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Study Notes

The Motor Vehicles Act, 1988

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INTRODUCTION

- The Motor Vehicles Act, 1988 is an act to consolidate and amend the law relating to motor vehicles in India. This legislation has replaced the Motor Vehicles Act, 1939 which had some shortcomings and was not suitable to the circumstances present then. The Supreme Court in *M.K Kunhimohammed Vs. P.A Ahmedkutty AIR 1987 SC 2158*, had made certain 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 their being no proof of fault on the part of the person involved in the accident and also in hit and run motor accidents and to remove certain disparities in the liability of insurer to pay compensation depending upon the class and type of vehicles involved in the accident. These suggestions have been incorporated in the present legislation.
- This Act is applicable to whole of India and came into force on 1st July, 1989. There have been various amendments to this act from time to time and the recent ones being made in 2019 and 2022. Both the amendments chiefly deal with third party insurance and claims management, including filing claims with the Motor Accident Claims Tribunal.

- The Act has 14 chapters and 2 Schedules.
- Some Important Chapters are:
 1. Chapter I- Preliminary
 2. Chapter II- Licensing of Drivers of Motor Vehicles
 3. Chapter IV- Registration of Motor Vehicles
 4. Chapter V- Control of Transport Vehicles
 5. Chapter VIII- Control of Traffic
 6. Chapter XI- Insurance of Motor Vehicles against Third party risks.
 7. Chapter XII- Claims Tribunals
 8. Chapter XIII- Offences, Penalties and Procedure

SOME IMPORTANT DEFINITIONS

CHAPTER I- PRELIMINARY

- Section 2 (1) "**adapted vehicle**" means a motor vehicle either specially designed and constructed, or to which alterations have been made under sub-section (2) of section 52, for the use of a person suffering from any physical defect or disability, and used solely by or for such person;
- Section 2 (2) "**articulated vehicle**" means a motor vehicle to which a semitrailer is attached;
- Section 2 (4) "**certificate of registration**" means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV;

- Section 2 (4A) "**community service**" means an unpaid work which a person is required to perform as a punishment for an offence committed under this Act;
- Section 2 (8) "**dealer**" includes a person who is engaged—
 - (a) Omitted
 - (b) in building bodies for attachment to chassis; or
 - (c) in the repair of motor vehicles; or
 - (d) in the business of hypothecation, leasing or hire-purchase of motor vehicle;
- Section 2 (9) "**driver**" includes, in relation to a motor vehicle which is drawn by another motor vehicle, the person who acts as a steersman of the drawn vehicle;
- Section 2 (9A) "**driver refresher training course**" means the course referred to in sub-section (2A) of section 19;
- Section 2 (10) "**driving licence**" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description;
- Section 2 (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;
- Section 2 (13) "**goods**" includes live-stock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;
- Section 2 (14) "**goods carriage**" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;
- Section 2 (15) "**gross vehicle weight**" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;
- Section 2 (16) "**heavy goods vehicle**" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;
- Section 2 (17) "**heavy passenger motor vehicle**" means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms;
- Section 2 (19) "**learner's licence**" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive as a learner, a motor vehicle or a motor vehicle of any specified class or description;
- Section 2 (20) "**licensing authority**" means an authority empowered to issue licences under Chapter II or, as the case may be, Chapter III;
- Section 2 (21) "**light motor vehicle**" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7500 kilograms;
- Section 2 (22) "**maxicab**" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward;

- Section 2 (23) "**medium goods vehicle**" means any goods carriage other than a light motor vehicle or a heavy goods vehicle;
- Section 2 (24) "**medium passenger motor vehicle**" means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, adapted vehicle, light motor vehicle or heavy passenger motor vehicle;
- Section 2 (25) "**motorcab**" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward;
- Section 2 (28) "**motor vehicle**" or "**vehicle**" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding 9[twenty-five cubic centimetres];
- Section 2 (30) "**owner**" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;
- Section 2 (31) "**permit**" means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorising the use of a motor vehicle as a transport vehicle;
- Section 2 (48) "**unladen weight**" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;

CHAPTER II- LICENSING OF DRIVERS OF MOTOR VEHICLES

▪ Section 3. Necessity for driving license

(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; and ***no person shall so drive a transport vehicle other than a motor cab or motor cycle hired for his own use or rented under*** any scheme made under sub-section (2) of section 75 ***unless his driving licence specifically entitles him so to do.***

(2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed ***by the Central Government.***

▪ Section 4. Age limit in connection with driving of motor vehicles.

(1) No person under the ***age of eighteen years*** shall drive a motor vehicle in any public place:

Provided that a **motor cycle with engine capacity not exceeding 50cc may be driven** in a public place by a person after attaining the **age of sixteen years**.

(2) Subject to the provisions of section 18, no person under the age of **twenty years** shall drive a **transport vehicle** in any public place.

(3) No learners licence or driving licence shall be issued to any person to drive a vehicle of the class to which he has made an application unless he is eligible to drive that class of vehicle under this section.

▪ **Section 5. Responsibility of owners of motor vehicles for contravention of sections 3 and 4.**

No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.

▪ **Section 6. Restrictions on the holding of driving license**

(1) No person shall, while he holds any driving licence for the time being in force, hold any other driving license except a learner's license or a driving license issued in accordance with the provisions of section 18 or a document authorizing, in accordance with the rules made under section 139, the person specified therein to drive a motor vehicle.

(2) No holder of a driving license or a learner's license shall permit it to be used by any other person.

(3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 9 from adding to the classes of vehicles which the driving license authorizes the holder to drive.

▪ **Section 7. Restrictions on the granting of learner's licenses for certain vehicles.**

(1) No person shall be granted a learner's license to drive a transport vehicle unless he has held a driving license to drive a light motor vehicle for at least one year:

Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.

(2) No person under the age of eighteen years shall be granted a learner's license to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learner's license.

▪ **Section 8. Grant of Learner's license**

(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving license may, subject to the provisions of section 7, apply to any of the licensing authority in the State--

(I) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment referred to in section 12 from where he intends to receive instruction in driving a motor vehicle is situate, for the issue to him of a learner's license.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such documents with such fee and submit in such manner, including electronic means as may be prescribed by the Central Government.

(3) Every application to drive a transport vehicle made] under sub-section (1) shall be accompanied by a medical certificate in such form as may be prescribed by the Central Government and signed by such registered medical practitioner, as the State Government or any person authorized in this behalf by the State Government may, by notification in the Official Gazette, appoint for this purpose:

(4) If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorized by the learner's license applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the learner's license:

Provided that a learner's license limited to driving an adapted vehicle may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage.

(5) No learner's license shall be issued to any applicant unless he satisfies such conditions as may be prescribed by the Central Government. .

(6) When an application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his physical fitness under sub-section (3) and has passed to the satisfaction of the licensing authority the test referred to in sub-section

(5), the licensing authority shall, subject to the provisions of section 7, issue the applicant a learner's license unless the applicant is disqualified under section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a license to drive a motor vehicle:

Provided that a licensing authority may issue a learner's license to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if such authority is satisfied that there is good reason for the applicant's inability to apply to the appropriate licensing authority.

Provided further that a licensing authority may issue a learner's license 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.

(7) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by rules made in this behalf, exempt generally, either absolutely or subject to such conditions as may be specified in the rules, any class of persons from the provisions of sub-section (3), or sub-section (5), or both.

(8) Any learner's license for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear.

▪ **Section 9. Grant of driving license:**

(1) Any person who is not for the time being disqualified for holding or obtaining a driving license may apply to any licensing authority in the State-

(i) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment referred to in section 12 from where he is receiving or has received instruction in driving a motor vehicle is situated, for the issue to him of a driving licence.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such fee and such documents as may be prescribed by the Central Government.

(3) If the applicant **passes such test as may be prescribed by the Central Government, he shall be issued the driving licence:**

Provided that **no such test shall be necessary** where the applicant produces proof to show that--

(a) (i) the applicant has **previously held** a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or

(ii) the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or

(iii) the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8,

(b) **the applicant is not suffering from any disability** which is likely to cause the driving by him to be a source of danger to the public; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8:

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.

(4) Where the application is for a licence to drive a transport vehicle, no such authorisation shall be granted to any applicant unless he possesses a driving certificate issued by a school or establishment referred to in section 12.

(5) Where the **applicant does not pass the test; he may be permitted to re-appear for the test after a period of seven days:**

Provided that where the **applicant does not pass the test even after three appearances, he shall not be qualified to re-appear for such test before the expiry of a period of sixty days from the date of last such test and such applicant shall be required to complete a remedial driver training course from any school or establishment under section 12.**

(6) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers:

Provided that a person who passed a test in driving a motor cycle with gear shall be deemed also to have passed a test in driving a motor cycle without gear.

(7) When any application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his competence to drive, the licensing authority shall issue the applicant a driving licence unless the applicant is for the time being disqualified for holding or obtaining a driving licence:

Provided that a licensing authority may issue a driving licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good and sufficient reason for the applicant's inability to apply to the appropriate licensing authority:

Provided further that the licensing authority shall not issue a new driving licence to the applicant, if he had previously held a driving licence, unless it is satisfied that there is good and sufficient reason for his inability to obtain a duplicate copy of his former licence.

(8) If the licensing authority is satisfied, after giving the applicant an opportunity of being heard, that he--

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(c) is a person whose licence to drive any motor vehicle has, at any time earlier, been revoked, it may, for reasons to be recorded in writing, make an order refusing to issue a driving licence to such person and any person aggrieved by an order made by a licensing authority under this sub-section may, within thirty days of the receipt of the order, appeal to the prescribed authority.

(9) Any driving licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear.

(10) Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions, as may be prescribed.

CHAPTER IV- REGISTRATION OF MOTOR VEHICLES

- **Section 39. Necessity for registration**

No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner: Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government.

- **Section 43. Temporary Registration**

(1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable:

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body or any unforeseen circumstances beyond the control of the owner], the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods as the registering

authority or other prescribed authority, as the case may be, may allow.

(3) In a case where the motor vehicle is held under hire-purchase agreement, lease or hypothecation, the registering authority or to her prescribed authority shall issue a temporary certificate of registration of such vehicle, which shall incorporate legibly and prominently the full name and address of the person with whom such agreement has been entered into by the owner.

- **Section 56 Certificate of fitness of transport vehicles.**—(1) Subject to the provisions of sections 59 and 60, a transport vehicle shall not be deemed to be validly registered for the purposes of section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorized testing station mentioned in sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder:

Provided that where the prescribed authority or the authorized testing station refuses is issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

- (2) The “authorised testing station” referred to in sub-section (1) means a vehicle service station or public or private garage which the State Government, having regard to the experience, training and ability of the operator of such station or garage and the testing equipment and the testing personnel therein, may specify in accordance with the rules made by the Central Government for regulation and control of such stations or garages.
- (3) Subject to the provisions of sub-section (4), a certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act.
- (4) The prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained: Provided that no such cancellation shall be made by the prescribed authority unless such prescribed authority holds such technical qualification as may be prescribed or where the prescribed authority does not hold such technical qualification on the basis of the report of an officer having such qualifications.
- (5) A certificate of fitness issued under this Act shall, while it remains effective, be valid throughout India.

- **Section. 62. Information regarding stolen and recovered motor vehicles to be furnished by the police to the State Transport Authority.—**The State Government may, if it thinks necessary or expedient so to do in the public interest, direct the submission by the Inspector General of Police (by whatever designation called) and such other police officers as the State Government may specify in this behalf, of such returns containing the information regarding vehicles which have been stolen and stolen vehicles which have been recovered of which the police are aware, to the State Transport Authority, and may prescribe the form in which and the period within which such returns shall be made.

CHAPTER V CONTROL OF TRANSPORT VEHICLES

S. 66. Necessity for permits



No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used.

Section. 87. Temporary permits.—(1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four months, to authorize the use of a transport vehicle temporarily—

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit, and may attach to any such permit such condition as it may think fit:

Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may,

in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year.

(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

(i) no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension.

Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended.

CHAPTER VIII CONTROL OF TRAFFIC

- **Section 112. Limits of speed.**—(1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle under this Act or by or under any other law for the time being in force:

Provided that such maximum speed shall in no case exceed the maximum fixed for any motor vehicle or class or description of motor vehicles by the Central Government by notification in the Official Gazette.

(2) The State Government or any authority authorised in this behalf by the State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in the Official Gazette, and by causing appropriate traffic signs to be placed or erected under section 116 at suitable places, fix such maximum speed limits or minimum speed limits as it thinks fit for motor vehicles or any specified class or description of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads:

Provided that no such notification is necessary if any restriction under this section is to remain in force for not more than one month.

(3) Nothing in this section shall apply to any vehicle registered under section 60 while it is being used in the execution of military manoeuvres within the area and during the period specified in the notification under sub-section (1) of section 2 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938.

- **Section 115. Power to restrict the use of vehicles.**—The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 116 at suitable places:

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.

- **Section 118. Driving regulations.**—The Central Government may, by notification in the Official Gazette, make regulations for the driving of motor vehicles.
- **Section 119. Duty to obey traffic signs.**—(1) Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by mandatory traffic sign and in conformity with the driving regulations made by the Central Government, and shall comply with all directions given to him by any police officer for the time being engaged in the regulation of traffic in any public place.

(2) In this section “mandatory traffic sign” means a traffic sign included in Part A of the Schedule, or any traffic sign of similar form (that is to say, consisting of or including a circular disc displaying a device,

- **Section 134. Duty of driver in case of accident and injury to a person.**—When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall—
 - (a) unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person, 4 by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on the duty in the hospital immediately to attend to the injured person and render medical aid or treatment without waiting for any procedural formalities], unless the injured person or his guardian, in case he is a minor, desires otherwise;
 - (b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence, including the circumstances, if any, for not taking reasonable steps to secure medical attention as required under clause (a), at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence.
 - (c) give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely:—
 - (i) insurance policy number and period of its validity;
 - (ii) date, time and place of accident;
 - (iii) particulars of the persons injured or killed in the accident;
 - (iv) name of the driver and the particulars of his driving licence.

Explanation.—For the purposes of this section the expression “driver” includes the owner of the vehicle.

CHAPTER XI INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS
S.145. Definitions

(a) “authorized insurer”	means an insurer for the time being carrying on general insurance business in India under the General Insurance Business (Nationalisation) Act, 1972, and any Government insurance fund authorised to do general insurance business under that Act;
(b) “certificate of insurance”	means a certificate issued by an authorised insurer in pursuance of sub-section (3) 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;
(c) “liability”,	wherever used in relation to the death of or bodily injury to any person, includes liability in respect thereof under section 140;
(d) “policy of insurance”	includes “certificate of insurance”;
(e) “property”	includes goods carried in the motor vehicle, roads, bridges, culverts, causeways, trees, posts and mile-stones;
(f) “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 Chapter;
(g) “third party”	includes the Government

▪ S.146. Necessity for insurance against third party risk.

(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:
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:--

(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.

▪ **S 147. Requirements of policies and limits of liability-**

(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 declared 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 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.

▪ **S. 149 Settlement by insurance company and procedure therefor. –**

(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.

(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

▪ **Section 151. Rights of third party against insurers on insolvency of insured**

(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-
(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 debtors 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.

▪ **S. 152 Duty to give information as to insurance. –**

(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.

(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.

- **S. 153. Settlement between insurers and insured persons.** --- (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.
(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.

CHAPTER XII CLAIMS TRIBUNALS

- **S. 165. Claims Tribunals**

(1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) 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.

Explanation.--For the removal of doubts, it is hereby declared that the expression "claims for compensation in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles" includes claims for compensation under 1[section 164.

(2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he--

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

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

(c) is qualified for appointment as a Judge of a High Court or as a District Judge.

(4) Where two or more Claims Tribunals are constituted for any area, the State Government, may by general or special order, regulate the distribution of business among them.

▪ **S. 166. Application for compensation.**

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may 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:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

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.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either 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, and shall be in such form and contain such particulars as may be prescribed:

(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under section 159 as an application for compensation under this Act.

(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.

▪ **S. 168. Award of Claims Tribunal**

(1) On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 163 may make an award determining the amount of

(2) compensation which appears to it to be just and specifying the person or persons

to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:

(2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct.

▪ **S. 169. Procedure and powers of Claims Tribunal**

(1) In holding any inquiry under section 168, the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit.

(2) The Claims Tribunal shall have all the powers of a 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 for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(3) Subject to any rules that may be made in this behalf, the Claims Tribunal may, for the purpose of adjudicating upon any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

(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.

- **S. 170. Where in the course of any inquiry, the Claims Tribunal is satisfied that--**
 - (a) there is collusion between the person making the claim and the person against whom the claim is made, or
 - (b) the person against whom the claim is made has failed to contest the claim, it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in sub-section (2) of section 150, the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.

- **S. 171. Award of interest where any claim is allowed.**

Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

- **S. 172. Award of Compensatory costs in certain cases**

(1) Any Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that--

(a) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or

(b) any party or insurer has put forward a false or vexatious claim or defence, such Tribunal may make an order for the payment, by the party who is guilty of misrepresentation or by whom such claim or defence has been put forward of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding one thousand rupees.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such misrepresentation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any misrepresentation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such misrepresentation, claim or defence.

- **S. 173. Appeals**

(1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, ***within ninety days from the date of the award, prefer an appeal to the High Court:***

Provided that ***no appeal*** by the person who is required to pay any amount in terms of such award ***shall be entertained by the High Court unless he has deposited with***

it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than one lakh rupees.

▪ **S. 174. Recovery of money from insurer as arrear of Land revenue**

Where any amount is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

CHAPTER XIII OFFENCES, PENALTIES AND PROCEDURE

<p>S.177. General provision for punishment of offences.</p>	<p>Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence be punishable for the first offence with fine which may extend to five hundred rupees, and for any second or subsequent offence with fine which may extend to one thousand and five hundred rupees"</p>
<p>S. 179. Disobedience of orders, obstruction and refusal of information.</p>	<p>(1) Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall, if no other penalty is provided for the offence be punishable with fine which may extend to two thousand rupees]. (2) Whoever, being required by or under this Act to supply any information, willfully withholds such information or gives information which he known to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two thousand rupees, or with both.</p>

<p>S. 182. Offences relating to licenses</p>	<p>(1) Whoever, being disqualified under this Act for holding or obtaining a driving license drives a motor vehicle in a public place or in any other place, or applies for or obtains a driving license or, not being entitled to have a driving license issued to him free of endorsement, applies for or obtains a driving license without disclosing the endorsement made on a driving license previously held by him shall be punishable with imprisonment for a term which may extend to three months, or with fine of ten thousand rupees or with both, and any driving license so obtained by him shall be of no effect.</p> <p>(2) Whoever, being disqualified under this Act for holding or obtaining a conductors license, acts as a conductor of a stage carriage in a public place or applies for or obtains a conductors license or, not being entitled to have a conductors license issued to him free of endorsement, applies for or obtains a conductors license without disclosing the endorsements made on a conductors license previously held by him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to ten thousand rupees], or with both, and any conductors license so obtained by him shall be of no effect.</p>
<p>S. 183. Driving at excessive speed, etc.</p>	<p>(1) Whoever, drives or causes any person who is employed by him or subjects someone under his control to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable in the following manner, namely:--</p> <p>(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;</p> <p>(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</p> <p>(iii) for the second or any subsequent offence under this sub-section the driving license of such driver shall be impounded as per the provisions of the sub-section (4) of section 206.</p> <p>(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the</p>

	<p>opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical or electronic device.</p> <p>(4) The publication of a time table under which, or the giving of any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112 be prima facie evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (1).</p>
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