Minister, Ministry of Road Transport and Highways, Nitin Gadkari had also published a draft proposal in January, 2022 mandating the installation of six airbags in all new passenger vehicles starting October, 2022 for the reduction of life risk from vehicles. Apart from the above measure, another important measure worth mentioning is the ABS or the Anti Lock Braking system in India. From April 1, 2019, the Government makes it mandatory that all four- and two-wheelers manufactured in the country will have to be compulsorily fitted with ABS or an Anti-Lock Braking System. ABS is an advanced braking mechanism that prevents the wheels from locking up that consequently prevents further the vehicle from skidding under hard or panic braking to avoid accidents. Currently, all cars in India are equipped with two airbags, which were mandated by the Government not so long ago. Nowadays, the IOT based vehicle has become very popular in the country due to many efforts of engineers and government to ensure more safety.

One of the main objectives of Motor Accident Claim Tribunal is summary trial to shorten the case file in the tribunal and to enable the victim a quick compensation. Summary suit or summary procedure is given in order Rule1 (1)



XXXVII of the Code of Civil Procedure, 1908. Summary procedure is a legal procedure used for enforcing a right that ensures faster and efficient procedure than the ordinary methods. A summary suit/trial can be instituted in High Courts, Courts of Small Causes and any other court notified by the High Court in the concerned state. As per Rule 1(2), Order XXXVII, Code of Civil Procedure, 1908 summary procedure is applicable to recover a debt or liquidated demand in money arising on a written contract, an enactment or on a guarantee. When it comes to the state of Mizoram, the cases pending in Motor Accident Claim Tribunal in Aizawl and Lunglei Judicial District is quite high as shown in chapter-2. When one of the objectives for the establishment of the Motor Accident Claim Tribunal is speedy justice by summary trial, the average year of trial in MACT in Mizoram is 2 to 3 years. Some of the cases even extend to 8 to 10 years also. This long trial of the case proves that summary trial/suit of the case is not fully in practice in the tribunal of Mizoram.

. Motor Vehicles (Amendment) Act, 2019 Section 198A speaks about failure to comply with standards for road design construction and maintenance.

Section 198A of Motor Vehicle Act runs as follows

*"Failure to comply with standards for road design, construction and maintenance.-- (1) Any designated authority, contractor, consultant or concessionaire responsible for the design or construction or maintenance of the safety standards of the road shall follow such design, construction and maintenance standards, as may be prescribed by the Central Government from time to time. (2) Where failure on the part of the designated authority, contractor, consultant or concessionaire responsible under sub-section (1) to comply with standards for road design, construction and maintenance, results in death or disability, such authority or contractor or concessionaire shall be punishable with a fine which may extend to one lakh rupees and the same shall be paid to the Fund constituted under section 164B. (3) For the purposes of sub-section (2), the court shall in particular have regard to the following matters, namely:-- (a) the characteristics of the road, and the nature and type of traffic which was reasonably expected to use it as per the*

*design of road; (b) the standard of maintenance norms applicable for a road of that character and use by such traffic; (c) the state of repair in which road users would have expected to find the road; (d) whether the designated authority responsible for the maintenance of the road knew, or could reasonably have been expected to know, that the condition of the part of the road to which the action relates was likely to cause danger to the road users; (e) whether the designated authority responsible for the maintenance of the road could not reasonably have been expected to repair that part of the road before the cause of action arose; (f) whether adequate warning notices through road signs, of its condition had been displayed; and (g) such other matters as may be prescribed by the Central Government."*

The data by the Ministry of Road Transport and Highways (MoRTH) reveals that potholes in the country claimed 3, 597 lives in 2017 and the figure is said to be increased by 55% in compare to the year 2016. This death and accident need to be seriously considered as it takes almost 10 lives every day. Number of deaths due to motor accidents in the year 2020 was 1, 31,714. These figures can be understood as an average of 1003 accidents and 360 deaths every day or 42 accidents and 15 deaths every hour in the country .This situation questions the authority, who should be accountable in the improper construction, design and maintenance when it leads to vehicle accident. So, Section 198A is to hold road contractors, consultants or concessionaires accountable for faulty road design, construction and maintenance and failure to do so will lead them to being fined. The Government has made an effort to curb the practice of substandard construction by many contractors to decrease the death rate in vehicle accidents due to potholes out of many reasons. The Motor Vehicle Act- 2019 is citizen centric as it prioritizes the safety of road users as many sections have been incorporated to decrease accidents in India. If the contractors, consultants or concessionaires are held accountable for faulty road design, faulty construction and faulty maintenance, the accidents due to bad roads would surely be reduced to a great extent. The Motor Vehicle Act aims to discourage the practice of negligence by road users to prevent further loss of lives.

As per chapter-2 there is a high rate of appeal against the judgment of Motor Accident Claim Tribunal in Mizoram to the Guwahati High Court, Aizawl

Bench. The data collected from Motor Accident Claim Tribunal Aizawl & Lunglei in chapter- 3 shows that, though the MACT plays an active role in the adjudication of social justice, there is a room for improvement on the part of Judiciary. If there is a smaller number of appeal cases in the High Court, the traumas faced by the victim party would be less while the long litigation can cause double victimization in the party. Though the situation of Mizoram is as stated above, it is pertinent to mention that, as a whole of India the death rate in vehicles is quite high against the rate of appeal cases in the High Court of India.

The detail data from the Supreme Court website is as follows:-

MACT Case Instituted	01.07.2015 to 30.06.2016	01.07.2016 to 30.06.2017	01.07.2017 to 30.06.2018	01.07.2018 to 30.06.2019	01.07.2019 to 30.06.2020	01.07.2020 to 30.06.2021
Allahabad HC	1,750	3,100	3,810	3,979	1749	1009
Andhra Pradesh HC	NA	NA	NA	588	1061	565
Bombay HC	3,075	1,763	1,857	1,701	1086	632
Chhattisgarh HC	1,891	1,899	1,991	2,234	2086	700
Delhi HC	1,101	1,166	1,207	1,240	503	318
Calcutta HC	0	0	0	0	64	333
Guwahati HC Principal Bench	301	545	612	679	571	252
Guwahati HC Kohima Bench	9	14	24	24	14	19
Guwahati HC Aizawl Bench	16	20	37	37	06	09
Guwahati HC Itanagar Bench	1	07	18	30	02	05
Gujarat HC	0	1,745	1,989	2,952	2368	1,538
Himachal Pradesh HC	520	459	448	408	514	224
Jammu & Kashmir, Ladakh	384	469	228	242	05	368
Jharkhand HC	0	0	0	0	531	228
Karnataka HC	12,287	12,947	13,427	13,928	12621	5,274
Kerala HC	3,520	4,319	4,177	5682	2727	4,839
Madhya Pradesh HC	5,710	7,058	6,717	5,997	5590	2,157
Madras HC	1,748	2,806	2,673	2,962	2218	1,988
Manipur HC	4	3	7	4	10	0
Meghalaya	0	1	03	18	08	2
Orissa	1,487	1,371	1,451	1,015	1068	570
Patna HC	0	0	0	0	0	0
Punjab and Haryana HC	7,190	6,653	6,447	6,917	4226	212
Rajasthan HC	3,058	8,062	7,932	7,503	6705	2,909
Sikkim HC	18	16	14	9	10	14
Telangana HC	NA	NA	NA	1,958	1996	827

Tripura HC	90	96	147	103	74	44
Uttarakhand HC	664	527	554	425	379	139
Hyderabad	3,707	2,919	3,125	Dissolved due to creation of AP and Telenghana HC	Dissolved due to creation of AP and Telenghana HC	Dissolved due to creation of AP and Telenghana HC

The jurisdiction of the Motor Accident Claim Tribunal in Aizawl and Lunglei is very wide. The state of Mizoram is divided into 11 administrative districts with full fledged functions. On the other hand, the State of Mizoram comprised only 3 (three) Judicial Districts i.e Aizawl Lunglei and Champhai. Since Champhai is a newly recognized Judicial District, Motor Accident Claim Tribunal is not functioning. This may result in the over burden of the Tribunal that hampers the speedy adjudication process. At the same time, the victim party may also face a number of problems in approaching the tribunal. The victim party from a very remote village might refuse to institute a case and ignore the tribunal instead of traveling a long distance to file a case in Aizawl or Lunglei MACT. Another realistic issue faced by the victim party is that, most of the vehicle insurance companies in Mizoram have an office in Aizawl District only while some companies do not even bother to set up an office in Mizoram. This non availability/ non formal functioning of the insurance office in the state results in delay of the case in the tribunal. In some cases, the insurance companies do not even appoint any lawyer or agent to represent the company in the tribunal, this hampers the progress of cases and results in delay.

Accident Information report (AIR) as per 158(6) Of Motor Vehicle Act-1988 should be complied in the state of Mizoram by the Police Department. The importance of this Accident Information Report (AIR) by the police is that Section 166(4) sanctions the Motor Accident Claims Tribunal to treat the Accident Information Report as an application for compensation. However, the police not only in Mizoram are not following Section 158(6) of the Motor Vehicles Act which was brought to the notice of the Hon'ble Supreme Court in the case of *General Insurance Counsel vs. State of Andhra Pradesh*,

*IV (2007) ACC 385 (SC)*. Vide judgment dated 9th July, 2007 the Hon'ble Supreme Court gave direction to all the State Governments and Union Territories to instruct all concerned police officers to comply with the requirements of Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules. As per the Judgment, It further directs periodical checking to be done by the concerned Inspector General of Police to ensure that the requirements are being complied and followed and even to enquire whether appropriate action has been taken in cases of non-compliance. The directions of the Hon'ble Supreme Court in the said judgment are reproduced as under:-

***"Since there is a mandatory requirement to act in the manner provided in Section 158 (6) there is no justifiable reason as to why the requirement is not being followed. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158 (6) keeping in view the requirement indicated in Rule 159 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials".***

From the aforesaid statement of the Supreme Court, it is clear that there has been a violation of Section 158(6) of Motor Vehicles Act, 1988 despite orders of the Apex Court. Time and again the police need to be sensitized in Mizoram with regards to the Accident Information report (AIR) as they are one of the most important implementing agencies of the section. Section 158(6) of the Motor vehicle Act has the same value as application for compensation' in section 168 as mention in the case of *United India Insurance Co.Ltd vs Shila Datta & Or* (Civil Appeal Nos.6026-6027 OF 2007) on 13 October, 2011 as it was held that, ***"The words `receipt of an application for compensation' in section 168 refer not***

*only to an application filed by the claimants claiming compensation but also to a suo motu registration of an application for compensation under section 166(4) of the Act on the basis of a report of an accident under section 158(6) of the Act." Though the tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation. On receipt of an application (either from the applicant or suo motu registration), the Tribunal gives notice to the insurer under section 149(2) of the Act, gives an opportunity of being heard to the parties to the claim petition as also the insurer, holds an inquiry into the claim and makes an award determining the amount of compensation which appears to it to be just. (Vide Section 168 of the Act).*

Social Justice is maintained by the judiciary while dealing with Motor Accident claim case that can be seen in many judgment like, In *Nagappa vs Gurudayal Singh & Ors* on 3 December, 2002 stated in the judgment as under,

*"Firstly, under the provisions of Motor Vehicles Act, 1988, (hereinafter referred to as "the MV Act") there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only important is that it should be 'Just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the M.V. Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to sub-section (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as respondents to the application for compensation. Other important part of the said Section is*

***sub-section (4) which provides that "the Claims Tribunal shall treat any report of accidents forwarded to it under sub- section (6) of Section 158 as an application for compensation under this Act."***

Hence, the Claims Tribunal in appropriate cases can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed." The importance of Accident information Report can be seen in the case of Ningamma & Anr vs United India Insurance Co.Ltd on 13 May, 2009, Raj Rani & Ors vs Oriental Insurance Co.Ltd.& Ors on 6 May, 2009 etc but never comply by the Police in many states.

In the case of ***Bajaj Allianz General Insurance Vs Union Of India*** (Writ Petition(s)(Civil) No(s). 534/2020 ) on 16 March, 2021 the Supreme Court has issued a direction regarding the process of disbursement of compensation as well as expediting the matter before the MACTs across the country. As per the directions, the jurisdictional police station has to submit an Accident Information Report (AIR) about the accident to the tribunal and insurer within the first 48 hours either over email or an official website. The apex court, in its directions passed on March 16, gave thrust on using information technology tools by all stakeholders such as police, MACTs, insurers and claimants for ensuring speedy disposal of claim cases and the payment of compensation to the victims of road accidents as well as their family. It bestows duty on the jurisdictional police station that it shall report the accident under Section 158(6) of the (Motor Vehicle) Act (Section 159 post 2019 amendment) to the tribunal and insurer within the first 48 hours that can be done using email or a dedicated website. Thus, the Supreme Court directed every Police Station to report the Accident Information Report as soon as possible. After the AIR is sent to MACT by police, they can later file the detailed accident report after collecting the documents relevant to the accident and for computation of compensation and shall verify the information and documents.

The AIR documents shall form part of the Police Report. It shall email the Report to the tribunal and the insurer within three months. Similarly the victim party/claimants may also be permitted to email the application for compensation with important documents, under Section 166 to the tribunal and the insurer within

the permitted period. The MACT shall issue summons along with the police's detailed report or the application for compensation, as the case may be, to the insurer by email. The insurer shall email their offer for settlement/response to the Report or the application for claim to the tribunal along with proof of service on the claimants. After passing the award, the tribunal shall email an authenticated copy of the award to the insurer for further action. The insurer shall satisfy the award by depositing the awarded amount into a bank account maintained by the tribunal using RTGS or NEFT. For this purpose the tribunal shall maintain a bank account and record the relevant account details along with the directions for payment to the insurer in the award itself. Each MACT shall create an email ID peculiar to its jurisdiction for receiving the emails from the police and the insurer as mentioned above and similarly, all insurers throughout India shall also create an email ID for the jurisdiction of each claim tribunal to receive any claims. These email IDs would be prominently displayed at the tribunal, the police stations and the office of the insurers for the benefit of the claimants. Similarly, these email IDs shall also be prominently displayed on the website maintained by the tribunal and the insurer. These online platforms/websites shall suitably be modified for submission of claimants' application for compensation under Section 166 of the Act as well as insurers' response to the accident report or the claim petition as the case may be. The said system has been a practice by the state of Tamil Nadu and Delhi by creating email accounts for submission of accident reports by the police to the tribunal and the insurer, to operating an online platform or website for submission of accident reports under the law.

The present practice in the state of Mizoram is that, one of the most important data FIR is received from the police prepared under the Code of Criminal Procedure (CrPC), that do not contain a detailed account to address the need of determining how and why the accident occurred and sometimes it proves that the accidents are not investigated in a scientific manner. This fails to reveal the cause of the accident, and hence the Accident Information Report is essential to thoroughly understand and interpret the cause and reasons for the accident and to also to ensure that there are no discrepancies in the reporting. The Police personal needs to be



sensitized in matters relating to investigating and documentation of evidence for achieving a better outcome. The role of Police, transport department and the medical expert plays a very important part while claiming compensation in vehicle accidents. So, periodical training in this regard should be encouraged in the state.

As mentioned in Chapter-3, The Solatium Scheme-1987 is never implemented in the state. The non implementation of the scheme violates the right of compensation to the victim party in case of Hit & Run vehicle accident. Article 21 of the Constitution states that “*no person shall be deprived of his life or personal liberty except according to the procedure established by law.*” Thus, ignoring the right to compensation for the victim in the "Hit & Run" case leads to deprivation of life by the state authority. In India even prior to the commencement of the Constitution, the law made it clear that the Government is liable for the tort committed by its officers while acting in discharge of their statutory duties. In the case of *Peninsular and oriental Steam Navigation Co. v. Secretary of State for India* (1868-69)5 Bom. H.C. App. 2), the distinction was made between Sovereign and non-Sovereign functions of the State. Peacock C.J. had observed that “*there is a great and clear distinction between the acts done in the conduct of undertakings which might be carried on by private individuals without having such powers delegated to them.*” In this case the torts were committed by the servants of the Government in the course of trading activity and the case was not directly concerned with acts done in the exercise of Sovereign powers, the relief was granted. Violation of Right to Compensation for the Hit & Run vehicle amounts to failure of sovereign function of the state. So, Article 32 and 226 of the constitution can be invoked by the victim party. Though the people might be ignorant and fail to claim compensation, still it is the duty of the State Government to implement the laws and Act if it is made for the whole of India. Failure in implementing the law victimized the victim twice.

Long duration process in the Motor Accident Claim Tribunal is another problem faced by the litigants. As mentioned in chapter-II table-5 many of the case trials in the court last more than 3 years, some even extend to 10 years. William E Gladstone, the former British Statesman and Prime Minister in the late

1800's, famously said that 'justice delayed is justice denied' which means if justice is not carried out at the right time and even if it is carried out later it is not real justice for the victim, because when there is a lack of improper administration of justice there is already lack of justice. The need of the Motor Accident Claim Tribunal (MACT) is due and sufficient reasonable hearing of every case with consideration of its circumstances is the necessary requirement of natural justice and balance of convenience.

Lok Adalat as mentioned in chapter-4 has emerged as the most effective and efficient tool of Alternative Dispute Resolution. The total number of 1,27,87,329 cases were disposed of in 2021 in India. The general practice is that a Lok Adalat consists of a judicial officer as the chairman and an advocate and a social worker as members. The best part is that, the award of the Lok Adalat is considered as final and binding on the parties and no appeal shall lie to any court against the award of the Lok Adalat. The Lok Adalat has the same powers as a Civil Court under the Code of Civil Procedure (1908). It also has the requisite powers to specify its own procedure for the determination of any dispute coming before it. All proceedings before it are deemed to be judicial proceedings within the meaning of the Indian Penal Code (1860) and every Lok Adalat are deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973) and the award of a Lok Adalat shall be deemed to be a decree of a Civil Court or an order of any other court. Though its advantages and efficacy are recognized in the country, in Mizoram it is hardly utilized for the adjudication of the motor accident claim. Most of the parties in the accident claim approach the tribunal and ignore the potency of this mechanism. Proper awareness among the people should be made in this regard so as to prevent the victim party wasting their time and money.

Just like Lok Adalat, District Consumer Forum/ State Commission are in existence for a considerable period of time in Mizoram and many cases are also dealt with in this forum for achieving justice. In the consumer forum claim cases relating to damages/stolen vehicles against insurance claims are mostly dealt with by this institution. Just like the Lok Adalat, even though the existence of this forum is familiar among the people, the cases relating to insurance claims are very few in

comparison to the other cases. Mostly, in insurance claims, the victim first approaches an advocate who then charges a high fee to stand before the forum. So, awareness needs to be made to impart an in-depth knowledge of the power and jurisdiction of the consumer forum.

The Mediation Centre becomes one of the popular Alternative Dispute Redressal Systems in India. The first mediator training was held in the year 2000 in Ahmedabad which was conducted by the American trainers who were sent by Institute for the Study and Development of Legal Systems (ISDLS) followed by more training workshop conducted by Arbitration Mediation Legal Education and Development which is a public trust settled by two senior lawyers in Ahemdabad. The first mediation centre, Ahemdabad Mediation center was inaugurated in the year 2002 by the then chief justice of India. In Jodhpur, Hyderabad and Mumbai training workshops were organized again by the U.S. educational foundation in the year 2003. Chennai Mediation center was inaugurated in the premises of the Madras High Court and became the first annexed Mediation center in the country in the year 2005. By amendment made in 1996 the Civil Procedure Code, it inserted section 89 in the code. This amendment made the concept of arbitration and mediation become familiar among the court, bar and the people. Keeping in mind the current scenario of the country, it is believed that Mediation will act as a fruitful part of the Indian Judiciary system and tool for dealing the pendency in court. Moreover, in the current scenario the courts are trying to make mediation, a part of its regular procedure and mandatory referral of cases a common practice. For this purpose, the first mediator training was held in Mizoram during 3<sup>rd</sup> to 7<sup>th</sup> October, 2022. If this training encourages the practice of mediation applicable in the state, Motor Accident Claim cases will be dealt with by the mediation process to give speedy justice to the victim party. As the adversarial systems are very expensive and time-consuming, it is important to focus on the mediation system for the best benefit of the people. In mediation win-win situations is one of the objectives of the system so this process also plays a vital role in reducing judicial stress and human wealth. The new virtual mediations also helped in cost-cutting at various stages and hence it is important to

note that these systems, if practiced in the state of Mizoram would help the economically weaker section of the people to a great extent.

The insertion of Section 194B in the 2019 amendment is one of the notable points in the Motor Vehicle Act that made it mandatory for every child to be secured by a safety belt or a child-restraint system. This section is not strictly followed in the state of Mizoram, the section also provides for adult accountability for not seating children in a safe manner, with a penalty of Rs. 1000. Amendment to Section 129 (Wearing of protective headgear) proposes that every child above the age of four years being carried on a motorcycle must wear a helmet. The design and specifications of the same may be prescribed by the Central Government. Moreover, with the insertion of clause (aa) in section 137 (2), the Central Government from time-to-time can provide for standards of protective gear, and measures for safety of children below the age of four years of age riding under section 129. If this provision is taken seriously by the government of Mizoram, it will reduce the life risk level of children while in two wheeler vehicles.

### **Justification of Research Questions**

The first chapter proposed five research questions for this thesis. The term research question can be defined as a question that a research or study project aims to answer. This research question often addresses a problem or issues thereby through analysis and interpretation of the data collected it answers and draws the study's conclusion. The main object of the research question is to outline the various areas and aspects of the study by including the population and variables to be studied and address the study problem. Creswell has defined the importance of research question as, "The primary importance of framing the research question is that it narrows down a broad topic of interest into a specific area of study". Research questions also specifically reveal the limitation and area of the study, setting its boundaries, and ensuring cohesion

The first research question in this research relates to the institution of MACT in India and the impact on the state of Mizoram by the institution. To justify this question, the second chapter of the research made an analytical study of the

different acts and rules passed in India including British India. The system of Motor Accident Claim Tribunal (MACT) was first incorporated in the Motor Vehicle Act-1988. Before the Motor Vehicle Act 1988, the suit for claiming compensation had to be filed in civil court with an ad- valorem court fee. With the development of the technology, India recognized the rapid growth of vehicles. The rapid growth of vehicles increases the accident rate at the same time that results in the increase in compensation claims in the civil court. The civil courts had faced a backlog of cases to adjudicate upon, due to the over burden of the court, the person expecting relief are unable to receive the compensation on time and due to the long process, high court fee, people tend to run away from litigation process and the victims are also discouraged to file for compensation. Keeping in mind the hardship faced by the victim party, the Government passed the Motor Vehicle Act-1988 to remedy the parties using a summary procedure where a separate court for motor accident claims was instituted to enable them to file a case without paying any ad- valorem court fee. After the implementation of the Motor Vehicle Act-1988 the state of Mizoram is also under a duty bound to follow the Act. On 5th January, 1996 Mizoram also established for the first time the Motor Accident Claim Tribunal for the whole of the state. On 3rd January, 2000 a separate Motor Accident Claim Tribunals for Lunglei Judicial District was instituted. As a result of the creation of the Motor Accident Claim Tribunal in Aizawl and Lunglei, all the cases relating to motor accident claims were taken up by the tribunal, before this as mentioned earlier, cases were dealt in the civil court like the other cases. The creation of the Motor Accident Claim Tribunal has a great impact on the victim party as it is an efficient mechanism to decide the case in a speedier and cheaper manner. Another advantage of the Motor Accident Claim Tribunal is that, the procedure notice that cases dealing with motor accident are different from other civil cases filed in the ordinary court and believed that the accident case deserved a separate system to adjudicate the same and a summary trial should be applied as far as possible. The detailed establishment of MACT in Lunglei and Aizawl District was collected from the concerned authority through submission of an application.

The second question proposed in the research is, what is the role played by MACT in delivering social justice to the claimant. To justify this question, chapter-5 of the research exclusively analyzed the role of Supreme Court and High Court judgments relating to motor accident claim cases. It is quite clear that the judiciary has played an important role in promoting social justice for the people. Some of the important cases can be mentioned as under:

In the case of *K.Suresh Vs New India Assurance Company Limited and Another*, [(2012) 12 SCC 274] the Supreme Court held "*that an adjudicating authority, in determining the quantum of compensation, the tribunal or the court has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. That neither the Tribunal nor a court can take a flight in fancy and award an exorbitant sum. In conceptual eventuality "just compensation" plays a dominant role*". From these judgments it is clear that recognized "Just compensation" is entitled to the victim though life cannot be measured in term of money.

In *Jai Bhagwan Vs Laxman Singh and Others* [(1994) 5 SCC 5] the Supreme Court reiterated that *non-pecuniary losses are different from pecuniary losses in that the restitutio in integrum objective cannot be applied liberally to them – damages cannot restore a lost limb or happiness. That the practice of the courts is not to subdivide non-pecuniary damages under specific heads, nevertheless proper consideration cannot be given to the plaintiff's claim without taking into account the various types of loss he has suffered*". There are a number of cases mentioned in chapter-5 that deal with just compensation for the victim party. This clearly indicates that justice at the level of every victim is one of the objectives of the judiciary while dealing with motor accident claim cases.

In *Magma General Insurance Co Ltd Vs Nanu Ram Alias Churhu Ram and others*, the Supreme Court held that "*An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased.*

*The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit*". The bench further held that the compensation amount to be awarded as consortium should be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down by the constitution bench in Pranay Sethi case. This case shows that the judiciary values the family relationship in the event of a vehicle accident claim.

In the case of *Vimla Devi Vs National Insurance Co Ltd and others*, reiterated Motor Vehicles Act is a beneficial legislation, and procedural lapses in conduct of case should not result in denial of compensation. The court observed that *"The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident"*.

In *Ramla v National Insurance Co Ltd and others*, the Supreme Court held that the court or tribunals are not restricted to award compensation beyond the amount claimed by the claimants, it held that the function of the tribunal or court under Motor Vehicle Act section 168 the objective of the award it to give a "Just Compensation". So, if the court or tribunals find it necessary to give beyond the amount claimed, they have the power to do so. To make the Motor vehicle Act more efficient the Supreme Court on July 20<sup>th</sup>, 2018 in the case of *S. Rajasekaran Vs Union of India and others* ordered that third party insurance coverage of three years for cars and five years for two wheelers should be mandatory for all vehicles sold from September 1, 2018. On 29th August, 2019 the Ministry of Road Transport and Highways issued direction to Insurance Regulatory and Development Authority of India (IRDA) for necessary actions.

Another important judgment of the Supreme Court of India is in the case of *The New India Assurance Company vs. Somwati (2020)* relating to the issue of whether only the wife of the deceased in a motor vehicle accident is qualified to a consortium or whether the same can be awarded to the parents and

children of the deceased too. The concept dealt in this case was that of parental, filial and spousal consortium. The Court in this case upheld the need for all the aforesaid forms of compensation as they all fall within the ambit of relief provided to aggrieved individuals through the beneficial Motor Vehicles Act, 1988. Compensation on the grounds of '*loss of love and affection*' however was not permitted by the Court as there was no justification for providing the same under a separate head when it was deemed to be covered under the loss of consortium.

Another important judgment in regards to social justice can be seen in *Oriental Insurance Co. Ltd. vs. Man Singh, MAC.APP.No.130/2009*, where the Delhi High Court directed LIC, RBI, SBI and PNB to formulate a special scheme for that can be enjoyed by the victims of road accident in which higher rate of interest is provided and the amount is kept in such a manner that the monthly payment to the victims of the road accident increases 10% every year to meet the inflation.

From the above mentioned cases and cases mentioned in Chapter - 5, it is clear that the judiciary tries its best to do social justice for the victim party in term of welfare and legal justice. They gave importance to human dignity and equal opportunities to all the section and gender of the society while dealing a case before them.

The third question deals with the reason for improper establishment of an Insurance Company in Mizoram. As mentioned in chapter-2, many cases registered in Motor Accident Claim tribunal against the insurance company and some of the popular companies are also given under table 3 of chapter-2. In the state of Mizoram, while buying a new vehicle the dealers are mostly tied up with some few companies. So, when innocent people buy a new car or two wheeler, the customers have a very limited choice of insurance which is against the Competition Act 2002. In many cases, they are not informed that the insurance company does not have a proper office address in the state of Mizoram. The answer for the said question is that, even if the insurance company does not have a proper official address in the state, they still have high sales through the dealer as the dealers are



selling the policy for them. But this has a very bad impact on the victim party when the incident of vehicle accident happens. The illiterate and innocent victims face a problem when filing compensation claim cases as they often face difficulties in communicating with the insurance company. In addition to the above reason, the improper functioning of the insurance office results in delay of claim cases automatically as there is no person to represent the case on behalf of the company. It is also important to mention that, some companies do not even appoint a legal counsel in the state of Mizoram. The improper function harder hit the victims who are residing in rural areas as most of them are not familiar with the process of reporting the accident to the company in the event of an accident. So it often results in non- filing a case as there are a series of formalities that need to be followed in claiming compensation. So, if it is not possible to approach the company when the customer needs them, hardship begins even before reaching the tribunal.

The fourth research question relates to the main issues that determine the preference of Motor Insurance policy by the vehicle owner and the causes of delay in the Tribunal. To justify the question, firstly in the state of Mizoram as mentioned above, the insurance company mostly ties with the vehicle dealer. If the person wants to buy a particular vehicle from a particular company, the option for choosing an insurance company for buying a policy is very limited. The buyer is bound to buy the policy offered by the dealer. Some few people may inquire/ask for other insurance companies while buying the policy for their vehicle, but in most instances, people often buy from the tie up insurance company. Further, it is clear that the system is against the law of competition. From the analysis of questionnaires, when the dealer of a vehicle company sells their product to an innocent buyer, they hardly spare a proper time in explaining their policy to them and the buyer often lack the policy knowledge.

As mentioned in chapter-2 the case of MACT in Mizoram is mostly delayed as shown in table-2, table-4 and table-5. As mentioned in the chapter some of the cases extend beyond 10 years or more. This is against the objective of the Motor Accident Claim Tribunal who is supposed to adjudicate the case on summary trial. After analysis of the questionnaire one of the causes of delay is the improper

functioning of the insurance office that results in difficulties of serving a notice who are often absent from the state of Mizoram. As per the data collected from questionnaire No.5 the existence of only full fledged MACT in Aizawl Judicial District is not sufficient. The status and condition of the Judicial District of Lunglei needs to be upgraded considering the present scenario. If the Motor Accident Claim Tribunal in Champhai Judicial District is in function the case disposal rate might be higher as it will reduce the pending case in the Aizawl District MACT.

If the jurisdictional police station report the accident under Section 158(6) of the (Motor Vehicle) Act (Section 159 post 2019 amendment) to the tribunal and insurer within first 48 hours over email or by official website, the court will be able to treat the Accident Information Report as a complaint under MACT same as the other case. But, the process is not followed in the state of Mizoram that results in delay of filing a case. As per Section 158(6) the police can later file the accident detail with the relevant document after sending the Accident Information Report. The MACT can issue summons along with the police's detailed report or the application for compensation to the insurer by email so the insurer can email their reply for offer of settlement/response to the Report or the application for claim to the tribunal along with proof of service on the claimants.

In the case of Mizoram, it is really necessary to compel the insurance company to comply with the Procedural Manual of Nationalized Insurance Companies for Motor accident claims. As per the manual, the insurance companies are to appoint investigators as soon as they receive intimation of claims. Due to the non-availability of investigation in the state the case is often delayed and the claimant often faces hardship while the case is already submitted in the tribunal. So, if the manual is followed promptly by the insurance company, many of the hardships will be removed for the claimant's party. If the Insurance Companies can be directed and mandatorily appoint an officer in each accident case to be responsible for processing and settlement of each case according to their Procedural Manual the case pending due to the fault of the insurance company would be less in the court/tribunal.

In the modern society, the courts need to give trust on using information technology tools including all the stakeholders such as police, insurers and claimants for ensuring speedy disposal of claim cases in Mizoram as only two tribunals exist in the state. If the information technologies are employed in the process it would be less time consuming for the party.

The fifth research question relates to the actual condition of the "Hit and Run" case in Mizoram. As per chapter-3 (3.3.4) the Solatium Scheme for Hit and Run cases was never implemented in the state of Mizoram. The research question can be answered from analysis of the questionnaire No.12 and 13. As per the answer all the given options i.e (Transport Department is not aware of it, Deputy Commissioner's Office are not aware of it, Lawyer's are not aware of it and victim party are innocent) are equally responsible for the non implementation of the Solatium Scheme in Mizoram. It is also believed that justice is being denied to the victim of Hit & Run in the state of Mizoram.

The sixth research question relates to the roles of Alternate Dispute Redressal Agencies (ADRS) like Lok Adalat, State and District Forum in the adjudication of claim settlement process in Mizoram in the case of damage/ loss of vehicle. This issue is addressed in chapter- 4 of the research. From the data collected by the researcher, it is clear that the Alternate Dispute Redressal Agencies (ADRS) like Lok Adalat, State and District Forum plays an active role in dealing with the cases placed before them. But, the general public are ignorant about the availability of claim settlement relating to motor accidents in the above mentioned institution. The Alternate Dispute Redressal Agencies (ADRS) system is quite popular in Mizo society as the process is familiar in the Mizo traditional adjudicating system. In the event of a vehicle accident, the party firstly approaches the lawyers who file the case for them as they are ignorant about the other adjudication process. The possibility of filing an accident claim case in the Alternate Dispute Redressal Agencies (ADRS) especially the Lok Adalat is beyond the knowledge of many people. There is a need to organize a systematic and understandable legal awareness for the general public. The law and statute relating to ADR need to be aware among

the general public to make use of the system to the fullest possible manner. The Supreme Court in *Afcons Infrastructure and Ors. Vs Cherian Verkay Construction and Ors* (2010 (8) SCC 24) mention the types of cases that can be dealt in the ADR system, it also includes all cases relating to tortious liability, including motor accident claims. The above cases need to be taken into consideration in the Mizoram legal system and to be included while giving awareness topic.

From the analysis of questionnaire No.16, 17 and 20 it is believed that the ADR system play an active role in adjudicating issues of the parties. So, for furtherance of its utility it is necessary to inform the people about the jurisdiction of each ADR. Unless people understand the system, there cannot be the utilization of the process to the fullest manner.

### **Markers for Future Research**

Polity-Legal related research is very few in the state of Mizoram in comparison to other subjects. There is a need to have good research in every field of law whether it is civil, criminal or commercial cases. The first and foremost things that need to be dealt is whether Section 196 of the Motor Vehicles Act 1988 is properly implemented in the state of Mizoram that provides for the driver and owner of the uninsured vehicles to be punished with imprisonment up to three months or fine of money that can extend upto Rs.5,000/- or both . During the present research the Mizoram Police has not been prosecuting the owners and drivers of uninsured vehicles under Section 196 of the Motor Vehicles Act. If the concerned High Court can issue Show Cause Notice to the Commissioner of Police though judgment for implementing Section 196 of the Motor Vehicles Act, there will be less uninsured vehicles plying on the road in the state thus that will increase the safety of many ignorant passengers.

If a comparative study between victims of railways, airway and motor vehicle on road can be made, the lacuna of the legal system will be understood. There is a huge range of difference with regard to the amount of compensation in road, rail and airway, this needs to be taken into consideration in modern society. Compensation should not be based on the vehicle they are utilizing in the event of

an accident. Life of the man should be treated equally when it comes to compensation, though life cannot be measured in terms of money or other valuable things.

This research mostly focuses on the victim advantages and the role of Motor Accident Claim tribunal. For future research, it is necessary to take into account the side of the insurance company by recognizing their rights to have a proper contest in order to lessen fake claim cases against them.

In order to have summary trial, Section 165 of the Indian Evidence Act seems to be a very important section that empowers the Judge to ask any question at any time, in any form, of any parties or witness parties about any fact, relevant or irrelevant and may order production of any document or thing. The Delhi High Court in the case of Somari Devi Vs. Ragwar Singh, FAO No.884/2003 vide order dated 22nd May, 2009 put down the scope of the India Evidence Act, section 165. This judgment shall be helpful in the speedy disposal of the cases. In, future, if the research can study how the above section is applied in MACT for speedy trial, it would give a good impact on the judge who fails to imply those sections while dealing with the case.

There is a need to have a comparative study between India and other countries with regards to payment of compensation and the scheme apply for the payment in victims of road accidents. In **Jai Prakash Vs National Insurance Company**, the Hon'ble Supreme Court mentions that *"it is necessary to formulate a more comprehensive scheme for payment of compensation to victims of road accidents, in place of the present system of third party insurance. For example, in South Africa and some other African countries, Road Accident Funds have been created, managed by Road Accident Fund Commissions, thereby eliminating the need for third party insurance. A fuel levy/surcharge is collected on the sale of petrol and diesel and credited to such fund. All accident victims, without exception, are paid compensation from out of the said fund by the Commission. But the feedback from operational statistics relating to such funds is that the scheme, while successful in smaller countries, may encounter difficulties and financial deficits in*

*larger countries like South Africa or developing countries with infrastructural deficiencies".* So, from the above judgment of the Supreme Court, it is clear that systematic and comparative study of the same is needed to formulate a go law for compensation. In **Master Sewa Ram v. Vijay**, the Delhi High Court has also mentioned the Canadian system on how the fund for payment of compensation to the victims of road accidents is collected.

Since the implementation of the Motor Vehicle Act-2020 have brought change in a number of ways in comparison to the Motor Vehicle Act-1988. The comparative study of the same would give the pros and cons of the law to encourage the legislature to make an amendment of the same.

### **Conclusion**

The noteworthy point and problem faced during the research is the non availability of resources in the state. Though a number of books and articles are available, there are no books or articles for references relating to the state of Mizoram. Most of the data are collected by submitting RTI to the concerned department as formal applications are delayed by the dealing authority. An RTI was submitted to the Deputy Commissioners Office, Aizawl with regards to the implementation of the Solatium Scheme for Hit & Run victims, The District Consumer Forum of Aizawl and Lunglei and State Commission for the purpose of obtaining data relating to vehicle insurance claim cases. An RTI was also submitted to Mizoram State Legal Services Authority, District Legal Services Authority, Lunglei and Aizawl for acquiring information relating to vehicle accident claim cases in Lok Adalat of the same. A formal application was submitted to MACT Aizawl Judicial District and Lunglei Judicial District for collection of primary data and the same was granted by the Presiding Officer. All the important data collected are inserted in the chapter of research. Apart from application and RTI, Questionnaire was prepared and answered by advocates, research scholars and law faculty.

From the research, it is clears that vehicle occupies one of the most important technological inventions for human survival. It guarantees an easier

lifestyle for everyone. Though their importance are seen and cannot be refused by anyone, the rules to regulate it are essential at the same time. So, the different Act and Rules witnessed by India even during the British periods that were adopted from the British system are discussed and analyzed in the research. As mentioned earlier, the Motor Vehicle Act is one of the most important and efficient legislation in Indian witness by many people. The incorporation of the system of Motor Accident Claim Tribunal (MACT) is one of the fruitful parts that change the status of accident victim in many forms. It guarantees compensation to the victim party if there is no fault on their parts. The MACT in Mizoram also plays an active role in promoting justice to the people through awarding compensation to the victim party. In the state of Mizoram, the problem is that, there is a limited functional tribunal. It is not accessible for the remote and rural areas whereas the person residing in the Aizawl and Lunglei along with the adjacent areas do not face much problem while filing suits. Due to the long litigation and limited number of tribunal, victim parties may opted not to file a case in the tribunal. Not only the limited number tribunal, there is a need to have a formal Insurance office or branch office available in every district in order to reduce the problem of ignorant policyholder in the event of accident as well as in renewal of policy. The existence of the different insurance office will enable the buyer for a compatible prize.

As mentioned in the chapter, the Motor Accident Claim Tribunal of Mizoram had witnessed a delay of cases to a great extent during the year 2005 to 2020. If the suggestion of the Supreme Court in the case of MR Krishna Murty Vs New India assurance co Ltd (2019) relating to the establishment of MAMA is implemented in the state, the delay of the case in the tribunal is believed to be lessened. Since the case relating to motor accident claim is considered as the cases that can be referred to the ADR system as per the judgment of Afcons Infrastructure Ltd vs Cherian Varkey construction Ltd. by the Honorable Supreme Court, referring of the same under the Mediation Centre would guarantee the reduction of delay in the case. So, the actual functioning of the mediation center in the state of Mizoram can be one solution in reducing delay in motor accident claim cases and other matters.

The level of legal awareness is very low in Mizoram. A number of important scheme and laws are not implemented by the state government in relation to the Motor Vehicle act and other important precedents. The non-fulfillment of section 156(6) relating to the Accident Information Report, the non-implementation of the Solatium Scheme for the victim of Hit and Run, the failure to comply with the direction for the establishment of MAMA in the state as suggested by Supreme Court through MR Krishna Murty Vs New India assurance co Ltd and the non-implementation of section-89 of Civil Procedure Code relating to mandatory reference to ADR by the court shows that awareness is the need of hour. Though this research focuses only on the implementation of law under the Motor Vehicle Act it notices a number of flaws and loopholes on the part of the government. If socio-legal research is done in another field, it can be predicted that a number of important Acts, Rules, Regulation and precedent may be left behind by the government. So, systematic legal awareness is important for every department to achieve the goal of the legislature. Active judiciary and active implementation of law is the important key of social justice and social security in every country.



## Appendix-1

### Photocopy of Application letter to Presiding Officer, Motor Accident Claim Tribunal, Aizawl for collection of data

To

The Presiding Officer  
Motor Accident Claim Tribunal  
Aizawl Judicial District, Mizoram

*Received.*  
*R. H. Ralte*  
Presiding Officer  
Motor Accident Claims Tribunal  
Govt. of Mizoram  
Aizawl.

Subj: Application for the collection of Data

Respected Sir,

I am Hmingthanpuii Ralte, working as an Asst. Professor under Govt. Mizoram Law College, Higher and Technical Department. I am doing a research with the Topic "**Vehicle insurance policies and claim settlement in Mizoram: a socio - legal study**" for perusing Ph.d for the purpose of claiming Career Advancement Scheme (CAS) under UGC Regulation, 2018. The period of my research will cover from 2005 to 2020. I request you to kindly allow me to collect data from the office record. I ensure there will be no misused of the data and privacy regulation will be adhere to.

I shall be highly grateful for your support and cooperation.

Best Regards

*R. H. Ralte*

(HMINGTHANPUII RALTE)

Asst. Professor, GMLC

## Appendix-2

### Photo Copy of Application letter to Presiding Officer, Motor Accident Claim Tribunal, Lunglei for collection of data

To

The Presiding Officer  
Motor Accident Claim Tribunal  
Lunglei District, Mizoram

Subj: Application for the collection of Data

Respected Sir,

I am Hmingthanpuii Ralte, working as an Asst. Professor under Govt. Mizoram Law College, Higher and Technical Department. I am doing a research with the Topic "**Vehicle insurance policies and claim settlement in Mizoram: a socio - legal study**" for perusing Ph.d for the purpose of claiming Career Advancement Scheme (CAS) under UGC Regulation, 2018. The period of my research will cover from 2005 to 2020. I request you to kindly allow me to collect data from the office record. I ensure there will be no misused of the data and privacy regulation will be adhere to.

I shall be highly grateful for your support and cooperation.

Best Regards



(HMINGTHANPUII RALTE)

Asst. Professor, GMLC

Member  
Motor Accident Claims  
Tribunal, Lunglei District: Lunglei



### Appendix-3

### Application to SPIO, State Crime Record Bureau (SCRB) for information under Section 6 (1) of the Right to Information Act-2006 and reply.

FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To,  
The SPIO  
State Crime Record Bureau,  
Police Department  
Aizawl District,  
Aizawl, Mizoram.

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is the Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Matters relating to case record of Motor Accident in the state of Mizoram
6.	Particulars of information solicited.	<b>1. Number of case registered relating to Hit and Run in state of Mizoram from the year 2008 to 2018( if possible district wise)</b> <b>2. Number of case in Hit and Run when the vehicle cannot be trace by the police from the year 2008 to 2020</b>
7.	Address to which information will be sent & in which form	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.
9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If	Yes.

*K. Lalrinzauva*  
K. Lalrinzauva  
Inspector of Police  
5/1/22

	yes details of such deposit)	
12.	Whether belongs to BPL category, have you furnished the proof of the same.	No.

Place: Aizawl  
Date :

*H. Ralte*  
(HMINGTHANPUII RALTE)  
Applicant

**Accidents Classified According to Type of Collision (Hit and Run)**

Year	Number of Accidents					Number of persons		
	Fatal	Grevious Injury (need hospitalisation)	Minor Injury (not needing hospitalisation)	Non Injury	Total	Killed	Grevious Injury (need hospitalisation)	Minor Injury (not needing hospitalisation)
2020	6	4		1	11	9	6	8
2019	14	1	1	2	18	14	2	
2018	9	2			11	9	9	
2017	9	2			11	9	8	9
2016	5	1			6	5	6	
2015	8	5			13	8	24	
2014	22	15			37	22	18	

## Appendix-4

### Application to SPIO, State Commission, Mizoram for information under Section 6 (1) of the Right to Information Act- 2006 and reply

FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
Application for Information under Section 6 (1) of the Act.

To

SPIO  
State Commission, Mizoram

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawIM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is an Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Matters relating to case record of Motor Accident in the state of Mizoram
6.	Particulars of information solicited.	<b>1. Number of case registered relating to Motor accident related and Motor accident Insurance Claim in the State Commission, Mizoram from the year 2008 to 2020</b> <b>2. Number of case register by the State Commission from 2008 to 2020</b> <b>3. Number of case appeal to High Court</b> <b>4. Number of case referred to another court/Tribunal/alternate dispute redressal Forum and Lok Adalat</b>
7.	Address to which information will be sent & in which form	H/No. ZB 89, Zotlang, AizawIM Mizoram Pin: 796009

Received

*[Signature]*  
27/11/2022



	sent & in which form	Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.
9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If yes details of such deposit)	Yes.
12.	Whether belongs to BPL category, have you furnished the proof of the same.	No.

Place: Aizawl  
Date : 21/1/2022

*H. P. Ralte*  
(HMINGTHANPUII RALTE)  
Applicant

OFFICE OF THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION  
AIZAWL : MIZORAM

No.H.13011/2/2018-SC/RTI/8 : Dated Aizawl, the 4<sup>th</sup> February 2022

To

Hmingthanpuii Ralte  
D/o Vanlalduha Ralte  
H.No.ZB 89, Zotlang  
Aizawl, Mizoram.

Subj: Application for Information under Section 6 (1) of RTI Act  
sought by Hmingthanpuii Ralte, Asst. Professor,  
Government Mizoram Law College, Aizawl.

Madam,

With reference to the subject cited above, the information sought under  
State Consumer Disputes Redressal Commission, Aizawl is hereby furnished as below.

1.	Number of case registered relating to Motor accident related and Motor accident Insurance Claim in the State Commission, Mizoram from the year 2008-2020	4
2.	Number of case register by the State Commission from 2008 to 2020	89
3.	Number of case appeal to High Court	Nil
4.	Number of case referred to another Court/Tribunal/alternate Dispute Redressal Forum and Lok Adalat	1

Yours faithfully



( V.LALDINSANGA )

Registrar

State Consumer Disputes Redressal Commission  
Mizoram : Aizawl

**Appendix-5**

**Application to SPIO, District Forum, Aizawl District, Mizoram  
for information under Section 6 (1) of the Right to Information  
Act- 2006 and reply**

FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To SPIO  
Dist. Consumer Forum, Aizawl District

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is an Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Matters relating to case record of Motor Accident in the state of Mizoram
6.	Particulars of information solicited.	<ol style="list-style-type: none"> <li>1. Number of case registered relating to Motor accident related and Motor Insurance Claim in Aizawl District Consumer Forum, Mizoram from the year 2008 to 2020</li> <li>2. Number of case register by the Consumer forum, Aizawl District from 2008 to 2018</li> <li>3. Number of case appeal to State Commission ( Year wise)</li> <li>4. Number of case referred to another court/Tribunal/alternate dispute redressal Forum and Lok Adalat</li> </ol>
7.	Address to which information will be	H/No. ZB 89, Zotlang, AizawlM Mizoram

*Received*  
*Amthunf* 21/1/20  
Member  
District Consumer Disputes  
Redressal Commission



	sent & in which form	Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.
9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If yes details of such deposit)	Yes.
12.	Whether belongs to BPL category, have you furnished the proof of the same.	No.

Place: Aizawl  
Date: 21/1/2022

*H. Pui*  
(HMINGTHANPUII RALTE)  
Applicant

GOVERNMENT OF MIZORAM  
DIRECTORATE OF FOOD, CIVIL SUPPLIES & CONSUMER AFFAIRS  
TREASURY SQUARE, MIZORAM : AIZAWL-796001

No.C.31018/3/2020-DTE(SPY)RTI : Aizawl, the 9<sup>th</sup> of February, 2022.

To,

Hmingthanpuii Ralte,  
Zotlang, Aizawl,  
H/No. ZB 89,  
Pin - 796009,  
Ph- 8731965484.



Subj : *Material for RTI Act 2005, collection of information regarding.*

Madam,

I am enclosing herewith Material for RTI Act 2005, sought by you for favour of your information.

  
( LALLUNGAWII )  
Dy. Director (Admn.),  
Food, Civil Supplies & Consumer Affairs,  
Mizoram, Aizawl.

Memo No.C.31018/3/2020-DTE(SPY)RTI : Aizawl, the 9<sup>th</sup> of February, 2022..

Copy to

President, District Consumer Disputes Redressal Commission, Aizawl.

  
Dy. Director (Admn.),  
Food, Civil Supplies & Consumer Affairs,  
Mizoram, Aizawl.

1

OFFICE OF THE CONSUMER DISPUTES REDRESSAL COMMISSION  
AIZAWL DISTRICT : AIZAWL.

NO. C.11021/1/2021 -DF : Dated Aizawl, the 28<sup>th</sup> January, 2022

To,

The S.P.I.O,  
Food Civil Supplies and Consumer Affairs,  
Govt. of Mizoram.

Subj: Forwarding of an application for information u/s 6(1) of the RTI Act,  
2005.

Madam,

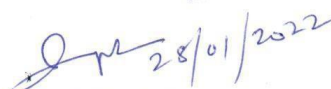
With reference to the subject cited above, I have the honor to forward herewith an application received from Hmingthanpuii Ralte Assistant Professor, Govt. Mizoram Law College.

All the information required has been already prepared and the same is also enclosed herewith.

Since, District Consumer Disputes Redressal Commission. Aizawl District does not have SPIO. So, this letter is forward to SPIO, Food Civil Supplies and Consumer Affairs.

Enclo : As above.

Yours Faithfully,



(LALRINPUIA)

Member

For President,

District Consumer Disputes Redressal Commission,  
Aizawl District, Aizawl.

1. Number of Case registered relating to Motor accident related and Motor Insurance Claim in Aizawl District Consumer Commission, Mizoram from the year 2008 to 2020.

**2008**

Sl.No	Case No.	Name of Complainant	Name of Opposite party/parties
1.	CC.No 25 of 2008	Lalnunpuia, Thenzawl.	Bajaj Allianz General Insurance Company Ltd, Guwahati.
2.	CC.No 49 of 2008	Lalmalsawma, Champhai.	1.M/S Pacchunga & Sons, Chanmari, Aizawl. 2.BC Injection, Chaltlang.

**2009**

1.	CC. No 6 of 2009	Saimawii, Sihphir.	The Manager, Bajaj Allianz Company.
2.	CC. No 815 of 2009	Lalthapuaia, Thenzawl.	1.Thansanga & Sons, Bara Bazar, Aizawl. 2.National Insurance Company, Bara Bazar, Aizawl.

**2011**

1.	CC.No 22 of 2011	Zothankhuma, Mamit	1.The Manager, Liando Insurance Case, Zarkawt, Aizawl. 2.Bajaj Allianz Insurance Co. Ltd, Pune. 3.The Branch Manager, Bajaj Allianz Insurance Co. Ltd.
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**2013**

1.	CC.No 2 of 2013	Lalrinliani, Saron Veng.	The Branch Manager, New Insurance Co.Ltd, Chanmari, Aizawl
2.	CC.No 5 of 2013	Sh. Abdul Malik Sapan, Mamit.	Reliance General Insurance Co. Ltd, Guwahati.
3.	CC.No 28 of 2013	R.C Zosangkuala, Venghlui.	M/S Bajaj Allianz Insurance Co. Ltd, Guwahati.
4.	CC.No 36 of 2013	K. Lalthanfela, Kolasib.	Reliance General Insurance Co. Ltd, Guwahati.
5.	CC.No 37 of 2013	Lalisaka, Tlungvel.	New India Insurance Co. Ltd, Aizawl, Mizoram.

**2014**

1.	CC.No 53 of 2014	Lalduhsaka, Bethlehem Vengchhak.	Chola M/S General Insurance, Guwahati.
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**2015**

1.	CC.No 58 of 2015	K.Lalzawmsanga, Venghlui.	1.The Branch Manager, Indus Ind Bank, Zarkawt. 2.The Manager, Cholamandalam MS General Insurance Co. Ltd, Chennai.
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2016

1.	CC.No 48 of 2016	Dr Vanlalmuanpuii,Kanan Veng	1. Bajaj Allianz General Insurance Co. Ltd. 2.Liando Enterprise.Chanmari. 3.Zodin Hyndai, Upper Kanan,Aizawl.
----	------------------	------------------------------	---

2017

1.	CC.No 16 of 2017	H. Malsawmtluanga,Chhinga Veng.	National Insurance Company Ltd,Aizawl,Mizoram.
2.	CC.No 21 of 2017	Lalduhsaka,Bethlehem Vengthlang.	1.Cholamandalam Insurance Co.Ltd. Guwahati. 2.Manager,Indusind Bank,Zarkawt,Aizawl.
3.	CC.No 25 of 2017	P.C Zoliansanga,Thakthing.	Bajaj Allianz General Insurance Co. Ltd, Maharashtra.

2018

1.	CC.No 10 of 2018	Lalrinsangi,Bethlehem Veng.	1.Cholamandalam Insurance Co.Ltd. Guwahati. 2.Indusind Bank Ltd,Chanmari,Aizawl.
2.	CC.No 40 of 2018	Chalrosanga Ralte,Tuikual.	1.Reliance General Insurance Co. Ltd, Guwahati. 2.Zothan Auto Works,Aizawl.
3.	CC.No 43 of 2018	Lalvarmawii,Mission Vengthlang.	1.Bajaj Allianz General Insurance Co. Ltd. Pune 2.The Branch Manager , Bajaj Allianz General Insurance Co. Ltd. Chanmari,Aizawl.

2019

1.	CC.No 29 of 2019	Shri Vanlalmingsanga,Govt Complex,Aizawl.	1.The Manager,Indusind Bank Ltd. 2. Cholamandalam Insurance Co.Ltd. Guwahati.
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2020

1.	CC .No 15 of 2020	Thanchungnungi	Cholamandalam Insurance Co.Ltd. West Agartala ,Tripura.
2.	CC No. 13 of 2020	Lalhmingchhuanga Seling	Liando Auto Works Lunglei Road

2.Number of case register by the Consumer Commission,Aizawl District from 2008 to 2018.

2008 = 381 Cases.  
2009 = 869 Cases  
2010 = 72 Cases  
2011 = 55 Cases  
2012 = 46 Cases  
2013 = 52 Cases  
2014 = 54 Cases  
2015 = 76 Cases  
2016 = 49 Cases  
2017 = 47 Cases  
2018 = 47 Cases

3. Number of case appeal to State Commission (Year Wise).

= Whether there is any appeal case or not is not known. Since there is no record on this matter.

4. No. of Case referred to another court/Tribunal/alternate dispute redressal Commission and Lok Adalat

= NIL

## Appendix-6

### Application to SPIO, District Forum, Lunglei District, Mizoram for information under Section 6 (1) of the Right to Information Act- 2006 and reply

No. F.12013/1/2022-D&SJ(L)/3

**OFFICE OF THE DISTRICT AND SESSIONS JUDGE  
LUNGLEI JUDICIAL DISTRICT, MIZORAM**

Dated Lunglei the 25<sup>th</sup> March, 2022

To,

Hmingthanpuii Ralte  
H.No. ZB 89, Zotlang  
Aizawl, Mizoram

Subject : Case record relating to Motor Accident Insurance Claim case

Madam,

Inviting reference to the above subject, please find below requested information as per Rule 4(1) of the Mizoram Right to Information Rules, 2006.

- 1) Number of case register by Consumer Forum from the year 2008 to 2022  
Ans : 12 (Twelve) cases
- 2) Number of case register relating to Motor Accident Insurance Claim case from the year 2008 to 2020  
Ans : NIL
- 3) Number of case disposed from the year 2008 to 2020  
Ans : 10 (Ten) cases
- 4) Number of case disposed relating to Motor Accident Insurance claim case from the year 2008 to 2020  
Ans: NIL

  
(F. ROHLUPUIA)  
Addl. District & Sessions Judge, Lunglei  
&  
President  
District Forum, Lunglei  


**Appendix-7**

**Application to SPIO, Lok Adalat, Mizoram State Legal Services Authority, Mizoram for information under Section 6 (1) of the Right to Information Act-2006 and reply**

Executive Coach | MZ-01/H-6974 | 27.2.2012 | 14/08/2008 | Mizoram State Legal Services Authority

	Ph. 8731965484(M)
8. Has the information provided earlier	No.
9. Is this information not made available by the Public Authority	No.
10. Do you agree to pay the required fee	Yes.
11. Have you deposited application fee (If yes details of such deposit)	Yes.
12. Whether belongs to BPL category, have you furnished the proof of the same.	No.

Place: Aizawl  
Date :

*H. Ralte* 28/2/22  
(HMINGTANPUII RALTE)  
Applicant

TE  
U/A  
Me  
Su  
Di  
Peo



FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To

SPIO  
Mizoram State Legal Services Authority

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is an Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Matters relating to case record of Motor Accident in the state of Mizoram
6.	Particulars of information solicited.	<b>1. Number of case registered relating to Motor accident related and Motor accident Insurance Claim in Lok Adalat, Aizawl District, Mizoram from the year 2008 to 2020</b> <b>2. Number of case register by the Lok Adalat from 2008 to 2020</b> <b>3. No. of case disposed in each year from 2008 to 2020</b>
7.	Address to which information will be sent & in which form	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009



## MIZORAM STATE LEGAL SERVICES AUTHORITY

(Constituted under the Legal Services Authorities Act, 1987)  
Junior Judges Building, New Secretariat complex, Khatla, Aizawl  
Phone : 0389-2336621  
Email : slsamizoram@gmail.com Website : mizoslsa.mizoram.gov.in



No.F.11015/2/2019-SLSA/236

Aizawl, the 1<sup>st</sup> March, 2022

To,

✓  
Hmingthanpuii Ralte  
Asst. Professor  
Govt. Mizoram law College  
H/No. ZB 89, Zotlang, Aizawl

Subject : RTI

Ref : Your letter date 28<sup>th</sup> Feb, 2022

Madam,

With reference to your letter cited above, I am furnishing herewith the requisite information sought under section 6(1) of RTI Act.

The information are as below :-

1. Number of case registered relating to Motor Accident Insurance claim in Lok Adalat Aizawl District from the year 2008-2020.  
- 12 nos.
2. Number of case register by the Lok Adalat from 2008 to 2020  
- 12 nos.
3. Number of case disposed in each year from 2008 to 2020.  
- 3 nos.

  
(LALRAMLIANI)  
SPIO

Mizoram State Legal Services Authority

## Appendix- 8


### Application to SPIO, Lok Adalat, Aizawl District, Mizoram for information under Section 6 (1) of the Right to Information Act- 2006 and reply

FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To,

The Member Secretary  
Aizawl District Legal Services Authority  
Aizawl, District,  
Mizoram.

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is the Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Case record relating to Motor Accident Insurance Claim case
6.	Particulars of information solicited.	<b>1. Number of case register by Aizawl District Legal Services Authority from the year 2008 to 2020</b> <b>2. Number of case register relating to Motor Accident Insurance Claim case from the year 2008 to 2020.</b> <b>3. Number of case Disposed by the Aizawl District Legal Services Authority from the year 2008 to 2020</b> <b>4. Number of Case disposed relating to Motor Accident Insurance Claim case from the year 2008 to 2020 by Aizawl District Legal Services Authority.</b>
7.	Address to which information will be	H/No. ZB 89, Zotlang, AizawlM Mizoram

  
Peshkar  
Lok Adalat

	sent & in which form	Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.
9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If yes details of such deposit)	Yes.
12.	Whether belongs to BPL category, have you furnished the proof of the same?	No.

Place:Aizawl

Date : 23/5/22

(HMINGTHANPUII RALTE)  
Applicant

(HMINGTHANPUII RALTE)

**DISTRICT LEGAL SERVICES AUTHORITY  
AIZAWL DISTRICT: AIZAWL**

(Constituted under the Legal Services Authority Act, 1987)  
District Court Complex, Top Floor, Room No. 309, Treasury Square, Aizawl  
Phone: 0389-2311200 E-mail: aizdlsa@gmail.com



No. A. 13034/1/2018-DLSA (A)/

Dated Aizawl the 16<sup>th</sup> June, 2022

To,

Hmingthanpuii Ralte  
D/o Vanlalduha Ralte,  
Assistant Professor,  
Government Mizoram Law College.  
H/No. ZB 89, Zotlang, Aizawl, Mizoram.  
Pin: 796009

**Subject:** *Sending of Information (RTI) reg. Case record relating to Motor Accident Insurance Claim case.*

Madam,

In connection with the above mentioned subject, I am sending you Information regarding RTI for favour of your kind Information.

Enclo: As above.

Yours faithfully,

**(LALROCHAMI RALTE)**

Secretary  
District Legal Services Authority  
Aizawl, Mizoram

\*\*\*\*\*

**Particulars of Information solicited:**

1. Number of case register by Aizawl District Legal Services Authority from the year 2008 to 2020

= Pre-Litigation- 248

Post Litigation- 280

2. Number of case register relating to Motor Accident Insurance Claim case from the year 2008 to 2020

= District Legal Services Authority, Aizawl Lok has not dealt with a case relating to Motor Accident Insurance Claim.

3. Number of case Disposed by the Aizawl District Legal Services Authority from the year 2008 to 2020

= Pre-Litigation- 180

Post Litigation- 82

4. Number of case disposed relating to Motor Accident Insurance Claim case from the year 2008 to 2020 by Aizawl District Legal Services Authority.

= District Legal Services Authority, Aizawl Lok has not dealt with a case relating to Motor Accident Insurance Claim.



Secretary

District Legal Services Authority, Aizawl

## Appendix- 9

### Application to SPIO, Lok Adalat, Lunglei District, Mizoram for information under Section 6 (1) of the Right to Information Act- 2006 and reply

FORM 'A'

[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To,

The SPIO  
Lok Adalat  
Lunglei, District,  
Lunglei, Mizoram.

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is the Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Case record relating to Motor Accident Insurance Claim case
6.	Particulars of information solicited.	<b>1. Number of case register by LoK Adalat from the year 2008 to 2020</b> <b>2. Number of case register relating to Motor Accident Insurance Claim case from the year 2008 to 2020.</b> <b>3. Number of case Disposed by the Lok Adalat from the year 2008 to 2020</b> <b>4. Number of Case disposed relating of Motor Accident Insurance Claim case from the year 2008 to 2020 by Lok Adalat .</b>
7.	Address to which information will be sent & in which form	H/No. ZB 89, Zotlang, AizawlM Mizoram Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.

9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If yes details of such deposit)	Yes.
12.	Whether belongs to BPL category, have you furnished the proof of the same?	No.

Place:Lunglei  
Date :

*H. Ralte*  
(HMINGTHANPUII RALTE)  
Applicant

*Vanalthasangi*  
*9774777688*





No. F.12013/1/2022-D&SJ(L)/3

**OFFICE OF THE DISTRICT AND SESSIONS JUDGE  
LUNGLEI JUDICIAL DISTRICT, MIZORAM**

Dated Lunglei the 25<sup>th</sup> March, 2022

To,

Hmingthanpuii Ralte  
H.No. ZB 89, Zotlang  
Aizawl, Mizoram

Subject : Case record relating to Motor Accident Insurance Claim case

Madam,

Inviting reference to the above subject, please find below requested information as per Rule 4(1) of the Mizoram Right to Information Rules, 2006.

- 1) Number of case register by Consumer Forum from the year 2008 to 2022  
Ans : 12 (Twelve) cases
- 2) Number of case register relating to Motor Accident Insurance Claim case from the year 2008 to 2020  
Ans : NIL
- 3) Number of case disposed from the year 2008 to 2020  
Ans : 10 (Ten) cases
- 4) Number of case disposed relating to Motor Accident Insurance claim case from the year 2008 to 2020  
Ans: NIL

  
(F. ROHLUPUIA)

Addl. District & Sessions Judge, Lunglei

&

President

District Forum, Lunglei



**Appendix- 10**

**Application to SPIO, Deputy Commissioner / District Collector  
Aizawl District ,Mizoram for information under Section 6 (1) of  
the Right to Information Act- 2006 and reply**

FORM 'A'  
[See Rule 4 (1) of the Mizoram Right to Information Rules, 2006]  
**Application for Information under Section 6 (1) of the Act.**

To,

The SPIO  
Deputy Commissioner/ District Collector  
Aizawl District,  
Aizawl, Mizoram.

1.	Full name of the applicant	HMINGTHANPUII RALTE
2.	Father's name	Vanlaiduha Ralte
3.	Permanent address with contact Nos.	H/No. ZB 89, Zotlang, Aizawl Mizoram Pin: 796009 Ph. 8731965484(M)
4.	Particulars in respect of Identity of the applicant	The applicant is the Assistant Professor, Government Mizoram Law College. (ID proof, if required, shall be furnished upon request)
5.	Subject matter of information	Matters relating to Motor Vehicles Act, 1988 {Motor Vehicles (Amendment) Act, 2019} particularly Section 161 – Special provisions as to compensation in case of hit and run motor accident & Section 164-D – Power of State Government to make rules.
6.	Particulars of information solicited.	<p><b>1. Whether the Government of Mizoram has made any rules for the purpose of carrying into effect the provisions of Chapter XI of the Motor Vehicles Act, 1988 as per the provision of Section 164-D? If so, kindly provide copy of the rules.</b></p> <p><b>2. Whether the Central Government has notified rules for payment of compensation under Sub-section 3 of Section 161 of the Motor Vehicles Act, 1988 to the Government of Mizoram? If so, kindly provide copy of the same.</b></p>

*Received on 21.11.2021.*  
*Received 21/11/21.*

		<b>3. Whether any compensation has been paid under the Scheme set-forth by Section 161 of the Motor Vehicles Act, 1988 including Motor Vehicles (Amendment) Act, 2019 in a hit and run case involving a motor vehicular accident in the State of Mizoram? If so, kindly provide details.</b>
7.	Address to which information will be sent & in which form	H/No. ZB 89, Zotlang, Aizawl/M Mizoram Pin: 796009 Ph. 8731965484(M)
8.	Has the information provided earlier	No.
9.	Is this information not made available by the Public Authority	No.
10.	Do you agree to pay the required fee	Yes.
11.	Have you deposited application fee (If yes details of such deposit)	Yes.
12.	Whether belongs to BPL category, have you furnished the proof of the same.	No.

Place: Aizawl  
Date : 21.09.2021

*H. P. Ralte* 21/9/21  
(HMINGTHANPUII RALTE)  
Applicant

Assam Schedule II Form No. 50  
P6-5/45

DUPLICATE

**GOVERNMENT OF MIZORAM**

Sl. No. **7267**

Date **21.10.2021**

**RECEIPT**

Received from **Aringthang Pui Ralte**  
a sum of Rs. **10** [Rupees **ten**]

on account of **RTI Application** only

Head to be credit to.....

**[Signature]**  
Cashier or Accountant  
[where necessary]

No. F. 29011/2/2020-DC(A)/ 233  
OFFICE OF THE DEPUTY COMMISSIONER  
AIZAWL DISTRICT :: AIZAWL  
( GENERAL ESTABLISHMENT BRANCH )

\*\*\*\*\*

Dated Aizawl, the 27<sup>th</sup> October, 2021

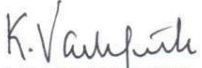
To

Pi Hmingthanpuii Ralte  
Zotlang, Aizawl,  
Ph. No. – 8731965484.

Subject : *Supply of Information under RTI Act, 2005*

I lehkha Ni 21.9.2021 a ka lo hmuh angin RTI Act, 2005 hmanga information i dil chu peih fel a ni ta a. He lehkha i hmuh atanga ni 15 (sawm panga) chhungin a hnuai tarlan fee pe tla tur leh i thil dilte rawn lam tura hriattir i ni e.

Fee : Rs.1/-

  
(K. VANLALRUATI)  
State Public Information Officer  
&  
Additional Deputy Commissioner  
Aizawl District, Aizawl

**SUBJECT MATTER OF INFORMATION**

**Q 1** Whether the Govt. of Mizoram has made any rules for the purpose of carrying into effect the provisions of Chapter XI of the Motor Vehicles Act, 1988 as per the provision of Section 164-D? If so, kindly provide copy of the rules.

**Q 2** Whether the Central Government has notified rules for payment of compensation under Sub-section 3 of Section 161 of the Motor Vehicles Act, 1988 to the Govt. of Mizoram? If so, kindly provide copy of the same.

**Ans:** Matter may be asked to the concerned department since this Office does not take up any cases regarding Motor Vehicles Act.

## Appendix- 11

### Analysis of Questionnaire

#### **QUESTIONNAIRE**

Name: \_\_\_\_\_ Age: \_\_\_\_\_ District: \_\_\_\_\_

**1. The reason for delay in judgment under MACT in Mizoram as per the record is mostly- 1 year to 5 years, some extent to even 8 to 9 years**

- a) Delay on the part of Insurance Company
- b) Delay on the part of the claimant
- c) Delay on the part of the Tribunal
- d) Delay on the part of enforcement agencies

**2. Summary Procedure of adjudication Process is followed in the MACT practical.**

- a) No, Due to huge number of cases
- b) No, Due of less office staff
- c) Yes, the case is completed mostly within one year
- d) Yes, because the procedure do not demand long process

**3. Do you think those vehicle owners are trap in fraud insurance Policy**

- a) Yes
- b) No

**4. The problem of reliability of insurance company is mostly the result of improper/fraud subsidiary agent**

a) Yes

b) No

**5. Do you believe that having one functioning MACT in the state of Mizoram is enough for the state. Do you wish that the judicial District of Lunglei have a fullfledge MACT.**

a) Yes

b) No

**6. The non-permanent office of the Insurance Company in the state hampers the litigation process**

a) Yes

b) No

**7. Do you believe that selling of the insurance policy by the vehicle agent/dealer result in problem of insurance claim?**

a) Yes

b) No

**8. The reason for the non full fledge functioning of the MACT in Lunglei is due to the**

a) Negligence of the Judiciary

b) Negligence of the Government

c) No enough case in the judicial district of Lunglei



**9. The Lok Adalat does not have much cases relating to motor accident insurance dispute case in Aizawl, this is due to**

- a) The case are not referred to them
- b) Lok Adalat is not good enough for the adjudication of accident claim case
- c) The people are not aware of instituting an accident insurance Claim case in LokAdalat

**10. As Suggested by Supreme Court in MR Krishnamurthy case, the introduction of MAMA (Motor Accidents Mediation Authority) by NALSA before the commencement of case under MACT will be workable in our state.**

- a) Yes
- b) No

**11. Annuity Certificate for the Victim party is a good suggestion by the Supreme Court because**

- a) There are chances of unholy practice by the lawyer, Police etc in the present system
- b) Annuity Certificate will give financial security to the victim/ victim family
- c) Annuity Certificate will discourage long adjudication process
- d) Above all

**12. Solatium Scheme for Hit and Run case is not implemented in the State of Mizoram because**

- a) Transport Department is not aware of it
- b) Deputy Commissioner's Office is not aware of it
- d) Lawyers are not really aware of it
- c) Victim parties are very ignorant

**13. Do you think that justice is denied to the victim of hit and run, when the Solatium scheme is not implemented by the state.**

- a) Yes
- b) No

**14. Justice is the aim of every laws, do you think that social justice is achieved by the Motor vehicle act and the MACT in Mizoram**

- a) Yes
- b) No

**15. What is the best method for claiming compensation for the victim in term of money?**

- a) No Fault Liability
- b) Liability based on fault
- c) Structural formula basis

**16. Do you think that the Consumer Forum and State commission plays an active role in providing social justice to the victim as a consumer?**

- a) Yes
- b) No

**17. As per the Consumer Protection Amendment Act- 2019, the aggrieved party can choose to a Mediation Cell for as an Alternative Dispute Redressal Mechanism, Do you believe that this system will be more fruitful for the victim party.**

- a) Yes
- b) No

**18. The best method to prevent the fraud insurance policy is to**

- a) Buy policy only from the vehicle dealer office
- b) Buy only from the insurance companies who have a branch office in the state.
- c) Buy from insurance agent
- d) Buy from online

**19. The establishment of functioning MACT in Lunglei and Champhai judicial District will help the victim party in term of time and money.**

- a) Yes
- b) No

**20. Do you think that the ADRS can play more active role in settlement Motoraccident claim in the State of Mizoram?**

- a) Yes
- b) No

Date :

Place :



### Analysis of Questionnaire

Total Number of Question -20

Total Number of Population -50

	Name	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
1	T. Lalremsiama Advocate, Aizawl	A	A	A	A	A,B	A	B	B	C	A	D	D	A	A	C	A	A	B	A	A
2	Lalhmingsanga Advocate, Aizawl	A	A	A	-	A,B	A	A	C	B	B	B	A,B	A	A	B	A	A	B	B	-
3	C. Lalrinpuii Advocate, Aizawl	A	A	A	-	B	A	A	C	B	B	B	A,B	A	A	B	A	A	B	B	-
4	C. Lalropuia Advocate, Aizawl	A	A	A	-	B	A	A	C	B	B	B	A,B	A	A	B	A	A	B	B	-
5	Babie Lalhlimpuii Advocate, Aizawl	A	A	A	-	B	A	A	C	B	B	B	A,B	A	A	B	A	B	B	B	-
6	Zoramchhana Advocate, Aizawl	A	A	A	-	B	A	A	C	B	B	B	A,B	A	A	B	A	B	B	B	-
7	Lalrinzuala Advocate, Aizawl	A	A	A	-	B	A	A	C	B	B	B	A,B	A	A	B	A	B	B	B	-
8	Lallawmzuali Advocate, Aizawl	A	A	B	A	B	A	B	C	C	A	-	C	A	A	B	A	A	B	A	A
9	C. Lalhruitluanga Advocate, Aizawl	A	A	A	A	B	A	A	C	B	B	-	A	A	A	-	A	A	B	B	B
10	Angela Zothansangi Advocate, Aizawl	B	A	B	B	A,B	A	B	B	C	A	D	C	A	A	B	A	A	B	B	B
11	Laldinthara Advocate, Aizawl	D	C	A	A	B	A	A	C	B	B	B	A	A	A	A	A	A	B	A	B
12	R. Vanlalruata Advocate, Aizawl	B	D	A	A	A	A	B	B	A	A	D	C	A	A	B	A	A	B	A	A
13	Lalrindika Advocate, Aizawl	D	D	A	A	B	A	B	B	B	-	A	C	B	A	B	A	A	B	A	A
14	T.Lalzekima Advocate, Aizawl	A	A	B	A	A	A	A	A	B	B	B	A,B, C	A	A	-	A	B	B	A	B
15	Lalropari	D	A	A	A	A	A	A	C	B	A	D	C	B	A	B	A	A	A	A	A

	Advocate, Aizawl																				
16	F.Lalengliana Advocate, Aizawl	A	A,B	B	B	A,B	A	A	C	C	A	D	A,B ,C,D	A	A	B	B	A	B	A	A
	Name	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
17	Lalremsanga Advocate, Aizawl	A	C	A	A	A	A	B	C	A	A	A	A	A	B	C	B	A	A	A	A
18	H. Lalrosangi Advocate, Aizawl	A	A,B	A	A	A	A	B	B	C	A	A	C	A	A	A	B	A	A	A	A
19	J.H Ramneihmawia Advocate, Aizawl	A	B	B	A	A	A	B	C	A	A	B	C	A	A	A	B	A	B	A	A
20	K.Roland Advocate, Aizawl	A	A	B	A	B	A	A	A	C	A	C	A	A	B	C	B	B	B	A	B
21	L.R.Tluanga Sailo Advocate, Aizawl	A	B	A	A	B	A	A	A	A	A	B	A	A	B	A	A	A	C	-	-
22	Lalruatdika Advocate, Aizawl	C	B	A	A	B	A	A	B	A,B, C	A,B, C	A,B, C	A	A	A	A	A	A	B	A	A
23	James Lalrintluanga Advocate, Aizawl	C	B	A	A	B	A	A	B	C	A	C	C	A	A	B	A	A	B	A	A
24	K.Kawlkhuma Advocate, Aizawl	A	B	B	A	A	A	B	B	C	A	C	B	A	A	C	A	A	B	A	A
25	Lalawmpuia Fanai Advocate, Aizawl	D	B	B	B	B	A	B	A	A	A	B	A	A	A	B	B	A	C	A	A
26	C.Lalfakzuala Advocate, Aizawl	A	B	A	A	B	A	A	C	B	B	B	C	A	A	C	A	B	B	B	B
27	Zonunmawii sailo Advocate, Aizawl	D	B	B	A	A	A	A	A	C	A	A	B	C	A	C	A	A	A	A	A
28	H.Lallawmsangi Advocate, Aizawl	A	B	A	A	A	A	A	B	C	B	B	C	A	A	A	A	A	B	A	A
29	Mary Lalhruaitluangi Advocate, Aizawl	A	B	A	A	A	A	A	B	C	A	B	C	A	A	B	B	A	B	A	A
30	Bijoy Chakma Advocate, Aizawl	A	C	B	A	B	A	A	B	C	A	B	C	A	A	A	A	A	B	A	A

31	S.Vanlalhriata Advocate, Aizawl	A	A	B	A	A,B	A	B	A	A	A	B	C	A	A	C	A	A	B	A	A
32	Lalruatsanga Advocate, Aizawl	A	A	A	A	A	A	A	A	B	A	D	C	A	A	-	B	A	B	A	A
33	Baby Lalmuanpuii Advocate, Aizawl	A	A	B	A	B	A	B	B	A	A	C	B	A	A	A	B	B	B	A	B
34	Lalramengmawii Advocate, Aizawl	A	A	A	A	B	A	B	B	C	A	B	C	A	A	A	A	A	A	A	A
	Name	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18	Q19	Q20
35	Pinky Lalchungnungi Advocate, Aizawl	A	A	A	A	A	A	A	A	B	B	B	C	A	A	B	B	A	A	A	A
36	Thlamuanpuii Advocate, Aizawl	A	A	A	A	A,B	A	B	B	C	A	B	C	A	A	A	A	A	B	A	A
37	C.Lalnunsiamia Advocate, Aizawl	A	A	B	A	A,B	A	A	B	A	A	B	C	A	A	C	A	A	B	A	A
38	Rebecca Lalrindiki Asst.Professor GMLC	A	D	A	B	A,B	A	B	-	B	A	D	A,B, C	A	A	A	B	A	B	A	A
39	Zoparliani Khiangte Asst.Professor GMLC	A	D	A	B	A,B	A	A	A	C	A	B	A,B, C	A	B	A	A	A	A	A	A
40	Nancy Zodinpari Asst.Professor GMLC	A	A	A	A	A,B	A	A	C	A	A	B	A,B ,C,D	A	A	A	A	A	B	A	A
41	P.Lalremruati Asst.Professor GMLC	A	D	A	A	A,B	B	B	B	C	A	B	B	A	A	B	A	A	B	A	A
42	C.Lalthazuali Advocate, Lunglei	A	B	A	A	A	A	A	B	C	A	D	C	A	A	C	A	A	B	A	A
43	Julie M.S.Dawngzeli Advocate, Lunglei	A	B	B	A	B	A	A	A	C	A	B	A	A	B	A	A	A	A	A	A
44	Rashie Chhetry	A	B	A	A	B	A	A	A	C	A	B	A	A	B	A	A	A	A	A	A

	Advocate, Lunglei																				
45	C.Lalmihriati Advocate, Lunglei	A	B	A	A	B	A	A	A	C	A	B	A	A	B	A	A	A	B	A	A
46	Zothanzuali Advocate, Lunglei	A	B	A	A	B	A	A	A	C	A	B	A	A	B	A	A	A	C	A	A
47	C.Lallianzuala Advocate, Lunglei	A	D	B	A	A	A	B	B	B	A	D	C	B	A	A	A	A	B	A	A
48	ZD Lalnunsanga Advocate, Lunglei	A	B	B	A	B	A	A	A	A	B	A	A	A	A	B	B	A	B	A	A
48	Bethsy Lalhmingmawii Advocate, Lunglei	A	D	B	A	A	A	B	B	B	A	B	C	B	A	A	A	A	B	A	A
50	PC lalmuanpuia	A	C	A	A	A	B	A	-	C	A	D	C	A	A	A	A	A	B	A	A



<p>Q1. Response  A- 41 (82%)  B- 2 (4%)  C- 5 (10%)  D- 2 (4%)</p>	<p>Q2. Response  A- 21 (42%)  B- 16 (32%)  C- 4 (8%)  D- 7 (14%)</p>	<p>Q3. Response  A-33 (66%)  B-17 (34%)</p>	<p>Q4. Response  A- 39 (78%)  B- 5 (10%)  No Response- 6 (12%)</p>
<p>Q5. Response  A-16 (32%)  B-23 (46%)  A&amp;B-11 (22%)</p>	<p>Q6. Response  A-48 (96%)  B-2 (4%)</p>	<p>Q7. Response  A-32 (64%)  B-18 (36%)</p>	<p>Q8. Response  A-14 (28%)  B-19 (38%)  C-15 (30%)  No Response-2(4%)</p>
<p>Q9. Response  A-10 (20%)  B-17 (34%)  C-22 (44%)  ABC-1(2%)</p>	<p>Q10. Response  A-35 (70%)  B-13 (26%)  ABC-1 (2%)  No Response-1 (2%)</p>	<p>Q11. Response  A- 5 (10%)  B- 28 (56%)  C- 4 (8)  D- 10 (20%)</p>	<p>Q12. Response  A- 12 (24%)  B- 4 (8%)  C- 22 (44%)  D- 1 (2%)  ABC-3 (6%)  AB-6 (12%)  ABCD-2 (4%)</p>
<p>Q13. Response  A-45 (90%)  B-4 (8%)  C-1(2%)</p>	<p>Q14. Response  A- 42 (84%)  B- 8 (16%)</p>	<p>Q15. Response  A-20 (40%)  B-18 (36%)  No Response-9 (18%)</p>	<p>Q16. Response  A-38(76%)  B-12(24%)</p>
<p>Q17. Response  A-43(86%)  B-7 (14%)</p>	<p>Q18. Response  A-9 (18%)  B-38 (76%)  C-3 (6%)</p>	<p>Q19. Response  A-40 (80%)  B-9 (18%)  No Response-1(2%)</p>	<p>Q20. Response  A-36 (72%)  B-7 (14%)  No Response-7 (14%)</p>

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE  
(Legislative Department)

New Delhi, the 9th August, 2019/Shravana 18, 1941 (Saka)

The following Act of Parliament received the assent of the President on the 9th August, 2019, and is hereby published for general information:—

THE MOTOR VEHICLES (AMENDMENT) ACT, 2019

NO. 32 OF 2019

[9th August, 2019.]

An Act further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

59 of 1988.

2. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), in section 2,—

Amendment of section 2.

(i) for clause (1), the following clauses shall be substituted, namely:—

‘(1) “adapted vehicle” means a motor vehicle either specially designed and constructed, or to which alterations have been made under sub-section (2)

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### Motor Vehicle ( Amendment) Act – 2019

of section 52, for the use of a person suffering from any physical defect or disability, and used solely by or for such person;

(1A) “aggregator” means a digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation;

(1B) “area”, in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;’;

(ii) after clause (4), the following clause shall be inserted, namely:—

‘(4A) “community service” means an unpaid work which a person is required to perform as a punishment for an offence committed under this Act;’;

(iii) after clause (9), the following clause shall be inserted, namely:—

‘(9A) “driver refresher training course” means the course referred to in sub-section (2A) of section 19;’;

(iv) after clause (12), the following clause shall be inserted, namely:—

‘(12A) “golden hour” means the time period lasting one hour following a traumatic injury during which there is highest likelihood of preventing death by providing prompt medical care;’;

(v) clause (18) shall be omitted;

(vi) in clause (24), for the words “invalid carriage”, the words “adapted vehicle” shall be substituted;

(vii) in clause (26), for the words “invalid carriage”, the words “adapted vehicle” shall be substituted;

(viii) after clause (38), the following clause shall be inserted, namely:—

‘(38A) “scheme” means a scheme framed under this Act;’;

(ix) after clause (42), the following clause shall be inserted, namely:—

‘(42A) “testing agency” means any entity designated as a testing agency under section 110B;’;

(x) in clause (49), after the word “rests”, the words “or moves” shall be inserted.

Insertion of new section 2B.

Promotion of innovation.

**3.** After section 2A of the principal Act, the following section shall be inserted, namely:—

“2B. Notwithstanding anything contained in this Act and subject to such conditions as may be prescribed by the Central Government, in order to promote innovation, research and development in the fields of vehicular engineering, mechanically propelled vehicles and transportation in general, the Central Government may exempt certain types of mechanically propelled vehicles from the application of the provisions of this Act.”.

Amendment of section 8.

**4.** In section 8 of the principal Act,—

(i) in sub-section (1), for the words “the licensing authority having jurisdiction in the area”, the words “any of the licensing authority in the State” shall be substituted;

(ii) in sub-section (2), for the words “and with such fee”, the words “with such fee and submit in such manner, including electronic means” shall be substituted;

(iii) in sub-section (3),—

(a) after the word “application”, the words “to drive a transport vehicle made” shall be inserted;

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### Motor Vehicle ( Amendment) Act – 2019

(b) the proviso shall be omitted;

(iv) in sub-section (4), in the proviso, for the words “invalid carriage”, the words “adapted vehicle” shall be substituted;

(v) in sub-section (5), for the words “passes to the satisfaction of the licensing authority such test”, the words “satisfies such conditions” shall be substituted;

(vi) in sub-section (6), after the proviso, the following provisos shall be inserted, namely:—

“Provided further that a licencing authority may issue a learner’s licence in electronic form and such manner as may be prescribed by the Central Government.:

Provided also that the licensing authority may, before issuing the license, verify the identity of the applicant in such manner as may be prescribed by the Central Government.”.

**5.** In section 9 of the principal Act,—

Amendment  
of section 9.

(i) in sub-section (1), for the words “the licensing authority having jurisdiction in the area”, the words “any licensing authority in the State” shall be substituted;

(ii) in sub-section (3), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that a driving licence for driving an adapted vehicle may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such motor vehicle.”;

(iii) in sub-section (4), the words “such minimum educational qualification as may be prescribed by the Central Government and” shall be omitted;

(iv) in sub-section (5), in the proviso, after the words “last such test”, the words and figures “and such applicant shall be required to complete a remedial driver training course from any school or establishment under section 12” shall be inserted.

**6.** In section 10 of the principal Act, in sub-section (2), in clause (c), for the words “invalid carriage”, the words “adapted vehicle” shall be substituted.

Amendment  
of section 10.

**7.** In section 11 of the principal Act,—

Amendment  
of section 11.

(i) in sub-section (1), for the words “the licensing authority having jurisdiction in the area”, the words “any licensing authority in the State” shall be substituted;

(ii) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the licensing authority may, before issuing the license verify the identity of the applicant in such manner as may be prescribed by the Central Government.”.

**8.** In section 12 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

Amendment  
of section 12.

“(5) Notwithstanding anything contained in any other provision, where any school or establishment has been accredited by a body notified by the Central Government under any other law for the time being in force, any person who has successfully completed a training module at such school or establishment covering a particular type of motor vehicle shall be eligible to obtain a driving licence for such type of motor vehicle.

(6) The curriculum of the training module referred to in sub-section (5) and the remedial driver training course referred to in sub-section (5) of section 9 shall be such as may be prescribed by the Central Government and that Government may make rules for the regulation of such schools or establishments.”.

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Amendment  
of section 14.

**9.** In section 14 of the principal Act, in sub-section (2),—

(i) in clause (a),—

(A) for the words “three years”, the words “five years” shall be substituted;

(B) in the proviso, for the portion beginning with the words “one year” and ending with the word “and” the words “three years and renewal thereof shall be subject to such conditions as the Central Government may prescribe; and”, shall be substituted;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) in the case of any other licence, subject to such conditions as the Central Government may prescribe, if the person obtaining the licence, either originally or on renewal thereof,—

(i) has not attained the age of thirty years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of forty years; or

(ii) has attained the age of thirty years but has not attained the age of fifty years on the date of issue or, renewal thereof, be effective for a period of ten years from the date of such issue or renewal; or

(iii) has attained the age of fifty years but has not attained the age of fifty-five years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of sixty years; or

(iv) has attained the age of fifty-five years on the date of issue or as the case may be, renewal thereof, be effective for a period of five years from the date of such issue or renewal.”;

(iii) the proviso shall be omitted.

Amendment  
of section 15.

**10.** In section 15 of the principal Act,—

(i) in sub-section (1), in the first proviso, for the words “more than thirty days”, the words “either one year prior to date of its expiry or within one year” shall be substituted;

(ii) in sub-section (3), for the words “thirty days”, the words “one year” shall be substituted; and

(iii) in sub-section (4),—

(a) for the words “thirty days”, the words “one year” shall be substituted; and

(b) in the second proviso for the words “five years after the driving license has ceased to be effective, the licensing authority may”, the words “one year after the driving licence has ceased to be effective, the licensing authority shall” shall be substituted.

Amendment  
of section 19.

**11.** In section 19 of the principal Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where a licence has been forwarded to the licensing authority under sub-section (4) of section 206, the licensing authority, if satisfied after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order disqualifying such person from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence—

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**Motor Vehicle ( Amendment) Act – 2019**

(a) for a first offence, for a period of three months;

(b) for a second or subsequent offence, with revocation of the driving licence of such person:

Provided that where a driving licence is revoked under this section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government.”;

(ii) in sub-section (2),—

(a) after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the driving licence shall be returned to the holder at the end of the period of disqualification only if he successfully completes the driver refresher training course.”;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) The licence holder whose licence has been suspended shall undergo the driver refresher training course from a school or establishment licenced and regulated under section 12 or such other agency, as may be notified by the Central Government.

(2B) The nature, syllabus and duration of the driver refresher training course shall be such as may be prescribed by the Central Government.”;

(iv) in sub-section (3), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

**12.** After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 25A.

“25A. (1) The Central Government shall maintain a National Register of Driving Licences in such form and manner as may be prescribed.

National Register of Driving Licences.

(2) All State Registers of Driving Licences shall be subsumed under the National Register of Driving Licences by a date to be notified by the Central Government.

(3) No driving licence issued, or renewed, under this Act shall be valid unless it has been issued a unique driving licence number under the National Register of Driving Licences.

(4) All State Governments and licensing authorities under this Act shall transmit all information including contained data in the State Register of Driving Licences in such form and manner as may be prescribed by the Central Government.

(5) The State Governments shall be entitled to access the National Register and update their records in such manner as may be prescribed by the Central Government.”.

**13.** For section 26 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 26.

“26. Each State Government shall maintain, in such form as may be prescribed by the Central Government, a register to be known as the State Register of Driving Licences, in respect of driving licences issued and renewed by the licensing authorities of the State Government, containing particulars, including—

Maintenance of State Registers of Driving Licences.

(a) names and addresses of holders of driving licences;

(b) licence numbers;

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- (c) dates of issue or renewal of licences;
- (d) dates of expiry of licences;
- (e) classes and types of vehicles authorised to be driven; and
- (f) such other particulars as the Central Government may prescribe.”.

Amendment  
of section 27.

**14.** In section 27 of the principal Act,—

- (i) after clause (d), the following clauses shall be inserted, namely:—

“(da) the form and manner in which a licensing authority may issue a learner’s licence under sub-section (6) of section 8;

(db) the manner in which a licensing authority may verify the identity of the applicant under the third proviso to sub-section (6) of section 8;”;

- (ii) after clause (j), the following clauses shall be inserted, namely:—

“(ja) the curriculum of training modules and the regulation of schools and establishments under sub-section (6) of section 12;

(jb) the conditions for the renewal of licence to drive transport vehicles carrying goods of dangerous or hazardous nature and other motor vehicles under clause (a) and clause (b) of sub-section (2) of section 14;

(jc) the manner in which a licensing authority may verify the identity of the applicant under the third proviso to sub-section (2) of section 11;”;

- (iii) after clause (n), the following clauses shall be inserted, namely:—

“(na) the manner of placing in the public domain of the name of the licence holder as referred to in sub-section (1A) of section 19;

(nb) providing for the nature, syllabus and duration of the driver refresher training course as referred to in sub-section (2B) of section 19;”;

- (iv) after clause (o), the following clause shall be inserted, namely:—

“(oa) all or any of the matters referred to in section 25A;”;

(v) in clause (p), the words, brackets and figure “sub-section (1) of” shall be omitted.

Amendment  
of section 28.

**15.** In section 28 of the principal Act, in sub-section (2), clause (j) shall be omitted.

Amendment  
of section 40.

**16.** In section 40 of the principal Act, for the words “a registering authority”, the words “any registering authority in the State” shall be substituted.

Amendment  
of section 41.

**17.** In section 41 of the principal Act,—

- (i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in the case of a new motor vehicle, the application for registration in the State shall be made by the dealer of such motor vehicle, if the new motor vehicle is being registered in the same State in which the dealer is situated.”;

- (ii) in sub-section (3),—

(a) for the words “to the owner of a motor vehicle registered by it a certificate of registration”, the words “a certificate of registration in the name of the owner” shall be substituted;

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(iii) in sub-section (6), the following proviso shall be inserted, namely:—

“Provided that in case of a new motor vehicle, the application for the registration of which is made under the second proviso to sub-section (1), such motor vehicle shall not be delivered to the owner until such registration mark is displayed on the motor vehicle in such form and manner as may prescribed by the Central Government.”;

(iv) in sub-section (7),—

(a) the words “other than a transport vehicle” shall be omitted; and

(b) after the words “date of issue of such certificate”, the words “or for such period as may be prescribed by the Central Government” shall be inserted;

(v) in sub-section (8), the words “other than a transport vehicle,” shall be omitted;

(vi) in sub-section (10),—

(a) for the words “for a period of five years”, the words “for such period, as may be prescribed by the Central Government” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that the Central Government may prescribe different period of renewal for different types of motor vehicles.”;

(vii) sub-sections (11), (12) and (13) shall be omitted.

**18.** For section 43 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 43.

“43. Notwithstanding anything contained in section 40, the owner of a motor vehicle may apply to any registering authority or other authority as may be prescribed by the State Government to have the motor vehicle temporarily registered and such authority shall issue a temporary certificate of registration and temporary registration mark in accordance with such rules as may be made by the Central Government:

Temporary Registration.

Provided that the State Government may register a motor vehicle that plies, temporarily, within the State and issue a certificate of registration and registration mark for a period of one month in such manner as may be prescribed by the State Government.”.

**19.** For section 44 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 44.

“44. (1) Subject to such terms and conditions as may be prescribed by the Central Government in this behalf, a motor vehicle sold by an authorised dealer shall not require production before a registering authority for the purposes of registration for the first time.

Production of vehicle at the time of registration.

(2) Subject to such terms and conditions as may be prescribed by the State Government, a person in whose name a certificate of registration has been issued shall not be required to produce the vehicle registered or transferred before a registering authority.”.

**20.** In section 49 of the principal Act,—

Amendment of section 49.

(i) in sub-section (1), for the words “registering authority, to that other registering authority”, the words “State, to any registering authority in that State” shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The intimation under sub-section (1) may be sent to the appropriate registering authority in electronic form along with the electronic form of such



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### Motor Vehicle ( Amendment) Act – 2019

documents, including proof of authentication in such manner as may be prescribed by the Central Government.”;

(iii) in sub-section (2), for the words “one hundred rupees”, the words “five hundred rupees” shall be substituted.

Amendment  
of section 52.

**21.** In section 52 of the principal Act,—

(i) in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles and in such cases, the warranty granted by the manufacturer shall not be considered as void for the purposes of such alteration or retrofitment.”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) A manufacturer of a motor vehicle shall on the direction issued by the Central Government, alter or retrofit safety equipment, or any other equipment in accordance with such standards and specifications as may be specified by the Central Government.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), any person may, with the subsequent approval of the registering authority, alter or cause to be altered any vehicle owned by him to be converted into an adapted vehicle:

Provided that such alteration complies with such conditions as may be prescribed by the Central Government.”;

(iv) in sub-section (3), the words, brackets and figure “or by reason of replacement of its engine without such approval under sub-section (2)” shall be omitted.

Amendment  
of section 55.

**22.** In section 55 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction has been used in the commission of an offence punishable under section 199A, the authority may, after giving the owner an opportunity of making a representation in writing, cancel the certificate of registration of the vehicle for a period of one year:

Provided that the owner of the motor vehicle may apply for fresh registration in accordance with the provisions of section 40 and section 41.”.

Amendment  
of section 56.

**23.** In section 56 of the principal Act,—

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no certificate of fitness shall be granted to a vehicle, after such date as may be notified by the Central Government, unless such vehicle has been tested at an automated testing station.”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The “authorised testing station” referred to in sub-section (1) means any facility, including automated testing facilities, authorised by the State Government, where fitness testing may be conducted in accordance with the rules made by the Central Government for recognition, regulation and control of such stations.”;

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(iii) in sub-section (4), for the proviso, the following provisos shall be substituted, namely:—

“Provided that no such cancellation shall be made by the prescribed authority unless,—

(a) such prescribed authority holds such technical qualification as may be prescribed by the Central Government and where the prescribed authority does not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification; and

(b) the reasons recorded in writing cancelling a certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose certificate of fitness is sought to be cancelled:

Provided further that if the cancellation is confirmed by the authorised testing station, the cost of undertaking the test shall be borne by the owner of the vehicle being tested and in the alternative by the prescribed authority.”;

(iv) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(6) All transport vehicles with a valid certificate of fitness issued under this section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government.

(7) Subject to such conditions as the Central Government may prescribe, the provisions of this section may be extended to non-transport vehicles.”.

**24.** In section 59 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment  
of section 59.

“(4) The Central Government may, having regard to the public safety, convenience, protection of the environment and the objects of this Act, make rules prescribing the manner of recycling of motor vehicles and parts thereof which have exceeded their life.”.

**25.** After section 62 in the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
62A and 62B.

“62A. (1) No registering authority shall register any motor vehicle that contravenes any rule made under clause (a) of sub-section (1) of section 110.

(2) No prescribed authority or authorised testing station shall issue a certificate of fitness under section 56 to any motor vehicle that contravenes any rule made under section 110.

Prohibition of  
registration  
and issuance  
of certificate  
of fitness to  
oversized  
vehicles.

62B. (1) The Central Government shall maintain a National Register of Motor Vehicles in such form and manner as may be prescribed by it:

National  
Register of  
Motor  
Vehicles.

Provided that all State Registers of Motor Vehicles shall be subsumed under the National Register of Motor Vehicles by such date as may be notified in the Official Gazette by the Central Government.

(2) No certificate of registration issued, or renewed, under this Act shall be valid unless it has been issued a unique registration number under the National Register of Motor Vehicles.

(3) In order to maintain the National Register of Motor Vehicles, all State Governments and registering authorities under this Act shall transmit all information and data in the State Register of Motor Vehicles to the Central Government in such form and manner as may be prescribed by the Central Government.

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(4) State Governments shall be able to access the National Register of Motor Vehicles and update records in accordance with the provisions of this Act and the rules made by the Central Government thereunder.”.

Substitution of new section for section 63.

**26.** For section 63 of the principal Act, the following section shall be substituted, namely:—

Maintenance of State Registers of motor vehicles.

“63. Each State Government shall maintain in such form as may be prescribed by the Central Government a register to be known as the State Register of Motor Vehicles, in respect of the motor vehicles in that State, containing the particulars including—

- (a) registration numbers;
- (b) years of manufacture;
- (c) classes and types;
- (d) names and addresses of registered owners; and
- (e) such other particulars as may be prescribed by the Central Government.”.

Amendment of section 64.

**27.** In section 64 of the principal Act,—

(i) after clause (d), the following clause shall be inserted, namely:—

“(da) providing for the period of validity of a certificate of registration under sub-section (7) of section 41;”;

(ii) after clause (e), the following clause shall be inserted, namely:—

“(ea) the period of renewal of certificate of registration of different types of motor vehicles under sub-section (10) of section 41;”;

(iii) after clause (f), the following clauses shall be inserted, namely:—

“(fa) the issue of temporary certificate of registration and temporary registration mark under section 43;

(fb) the terms and conditions under which a motor vehicle sold by an authorised dealer shall not require production before a registering authority under sub-section (1) of section 44;”;

(iv) after clause (j), the following clause shall be inserted, namely:—

“(ja) the form and manner for the electronic submission of the intimation of change of address, documents to be submitted along with such intimation including proof of authentication under sub-section (1A) of section 49;”;

(v) after clause (l), the following clauses shall be inserted, namely:—

“(la) specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles under sub-section (1) of section 52;

(lb) the conditions for the alteration of any motor vehicle into an adapted vehicle under sub-section (2) of section 52;”;

(vi) after clause (n), the following clauses shall be inserted, namely:—

“(na) the distinguishing mark to be carried on the body of transport vehicles under sub-section (6) of section 56;

(nb) the conditions under which the application of section 56 may be extended to non-transport vehicles under sub-section (7) of section 56;

(nc) the recycling of motor vehicles and parts thereof which have exceeded their life under sub-section (4) of section 59;”;

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(vii) after clause (o), the following clauses shall be inserted, namely:—

“(oa) all or any of the matters under sub-section (1) of section 62B;

(ob) all or any of the matters under sub-section (1) and sub-section (2) of section 63;”.

**28.** In section 65 of the principal Act, in sub-section (2),—

Amendment  
of section 65.

(i) in clause (f), after the word “marks”, the words and figures “under the proviso to section 43” shall be inserted;

(ii) clause (o) shall be omitted.

**29.** In section 66 of the principal Act,—

Amendment  
of section 66.

(i) in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.”;

(ii) in sub-section (3), after clause (p), the following clause shall be inserted, namely:—

“(q) to any transport vehicle having been issued a licence under a scheme, under sub-section (3) of section 67 or sub-section (1) of section 88A, or plying under such orders as may be issued by the Central Government or by the State Government.”.

**30.** After section 66 of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
66A and 66B.

“66A. The Central Government may develop a National Transportation Policy consistent with the objects of this Act in concurrence with the State Governments and other agencies with a view to—

National  
Transportation  
Policy.

(i) establish a planning framework for passengers and goods transportation within which transport bodies are to operate;

(ii) establish a medium and long term planning framework for all forms of road transport, identify areas for the development of transport improvement infrastructure across India in consultation with the authorities and agencies related to ports, railways and aviation as well as with local and State level planning, land holding and regulatory authorities for the delivery of an integrated multimodal transport system;

(iii) establish the framework of grant of permits and schemes;

(iv) establish strategic policy for transport by road and its role as a link to other means of transport;

(v) identify strategic policies and specify priorities for the transport system that address current and future challenges;

(vi) provide medium to long term strategic directions, priorities and actions;

(vii) promote competition, innovation, increase in capacity, seamless mobility and greater efficiency in transport of goods or livestock or passengers, and economical use of resources;

(viii) safeguard the interest of the public and promote equity, while seeking to enhance private participation and public-private partnership in the transport sector;

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(ix) demonstrate an integrated approach to transport and land use planning;

(x) identify the challenges that the National Transportation Policy seeks to address; and

(xi) address any other matter deemed relevant by the Central Government.

66B. No person who holds the permit issued under this Act shall—

(a) be disqualified from applying for a licence under the scheme made under sub-section (3) of section 67 or sub-section (1) of section 88A by reason of holding such permit; and

(b) be required to get such permit cancelled on being issued a licence under any scheme made under this Act.”.

No bar against permit holders to apply and hold licences under schemes.

Amendment of section 67.

**31.** In section 67 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A State Government, having regard to—

(a) the advantages offered to the public, trade and industry by the development of motor transport;

(b) the desirability of co-ordinating road and rail transport;

(c) the desirability of preventing the deterioration of the road system, and

(d) promoting effective competition among the transport service providers,

may, from time to time, by notification in the Official Gazette issue directions both to the State Transport Authority and Regional Transport Authority regarding the passengers’ convenience, economically competitive fares, prevention of overcrowding and road safety.”;

(ii) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the State Government may subject to such conditions as it may deem fit, and with a view to achieving the objectives specified in clause (d) of sub-section (1), relax all or any of the provisions made under this Chapter.”;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Notwithstanding anything contained in this Act, the State Government may, by notification in the Official Gazette, modify any permit issued under this Act or make schemes for the transportation of goods and passengers and issue licences under such scheme for the promotion of development and efficiency in transportation—

(a) last mile connectivity;

(b) rural transport;

(c) reducing traffic congestion;

(d) improving urban transport;

(e) safety of road users;

(f) better utilisation of transportation assets;

(g) the enhancement of economic vitality of the area, through competitiveness, productivity and efficiency;

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- (h) the increase in the accessibility and mobility of people;
- (i) the protection and enhancement of the environment;
- (j) the promotion of energy conservation;
- (k) improvement of the quality of life;
- (l) enhance integration and connectivity of the transportation system, across and between modes of transport; and
- (m) such other matters as the Central Government may deem fit.

(4) The scheme framed under sub-section (3), shall specify the fees to be charged, form of application and grant of a licence including the renewal, suspension, cancellation or modification of such licence.”.

**32.** In section 72 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:— Amendment of section 72.

“Provided that the Regional Transport Authority may waive any such condition for a stage carriage permit operating in a rural area, as it deems fit.”.

**33.** In section 74 of the principal Act,— Amendment of section 74.

(i) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the Regional Transport Authority may in the interests of last mile connectivity waive any such condition in respect of any such types of vehicles as may be specified by the Central Government.”;

(ii) in sub-section (3), in the proviso to clause (b), after sub-clause (vi), the following sub-clause shall be inserted, namely:—

“(vii) self-help groups.”.

**34.** After section 88 of the principal Act, the following section shall be inserted, Insertion of new section 88A.

“88A. (1) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, modify any permit issued under this Act or make schemes for national, multimodal and inter-State transportation of goods or passengers, and issue or modify licences under, such scheme for the following purposes, namely:—

- (a) last mile connectivity;
- (b) rural transport;
- (c) improving the movement of freight, and logistics;
- (d) better utilisation of transportation assets;
- (e) the enhancement to the economic vitality of the area, especially by enabling competitiveness, productivity and efficiency;
- (f) the increase in the accessibility and mobility of people;
- (g) the protection and enhancement of the environment;
- (h) the promotion of energy conservation;
- (i) improvement of the quality of life;
- (j) enhancement of the integration and connectivity of the transportation system, across and between modes of transport; and
- (k) such other matters as the Central Government may deem fit:

Power of Central Government to make schemes for national, multimodal and inter-State transport of passengers and goods.

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Provided that the Central Government may, before taking any action under this sub-section seek concurrence of the State Governments.

(2) Notwithstanding anything contained in sub-section (1), two or more States may make schemes for the operation within such States for the inter-State transportation of goods or passengers:

Provided that in the event of any repugnancy between the schemes made by the Central Government under sub-section (1) and schemes made by two or more States under this sub-section, the schemes made under sub-section (1) shall prevail.”.

Amendment  
of section 92.

**35.** In section 92 of the principal Act, for the words “stage carriage or contract carriage, in respect of which a permit”, the words “transport vehicle, in respect of which a permit or licence” shall be substituted.

Amendment  
of section 93.

**36.** In section 93 of the principal Act,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Agent or canvasser or aggregator to obtain licence.”;

(ii) in sub-section (1),—

(a) after clause (ii), the following clause shall be inserted, namely:—

“(iii) as an aggregator.”;

(b) the following provisos shall be inserted, namely:—

“Provided that while issuing the licence to an aggregator the State Government may follow such guidelines as may be issued by the Central Government:

Provided further that every aggregator shall comply with the provisions of the Information Technology Act, 2000 and the rules and regulations made thereunder.”. 21 of 2000.

Amendment  
of section 94.

**37.** In section 94 of the principal Act, after the word “permit” occurring at both the places the words “or licence issued under any scheme” shall be inserted.

Amendment  
of section 96.

**38.** In section 96 of the principal Act, in sub-section (2), after clause (xxvii), the following clauses shall be inserted, namely:—

“(xxviii) framing of schemes under sub-section (3) of section 67;

(xxviii) the promotion of effective competition, passenger convenience and safety, competitive fares and prevention of overcrowding.”.

Amendment  
of section  
110.

**39.** In section 110 of the principal Act,—

(i) in sub-section (1), in clause (k), after the words “standards of the components”, the words “, including software,” shall be inserted;

(ii) in sub-section (2), after the words “in particular circumstances”, the words “and such rules may lay down the procedure for investigation, the officers empowered to conduct such investigations, the procedure for hearing of such matters and the penalties to be levied thereunder” shall be inserted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Persons empowered under sub-section (2) to conduct investigations referred to in sub-section (2) shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 5 of 1908.

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- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit; and
- (d) any other matter as may be prescribed.”.

40. After section 110 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 110A and 110B.

“110A. (1) The Central Government may, by order, direct a manufacturer to recall motor vehicles of a particular type or its variants, if—

Recall of motor vehicles.

(a) a defect in that particular type of motor vehicle may cause harm to the environment or to the driver or occupants of such motor vehicle or other road users; and

(b) a defect in that particular type of motor vehicle has been reported to the Central Government by—

(i) such percentage of owners, as the Central Government, may by notification in the Official Gazette, specify; or

(ii) a testing agency; or

(iii) any other source.

(2) Where the defect referred to in sub-section (1) lies in a motor vehicle component, the Central Government may, by order, direct a manufacturer to recall all motor vehicles which contain such component, regardless of the type or variants of such motor vehicle.

(3) A manufacturer whose vehicles are recalled under sub-section (1) or sub-section (2), shall—

(a) reimburse the buyers for the full cost of the motor vehicle, subject to any hire-purchase or lease-hypothecation agreement; or

(b) replace the defective motor vehicle with another motor vehicle of similar or better specifications which complies with the standards specified under this Act or repair it; and

(c) pay such fines and other dues in accordance with sub-section (6).

(4) Where a manufacturer notices a defect in a motor vehicle manufactured by him, he shall inform the Central Government of the defect and initiate recall proceedings and in such case the manufacturer shall not be liable to pay fine under sub-section (3).

(5) The Central Government may authorise any officer to conduct investigation under this section who shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) any other matter as may be prescribed.

(6) The Central Government may make rules for regulating the recall of motor vehicles, of a particular type or its variants, for any defect which in the opinion of the



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Central Government, may cause harm to the environment or to the driver or occupants of such motor vehicle or to other road users.

Type-approval certificate and testing agencies.

110B. (J) No motor vehicle, including a trailer or semi-trailer or modular hydraulic trailer or side car shall be sold or delivered or offered for sale or delivery or used in a public place in India unless a type-approval certificate referred to in sub-section (2) has been issued in respect of such vehicle:

Provided that the Central Government may, by notification in the Official Gazette, extend the requirement of type-approval certificate to other vehicles drawn or intended to be drawn by a motor vehicle:

Provided further that such certificate shall not be required for vehicles which are—

(a) intended for export or display or demonstration or exhibition; or

(b) used by a manufacturer of motor vehicles or motor vehicle components or a research and development centre or a test by agency for testing and validation or for data collection, inside factory premises or in a non-public place; or

(c) exempted by the Central Government.

(2) The manufacturer or importer of motor vehicles including trailers, semi-trailers, modular hydraulic trailers and side cars shall submit the prototype of the vehicle to be manufactured or imported for test to a testing agency for obtaining a type-approval certificate by such agency.

(3) The Central Government shall make rules for the accreditation, registration and regulation of testing agencies.

(4) The testing agencies shall conduct tests on vehicles drawn from the production line of the manufacturer or obtained otherwise to verify the conformity of such vehicles to the provisions of this Chapter and the rules and regulations made thereunder.

(5) Where the motor vehicle having a type-approval certificate is recalled under section 110A, the testing agency which granted the certificate to such motor vehicle shall be liable for its accreditation and registration to be cancelled.”

Amendment of section 114.

41. In section 114 of the principal Act, in sub-section (J), for the words “authorised in this behalf by the State Government”, the words “or any other person authorised in this behalf by the State Government” shall be substituted.

Amendment of section 116.

42. In section 116 of the principal Act,—

(i) after sub-section (J), the following sub-section shall be inserted, namely:—

“(IA) Notwithstanding anything contained in sub-section (J), the National Highways Authority of India constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may cause or permit traffic signs, as provided in the First Schedule, to be placed or erected or removed on national highways for the purpose of regulating motor vehicle traffic and may order the removal of any sign or advertisement which in its opinion is so placed as to obscure any traffic sign from view or is so similar in appearance to a traffic sign as to mislead or is likely to distract the attention or concentration of the driver:

68 of 1988.

Provided that for the purposes of this sub-section, the National Highway Authority of India or any other agency authorised by the Central Government may seek assistance from the authorities of the State Government and the said State Government shall provide such assistance.”;

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(ii) in sub-section (3), after the words, brackets and figure “provided by sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

**43.** In section 117 of the principal Act, the following provisos shall be inserted, namely:—

Amendment  
of section  
117.

“Provided that the State Government or the authorised authority shall, give primacy to the safety of road users and the free flow of traffic in determining such places:

Provided further that for the purpose of this section the National Highways Authority of India, constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may also determine such places.”.

68 of 1988.

**44.** For section 129 of the principal Act, the following section shall be substituted, namely:—

Substitution of  
new section  
for section  
129.

‘129. Every person, above four years of age, driving or riding or being carried on a motorcycle of any class or description shall, while in a public place, wear protective headgear conforming to such standards as may be prescribed by the Central Government:

Wearing of  
protective  
headgear.

Provided that the provisions of this section shall not apply to a person who is a Sikh, if, while driving or riding on the motorcycle, in a public place, he is wearing a turban:

Provided further that the Central Government may by rules provide for measures for the safety of children below four years of age riding or being carried on a motorcycle.

*Explanation.*— “Protective headgear” means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motorcycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear.’.

**45.** After section 134 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
134A.

“134A. (1) A Good Samaritan shall not be liable for any civil or criminal action for any injury to or death of the victim of an accident involving a motor vehicle, where such injury or death resulted from the Good Samaritan’s negligence in acting or failing to act while rendering emergency medical or non-medical care or assistance.

Protection of  
Good  
Samaritans.

(2) The Central Government may by rules provide for the procedure for questioning or examination of the Good Samaritan, disclosure of personal information of the Good Samaritan and such other related matters.

*Explanation.*—For the purposes of this section, “Good Samaritan” means a person, who in good faith, voluntarily and without expectation of any reward or compensation renders emergency medical or non-medical care or assistance at the scene of an accident to the victim or transports such victim to the hospital.”.

**46.** In section 135 of the principal Act,—

Amendment  
of section  
135.

(i) in sub-section (1),—

(a) in clause (c), the word “and” shall be omitted;

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(b) in clause (d), for the word “highways”, the words “highways; and” shall be substituted; and

(ii) after clause (d), the following clause shall be inserted, namely:—

“(e) any other amenities in the interests of the safety and the convenience of the public.”;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government may, by notification in the Official Gazette, make one or more schemes to conduct in-depth studies on the causes and analysis of road accidents.”.

Insertion of new section 136A.

**47.** After section 136 of the principal Act, the following section shall be inserted, namely:—

Electronic monitoring and enforcement of road safety.

‘136A. (1) The State Government shall ensure electronic monitoring and enforcement of road safety in the manner provided under sub-section (2) on national highways, state highways, roads or in any urban city within a State which has a population up to such limits as may be prescribed by the Central Government.

(2) The Central Government shall make rules for the electronic monitoring and enforcement of road safety including speed cameras, closed-circuit television cameras, speed guns, body wearable cameras and such other technology.

*Explanation.*—For the purpose of this section the expression “body wearable camera” means a mobile audio and video capture device worn on the body or uniform of a person authorised by the State Government.’.

Amendment of section 137.

**48.** In section 137 of the principal Act,—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) providing for the standards of protective headgear and measures for the safety of children below the age of four years riding under section 129;”;

(ii) after clause (b), the following clauses shall be inserted, namely:—

“(c) providing for limits of urban city by the State Governments under sub-section (1) of section 136A; and

(d) providing for electronic monitoring and enforcement under sub-section (2) of section 136A.”.

Amendment of section 138.

**49.** In section 138 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The State Government may, in the interest of road safety, make rules for the purposes of regulating the activities and access of non-mechanically propelled vehicles and pedestrians to public places and national highways:

Provided that in the case of national highways, such rules shall be framed in consultation with the National Highways Authority of India.”.

Omission of Chapter X.

**50.** Chapter X in the principal Act shall be omitted.

Substitution of new Chapter XI for Chapter XI.

**51.** For Chapter XI of the principal Act, the following Chapter shall be substituted, namely:—

‘CHAPTER XI

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

145. In this Chapter,—

Definitions.

41 of 1999.  
57 of 1972. (a) “authorised insurer” means an insurer for the time being carrying on general insurance business in India and granted a certificate of registration by the Insurance Regulatory and Development Authority of India established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 and any Government insurance fund authorised to do general insurance business under the General Insurance Business (Nationalisation) Act, 1972;

(b) “certificate of insurance” means a certificate issued by an authorised insurer in pursuance of section 147 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;

45 of 1860. (c) “grievous hurt” shall have the same meaning as assigned to it in section 320 of the Indian Penal Code;

(d) “hit and run motor accident” means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose;

41 of 1999. (e) “Insurance Regulatory and Development Authority” means the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999;

(f) “policy of insurance” includes certificate of insurance;

(g) “property” includes roads, bridges, culverts, causeways, trees, posts, milestones and baggage of passengers and goods carried in any motor vehicle;

(h) “reciprocating country” means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Act;

(i) “third party” includes the Government, the driver and any other co-worker on a transport vehicle.

Necessity for insurance against third party risks.

146. (1) No person shall use, 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:

6 of 1991. Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991.

*Explanation.*—For the purposes of this sub-section, a person driving a motor vehicle merely as a paid employee, while there is in relation to the use of the vehicle no such policy in force 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 in force.

(2) The provisions of sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for purposes not connected with any commercial enterprise.

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

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- (a) the Central Government or a State Government, if the vehicle is used for purposes connected with any commercial enterprise;
- (b) any local authority;
- (c) any State Transport Undertaking;

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in such manner as may be prescribed by appropriate Government.

*Explanation.*—For the purposes of this sub-section, “appropriate Government” means the Central Government or a State Government, as the case may be, and—

- (i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;
- (ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;
- (iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that undertaking or authority.

147. (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; and
- (b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—
  - (i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person including owner of the goods or his authorised representative carried in the motor vehicle or damage to any property of a third party caused by or arising out of the use of the motor vehicle in a public place;
  - (ii) against the death of or bodily injury to any passenger of a transport vehicle, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle in a public place.

*Explanation.*—For the removal of doubts, it is hereby clarified 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) Notwithstanding anything contained under any other law for the time being in force, for the purposes of third party insurance related to either death of a person or grievous hurt to a person, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy under sub-section (1) in consultation with the Insurance Regulatory and Development Authority.

(3) 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 condition subject to which the policy is issued and of any other prescribed

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matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Notwithstanding anything contained in this Act, a policy of Insurance issued before the commencement of the Motor Vehicles (Amendment) Act, 2019 shall be continued on the existing terms under the contract and the provisions of this Act shall apply as if this Act had not been amended by the said Act.

(5) Where a cover note issued by the insurer under the provisions of this Chapter or the rules or regulations made thereunder is not followed by a policy of insurance within the specified 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 or to such other authority as the State Government may prescribe.

(6) Notwithstanding anything contained in any other law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons 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 persons.

148. Where, in pursuance of an arrangement between India and any reciprocating country, the motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance for the time being in force in that country, then, notwithstanding anything contained in section 147 but subject to any rules which may be made under section 164B such policy of insurance shall be effective throughout the route or area in respect of which the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.

Validity of policies of insurance issued in reciprocating countries.

149. (1) The insurance company shall, upon receiving information of the accident, either from claimant or through accident information report or otherwise, designate an officer to settle the claims relating to such accident.

Settlement by insurance company and procedure therefor.

(2) An officer designated by the insurance company for processing the settlement of claim of compensation may make an offer to the claimant for settlement before the Claims Tribunal giving such details, within thirty days and after following such procedure as may be prescribed by the Central Government.

(3) If, the claimant to whom the offer is made under sub-section (2),—

(a) accepts such offer,—

(i) the Claims Tribunal shall make a record of such settlement, and such claim shall be deemed to be settled by consent; and

(ii) the payment shall be made by the insurance company within a maximum period of thirty days from the date of receipt of such record of settlement;

(b) rejects such offer, a date of hearing shall be fixed by the Claims Tribunal to adjudicate such claim on merits.

150. (1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 164 is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may 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 award any sum not

Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks.

exceeding the sum assured payable thereunder, as if that person were the decree holder, in respect of the liability, 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 judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as its execution is stayed 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 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 two-wheeled vehicle; or

(ii) a condition excluding driving by a named person or by any person who is not duly licenced or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification or driving under the influence of alcohol or drugs as laid down in section 185; or

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

(b) that the policy is void on the ground that it was obtained by nondisclosure of any material fact or by representation of any fact which was false in some material particular; or

(c) that there is non-receipt of premium as required under section 64VB of the Insurance Act, 1938.

4 of 1938.

(3) Where any such judgment or award as is referred to in sub-section (1) is obtained from a court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 and whether or not that person is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment or award were given by a court in India:

5 of 1908.

4 of 1938.

Provided that no sum shall be payable by the insurer in respect of any such judgment or award unless, before the commencement of the proceedings in which the judgment or award is given, the insurer had notice through the court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 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 condition other than those in 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 147, be of no effect.

(5) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

(6) If on the date of filing of any claim, the claimant is not aware of the insurance company with which the vehicle had been insured, it shall be the duty of the owner of the vehicle to furnish to the tribunal or court the information as to whether the vehicle had been insured on the date of the accident, and if so, the name of the insurance company with which it is insured.

*Explanation.*—For the purposes of this section,—

(a) “award” means an award made by the Claims Tribunal under section 168;

(b) “Claims Tribunal” means a Claims Tribunal constituted under section 165;

(c) “liability covered by the terms of the policy” means the liability which is covered by the policy or 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; and

(d) “material fact” and “material particular” mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he shall take the risk and, if so, at what premium and on what conditions.

151. (1) Where under any contract of insurance affected in accordance with the provisions of this Chapter, a person is insured against liabilities which he may incur to third party, then—

Rights of third party against insurers on insolvency of insured.

(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 a winding-up order being made or a resolution for a voluntary winding-up being passed 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 any 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 rights 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 provision 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 amount; 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 person in respect of the balance amount.

152. (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 147 shall, on demand by or on behalf of the person making the claim, refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, 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 an 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 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 of 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, on 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 provision 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 151 and for the purpose of enforcing such rights, if any, and any such contract of insurance as purports 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 supporting 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 persons therein mentioned.

Duty to give information as to insurance.

## Appendix – 12 Motor Vehicle ( Amendment) Act – 2019

(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.

153. (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 147 shall be valid unless such third party is a party to the settlement.

Settlement between insurers and insured persons.

(2) The Claims Tribunal shall ensure that the settlement is *bona fide* and was not made under undue influence and the compensation is made in accordance with the payment schedule referred to in sub-section (1) of section 164.

(3) Where a person who is insured under a policy issued for the purpose of this Chapter has become insolvent, or where, if such insured person is a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured person after the 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.

154. (1) For the purposes of sections 151, 152 and 153, 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.

Saving in respect of sections 151, 152 and 153.

(2) The provisions of sections 151, 152 and 153 shall not apply where a company is wound-up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

155. Notwithstanding anything contained in section 306 of the Indian Succession Act, 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 such event against his estate or against the insurer.

Effect of death on certain causes of action.

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

Effect of certificate of insurance.

(a) if and so long as the policy 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.

157. (1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken

Transfer of certificate of insurance.

together with the policy of insurance relating thereto, the certificate of insurance 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.

*Explanation.*—For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.

(2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance.

158. (1) Any person driving a motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce—

- (a) the certificate of insurance;
- (b) the certificate of registration;
- (c) the pollution under control certificate;
- (d) the driving licence;
- (e) in the case of a transport vehicle, also the certificate of fitness referred to in section 56, and the permit; and
- (f) any certificate or authorisation of exemption that has been granted under this Act,

relating to the use of the vehicle.

(2) Where, owing to the presence of a motor vehicle in a public place, an accident occurs involving death or bodily injury to another person, if the driver of the vehicle does not at that time produce the required certificate, driving licence and permit referred to in sub-section (1) to a police officer, he or the owner shall produce the said certificates, licence and permit at the police station at which the driver makes the report required by section 134.

(3) No person shall be liable to conviction for offences under sub-section (1) or sub-section (2) by reason of the failure to produce the required certificate 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 at such police station as may have been specified by him to the police officer 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 State Government for the purpose of determining whether the vehicle was or was not being driven in contravention of section 146 and on any occasion when the driver was required under this section to produce the certificate of insurance.

(5) In this section, the expression “produce the certificate of insurance” means production for examination the relevant certificate of insurance or such other evidence

Production of certain certificates, licence and permit in certain cases.

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as may be prescribed to prove that the vehicle was not being driven in contravention of section 146.

159. The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.

Information to be given regarding accident.

160. 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 a 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 and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

Duty to furnish particulars of vehicle involved in accident.

161. (1) Notwithstanding anything contained in any other law for the time being in force or any instrument having the force of law, the Central Government shall provide for paying in accordance with the provisions of this Act and the scheme made under sub-section (3), compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

Special provisions as to compensation in case of hit and run motor accident.

(2) Subject to the provisions of this Act and the scheme made under sub-section (3), there shall be paid as compensation,—

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of two lakh rupees or such higher amount as may be prescribed by the Central Government;

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees or such higher amount as may be prescribed by the Central Government.

(3) The Central Government may, by notification in the Official Gazette, make a scheme specifying the manner in which the scheme shall be administered by the Central Government or General Insurance Council, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation under this section.

(4) A scheme made under sub-section (3) may provide that,—

(a) a payment of such sum as may be prescribed by the Central Government as interim relief to any claimant under such scheme;

(b) a contravention of any provision thereof shall be punishable with imprisonment which may extend to two years, or with fine which shall not be less than twenty-five thousand rupees but may extend to five lakh rupees or with both;

(c) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of Central Government, by such officer or authority to any other officer or authority.

162. (1) Notwithstanding anything contained in the General Insurance Companies (Nationalisation) Act, 1972 or any other law for the time being in force or any instrument having the force of law, the insurance companies for the time being carrying on general

Scheme for golden hour.

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insurance business in India shall provide in accordance with the provisions of this Act and the schemes made under this Act for treatment of road accident victims, including during the golden hour.

(2) The Central Government shall make a scheme for the cashless treatment of victims of the accident during the golden hour and such scheme may contain provisions for creation of a fund for such treatment.

Refund in certain cases of compensation paid under section 161.

163. (1) The payment of compensation in respect of the death of, or grievous hurt to, any person under section 161 shall be subject to the condition that if any compensation (hereafter in this sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law for the time being in force or otherwise, so much of the other compensation or other amount aforesaid as is equal to the compensation paid under section 161, shall be refunded to the insurer.

(2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle under any provision of this Act other than section 161 or any other law for the time being in force, the Claims Tribunal, court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 161 or an application for payment of compensation is pending under that section, and such Tribunal, court or other authority shall—

(a) if compensation has already been paid under section 161, direct the person liable to pay the compensation awarded by it to refund to the insurer, so much thereof as is required to be refunded in accordance with the provisions of sub-section (1);

(b) if an application for payment of compensation is pending under section 161 forward the particulars as to the compensation awarded by it to the insurer.

*Explanation.*—For the purpose of this sub-section, an application for compensation under section 161 shall be deemed to be pending—

(i) if such application has been rejected, till the date of the rejection of the application; and

(ii) in any other case, till the date of payment of compensation in pursuance of the application.

Payment of compensation in case of death or grievous hurt, etc.

164. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

Scheme for interim relief for claimants.

164A. (1) The Central Government, may make schemes for the provision of interim relief to claimants praying for compensation under this Chapter.

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(2) A scheme made under sub-section (1) shall also provide for procedure to recover funds disbursed under such scheme from the owner of the motor vehicle, where the claim arises out of the use of such motor vehicle or other sources as may be prescribed by the Central Government.

164B. (1) The Central Government shall constitute a Fund to be called the Motor Vehicle Accident Fund and thereto shall be credited—

Motor Vehicle  
Accident  
Fund.

(a) payment of a nature notified and approved by the Central Government;

(b) any grant or loan made to the Fund by the Central Government;

(c) the balance of the Fund created under scheme framed under section 163, as it stood immediately before the commencement of the Motor Vehicles (Amendment) Act, 2019; and

(d) any other source of income as may be prescribed by the Central Government.

(2) The Fund shall be constituted for the purpose of providing compulsory insurance cover to all road users in the territory of India.

(3) The Fund shall be utilised for the following, namely:—

(a) treatment of the persons injured in road accidents in accordance with the scheme framed by the Central Government under section 162;

(b) compensation to representatives of a person who died in hit and run motor accident in accordance with schemes framed under section 161;

(c) compensation to a person grievously hurt in a hit and run motor accident in accordance with schemes framed under section 161; and

(d) compensation to such persons as may be prescribed by the Central Government.

(4) The maximum liability amount that shall be paid in each case shall be such as may be prescribed by the Central Government.

(5) In all cases specified in clause (a) of sub-section (3), when the claim of such person becomes payable, where amount has been paid out of this Fund to any person, the same amount shall be deductible from the claim received by such person from the insurance company.

(6) The Fund shall be managed by such authority or agency as the Central Government may specify having regard to the following:—

(a) knowledge of insurance business of the agency;

(b) capability of the agency to manage funds; and

(c) any other criteria as may be prescribed by the Central Government.

(7) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Fund in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(8) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(9) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Fund under this Act shall have the same rights, privileges and authority in connection with such audit of the Government accounts and, in particular, shall have the right to demand the production

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of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(10) The accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of the Parliament.

(11) Any scheme framed under sub-section (3) of section 161, as it stood immediately before the commencement of the Motor Vehicles (Amendment) Act, 2019, shall be discontinued and all rights and liabilities accruing thereunder shall be met out of the Fund with effect from the date of commencement of this Act.

164C. (1) The Central Government may make rules for the purposes of carrying into effect, the provisions of this Chapter.

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

(a) the forms to be used for the purposes of this Chapter including,—

(i) the form of the insurance policy and the particulars it shall contain as referred to in sub-section (3) of section 147;

(ii) the form for making changes in regard to the fact of transfer in the certificate of insurance under sub-section (2) of section 157;

(iii) the form in which the accident information report may be prepared, the particulars it shall contain, the manner and the time for submitting the report to the Claims Tribunal and the other agency under section 159;

(iv) the form for furnishing information under section 160; and

(v) the form of the annual statement of accounts for the Motor Vehicle Accident Fund under sub-section (7) of section 164B;

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

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

(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) adopting the provisions of this Chapter to vehicles brought into India by persons making only a temporary stay therein or to vehicles registered in a reciprocating country and operating on any route or within any area in India by applying those provisions with prescribed modifications;

(i) the requirements which a certificate of insurance is required to comply with as referred to in clause (b) of section 145;

(j) administration of the Fund established under sub-section (3) of section 146;

Power of  
Central  
Government  
to make rules.

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(k) the minimum premium and the maximum liability of an insurer under sub-section (2) of section 147;

(l) the conditions subject to which an insurance policy shall be issued and other matters related thereto as referred to in sub-section (3) of section 147;

(m) the details of settlement, the time limit for such settlement and the procedure thereof under sub-section (2) of section 149;

(n) the extent of exemptions and the modifications under the proviso to sub-section (3) of section 158;

(o) the other evidence under sub-section (5) of section 158;

(p) such other agency to which the accident information report as referred to in section 159 may be submitted;

(q) the time limit and fee for furnishing information under section 160;

(r) the higher amount of compensation in respect of death under clause (a) of sub-section (2) of section 161;

(s) a sum to be paid as interim relief as referred to in clause (a) of sub-section (4) of section 161;

(t) the procedure for payment of compensation under sub-section (1) of section 164;

(u) such other sources from which funds may be recovered for the scheme as referred to in sub-section (2) of section 164A;

(v) any other source of income that may be credited into the Motor Vehicle Accident Fund under sub-section (1) of section 164B;

(w) the persons to whom compensation may be paid under clause (d) of sub-section (3) of section 164B;

(x) the maximum liability amount under sub-section (4) of section 164B;

(y) the other criteria under clause (c) of sub-section (6) of section 164B;

(z) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

164D. (1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter other than the matters specified in section 164C. Power of State Government to make rules.

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

(a) the other authority under sub-section (5) of section 147; and

(b) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.”.

**52.** In section 165 of the principal Act, in the *Explanation*, for the words, figures and letter "section 140 and section 163A", the word and figures "section 164" shall be substituted. Amendment of section 165.

**53.** In section 166 of the principal Act,—

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:— Amendment of section 166.

“Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.”.



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(ii) in sub-section (2), the proviso shall be omitted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.”.

(iv) in sub-section (4), for the words, brackets and figures "sub-section (6) of section 158", the word and figures "section 159" shall be substituted;

(v) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.”.

Amendment of section 168.

**54.** In section 168 of the principal Act, in sub-section (1),—

(i) for the word and figures “section 162”, the word and figures “section 163” shall be substituted;

(ii) the proviso shall be omitted.

Amendment of section 169.

**55.** In section 169 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) For the purpose of enforcement of its award, the Claims Tribunal shall also have all the powers of a Civil Court in the execution of a decree under the Code of Civil Procedure, 1908, as if the award were a decree for the payment of money passed by such court in a civil suit.”.

5 of 1908.

Amendment of section 170.

**56.** In section 170 of the principal Act, for the word and figures “section 149” the word and figures “section 150” shall be substituted.

Amendment of section 173.

**57.** In section 173 of the principal Act, in sub-section (2), for the words “ten thousand”, the words “one lakh” shall be substituted.

Amendment of section 177.

**58.** In section 177 of the principal Act, for the words “one hundred rupees” and “three hundred rupees”, the words “five hundred rupees” and “one thousand and five hundred rupees” shall respectively be substituted.

Insertion of section 177A.

**59.** After section 177 of the principal Act, the following section shall be inserted, namely:—

Penalty for contravention of regulations under section 118.

“177A. Whoever contravenes the regulations made under section 118, shall be punishable with fine which shall not be less than five hundred rupees, but may extend to one thousand rupees.”.

Amendment of section 178.

**60.** In section 178 of the principal Act, in sub-section (3), in clause (b), for the words “two hundred rupees”, the words “five hundred rupees” shall be substituted.

Amendment of section 179.

**61.** In section 179 of the principal Act,—

(i) in sub-section (1), for the words "five hundred rupees", the words “two thousand rupees” shall be substituted;

(ii) in sub-section (2), for the words "five hundred rupees", the words “two thousand rupees” shall be substituted.

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- 62.** In section 180 of the principal Act, for the words "which may extend to one thousand rupees", the words "of five thousand rupees" shall be substituted. Amendment of section 180.
- 63.** In section 181 of the principal Act, for the words "which may extend to five hundred rupees", the words "of five thousand rupees" shall be substituted. Amendment of section 181.
- 64.** In section 182 of the principal Act,—
- (i) in sub-section (1), for the words "which may extend to five hundred rupees", the words "of ten thousand rupees" shall be substituted;
- (ii) in sub-section (2), for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted.
- 65.** For section 182A of the principal Act, the following sections shall be substituted, namely:—
- “182A. (1) Whoever, being a manufacturer, importer or dealer of motor vehicles, sells or delivers or alters or offers to sell or deliver or alter, a motor vehicle that is in contravention of the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine of one lakh rupees per such motor vehicle or with both:
- Provided that no person shall be convicted under this section if he proves that, at the time of sale or delivery or alteration or offer of sale or delivery or alteration of such motor vehicle, he had disclosed to the other party the manner in which such motor vehicle was in contravention of the provisions of Chapter VII or the rules and regulations made thereunder.
- (2) Whoever, being a manufacturer of motor vehicles, fails to comply with the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one hundred crore rupees or with both.
- (3) Whoever, sells or offers to sell, or permits the sale of any component of a motor vehicle which has been notified as a critical safety component by the Central Government and which does not comply with Chapter VII or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine of one lakh rupees per such component or with both.
- (4) Whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both.
- 182B. Whoever contravenes the provisions of section 62A, shall be punishable with fine which shall not be less than five thousand rupees, but may extend to ten thousand rupees.”. Punishment for contravention of section 62A.
- 66.** In section 183 of the principal Act,—
- (i) in sub-section (1),—
- (a) after the words “Whoever drives”, the words “or causes any person who is employed by him or subjects someone under his control to drive” shall be inserted;
- (b) for the words "with fine which extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again

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convicted of an offence under this sub-section, with fine which may extend to one thousand rupees", the following shall be substituted, namely:—

“in the following manner, namely:—

(i) where such motor vehicle is a light motor vehicle with fine which shall not be less than one thousand rupees but may extend to two thousand rupees;

(ii) where such motor vehicle is a medium goods vehicle or a medium passenger vehicle or a heavy goods vehicle or a heavy passenger vehicle with fine which shall not be less than two thousand rupees, but may extend to four thousand rupees; and

(iii) for the second or any subsequent offence under this sub-section the driving licence of such driver shall be impounded as per the provisions of the sub-section (4) of section 206.”.

(ii) sub-section (2) shall be omitted.

(iii) in sub-section (3), after the word "mechanical", the words "or electronic" shall be inserted.

(iv) in sub-section (4), for the word, brackets and figure “sub-section (2)”, the word, brackets and figure “sub-section (1)” shall be substituted.

Amendment  
of section  
184.

**67.** In section 184 of the principal Act,—

(i) after the words “dangerous to the public”, the words “or which causes a sense of alarm or distress to the occupants of the vehicle, other road users, and persons near roads,” shall be inserted;

(ii) for the words “which may extend to six months or with fine which may extend to one thousand rupees”, the words “which may extend to one year but shall not be less than six months or with fine which shall not be less than one thousand rupees but may extend to five thousand rupees, or with both” shall be substituted;

(iii) for the words “which may extend to two thousand rupees”, the words “of ten thousand rupees” shall be substituted;

(iv) the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purpose of this section,—

(a) jumping a red light;

(b) violating a stop sign;

(c) use of handheld communications devices while driving;

(d) passing or overtaking other vehicles in a manner contrary to law;

(e) driving against the authorised flow of traffic; or

(f) driving in any manner that falls far below what would be expected of a competent and careful driver and where it would be obvious to a competent and careful driver that driving in that manner would be dangerous,

shall amount to driving in such manner which is dangerous to the public.”.

Amendment  
of section  
185.

**68.** In section 185 of the principal Act,—

(i) in clause (a), after the words “breath analyser,”, the words “or in any other test including a laboratory test,” shall be inserted;

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(ii) for the words “which may extend to two thousand rupees”, the words “of ten thousand rupees” shall be substituted;

(iii) the words “ if committed within three years of the commission of the previous similar offence,” shall be omitted;

(iv) for the words “which may extend to three thousand rupees”, the words “of fifteen thousand rupees” shall be substituted;

(v) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*Explanation.*—For the purposes of this section, the expression “drug” means any intoxicant other than alcohol, natural or synthetic, or any natural material or any salt, or preparation of such substance or material as may be notified by the Central Government under this Act and includes a narcotic drug and psychotropic substance as defined in clause (xiv) and clause (xxiii) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985.’

61 of 1985.

**69.** In section 186 in the principal Act, for the words “two hundred rupees” and “five hundred rupees”, the words “one thousand rupees” and “two thousand rupees” shall respectively be substituted. Amendment of section 186.

**70.** In section 187 of the principal Act,— Amendment of section 187.

(i) for the brackets and letter “(c)” the brackets and letter “(a)” shall be substituted;

(ii) for the words "three months", the words "six months" shall be substituted;

(iii) for the words “which may extend to five hundred rupees”, the words “of five thousand rupees” shall be substituted;

(iv) for the words "six months", the words "one year" shall be substituted; and

(v) for the words “which may extend to one thousand rupees”, the words “of ten thousand rupees” shall be substituted.

**71.** In section 189 of the principal Act,— Amendment of section 189.

(i) for the words “one month”, the words “three months” shall be substituted;

(ii) for the words “which may extend to five hundred rupees”, the words “of five thousand rupees” shall be substituted;

(iii) after the words "with both", the words, "and for a subsequent offence shall be punishable with imprisonment for a term which may extend to one year, or with fine of ten thousand rupees; or with both." shall be inserted.

**72.** In section 190 of the principal Act,— Amendment of section 190.

(i) in sub-section (1),—

(a) for the words “which may extend to two hundred and fifty rupees”, the words “of one thousand five hundred rupees” shall be substituted;

(b) for the words “which may extend to one thousand rupees”, the words “of five thousand rupees” shall be substituted; and

(c) after the words "with both", the words “and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property” shall be inserted.

(ii) in sub-section (2),—

(a) for the words “a fine of one thousand rupees”, the words “imprisonment for a term which may extend to three months, or with fine which may extend to

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ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months” shall be substituted; and

(b) for the words “a fine of two thousand rupees”, the words “imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both” shall be substituted;

(iii) in sub-section (3),—

(a) for the words “which may extend to three thousand rupees”, the words “with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months” shall be substituted; and

(b) for the words “which may extend to five thousand rupees”, the words “of twenty thousand rupees” shall be substituted.

Omission of section 191.

**73.** Section 191 of the principal Act shall be omitted.

Amendment of section 192.

**74.** In section 192 of the principal Act, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—Use of a motor vehicle in contravention of the provisions of section 56 shall be deemed to be a contravention of the provisions of section 39 and shall be punishable in the same manner as provided in sub-section (1).”.

Amendment of section 192A.

**75.** In section 192A of the principal Act, in sub-section (1),—

(i) after the words “for the first offence with”, the words “imprisonment for a term which may extend to six months and” shall be inserted;

(ii) for the words “which may extend to five thousand rupees but shall not be less than two thousand rupees”, the words “of ten thousand rupees” shall be substituted;

(iii) for the words “three months”, the words “six months” shall be substituted;

(iv) for the words “which may extend to ten thousand rupees but shall not be less than five thousand rupees”, the words “of ten thousand rupees” shall be substituted.

Insertion of new section 192B.

**76.** After section 192A of the principal Act, the following section shall be inserted, namely:—

“192B. (1) Whoever, being the owner of a motor vehicle, fails to make an application for registration of such motor vehicle under sub-section (1) of section 41 shall be punishable with fine of five times the annual road tax or one-third of the lifetime tax of the motor vehicle whichever is higher.

(2) Whoever, being a dealer, fails to make an application for the registration of a new motor vehicle under the second proviso to sub-section (1) of section 41 shall be punishable with fine of fifteen times the annual road tax or the lifetime tax of the motor vehicle whichever is higher.

(3) Whoever, being the owner of a motor vehicle, obtains a certificate of registration for such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration shall be punishable with imprisonment for a term which shall not be less than six months but may extend to one year and with fine equal to ten times the amount of the annual road tax or two-third the lifetime tax of the motor vehicle, whichever is higher.

Offences relating to registration.

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(4) Whoever, being a dealer, obtains a certificate of registration for such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration shall be punishable with imprisonment for a term which shall not be less than six months but may extend to one year and with fine equal to ten times the amount of annual road tax or two-third the lifetime tax of the motor vehicle, whichever is higher.”.

77. In the principal Act,—

Amendment  
of section  
193.

(A) in section 193, in the marginal heading, for the words "agents and canvassers", the words "agents, canvassers and aggregators" shall be substituted;

(B) section 193 shall be numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so numbered,—

(a) for the words “which may extend to one thousand rupees”, the words “of one thousand rupees” shall be substituted;

(b) for the words “which may extend to two thousand rupees”, the words “of two thousand rupees” shall be substituted;

(ii) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Whoever engages himself as an aggregator in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable with fine up to one lakh rupees but shall not be less than twenty-five thousand rupees.

(3) Whoever, while operating as an aggregator contravenes a condition of the licence granted under sub-section (1) of section 93, not designated by the State Government as a material condition, shall be punishable with fine of five thousand rupees.”.

78. In section 194 of the principal Act,—

Amendment  
of section  
194.

(i) in sub-section (1),—

(a) the word “minimum” shall be omitted;

(b) for the words “of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load”, the words “of twenty thousand rupees and an additional amount of two thousand rupees per tonne of excess load” shall be substituted;

(c) the following proviso shall be inserted, namely:—

“Provided that such motor vehicle shall not be allowed to move before such excess load is removed or is caused or allowed to be removed by the person in control of such motor vehicle.”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven when such motor vehicle is loaded in such a manner that the load or any part thereof or anything extends laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit shall be punishable with a fine of twenty thousand rupees, together with the liability to pay charges for off-loading of such load:

Provided that such motor vehicle shall not be allowed to move before such load is arranged in a manner such that there is no extension of the load

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laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit:

Provided further that nothing in this sub-section shall apply when such motor vehicle has been given an exemption by the competent authority authorised in this behalf, by the State Government or the Central Government, allowing the carriage of a particular load.”;

(iii) in sub-section (2), for the words, “which may extend to three thousand rupees”, the words “of forty thousand rupees” shall be substituted.

**79.** After section 194 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 194A, 194B, 194C, 194D, 194E and 194F.

Carriage of excess passengers.

"194A. Whoever drives a transport vehicle or causes or allows a transport vehicle to be driven while carrying more passengers than is authorised in the registration certificate of such transport vehicle or the permit conditions applicable to such transport vehicle shall be punishable with a fine of two hundred rupees per excess passenger:

Provided that such transport vehicle shall not be allowed to move before the excess passengers are off-loaded and an alternative transport is arranged for such passengers.

Use of safety belts and the seating of children.

194B. (1) Whoever drives a motor vehicle without wearing a safety belt or carries passengers not wearing seat belts shall be punishable with a fine of one thousand rupees:

Provided that the State Government, may by notification in the Official Gazette, exclude the application of this sub-section to transport vehicles to carry standing passengers or other specified classes of transport vehicles.

(2) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a child who, not having attained the age of fourteen years, is not secured by a safety belt or a child restraint system shall be punishable with a fine of one thousand rupees.

Penalty for violation of safety measures for motor cycle drivers and pillion riders.

194C. Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 128 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.

Penalty for not wearing protective headgear.

194D. Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 129 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.

Failure to allow free passage to emergency vehicles.

194E. Whoever while driving a motor vehicle fails to draw to the side of the road, on the approach of a fire service vehicle or of an ambulance or other emergency vehicle as may be specified by the State Government, shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees or with both.

Use of horns and silence zones.

194F. Whoever—

(a) while driving a motor vehicle—

(i) sounds the horn needlessly or continuously or more than necessary to ensure safety, or

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(ii) sounds the horn in an area with a traffic sign prohibiting the use of a horn, or

(b) drives a motor vehicle which makes use of a cut-out by which exhaust gases are released other than through the silencer,

shall be punishable with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.”.

**80.** Section 195 of the principal Act shall be omitted.

Omission of section 195.

**81.** In section 196 of the principal Act,—

Amendment of section 196.

(i) after the words “shall be punishable”, the words “for the first offence” shall be inserted;

(ii) for the words “which may extend to one thousand rupees”, the words “of two thousand rupees,” shall be substituted; and

(iii) after the words "with both", the words ", and for a subsequent offence shall be punishable with imprisonment for a term which may extend to three months, or with fine of four thousand rupees, or with both." shall be inserted.

**82.** In section 197 of the principal Act,—

Amendment of section 197.

(i) in sub-section (1), for the words “which may extend to five hundred rupees”, the words “of five thousand rupees” shall be substituted;

(ii) in sub-section (2), for the words “which may extend to five hundred rupees”, the words “of five thousand rupees” shall be substituted.

**83.** In section 198 of the principal Act, for the words “with fine which may extend to one hundred rupees”, the words “with fine of one thousand rupees” shall be substituted.

Amendment of section 198.

**84.** After section 198 of the principal act, the following section shall be inserted, namely:—

Insertion of new section 198A

'198A. (1) Any designated authority, contractor, consultant or concessionaire responsible for the design or construction or maintenance of the safety standards of the road shall follow such design, construction and maintenance standards, as may be prescribed by the Central Government from time to time.

Failure to comply with standards for road design, construction and maintenance.

(2) Where failure on the part of the designated authority, contractor, consultant or concessionaire responsible under sub-section (1) to comply with standards for road design, construction and maintenance, results in death or disability, such authority or contractor or concessionaire shall be punishable with a fine which may extend to one lakh rupees and the same shall be paid to the Fund constituted under section 164B.

(3) For the purposes of sub-section (2), the court shall in particular have regard to the following matters, namely:—

(a) the characteristics of the road, and the nature and type of traffic which was reasonably expected to use it as per the design of road;

(b) the standard of maintenance norms applicable for a road of that character and use by such traffic;



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(c) the state of repair in which road users would have expected to find the road;

(d) whether the designated authority responsible for the maintenance of the road knew, or could reasonably have been expected to know, that the condition of the part of the road to which the action relates was likely to cause danger to the road users;

(e) whether the designated authority responsible for the maintenance of the road could not reasonably have been expected to repair that part of the road before the cause of action arose;

(f) whether adequate warning notices through road signs, of its condition had been displayed; and

(g) such other matters as may be prescribed by the Central Government.

*Explanation.*—For the purposes of this section, the term “contractor” shall include sub-contractors and all such persons who are responsible for any stage in the design, construction and maintenance of a stretch of road.’.

**85.** After section 199 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 199A and 199B.

Offences by juveniles.

“199A. (1) Where an offence under this Act has been committed by a juvenile, the guardian of such juvenile or the owner of the motor vehicle shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render such guardian or owner liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

*Explanation.*—For the purposes of this section, the Court shall presume that the use of the motor vehicle by the juvenile was with the consent of the guardian of such juvenile or the owner of the motor vehicle, as the case may be.

(2) In addition to the penalty under sub-section (1), such guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees.

(3) The provisions of sub-section (1) and sub-section (2) shall not apply to such guardian or owner if the juvenile committing the offence had been granted a learner's licence under section 8 or a driving licence and was operating a motor vehicle which such juvenile was licensed to operate.

(4) Where an offence under this Act has been committed by a juvenile, the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months.

(5) Where an offence under this Act has been committed by a juvenile, then, notwithstanding section 4 or section 7, such juvenile shall not be eligible to be granted a driving licence under section 9 or a learner's licence under section 8 until such juvenile has attained the age of twenty-five years.

(6) Where an offence under this Act has been committed by a juvenile, then such juvenile shall be punishable with such fines as provided in the Act while any custodial sentence may be modified as per the provisions of the Juvenile Justice Act, 2000.

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199B. The fines as provided in this Act shall be increased by such amount not exceeding ten per cent. in value of the existing fines, on an annual basis on 1st day of April of each year from the date of commencement of the Motor Vehicles (Amendment) Act, 2019, as may be notified by the Central Government.”

Revision of fines.

**86.** In section 200 of the principal Act,—

Amendment of section 200.

(i) in sub-section (1),—

(a) for the words, figures and brackets “punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (2) of section 183, section 184, section 186, section 189, sub-section (2) of section 190, section 191, section 192, section 194, section 196, or section 198,” the words, brackets, figures and letters “punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 only to the extent of use of handheld communication devices, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198,” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that the State Government may, in addition to such amount, require the offender to undertake a period of community service.”;

(ii) after sub-section (2), the following provisos shall be inserted, namely:—

“Provided that notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed:

Provided further that compounding of an offence will not discharge the offender from proceedings under sub-section (4) of section 206 or the obligation to complete a driver refresher training course, or the obligation to complete community service, if applicable.”

**87.** In section 201 of the principal Act,—

Amendment of section 201.

(i) in sub-section (1),—

(a) the word “disabled” shall be omitted;

(b) for the words “fifty rupees per hour”, the words “five hundred rupees” shall be substituted;

(c) in the second proviso, for the words “a Government Agency, towing charges”, the words “an agency authorised by the Central Government or State Government, removal charges” shall be substituted;

(ii) in sub-section (2), for the words “towing charges”, the words “removal charges” shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) sub-section (1) shall not apply where the motor vehicle has suffered an unforeseen breakdown and is in the process of being removed.”;

(iv) after sub-section (3), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this section, “removal charges” includes any costs involved in the removal of the motor vehicle from one location to another and also includes any costs related to storage of such motor vehicle.’

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Amendment of section 206.

**88.** In section 206 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under section 19:

Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him.”.

Insertion of new sections 210A, 210B, 210C and 210D.

**89.** After section 210 of the principal Act, the following sections shall be inserted, namely:—

Power of State Government to increase penalties.

“210A. Subject to conditions made by the Central Government, a State Government, shall, by notification in the Official Gazette, specify a multiplier, not less than one and not greater than ten, to be applied to each fine under this Act and such modified fine, shall be in force in such State and different multipliers may be applied to different classes of motor vehicles as may be classified by the State Government for the purpose of this section.

Penalty for offence committed by an enforcing authority.

210B. Any authority that is empowered to enforce the provisions of this Act shall, if such authority commits an offence under this Act, shall be liable for twice the penalty corresponding to that offence under this Act.

Power of Central Government to make rules.

210C. The Central Government may make rules for—

(a) design, construction and maintenance standards for National highways;

(b) such other factors as may be taken into account by the Court under sub-section (3) of section 198A;

(c) any other matter which is, or has to be, prescribed by the Central Government.

Power of State Government to make rules.

210D. The State Government may make rules for design, construction and maintenance standards for roads other than national highways, and for any other matter which is, or may be, prescribed by the State Government.”.

Insertion of new section 211A.

**90.** After section 211 of the principal Act, the following section shall be inserted, namely:—

Use of electronic forms and documents.

“211A. (1) Where any provision of this Act or the rules and regulations made thereunder provide for—

(a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the Central Government or the State Government in a particular manner;

(b) the issue or grant of any licence, permit, sanction, approval or endorsement, by whatever name called in a particular manner; or

(c) the receipt or payment of money in a particular manner,

then notwithstanding anything contained in such provision, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the Central Government or the State Government, as the case may be.

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(2) The Central Government or the State Government shall, for the purpose of sub-section (1), prescribe—

(a) the manner and format in which such electronic forms and documents shall be filed, created or issued; and

(b) the manner or method of payment of any fee or charges for filing, creation or issue of any electronic document under clause (a).”.

91. In section 212 of the principal Act,—

Amendment  
of section  
212.

(i) in sub-section (4),—

(a) after the words, brackets and figures “the proviso to sub-section (1) of section 112”, the word and figures “section 118” shall be inserted;

(b) after the words, brackets, figures and letter “sub-section (4) of section 163A”, the words, figures and letter “section 164, section 177A” shall be inserted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Every notification issued by the State Government under section 210A shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees or both Houses agree, as the case may be, in making any modification in the notification or the House agrees or both Houses agree, as the case may be, that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.”.

92. After section 215 of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
215A, 215B,  
215C and  
215D.

“215A. Notwithstanding anything contained in this Act,—

(a) the Central Government shall have the power to delegate any power or functions that have been conferred upon it by the Act to any public servant or public authority and authorise such public servant or public authority to discharge any of its powers, functions and duties under this Act;

Power of  
Central  
Government  
and State  
Government  
to delegate.

(b) the State Government shall have the power to delegate any power or functions that have been conferred upon it by the Act to any public servant or public authority and authorise such public servant or public authority to discharge any of its powers, functions and duties under this Act.

215B. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Road Safety Board consisting of a Chairman, such number of representatives from the State Governments, and such other members as it may consider necessary and on such terms and conditions as may be prescribed by the Central Government.

National Road  
Safety Board.

(2) The National Board shall render advice to the Central Government or State Government, as the case may be, on all aspects pertaining to road safety and traffic management including, but not limited to,—

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- (a) the standards of design, weight, construction, manufacturing process, operation and maintenance of motor vehicles and of safety equipment;
- (b) the registration and licensing of motor vehicles;
- (c) the formulation of standards for road safety, road infrastructure and control of traffic;
- (d) the facilitation of safe and sustainable utilisation of road transport ecosystem;
- (e) the promotion of new vehicle technology;
- (f) the safety of vulnerable road users;
- (g) programmes for educating and sensitising drivers and other road users; and
- (h) such other functions as may be prescribed by the Central Government from time to time.

Power of  
Central  
Government  
to make rules.

215C. (1) The Central Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

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

- (a) the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A;
- (b) the minimum qualifications which the Motor Vehicles Department officers or any class thereof shall be required to possess for appointment as such, as referred to in sub-section (4) of section 213;
- (c) the terms and conditions of appointment of Chairman and Members of the National Road Safety Board under sub-section (1) of section 215B;
- (d) the other functions of the National Road Safety Board under sub-section (2) of section 215B; and
- (e) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules by the Central Government.

Power of State  
Government  
to make rules.

215D. (1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter, other than the matters specified in section 215C.

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

- (a) the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A;
- (b) the duties and functions of the officers of the Motor Vehicle Department, the powers to be exercised by such officers (including the powers exercisable by police officers under this Act) and the conditions governing the exercise of such powers, the uniform to be worn by them, the authorities to which they shall be subordinate as referred to in sub-section (3) of section 213;
- (c) such other powers as may be exercised by officers of the Motor Vehicles Department as referred to in clause (f) of sub-section (5) of section 213; and

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(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules by the State Government.”.

93. In the principal Act, the Second Schedule shall be omitted.

Omission of  
Second  
Schedule.

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DR. G. NARAYANA RAJU,  
*Secretary to the Govt. of India.*

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10/7/2022

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**Status** : Married  
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- **UGC-NET(2012)** Qualified on 9th September, 2012.
- **LLM (2011)** with 64.5 % (First Division) in Law, New Law Academy affiliated to Pune University
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## **AREA OF INTEREST**

- Gender justice
- Child Rights
- Consumer Rights
- Right to information
- Lok Adalat

## **WORK EXPERIENCE**

- 1<sup>st</sup> September, 2007- 15<sup>th</sup> June, 2009, Advocate, Mizoram Bar Association.
- 1<sup>st</sup> July 2011- 30<sup>th</sup> May, 2012, Visiting Faculty, ICAFI University.
- 19<sup>th</sup> September, 2012- Present: Assistant Professor, Govt. Mizoram Law College

## **PUBLICATION**

### ***A. Journals***

**2021:** "The Fear of Nuclear weapon: The Trauma brought by Indian Nuclear's test", JETIR, ISSN-2349-5162, Volume 8, Issue 7.

"Law an instrument of social change in India with special reference to Mizoram" , Contemporary Social Scientist, Vol: XII-II, Spring 2020, ISBN-2230-956X (Issued on 2021)

"Indian Constitution and social Justice: Using education As an Important instrument For Bringing Social Justice To The Minority and Backward classes", Quest Journals, Journals of Research in Humanities and Social Science, Vol:9-Issue 8 (2021), pp84-87, ISSN( Online): 2321-9467

"India and Asian Trade: Looking at the significance of Indo-Myanmar Border Trade", Vol. 9 Issue. 9 (September-2021) EPRA International Journal of Economic and Business Review(JEBR).

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A Study On "Hit And Run" Claim Process and Award in India With Special Reference To the State Of Mizoram, on The Online Journal of Distance Education and E-Learning, E-ISSN 2147-6454, UGC Care listed journal-1, Volume-11, Issue 2b.

***B. Chapter in Edited Book***

Fa lak (adoption chungchang), PLV Hand Book, Published by Mizoram State legal services Authority

**SEMINAR PAPER PRESENTED**

**International**

**2022:** "Analyzing the Status of Women through Mizo Customary law", on International Seminar on Changing Dimensions of Law in South Asia: Issues and Challenges on 10<sup>th</sup> December, 2022 organized by Centre for South Asia Legal Studies, Geeta Institute of Law, NCR-Delhi & School of Law, Geeta University in collaboration with Faculty of Shariah and Law, Maldives National University & Kathmandu School of Law, Nepal.

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**National Seminar**

**2017:** "Rights of girl child with special reference to Human Trafficking in NE India - Mizoram", on National Seminar "Problems and Rights of Girl child in NE India", on 17<sup>th</sup> and 18<sup>th</sup> November, 2017

**2019:** "Rights of Women with special reference of Section 125 Crpc, Title Programme", on Seminar on Gender sensitization in contemporary Mizo Society, Dept. Of History in collaboration with RUSA, Govt. Aizawl College, 1<sup>st</sup> November 2019.

**2020:** "Examining Indian Effort in Bringing Good Governance to the Weaker Sections" , Title of the Conference " Good Governance in practice in the 21<sup>st</sup>

Century", Dept. Of Public Administration, Pachhunga University College, 12<sup>th</sup> February, 2020

**2022:** "Mizoram Liquor Regulation and policy: Its impact on Mizo society" , National Conference on Reinventing Rural Economy Key to Economic Revival, Countering Poverty and Un- employment" 21st March, 2022 by National Institute of Rural Development and Panchayati Ray, North Eastern Regional Centre, Ministry of Rural Development, Govt. of India.

Presented a paper with supervisor on the "National Seminar on Local Governance & Management in Northeast India" during 26<sup>th</sup> to 27<sup>th</sup> May, 2022 conducted by Department of Management, Mizoram University on the topic "Role of Gram Nyalalayas as an adjudicator to bring justice in the rural administration vis-à-vis Village council court in Mizoram"

Presented a paper with supervisor on the "National Seminar - Mizoram since Independence: Changes and Development in Policy and Society" during 6<sup>th</sup> to 7<sup>th</sup> October, 2022 conducted by Mizoram Political Science Association & Dept. of Pol.sc, Govt. Mamit College on the topic "Hit& Run claim process and award in India with special reference to the state of Mizoram".

### **PARTICULARS OF THE CANDIDATE**

Name of the Candidate : Hmingthanpuii Ralte

Degree : Doctor of Philosophy

Department : Political Science

Title of Thesis : Vehicle Insurance Policies  
And Claim Settlement in Mizoram:  
A Socio - Legal Study

Date of Admission : 20<sup>th</sup> October, 2020

Approval of Research Proposal

1. DRC : 5/11/2020
2. BOS : 12/5/2021
3. School Board : 18/5/2021

MZU Registration No : 2100009

Ph.D Registration No : MZU/Ph.D/1561 of 20.10.2020

Extension (If any) : NIL

(PROF. AYANGBAM SHYAMKISHOR)

Head

Department of Political Science

## BIO DATA TO THE CANDIDATE

### PERSONAL PROFILE

**Name** : Hmingthanpuii Ralte  
**Father's Name** : Vanlalduha Ralte  
**Mother's Name** : Zokhumi  
**Date of Birth** : 6<sup>th</sup> June, 1984  
**Gender** : Female  
**Status** : Married  
**Nationality** : Indian  
**Caste/Tribe** : Schedule Tribe  
**Religion** : Christian  
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**Mobile / Phone** : 8731965484  
**email** : thaniralte84@gmail.com

### EDUCATIONAL QUALIFICATION

- **Ph.D.** Registered in 2020 at the Department of Political Science, Mizoram University. Supervisor: Prof. Jangkhongam Doungel, Joint Supervisor: Tangzakhup Tombing. Topic entitled, :*Vehicle Insurance Policies And Claim Settlements in Mizoram: A Socio - Legal Study.*
- **UGC-NET(2012)** Qualified on 9th September, 2012.
- **LLM (2011)** with 64.5 % (First Division) in Law, New Law Academy affiliated to Pune University
- **LLB (2007)** with 64% (First Division), Mizoram University.
- **BA (2004)** with 52%(Second Division), Mizoram University.
- **HSSLC (2001)** with 53.3% (Second Division), Mizoram Board of School Education
- **HSLC (1998) with 47% ( Third Division),** Mizoram Board of School Education



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## **PARTICULARS OF THE CANDIDATE**

Name of the Candidate	: Hmingthanpuii Ralte
Degree	: Doctor of Philosophy
Department	: Political Science
Title of Thesis And Claim	: Vehicle Insurance Policies Settlements in Mizoram: A Socio - Legal Study
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Approval of Research Proposal	
1. DRC	: 5/11/2020
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3. School Board	: 18/5/2021
MZU Registration No	: 2100009
Ph.D Registration No	: MZU/Ph.D/1561 of 20.10.2020
Extension (If any)	: NIL

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Head

Department of Political Science

**ABSTRACT**

**VEHICLE INSURANCE POLICIES AND CLAIM  
SETTLEMENTS IN MIZORAM: A SOCIO - LEGAL  
STUDY**

**AN ABSTRACT SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF  
PHILOSOPHY**

**HMINGTHANPUII RALTE**

**MZU REGISTRATION NO.: 2100009**

**MZU REGISTRATION NO.: MZU/Ph.D./1561 of 20.10.2020**



**DEPARTMENT OF POLITICAL SCIENCE**

**SCHOOL OF SOCIAL SCIENCES**

**OCTOBER, 2023**

## **INTRODUCTION**

Motor vehicle has become one of the important basic needs of man in the modern world and the business of automobiles has witness a numerous growth. It can be said that, the life security of man is based on the vehicle he drives or he uses. Understanding the importance of vehicle, the Government passed a number of laws to regulate its uses, the procedure for the insurance and a separate tribunal for the adjudication of cases in the incident of accident i.e Motor Accident Claim Tribunal is established in all the states of India. The law has made vehicle insurance compulsory that can be taken as Third Party Liability insurance, First Party insurance and Own Damage Cover policy. Due to the mandatory vehicle insurance and the growth of vehicle industry, the insurance business is of the fastest growing market in India.

The law governing the motor vehicle was initiated way back during the colonial period. The first systematic law applied was the Fatal Accident Act-1885, this gives rights to the victim of vehicle against the negligent driver. In the year 1914, the Indian Motor vehicle Act was pass to be the first legislation, introduced in India regarding the motor vehicle that is again replaced by the Motor Vehicle Act of 1939. This Act though more practicable then the prior law, it undergoes a number of amendments and the 1956 amendment was one of the most important that introduce the third party insurance system, Motor Accident Appellate Tribunal and the procedure for adjudication of the cases in the said tribunals. Due to the increase number of vehicle the 1939 Act was replaced by the Motor Vehicle Act -1988 and came into force on 1<sup>st</sup> July, 1988. After a considerable application of the Motor Vehicle Act-1988, it was again replaced by the Motor Vehicle (Amendment) Act - 2019 by making a number of changes. In the year 1996, the state of Mizoram constituted the first Motor Accident Claim Tribunal as per the Motor Vehicle Act-1988 for the whole state and in the year 2000 an order for the constitution of Motor Accident Claim Tribunal, Lunglei judicial District was enacted, from thereon, there exist two (2) MACT in Aizawl Judicial Distict and Lunglei judicial District. So, from the inception of MACT in Aizawl Judicial Distict there are 15 judges in the tribunal. The number of case registered in Aizawl Judicial Distict is 1844 including the

miscellaneous & Execution case during the year 2005 to 2020 and 176 at Lunglei judicial District including miscellaneous and execution case during the year 2005 to 2020. Table 5 of chapter-2 shows that the longest duration of trial in MACT is 10yrs and 8 month and the shortest is 3 months, which is the case registered in the year 2014. The recorded number of appeal case against the judgments of the MACT to the Guwahati High Court Aizawl Bench is 453 during the year 2005 to 2020. The number of appeals to High Court amount to 22.43%. Table 7 of Chapter-2 shows the number of vehicles registered during the year 2006-2006 to 2020-2021 September amounting to 246944 new vehicle registrations. In light of the data collected, the percentage of case registered in the tribunal is not high as per the new vehicle in Mizoram.

As per the Ministry of Road Transport and Highway, the highest accident severity was observed in Mizoram in the year 2013 and 2014. The total number of vehicle accident during the year 2005 to 2019 is 1378, and the total number of person who lost their lives amount to 1031 and the total number of person injured due to vehicle accident is 2228. This number shows the need to have a proper tribunal and adjudication process to deal with the insurance claim, unless ignorant person may be deprived of their rights. Under the Motor vehicle Act, the Presiding Officer (Judge) of the Motor Accident Tribunal can entertain 3 types of claim as under:

1. No fault liability
2. Liability based on fault and
3. Structural Formula basis

The other type of claim that can be made is when the accident occurs by Hit and Run i.e when the defaulting vehicle could not be traced. In this type of accident, the claim should be made to the Claim Enquiry Officer in Taluka and after due enquiries, the Claims Enquiry Officer will submit a report together with certificate of post mortem or injury certificate to the Claims Settlement Commissioner with enclose undertaking in form 5 of the said scheme, this undertaking specifies that the amount of compensation received under the Scheme will be refunded to the insurer if

the injured victim or the legal representative of the deceased receives any other compensation in lieu of this amount, or under any other existing provision by law. The claims settlement commissioner may be either the District Collector or the Deputy Commissioner at the district level. In this regard, the researcher submitted an RTI to the Deputy commissioner Office, Aizawl on 24<sup>th</sup> Sept, 2021 and have learned that the Solatium Scheme-1989 for compensation of the "Hit & Run" victim was never implemented in the state of Mizoram. After the implementation of the Motor Vehicle (Amendment) Act- 2019 the Solatium Scheme-1989 was changed to Compensation to Victims of Hit and Run Motor Accident Scheme-2022 and was published by the Central Government in the gazette to be effective from 1st April, 2022. The researcher through RTI receive the detail of Hit & Run as recorded by State Crime Record Bureau (SCRB) on 25<sup>th</sup> January, 2022, the total number of Fatal and injury due to Hit and Run case is 107 during the year 2014 to 2020 and the previous year i.e 2005 to 2013 cannot obtain due to the improper record of the same. In more advance state like Delhi Accident Information Report (AIR) form is filled by the police in the case of vehicle accident. This AIR as per section 156(6) of the Motor Vehicle Act 1988 should be made mandatory in the state so that it would be purposeful for the tribunal in dealing an accident case. The AIR will give correct and direct information to the Presiding officer so that the duration of the case will be shortened. The same provision relating to AIR was reiterated by the Supreme Court in the case of General Insurance Council vs. State of Andhra Pradesh, IV (2007) ACC 385 (SC) where direction is given to the Police department.

Though court and tribunal play an active role in the protection of social justice, a number of alternative dispute redressal system also play important role in the adjudication of justice to reduce the burden of the court. In the state of Mizoram, Lok Adalat and Consumer Forum/ Commission and State Commission play important role in the disposal of case filed before them. As per Table 4.1, 4.2 and 4.3 of chapter 4, though a number of cases is registered before the Lok Adalat Lunglei District Legal Services Authority, Aizawl District Legal Services Authority and Mizoram State Legal Services Authority, the case relating to motor insurance claims amount to 12 only in numbers during the year 2008 to 2020. This indicates that the



people in general are reluctant to approach the Lok Adalat in case of motor accident insurance claim. In the State Commission of Mizoram established under the Consumer Protection Act, out of 89 cases registered only 4 case is relating to motor insurance claim during the year 2008 to 2020 and in District Forum, Aizawl, out of 1748 cases only 22 are relating to motor insurance claim during the said year while District Forum, Lunglei does not have any case relating to motor insurance claim till the date when data was collected. As per the suggestion of MR Krishna Murthy Vs New India Assurance Co. Ltd, if the Mediation system is introduced in the process of motor accident insurance claim, it is believed to be a bold step in the judicial system. Though the Motor Accident Claim Tribunal is not a satisfactory in the state, it does prove to be an important institution for the protection of social justice in the state.

#### **SCOPE OF THE STUDY**

Law is living and dynamic in nature so many changes are experienced by the people. The laws relating to motor vehicle also keep on changing through amendment, new Act, rules and regulation. This research focuses mainly on the India laws and will include the colonial period. The institution of motor Accident Claim Tribunal is analyzed during the year 2005 to 2020. The institution of Lok Adalat and Consumer Forum of Mizoram are deliberated with special reference to the case of motor insurance claim during the year 2008 to 2020.

The researcher limits the study on Motor Accident Claim Tribunal of Aizawl Judicial District and Lunglei Judicial District of Mizoram; Alternate Dispute Redressal agency like Lok Adalat established under Legal Services authority Act, State Commission and District Forum established under the Consumer Protection Act 1986. It analyzed the role of Motor Accident Claim Tribunal along with the other forum. The study includes the analysis of the role of police, transport department, medical practitioner, insurance company, claimants and opinion of the vehicle owner in general. As far as possible, the researcher will explain the role of the Motor accident claim Tribunal as a means of social justice mechanism in the modern society.

## **RESEARCH GAP**

1. This research focuses only on the efficiency of the Motor Accident Claim Tribunal base on the data collected from MACT Aizawl and Lunglei, Mizoram. It does not deal in the detail of adjudication process followed by the tribunal in Mizoram. The finding of the research is based on the available data from the concern office.

2. There is an insufficient literature with regards to the role of Insurance, the insurance claim process and the system of tribunal as a whole. Most of the writers concentrate on the claim procedure in the Motor accident claim Tribunal but fail to explain the role of the enforcement agencies, Transport Department and the duty of the general public as a whole. One of the other problems is that while reviewing the litigation and judgment of the Supreme Court and High Court, there are a huge number of cases decided by the judiciary especially the High Court of different states that make it very confusing for the scholar to rely on for further references in the research. An article or a book is very limited with regards to Motor accident claim that discusses and studies the state of Mizoram.

3. There is no proper and sufficient data in the Motor Accident Claim Tribunal and the State Crime Record Bureau and as a result, in some cases, the researcher could not collect data for the prescribe period of research.

4. The State Crime Record Bureau (SCRB) does not maintain separate data for "Hit and Run" as prescribes under the Motor Vehicle Act and the Indian Penal Code.

## **OBJECTIVES OF THE STUDY**

1. To study the development of Motor Accident, Claim Tribunal in India with special reference to Mizoram

2. To find whether social justice is done to the victim party by the tribunal, and find out why dealers are selling the insurance policy of the Non- Branch Company.

3. To study the different methods of compensation under the Motor Accident Claim tribunal in Mizoram and find out how the insurance company function in the state.
4. To find out the problem of the tribunal that result the long litigation process in the Tribunal
5. To examine and find out the actual condition of "Hit and Run" case in Mizoram.
6. To study the role of the State Commission, the District Forum and Lok Adalak in the trial of case involving motor accident/lost case

#### **RESEARCH QUESTION**

1. How does the institution of MACT evolve in India and its impact in the state of Mizoram?
2. What is the role played by MACT in delivering social justice to the claimants?
3. What is the reason for informal establishment of Insurance Company in Mizoram?
4. What determines the preference of Motor Insurance policy by the vehicle owner and the causes of delay in the Tribunal?
5. What is the actual condition of "Hit and Run" case in Mizoram?
6. What are the roles of ADRS like Lok Adalat, State Commission and District Forum in the adjudication process of claim settlement in Mizoram in case of damage/ loss of vehicle?

## **METHODOLOGY**

The researcher uses doctrinal and non-doctrinal method of data collection. The research is a mixture of both Qualitative research and Quantitative research especially ex-post facto research to examine the data (cases) retrospectively to establish causes, relationships or associations, and their meanings.

**Primary Data:** For Primary data collection, judgmental (non- probability sampling) and stratified random sampling (Probability sample) will be applied, as in most of the situation the researcher will have to apply her knowledge and experience in selection of sample and also that a large number of sample is impossible to be collected, a selected amount of sample will be generalized to represent the whole population. Semi-structured interview will also be conducted to collect data from the lawyers and judges/ presiding officer of the Tribunal to get a reliable research outcome. Closed and open format questionnaire was conducted to collected data from the selected advocates, law faculty who are acquainted with motor accident claim case.

**Secondary Data:** Secondary data include books, journals, newspaper, e- article, articles, and statute, research paper, Official Gazette, Govt. Recommendation, Committee Report, website etc.

**Selection of Sample size:** The Research concentrated in Aizawl and Lunglei Judicial District. Champhai Judicial District is not be included as it is a newly created judicial district and does not have a Motor Accident claim Tribunal for the same. It is important to mention here that only low percent of practicing Advocate in the Judicial District of Aizawl and Lunglei are associated with the case relating to motor accident compensation case, as a result of that, the questionnaire prepared for this research can be answered by carefully selected advocate and teaching faculties who have expertise knowledge in the Motor Accident Claim settlement.

.No	District	Selection method for population
.	Aizawl Judicial District	1) 50 - from Advocate both from the claimant and insurer 2) Interviewing of Presiding Officer, MACT, Aizawl
.	Lunglei Judicial District	1) 10- from Advocate both from the claimant and insurer 2) Interviewing of Presiding Officer, MACT, Lunglei

## CHAPTERIZATION

### Chapter 1 Introduction

This chapter deals with general introduction of the topic, statement of problems, giving an overview of literature review, research objectives, research question, methodology, selection of cases and chapters.

### Chapter 2 The evolution and development of Motor Accident Claim Tribunal in India: A study in the state of Mizoram.

This chapter highlights the important points on the Motor Vehicle Act 1988 and 2019. The chapter focuses on Motor Accident Claim Tribunal in India with a special reference to the state of Mizoram, and it also discusses the history of the Motor Vehicle Act from the colonial period till the development of the new amendment Act of 2019. It examines the development of motor insurance company, growth rate of vehicle in Mizoram and a case study of MACT Mizoram from the year 2005 to 2018 in Aizawl Judicial District and Lunglei Judicial District respectively. This chapter also analyses the role of MACT and its role in justice delivery through the Tribunal.

### **Chapter 3 Adjudication Process of claim for compensation in Motor Accident Claim Tribunal in the event of death and grievous injury**

This chapter focuses on application for Compensation, Jurisdiction of Claims Tribunals, options regarding claims for compensation in Certain Cases to Claim Compensation in other Acts and the award of Claims Tribunal. The procedure and power of Claims Tribunals is deliberated with the composition. The incident of Hit and Run cases under the Motor vehicle Act along with the case of Hit and Run under the Indian Penal Code are analysed. Lastly, this chapter highlights the role of the tribunal in the execution of award and the guideline of the higher judiciary.

### **Chapter 4 Role of Alternate Dispute Redressal Forum with special reference to Lok Adalat, Consumer Forum and the State Commission in Mizoram**

This chapter focuses and examines the establishment, powers, jurisdiction and the role of Lok Adalats in Accident Insurance Claim in India and Mizoram. Data are collected from Mizoram State Legal Services Authority, Aizawl District Legal Services Authority and Lunglei District Legal Services Authority as far as possible. The chapter includes the role of the District Commission and State Commission in the case of First Party /third party motor insurance claim by collecting available data from the concern institution. It also analyses the Judicial District of Aizawl and Lunglei to find out how the consumer rights are protected by the forum.

### **Chapter 5 Role of Motor Accident Claim Tribunal and higher judiciary in achieving social justice in the vehicle accident claim cases**

This chapter includes the social aspect of MACT and the role of the tribunal as a means of achieving social justice. It studies and analysed the different judgment of cases in the Supreme Court and High Court, judgment and order of the Tribunal that result in successful compensation to the victim party. The role of MACT as a social justice mechanism is reflected in the chapter through cases.

## **Chapter 6 Conclusion**

The last chapter is an analytical summing up of interpretation of all the previous chapter and give suggestion and findings.

### **OBSERVATION AND FINDINGS**

The innovative technology in vehicle system has minimized the distances but it has on the other hand increased the life risk in a certain way. It is pertinent to mention that, the number of vehicles registered in Mizoram is rapidly increasing during the year 2005-2006 to 2020-2021. The rapid growth of vehicle in the state is given in table - 7 of Chapter-2. At the same time, the accident rate in Mizoram decreases in term of the case register in Motor Accident Claim Tribunal, Aizawl and Lunglei Judicial District during the year 2005 to 2020 as mention in chapter two. Even though cases of accidental claim are decreasing, every year due to road accident lakhs of lives and serious injuries happen to crores of people in the country. In the year 2013 and 2014 the highest severity rate of accident in India was occupied by the state of Mizoram. It can be said that the reduction in accidental claim case is due to the many efforts and innovation taken by Ministry of Road Transport and Highways (MoRTH). Apart from the huge innovative roles, some of the few innovative steps taken by India Government are the approval of a National Road Safety Policy. This Policy outlines number of policy measures such like encouraging safer road infrastructure including application of intelligent transport, enforcement of safety laws trauma care, promoting awareness, etc. The Road Safety Council has also been implemented to make a policy decision in matters relating to Road safety. The Government of India belief that making a mandatory airbag provision in India would save lives of the passengers in the incident of accident. The Government draft notification dated 14th January, 2022 has provided a new regulation stating that from 1st October, 2022 all the passenger vehicles should be equipped with 6 airbags to ensure the safety of vehicle in India. On 1st April, 2019, Government had made the driver side to be equipped with airbag, that become one of the bold decisions of the Government and followed by mandatory passenger airbag from 1st January, 2022. It

is important to note that whenever, safety technologies are incorporated in the vehicle, the prize of the vehicle also increases to a huge extent. This may result in the situation that, most people opted for buying a two-wheeler vehicle. If the two-wheeler vehicle safety measures are not incorporated, it may lead to more accident due to the utilization of two-wheeler vehicle and loss of life due to it happens. Another innovative decision with regards to the use of two-wheeler user safeties is that the drivers of two-wheeler vehicle are mandate of wearing helmet bearing ISI mark. According to Section 129 of the Motor Vehicle Act-1988, every person driving or riding (otherwise than in a side car, on a motor cycle of any class or description) shall, while in a public place, wear protective headgear conforming to the standards of Bureau of Indian Standards. It is the need of the hour to save lives for two-wheeler passenger and driver. Exception is provided where this provision will not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban. It further stated that the State Government may, by rules, provide such exceptions as it may think fit as given under Motor vehicle Act. As stated earlier, the Minister, Ministry of Road Transport and Highways, Nitin Gadkari had also published a draft proposal in January, 2022 mandating the installation of six airbags in all new passenger vehicles starting October, 2022 for the reduction of life risk from vehicle. Apart from the above measure, another important measure worth to mention is the ABS or the Anti-Lock Braking system in India. From April 1, 2019, the Government makes it mandatory that all four- and two-wheelers manufactured in the country will have to be compulsorily fitted with ABS or an Anti-Lock Braking System. ABS is an advanced braking mechanism that prevents the wheels from locking up that consequently prevents further the vehicle from skidding under hard or panic braking to avoid accidents. Currently, all cars in India are equipped with two airbags, which were mandated by the Government not so long ago. Now a day, the IOT based vehicle has become very popular in the country due to many efforts of engineers and government to ensure more safety.

One of the main objects of Motor Accident Claim Tribunal is summary trail to shorten the case duration in the tribunal and to enable the victim a quick compensation. Summary suit or summary procedure is given in order Rule1 (1)



XXXVII of the Code of Civil Procedure, 1908. Summary procedure is a legal procedure used for enforcing a right that ensures faster and efficiently procedure than the ordinary methods. A summary suit/trial can be instituted in High Courts, Courts of Small Causes and any other court notified by the High Court in the concern state. As per Rule 1(2), Order XXXVII, Code of Civil Procedure, 1908 summary procedure is applicable to recover a debt or liquidated demand in money arising on a written contract, an enactment or on a guarantee. When it come to the state of Mizoram, the cases pending in Motor Accident Claim Tribunal in Aizawl and Lunglei Judicial District is quite high as shown in chapter-2. When one of the objects for the establishment of the Motor Accident Claim Tribunal is speedy justice by summary trial, the average year of trial in MACT in Mizoram are 2 to 3 years. Some of the cases even extent to 8 to 10 years also. This long trial of the case prove that summary trial/suit of the case is not fully in practice in the tribunal of Mizoram.

Motor Vehicles (Amendment) Act, 2019 Section 198A speaks about failure to comply with standards for road design construction and maintenance. The data by the Ministry of Road Transport and Highways (MoRTH) reveals that potholes in the country claimed 3, 597 lives in 2017 and the figure is said to be increased by 55% in compare to the year 2016. This death and accident need to be seriously considered as it takes almost 10 lives every day. Number of death due to motor accident in the year 2020 is 1, 31,714. These figures can be understood as an average of 1003 accidents and 360 deaths every day or 42 accidents and 15 deaths every hour in the country. This situation questions the authority, who should be accountable in the improper construction, design and maintenance when it leads to vehicle accident. So, Section 198A is to hold road contractors, consultants or concessionaires accountable for faulty road design, construction and maintenance and failure to do so will lead them to being fined. The Government has made an effort to curb the practice of substandard construction by many contractors to decrease the death rate in vehicle accident due to potholes out of many reasons. The Motor Vehicle Act- 2019 is a citizen centric as it prioritizes the safety of road user as many sections have been incorporated to decreases the accident in India. If the contractors, consultants or concessionaires are held accountable for faulty road design, faulty construction and

faulty maintenance, the accident due to bad road would surely be reduced to a great extent. The Motor Vehicle Act aims to discourage the practice of negligence by road users to prevent further loss of lives.

MACT	<b>01.0</b>	<b>01.0</b>	<b>01.0</b>	<b>01.0</b>	<b>01.0</b>
Case	<b>7.20</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>
Instituted	<b>16 to</b>	<b>017</b>	<b>018</b>	<b>019</b>	<b>020</b>
	<b>30.0</b>	<b>to</b>	<b>to</b>	<b>to</b>	<b>to</b>
	<b>6.20</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>	<b>30.0</b>
	<b>17</b>	<b>6.2</b>	<b>6.2</b>	<b>6.2</b>	<b>6.2</b>
		<b>018</b>	<b>019</b>	<b>020</b>	<b>021</b>
Allahabad HC	3,10 0	3,81 0	3,97 9	1749	100 9
Andhra Pradesh HC	NA	NA	588	1061	565
Bombay HC	1,76 3	1,85 7	1,70 1	1086	632
Chhattisga rh HC	1,89 9	1,99 1	2,23 4	2086	700
Delhi HC	1,16 6	1,20 7	1,24 0	503	318
Calcutta HC	0	0	0	64	333
Guwahati HC Principal Bench	<b>545</b>	<b>612</b>	<b>679</b>	<b>571</b>	<b>252</b>
Guwahati HC Kohima	<b>14</b>	<b>24</b>	<b>24</b>	<b>14</b>	<b>19</b>

Bench					
Guwahati HC Aizawl Bench	20	37	37	06	09
Guwahati HC Itanagar Bench	07	18	30	02	05
Gujarat HC	1,74 5	1,98 9	2,95 2	2368	1,5 38
Himachal Pradesh HC	459	448	408	514	224
Jammu & Kashmir, Ladakh	469	228	242	05	368
Jharkhand HC	0	0	0	531	228

As per chapter-2 there is a high rate of appeal against the judgment of Motor Accident Claim Tribunal in Mizoram to the Guwahati High Court, Aizawl Bench. The data collected from Motor Accident Claim Tribunal Aizawl & Lunglei in chapter- 3 shows that, though the MACT plays an active role in the adjudication of social justice, there is a room for improvement on the part of Judiciary. If there is a less amount of appeal case in the High Court, the traumas faced by the victim party would be less

while the long litigation can cause double victimization in the party. Though the situation of Mizoram is as above, it is pertinent to mention that, as a whole of India

the death rate in vehicle is quite high against the rate of appeal case in the High Court of India.

**The detail data from the Supreme Court website is as follows: -**

Karnataka HC	12,2 87	12,9 47	13,4 27	13,9 28	1262 1	5,2 74
Kerala HC	3,52 0	4,31 9	4,17 7	568 2	2727	4,8 39
Madhya Pradesh HC	5,71 0	7,05 8	6,71 7	5,99 7	5590	2,1 57
Madras HC	1,74 8	2,80 6	2,67 3	2,96 2	2218	1,9 88
Manipur HC	4	3	7	4	10	0
Meghalaya	0	1	03	18	08	2
Orissa	1,48 7	1,37 1	1,45 1	1,01 5	1068	570
Patna HC	0	0	0	0	0	0
Punjab and Haryana HC	7,19 0	6,65 3	6,44 7	6,91 7	4226	212
Rajasthan HC	3,05 8	8,06 2	7,93 2	7,50 3	6705	2,9 09
Sikkim HC	18	16	14	9	10	14
Telangana HC	NA	NA	NA	1,95 8	1996	827
Tripura HC	90	96	147	103	74	44
Uttarakhan d HC	664	527	554	425	379	139

Hyderabad HC	3,70 7	2,91 9	3,12 5	Diss olv ed due to cre atio n of AP and Tele ngh ana HC	Diss olv ed due to cre atio n of AP and Tele ngh ana HC	Dis sol ved due to cre atio n of AP and Tele ngh ana HC
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The jurisdiction of the Motor Accident Claim Tribunal in Aizawl and Lunglei is very wide. The state of Mizoram is divided into 11 administrative districts with full fledged function. On the other hand, the State of Mizoram comprised of only 3 (three) Judicial District i.e Aizawl, Lunglei and Champhai. Since Champhai is a newly recognized Judicial District, Motor Accident Claim Tribunal is not in function. This may result in the over burden of the Tribunal that hamper the speedy adjudication process. At the same time, the victim party may also face a number of problems in approaching the tribunal. The victim party from a very remote village might refuse to institute a case and ignore the tribunal instead of travelling a long distance to file a case in Aizawl or Lunglei MACT. Another realistic issues faced by the victim party is that, most of the vehicle insurance company in Mizoram have an office in Aizawl District only while some company does even bother to set up an office in Mizoram. This non availability/ non formal function of the insurance office in the state result in delay of the case in the tribunal. In some case, the insurance company does not even appoint any lawyer or agent to represent the company in the tribunal, this hamper the progress of cases and result in delay.

Accident Information report (AIR) as per 158(6) of Motor Vehicle Act-1988 should be complied in the state of Mizoram by the Police Department. The importance of this Accident Information Report (AIR) by the police is that Section 166(4) sanctions the Motor Accident Claims Tribunal to treat the Accident Information Report as an application for compensation. However, the police not only in Mizoram do not following Section 158(6) of the Motor Vehicles Act which was brought to the notice of the Hon'ble Supreme Court in the case of ***General Insurance Counsel vs. State of Andhra Pradesh, IV (2007) ACC 385 (SC)***. Vide judgment dated 9th July, 2007 the Hon'ble Supreme Court gave direction to all the State Governments and Union Territories to instruct all concerned police officers to comply with the requirements of Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules. As per the Judgment, It further directs periodical checking to be done by the concerned Inspector General of Police to ensure that the requirements are being complied and followed and even to enquire whether appropriate action has been taken in cases of noncompliance. The

directions of the Hon'ble Supreme Court in the said judgment are reproduced as under:-

***"Since there is a mandatory requirement to act in the manner provided in Section 158 (6) there is no justifiable reason as to why the requirement is not being followed. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158 (6) keeping in view the requirement indicated in Rule 159 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials".***

From the aforesaid statement of the Supreme Court, it is clear that there has been a violation of Section 158(6) of Motor Vehicles Act, 1988 despite orders of the Apex Court. Time and again the police need to be sensitized in Mizoram with regards to Accident Information report (AIR) as they are one of the most important implementing agencies of the section. Section 158(6) of the Motor vehicle Act has the same value as application for compensation' in section 168 as mention in the case of *United India Insurance Co.Ltd vs Shila Datta & Or* (Civil Appeal Nos.6026-6027 OF 2007) on 13 October, 2011 as it was held that, ***"The words `receipt of an application for compensation' in section 168 refer not only to an application filed by the claimants claiming compensation but also to a suo motu registration of an application for compensation under section 166(4) of the Act on the basis of a report of an accident under section 158(6) of the Act."*** Though the tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation. On receipt of an application (either from the applicant or suo motu registration), the

*Tribunal gives notice to the insurer under section 149(2) of the Act, gives an opportunity of being heard to the parties to the claim petition as also the insurer, holds an inquiry into the claim and makes an award determining the amount of compensation which appears to it to be just. (Vide Section 168 of the Act).*

Social Justice is maintained by the judiciary while dealing with Motor Accident claim case that can be seen in many judgments like, In *Nagappa vs Gurudayal Singh & Ors* on 3 December, 2002 stated in the judgment as under,

*"Firstly, under the provisions of Motor Vehicles Act, 1988, (hereinafter referred to as "the MV Act") there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only important is that it should be 'Just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the M.V. Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to sub-section (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as respondents to the application for compensation. Other important part of the said Section is sub-section (4) which provides that "the Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 as an application for compensation under this Act."*

Hence, Claims Tribunal in appropriate case can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed." The importance of Accident information Report can be



seen in the case of Ningamma & Anr vs United India Insurance Co.Ltd on 13 May, 2009, Raj Rani & Ors vs Oriental Insurance Co.Ltd.& Ors on 6 May, 2009 etc but never comply by the Police in many states.

In the case of *Bajaj Allianz General Insurance Vs Union Of India* (Writ Petition(s)(Civil) No(s). 534/2020 ) on 16 March, 2021 the Supreme Court has issued a directions regarding process of disbursement of compensation as well as expediting the matter before the MACTs across the country. As per the directions, jurisdictional police station has to submit an Accident Information Report (AIR) about the accident to the tribunal and insurer within first 48 hours either over email or an official website. The apex court, in its directions passed on March 16, gave thrust on using information technology tools by all stakeholders such as police, MACTs, insurers and claimants for ensuring speedy disposal of claim cases and the payment of compensation to the victims of road accidents as well as their family. It bestow duty on jurisdictional police station that it shall report the accident under Section 158(6) of the (Motor Vehicle) Act (Section 159 post 2019 amendment) to the tribunal and insurer within first 48 hours that can be done using email or a dedicated website. Thus, the Supreme Court directed every Police Station to report the Accident Information Report as soon as possible. After the AIR is sent to MACT by police, they can later file the detailed accident report after collecting the documents relevant to the accident and for computation of compensation and shall verify the information and documents.

The AIR documents shall form part of the Police Report. It shall email the Report to the tribunal and the insurer within three months. Similarly the victim party/claimants may also be permitted to email the application for compensation with important documents, under Section 166 to the tribunal and the insurer within the permitted period. The MACT shall issue summons along with the police's detailed report or the application for compensation, as the case may be, to the insurer by email. The insurer shall email their offer for settlement/response to the Report or the application for claim to the tribunal along with proof of service on the claimants. After passing the award, the tribunal shall email an authenticated copy of the award to the insurer for further action. The insurer shall satisfy the award by depositing the

awarded amount into a bank account maintained by the tribunal using RTGS or NEFT. For this purpose the tribunal shall maintain a bank account and record the relevant account details along with the directions for payment to the insurer in the award itself. Each MACT shall create an email ID peculiar to its jurisdiction for receiving the emails from the police and the insurer as mentioned above and similarly, all insurers throughout India shall also create an email ID for the jurisdiction of each claim tribunal to receive any claims. These email IDs would be prominently displayed at the tribunal, the police stations and the office of the insurers for the benefit of the claimants. Similarly, these email IDs shall also be prominently displayed on the website maintained by the tribunal and the insurer. These online platforms/websites shall be suitably be modified for submission of claimants' application for compensation under Section 166 of the Act as well as insurers' response to the accident report or the claim petition as the case may be. The hen said system has been a practice by the state of Tamil Nadu and Delhi by creating email accounts for submission of accident reports by the police to the tribunal and the insurer, to operating an online platform or website for submission of accident reports under the law.

The present practice in the state of Mizoram is that, one of the most important data FIR is received from the police prepared under the Code of Criminal Procedure (CrPC), that do not contain a detailed account to address the need of determining how and why the accident occurred and sometimes it proves that the accidents are not investigated in a scientific manner. This fails to reveal the cause of the accident, and hence the Accident Information Report is essential to thoroughly understand and interpret the cause and reasons for the accident and to also ensure that there are no discrepancies in the reporting. The Police personal needs to be sensitized in matters relating investigating and documentation of evidence for achieving a better outcome. The role of Police, transport department and the medical expert plays a very important part while claiming compensation in vehicle accident. So, periodical training in this regard should be encouraged in the state.

As mention in Chapter-3, The Solatium Scheme-1987 is never implemented in the state. The non implementation of the scheme violates the right of

compensation to the victim party in case of Hit & Run vehicle accident. Article 21 of the Constitution states that “*no person shall be deprived of his life or personal liberty except according to the procedure established by law.*” Thus, ignoring the right to compensation for the victim in "Hit & Run" case leads to deprivation of life by the state authority. In India even prior to the commencement of the Constitution, the law makes it clear that the Government are liable for the tort committed by its officers while acting in discharge of their statutory duties. In the case of *Peninsular and oriental Steam Navigation Co. v. Secretary of State for India* (1868)5 Bom. H.C. App. 2), the distinction was made between Sovereign and non-Sovereign functions of the State. Peacock C.J. had observed that “*there is a great and clear distinction between the acts done in the conduct of undertakings which might be carried on by private individuals without having such powers delegated to them.*” In this case the torts was committed by the servants of the Government in the course of trading activity and the case was not directly concerned with acts done in the exercise of Sovereign powers, the relief was granted. Violation of Right to Compensation for the Hit & Run vehicle amounts to failure of sovereign function of the state. So, Article 32 and 226 of the constitution can be invoked by the victim party. Though the people might be ignorant and fail to claim for compensation, still it is the duty of the State Government to implement the laws and Act if it is made for the whole of India. Failure in implementing the law victimized the victim twice.

Long duration process in Motor Accident Claim Tribunal is other problem faces by the litigants. As mention in chapter-II table-5 many of the case trial in the court last more than 3 years, some even extent to 10 years. William E Gladstone, the former British Statesman and Prime Minister in the late 1800's, famously said that 'justice delayed is justice denied' which means if justice is not carried out at the right time and even if it is carried out later it is not real justice for the victim, because when there is a lack of improper administration of justice there is already lack of justice. The need of the Motor Accident Claim Tribunal (MACT) is due and sufficient reasonable hearing of every case with consideration of its circumstances as it is the necessary requirement of natural justice and balance of convenience.

Lok Adalat as mention in chapter-4 has emerged as the most effective and efficient tool of Alternative Dispute Resolution. The total number of 1,27,87,329 cases were disposed of in year 2021 in India. The general practice is that, a Lok Adalat consists of a judicial officer as the chairman and an advocate and a social worker as members. The best part is that, the award of the Lok Adalat is considered as final and binding on the parties and no appeal shall lie to any court against the award of the Lok Adalat. The Lok Adalat has the same powers as a Civil Court under the Code of Civil Procedure (1908). It also has the requisite powers to specify its own procedure for the determination of any dispute coming before it. All proceedings before it are deemed to be judicial proceedings within the meaning of the Indian Penal Code (1860) and every Lok Adalat are deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973) and the award of a Lok Adalat shall be deemed to be a decree of a Civil Court or an order of any other court. Though, its advantages and efficacy are recognized in the country, in Mizoram it is hardly utilized for the adjudication of the motor accident claim. Most of the parties in the accident claim approach the tribunal and ignore the potency of this mechanism. Proper awareness among the people should be made in this regards so as to prevent the victim party wasting their time and money.

Just like Lok Adalat, District Consumer Forum/ State Commission are in existence for a considerable period of time in Mizoram and many cases are also deal in this forum for achieving justice. In the consumer forum claim cases relating to damages/stolen vehicle against insurance claim are mostly deal by this institution. Just like the Lok Adalat, even though the existence of this forum is familiar among the people, the case relating to insurance claim are very few in comparisons to the other case. Mostly, in insurance claim, the victim first approaches the advocate who then charge a high fee to stand before the forum. So, awareness need to be made to impart an in-depth knowledge of the power and jurisdiction of the consumer forum.

Now a day, Mediation Centre becomes one of the popular Alternative Dispute Redressal System in India. The first mediator training was held in the year 2000 in Ahmedabad which was conducted by the American trainers who were sent by Institute for the Study and Development of Legal Systems (ISDLS) followed by

more training, workshop conducted by Arbitration Mediation Legal Education and Development which is a public trust settled by two senior lawyers in Ahemdabad. The first mediation centre, Ahemdabad Mediation center was inaugurated in the year 2002 by the chief justice of India. In Jodhpur, Hyderabad and Mumbai training workshops were organized again by the U.S. educational foundation .in the year 2003. Chennai Mediation center was inaugurated in the premises of the Madras High Court and became the first annexed Mediation center in the country in the year 2005. By amendment made in 1996 the Civil Procedure Code, it inserted section 89 in the code. This amendment made the concept of arbitration and mediation became familiar among the court, bar and the people. Keeping in mind the current scenario of the country, it is believed that Mediation will act as a fruitful part of the Indian Judiciary system and tool for dealing the pendency in court. Moreover, in the current scenario the courts are trying to make mediation, a part of its regular procedure and mandatory referral of cases a common practice. For this purpose, the first mediator training was held in Mizoram during 3<sup>rd</sup> to 7<sup>th</sup> October, 2022. If this training encourages the practice of mediation applicable in the state, Motor Accident Claim case will be dealt by mediation process to give a speedy justice to the victim party. As the adversarial systems are very expensive and time consuming, it is important to focus on the mediation system for the best benefit of the people. In mediation win-win situation is one of the objectives of the system so this process also plays a vital role in reducing judicial stress and human wealth. The new virtual mediations also helped in cost-cutting at various stages and hence it is important to note that this system if practice in the state of Mizoram would help the economically weaker section of the people to a great extent.

The insertion of Section 194B in the 2019 amendment is one of the notable points in Motor Vehicle Act as it makes it mandatory for every child to be secured by a safety belt or a child-restraint system. This section is not strictly followed in the state of Mizoram, the section also provides for adult accountability for not seating children in a safe manner with a penalty of Rs. 1000. Amendment to Section 129 (Wearing of protective headgear) proposes that every child above the age of four years being carried on a motorcycle must wear a helmet. The design and

specifications of the same may be prescribed by the Central Government. Moreover, with the insertion of clause (aa) in section 137 (2), the Central Government from time-to-time can provide for standards of protective gear, and measures for safety of children below the age of four years of age riding under section 129. If this provision is taken seriously by the government of Mizoram, it will reduce the life risk level of children while in two-wheeler vehicle.

## **SUGGESTION**

Polity-Legal related research is very few in the state of Mizoram in compare to other subjects. There is need to have good research in every field of law whether it is civil, criminal or commercial cases. The first and foremost things that need to be dealt is whether Section 196 of the Motor

Vehicles Act 1988 is properly implemented in the state of Mizoram that provides for the driver and owner of the uninsured vehicles to be punished with imprisonment up to three months or fine of money that can extent upto Rs.5,000/- or both . During the present research the Mizoram Police has not been prosecuting the owners and drivers of uninsured vehicles under Section 196 of the Motor Vehicles Act. If the concern High Court can issue Show Cause Notice to the Commissioner of Police though judgment for implementing Section 196 of the Motor Vehicles Act, there will be less uninsured vehicle plying on the road in the state, thus that will increase the safety of many ignorant passengers.

If a comparative study between victim of railways, airway and motor vehicle on road can be made, the lacuna of the legal system will be understood. There is a huge range of difference with regard to the amount of compensation in road, rail and airway, this need to be taken into consideration in the modern society. Compensation should not be based on the vehicle they are utilizing in the event of accident. Life on the man should be treated equal when it comes to compensation, though life cannot be measure in term of money or other valuable things.

This research mostly focuses of the victim advantages and the role of Motor Accident Claim tribunal. For future research, it is necessary to take into account the

side of the insurance company by recognizing their rights to have a proper contest in order to lessen fake claim cases against them.

In order to have summary trial, Section 165 of the Indian Evidence Act seems to be very important section that empowers the Judge to ask any question at any time, in any form, of any parties or witness parties about any fact, relevant or irrelevant and may order production of any document or thing. The Delhi High Court in the case of Somari Devi Vs. Ragwar Singh, FAO No.884/2003 vide order dated 22nd May, 2009 put down the scope of the India Evidence Act, section 165. This judgment shall be helpful in the speedy disposal of the cases. In, future, if the research can study how the above section is applied in MACT for speedy trial, it would give a good impact on the judge who fails to imply those sections while dealing the case.

There is a need to have a comparative study between India and other countries with regards to payment of compensation and the scheme apply for the payment in victims of road accidents. In **Jai Prakash Vs National Insurance Company**, the Hon'ble Supreme Court mentions that *"it is necessary to formulate a more comprehensive scheme for payment of compensation to victims of road accidents, in place of the present system of third party insurance. For example, in South Africa and some other African countries, Road Accident Funds have been created, managed by Road Accident Fund Commissions, thereby eliminating the need for third party insurance. A fuel levy/surcharge is collected on the sale of petrol and diesel and credited to such fund. All accident victims, without exception, are paid compensation from out of the said fund by the Commission. But the feedback from operational statistics relating to such funds is that the scheme, while successful in smaller countries, may encounter difficulties and financial deficits in larger countries like South Africa or developing countries with infrastructural deficiencies"*. So, from the above judgment of the Supreme Court, it is clear that systematic and comparative study of the same is needed to formulate a good law for compensation. In **Master Sewa Ram v. Vijay**, the Delhi High Court has also mention the Canadian system on how the fund for payment of compensation to the victims of road accidents is collected.

Since the implementation of the Motor Vehicle Act-2019 have brought change in a number of way in compare to the Motor Vehicle Act1988. The comparative study of the same would give the pros and cons of the law to encourage the legislature to make an amendment of the same.

## **JUSTIFICATION OF RESEARCH QUESTION**

The first chapter proposes six research questions for this thesis. The term research question can be defined as a question that research or study project aims to answer. This research question often addresses a problem or issues thereby through analysis and interpretation of the data collected it answer and draw the study's conclusion. The main object of the research question is to outline the various area and aspects of the study by including the population and variables to be studied and addresses the study problem. Creswell has defined the importance of research question as, "The primary importance of framing the research question is that it narrows down a broad topic of interest into a specific area of study". Research questions also specifically reveal the limitation and area of the study, setting its boundaries, and ensuring cohesion.

The first research question in this research relates to the institution of MACT in India and the impact on the state of Mizoram by the institution. To justify this question, the second chapter of the research made an analytical study of the different act and rules passed in India including the British India.

The system of Motor Accident Claim Tribunal (MACT) was first incorporated in the Motor Vehicle Act-1988. Before the Motor Vehicle Act 1988, the suit for claiming compensation has to be filed in civil court with an ad- valorem court fee. With the development of the technology, India recognized the rapid growth of vehicle. The rapid growth of vehicle increases the accident rate at the same time that result in the increase in compensation claim in the civil court. The civil courts had faced a backlog of cases to adjudicate upon, due to the over burden of the court, the person expecting relief are unable to receive the compensation on time and due to the long process, high court fees, people tends to run away from litigation process and the victim are also discouraged to file for compensation. Keeping in mind the hardship



faces by the victim party, the Government passed the Motor Vehicle Act-1988 to remedy the parties using a summary procedure where a separate court for motor accident claims was instituted to enable to file a case without paying any ad- valorem court fee. After the implementation of the Motor Vehicle Act-1988 the state of Mizoram is also under a duty bound to follow the Act. On 5th January, 1996 Mizoram also established for the first time the Motor Accident Claim Tribunal for the whole of the state. On 3rd January, 2000 a separate Motor Accident Claim Tribunal for Lunglei Judicial District was instituted. As a result of the creation of Motor Accident Claim Tribunal in Aizawl and Lunglei, all the cases relating to motor accident claim was taken up by the tribunal, before this as mention earlier cases were dealt in the civil court like the other cases. The creation of the Motor Accident Claim Tribunal have a great impact on the victim party as it is efficient mechanism to decide the case in a speedier and cheaper expenditure. Another advantages of the Motor Accident Claim Tribunal is that, the procedure notice that cases dealing with motor accident are different from other civil cases filed in the ordinary court and belief that the accident case deserved a separate system to adjudicate the same and a summary trail should be applied as far as possible. The detail establishment of MACT in Lunglei and Aizawl District was collected from the concern authority through submission of an application.

The second question proposed in the research is, what are the role played by MACT in delivering social justice to the claimant. To justify this question, chapter-5 of the research exclusively analyzed the role of Supreme Court and High Court judgments relating to motor accident claim case. It is quite clear that the judiciary have played an important role in promoting social justice for the people. Some of the important cased can be mention as under:

In the case of *K.Suresh Vs New India Assurance Company Limited and Another, [(2012) 12 SCC 274]* the Supreme Court held "*that an adjudicating authority, in determining the quantum of compensation, the tribunal or the court has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used*

*to earn or could have earned. That neither the Tribunal nor a court can take a flight in fancy and award an exorbitant sum. In conceptual eventuality “just compensation” plays a dominant role*". From this judgments it is clear that recognized "Just compensation" is entitled be the victim though life cannot be measured in term of money.

In *Jai Bhagwan Vs Laxman Singh and Others [(1994) 5 SCC 5]* the Supreme Court reiterated that *non-pecuniary losses are different from pecuniary losses in that the restitutio in integrum objective cannot be applied liberally to them – damages cannot restore a lost limb or happiness. That the practice of the courts is not to subdivide non-pecuniary damages under specific heads, nevertheless proper consideration cannot be given to the plaintiff’s claim without taking into account the various types of loss he has suffered*". There are a number of case mentions in chapter-5 that deal with just compensation for the victim party. This clearly indicates that justice at the level of every victim is one of the objectives of the judiciary while dealing with motor accident claim case.

In *Magma General Insurance Co Ltd Vs Nanu Ram Alias Churhu Ram and others*, the Supreme Court held that *“An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit”*. The bench further held that the compensation amount to be awarded as consortium should be governed by the principles of awarding compensation under „Loss of Consortium“ as laid down by the constitution bench in Pranay Sethi case. This case shows that the judiciary values the family relationship in the event of vehicle accident claim.

In the case of *Vimla Devi Vs National Insurance Co Ltd and others*, reiterated Motor Vehicles Act is a beneficial legislation, and procedural lapses in conduct of case should not result in denial of compensation. The court observed that *“The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other*

*proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident”.*

In *Ramla v National Insurance Co Ltd and others*, the Supreme Court held that the court or tribunals are not restricted to award compensation beyond the amount claimed by the claimants, it held that the function of the tribunal or court under Motor Vehicle Act section 168 the objective of the award it to give a "Just Compensation". So, if the court or tribunals find it necessary to give beyond the amount claimed, they have the power to do so. To make the Motor vehicle Act more efficient the Supreme Court on July 20<sup>th</sup>, 2018 in the case of *S. Rajaseekaran Vs Union of India and others* ordered that third party insurance coverage of three years for cars and five years for two wheelers should be mandatory for all vehicles sold from September 1, 2018. On 29th August, 2019 the Ministry of Road Transport and Highways issue direction to Insurance Regulatory and Development Authority of India (IRDA) for necessary actions.

Another important judgment of the Supreme Court of India is in the case of *The New India Assurance Company vs. Somwati (2020)* relating with the issue of whether only the wife of the deceased in a motor vehicle accident is qualify to a consortium or whether the same can be awarded to the parents and children of the deceased too. The concept dealt in this case was that of parental, filial and spousal consortium. The Court in this case upheld the need for all the aforesaid forms of compensation as they all fall within the ambit of relief provided to aggrieved individuals through the beneficial Motor Vehicles Act, 1988. Compensation on the grounds of „*loss of love and affection*’ however was not permitted by the Court as there was no justification of providing the same under a separate head when it was deemed to be covered under the loss of consortium.

Another important judgment in regards to social justice can be seen in *Oriental Insurance Co. Ltd. vs. Man Singh, MAC.APP.No.130/2009*, where the Delhi High Court directed LIC, RBI, SBI and PNB to formulate a special scheme for that can be enjoyed by the victims of road accident in which higher rate of interest is

provided and the amount is kept in such a manner that the monthly payment to the victims of the road accident increases 10% every year to meet the inflation.

From the above-mentioned cases and cases mentioned in Chapter - 5, it is clear that the judiciary tries its best to do social justice for the victim party in term of welfare and legal justice. They gave importance to human dignity and equal opportunities to all the section and gender of the society while dealing a case before them.

The third question deals with the reason for improper establishment of Insurance Company in Mizoram. As mentioned in chapter-2, many cases registered in Motor Accident Claim tribunal against the insurance company and some of the popular companies are also given under table 3 of chapter-2. In the state of Mizoram, while buying a new vehicle the dealers are mostly tied up with some few companies. So, when the innocent people buy a new car or two wheelers, the customers have a very limited choice of insurance which is against the Competition Act 2002. In many cases, they are not informed that the insurance company does not have a proper office address in the state of Mizoram. The answer for the said question is that, even if the insurance company does not have an improper official address in the state, they still have high sales through the dealer as the dealer are selling the policy for them. But this has a very bad impact on the victim party when the incident of vehicle accident happens. The illiterate and innocent victim face a problem when filing a compensation claim cases as they often face difficulties in communicating with the insurance company. In addition to the above reason, the improper functioning of the insurance office result in delay of claim case automatically as there are no person to represent the case on behalf of the company. It is also important to mention that, some company does not even appoint a legal counsel in the state of Mizoram. The improper function harder hit the victim who are residing in a rural area as most of them are not familiar with the process of reporting the accident to the company in the event of accident so it often result in non- filing a case as there are series of formalities that need to be followed in claiming compensation. So, if it is not possible to approach the company when the customer needed them, hardship began even before reaching the tribunal.

The fourth research question relates to the main issues that determines the preference of Motor Insurance policy by the vehicle owner and the causes of delay in the Tribunal. To justify the question, firstly in the state of Mizoram as mention above, the insurance company mostly ties with the vehicle dealer. If the person wants to buy a particular vehicle from a particular company, the option for choosing insurance company for buying a policy is very limited. The buyer is bound to buy the policy offer by the dealer. Some few people may inquire/asked for other insurance company while buying the policy for their vehicle, but in most of instances, people often buy from the tie up insurance company. Further, it is clear that the system is against the law of competition. From the analysis of questionnaire when the dealer of vehicle company sale their product to innocent buyer, the hardly spare a proper time in explaining their policy to them and the buyer often lack the policy knowledge.

As mentioned in chapter-2 the case of MACT in Mizoram are mostly delayed as shown in table-2, table-4 and table-5. As mention in the chapter some of the case extent beyond 10 years and more. This is against the objective of Motor Accident Claim Tribunal which is supposed to adjudicate the case on summary trial. After analysis of the questionnaire one of the causes of delay is the improper functioning of the insurance office that results in difficulties of serving a notice who are often absent from the state of Mizoram. As per the data collected from questionnaire No.5 the existence of only full fledged MACT in Aizawl Judicial District is not sufficient. The status and condition of the Judicial District of Lunglei need to be upgraded considering the present scenario. If the Motor Accident Claim Tribunal in Champhai Judicial District is in function the cases disposal rate might be higher as it will reduce the pending case in the Aizawl District MACT.

If the jurisdictional police station reports the accident under Section 158(6) of the (Motor Vehicle) Act (Section 159 post 2019 amendment) to the tribunal and insurer within first 48 hours over email or by official website, the court will be able to treat the Accident Information Report as a complaint under MACT same as the other case. But, the process is not followed in the state of Mizoram that result in delay of filling a case. As per Section 158(6) the police can later file the accident detail with the relevant document after sending the Accident Information Report. The

MACT can issue summons along with the police's detailed report or the application for compensation to the insurer by email so the insurer can email their reply for offer of settlement/response to the report or the application for claim to the tribunal along with proof of service on the claimants.

In the case of Mizoram, it is really necessary to compel the insurance company to comply with the Procedural Manual of Nationalized Insurance Companies for Motor accident claims. As per the manual, the insurance companies are to appoint investigator as soon as they received intimation of claims. Due to the non-availability of investigation in the state the case is often delayed and the claimants often face hardship while the cases are already submitted in the tribunal. So, if the manual are followed promptly by the insurance company, many of the hardship will be removed for the claimant's party. If the Insurance Companies can be directed and mandatorily appoint an officer in each accident case to be responsible for processing and settlement of each case according to their Procedural Manual the case pending due to the fault of the insurance company would be less in the court/tribunal.

In the modern society, the courts need to give trust on using information technology tools including all the stakeholders such as police, insurers and claimants for ensuring speedy disposal of claim cases in Mizoram as only two tribunal exist in the state. If the information technologies are employ in the process it would be less time consuming for the party.

The fifth research question relates to the actual condition of "Hit and Run" case in Mizoram. As per chapter-3 (3.3.4) the Solatium Scheme for Hit and Run cases was never implemented in the state of Mizoram. The research question can be answered from analysis of the questionnaire No.12 and 13. As per the answer all the given options i.e (Transport Department is not aware of it, Deputy Commissioner's Office are not aware of it, Lawyer's are not aware of it and victim party are innocent) are equally responsible for the non-implementation of the Solatium Scheme in Mizoram. It is also believed that, justice is being denied to the victim of Hit & Run in the state of Mizoram.

The sixth research question relates to the roles of Alternate Dispute Redressal Agencies (ADRS) like Lok Adalat, State and District Forum in the adjudication of claim settlement process in Mizoram in the case of damage/ loss of vehicle. This issue is addressed in chapter- 4 of the research. From the data collected by the researcher, it is clear that the Alternate Dispute Redressal Agencies (ADRS) like Lok Adalat, State and District Forum plays an active role in dealing with the cases placed before them. But the general publics are ignorant about the availability of claim settlement relating to motor accident in the above mention institution. The Alternate Dispute Redressal Agencies (ADRS) system is quite popular in Mizo society as the process is familiar in the Mizo traditional adjudicating system. In the event of vehicle accident, the party firstly approaches the lawyers who file the case for them as they are ignorant about the other adjudication process. The possibility of filing an accident claim case in the Alternate Dispute Redressal Agencies (ADRS) especially the Lok Adalat is beyond the knowledge of many people. There is a need to organize a systematic and understandable legal awareness for the general public. The law and statute relating to ADR need to be aware among the general public to make use of the system to the fullest possible manner. The Supreme Court in *Afcons Infrastructure and Ors. Vs Cheria Verkey Construction and Ors* (2010 (8) SCC 24) mention the types of cases that can be dealt in the ADR system, it also includes all cases relating to tortuous liability, including motor accident claims. The above cases need to be taken into consideration in the Mizoram legal system and to be included while giving awareness topic.

From the analysis of questionnaire No.16, 17 and 20 it belief that the ADR system play an active role in adjudicating issues of the parties. So, for furtherance of its utility it is necessary to aware the people about the jurisdiction of each ADR. Unless people understand the system, there cannot be the utilization of the process to the fullest manner.

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