

Civil Legal Implications of Motor Vehicle Accident in India

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Abstract: With the development of civilization, act of negligence have become actionable wrong. In order to give effective rights to the person injured or expired in accident, Fatal Accident Act, 1885 was enacted in India. This Act provided on a procedure and a right of named legal heirs to claim compensation from the person committing negligence. To facilitate this, provisions have been inserted for compulsory third party insurance and provide a machinery of adjudication of claim in Motor Vehicle Act by amending Act. In the year 1982 a new concept of providing interim compensation on no-fault basis has been introduced. By the amendment, relief has also been given to those persons who expire by hit and run accidents, where the offending vehicles are no identified. In the year 1988 a new Motor Vehicle Act have been introduced and it provides interim award, insurance of motor vehicle against third party risk and constitution of claims tribunal and adjudication of claim and related matters.

Keywords: Motor Vehicle, Accident, Compensation, Tribunal, Insurance.

1. Introduction

Most states follow a traditional tort liability system in which compensation can be recovered when a motor vehicle accident caused by somebody else's misconduct or negligence injures others. Generally, all drivers of motor vehicles are required to carry insurance in case they cause an injury to somebody else. However, several states require automobile owners to opt in to "no-fault insurance," while others follow an add-on system. No-fault insurance limits an accident victim's ability to seek compensation from other drivers involved in a car accident. The policyholder's insurance company will reimburse his or her economic damages without proof of fault, but in exchange, the driver may be restricted in the ability to sue the at-fault driver. He or she may only be able to recover noneconomic damages from at-fault driver if the injuries are considered catastrophic or he or she has already incurred a certain sum in medical bills. A few states allow residents to choose between a traditional tort system and a no-fault system.

Motor vehicle accident cases are those involving all types of transportation, including:

- Bicycle Accidents
- Car Accidents
- Truck Accidents

- Motorcycle Accidents
- ATV Accidents
- Train Accidents
- Taxi Cab Accidents
- Public Transportation Accidents
- Boating Accidents
- Pedestrian Accidents

2. Legal Implication

In motor vehicle accident cases there exist mainly two types of legal implications:

- i. Criminal legal implication
- ii. Civil legal implication

Criminal legal implication: When a motor vehicle accident case occurs, the concerned police takes a criminal case at the place of occurrence of the accident and starts the investigation accordingly. The police lead and investigates the case as per relevant provision of law and thereafter upon charge-sheet, if any filed by the police, the courts decide the said case as per proceeding of law in the court.

Civil legal implication: In a motor vehicle accident, the following persons and/or agents are generally involved so far as civil legal implication is concerned:

- a) Concerned police
- b) Doctor, Hospitals etc.
- c) Insurance company
- d) Owner
- e) Driver
- f) Public, i.e. witnesses of the accident, and,
- g) The victim injured or deceased.

The role of the above stated persons or agents can be discussed in brief as follows:

- **Concerned police:** The role of concerned police in a motor vehicle accident is very important in order to record all the relevant documentary evidences (like the G.D. Entry No., F.I.R, form 54 and charge-sheet) of the accident to establish whether the victim injured/deceased in the accident are so injured/died in the said accident or not. So, the concerned police should do their part properly without any lapse in respect to the above stated matters. Along with statutory provision there is a Supreme Court ruling case

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directions that, concerned police should immediately send a copy of Form 54 with all particulars stated clearly of the accident to the concerned Motor Accident Tribunal, so that the Motor Accident Tribunal can suo-moto take a case to provide benefit to the victim injured and/or deceased as per relevant provisions of the Motor Vehicle Act.

- *Doctor, Hospital etc.:* It is now established law of the Supreme Court that, a Doctor should not wait for concerned police, to provide medical assistance to injured of a motor vehicle accident. Further so, for the treatment of the injured in concerned case should be properly endorsed in the medical treatment register and should keep the record accordingly so that it could be furnished before the court if required during the proceeding of the case.

Moreover, any certificate issued by the doctor or hospital in respect to injuries of the victim, proper details should be mentioned in the report along with the full name of the doctor. So far as for issuance of the disablement certificate by the social welfare department is concerned, it should be given with all particulars of the injury/injuries and treatments properly in details with supporting reports of X-ray, and other medical test/examination etc. else the said certificate issued by the social welfare department with the help of the board of doctors shall be applicable only for getting benefits under social benefit schemes but not in Motor Vehicle Accident case before the Motor Accident Tribunal.

- *Insurance Company:* Considering the beneficial objects of the Act, it would be proper for the insurer to satisfy the award, though in law it has no liability because statutory provision or liability of insurance company is intended to protect user at a road against risk arising at the road. There is a statutory requirement of having insurance of a vehicle. The idea is that any injured victim or dependents of the victim of a fatal accident is duly compensated. To avoid its liability, the insurer has to establish that the insured guilty of infringement of requirements of a vehicle being driven by a licensed person. Such violation is required to be proved. Because violation of statutory provisions by the driver/owner of the vehicle or even a passenger would not compensate the insurance company, the provision is aimed at protecting the passengers and/or third party and not the insurance company.
- *Owner and Driver:* And person driving a Motor vehicle in any public place shall on being so required by a police officer in uniform authorized in this behalf by the State Government produce:
 - a) The certificate of Insurance
 - b) The certificate of registration
 - c) The driving license, and,
 - d) In the case of transport vehicle, also the certificate of permit relating to the use of the vehicle.

The owner of a motor vehicle should also such information as he may be required by the police officer for the purpose of determining whether the vehicle was or was not being driven in contravention of the provision of the Motor Vehicle Act.

- *Public (Witness):* The witnesses present at the time of occurrence of the accident should come forward to give

true evidences regarding the accident, in view, that the Motor Vehicle act is a social welfare legislation and even it is the duty of the public at large to perform their social responsibilities to the society through the said Act.

- *The victim injured or deceased:* The dependents of the injured/deceased can file petition on their behalf. Dependents mean the legal heirs or legal representatives of the injured/deceased. The jurisdiction of the Tribunal is through open, but the injured or dependents of the injured/deceased should choose the district tribunal of his permanent residence or any place convenient to him/her/them to proceed with the case.

The legal heirs/representatives, i.e. the claimant should engage an expert legal person on this field to get adequate and proper compensation because the motor accident cases involve many other legal factors and points to be discussed and decided by the tribunal. At the same time the claimant should keep a provide to his/her legal representative all the medical and other relevant documents in original along with all tests and examination reports and doctor certificates, admission and discharge certificate of the hospital and any other papers in respect to income and expenditure incurred during the treatment of the injured which are very important to calculate the adequate amount of compensation of the case.

The claimant should approach the concerned police station to get all the required information about the accident, where they can gather all information of the vehicle met with the accident, particulars of the owner, driver and insurer of the vehicle involved in the accident.

The claimant should disclose the members or legal heirs left by the deceased (if any person died in the accident), their relations and all other required information should be provide to their legal representative to institute the case properly without any lapse, because only then a claimant can expect a just compensation from the tribunal, else the claimant shall not be able to get just compensation and the claim petition may be dismissed for vital lapses. The High Court of the State has appellate jurisdiction against the order/judgment awarded by the tribunal. But High Court has no original jurisdiction on Motor Vehicle Accident cases. The Honorable Supreme Court is the last appellate court in Motor Vehicle Accident cases.

3. Conclusion

The law of accident claims is fast growing and the amendments to suit the requirement of the object are necessitated but at the same time interest of those should be watched who are disbursing the compensation i.e. Insurance companies. Without affording them right to contest, imposing liability to make payment cannot be approved.

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