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THE MOTOR VEHICLES ACT,1988

Overview of the Act

- The object of the Act is to consolidate and amend law relating to motor vehicles
- The Act makes provisions for licensing of drivers of motor vehicles, registration of motor vehicles, control of traffic, insurance of motor vehicles and establishment of Claim Tribunals for **compensation to be given to the victims of accidents involving motor vehicles**
- It is mandatory that motor vehicle must be insured as per provisions of the Act (Section 146)
- It mandatory for a police officer investigating a case involving death or bodily injury to a person in a road accident, to submit a report in the required format to a Claim Tribunal within 3 months (Section 159)
- In the case of **hit and run motor accident,** the Act provides for payment of fixed amount of compensation of Rs.2 lacs in case of death and Rs.50,000 in case of grievous hurt

Payment of compensation in case of death/grievous hurt

- Motor Accident Claim Tribunals ("**MACT**") have been established in all districts for enabling the victim or dependents of a victim to make claim for compensation against the owner and/or driver of the vehicle or the insurer of the vehicle
- Usually a judge of the level of a district judge presides over an MACT. (Section 165)
- An application for compensation can be made at the option of the Claimant to a claim tribunal having jurisdiction over the area in which accident occurred or to the claim tribunal within whose jurisdiction Claimant resides
- An application for compensation has to be made within preferably 6 months from occurrence of the accident
- Right of the legal representative of deceased in an accident case survives irrespective of whether cause of death is relatable or had any nexus with the injury or not. (Section 166)

Payment of lump-sum compensation payable in case of death/permanent disablement

- The victim of a motor accident or his legal heirs, can claim either lump-sum compensation of the following amounts (Section 164):

  (i) Rs. 5 lacs in case of death

  (ii) Rs. 2.5 lacs in case of grievous hurt

- The victim or his legal heirs can claim the above amounts from the registered owner of the motor vehicle or authorized insurer without pleading or establishing that the accident had occurred due to wrongful act or neglect or default of the owner of the motor vehicle or of the vehicle concerned.

- If compensation payable under Section 164 is accepted by the victim or his legal heirs, no further compensation can be claimed by them. Further, if the victim or his legal representative gets compensation under any other law for the time being in force, compensation under Section 164 shall be reduced to that extent.

Payment of 'just' compensation in case of death or permanent disablement

- MACT is bound to dispose of any application for compensation relating to case of death of or bodily injury to persons in a road accident arising out of use of motor vehicle
- MACT has to provide the parties, an opportunity of being heard, hold an inquiry into the claim and determine amount of compensation appearing it to be just and specify the person(s) to whom compensation shall be paid
- It shall also be specify as to who shall be the party responsible for paying the amount so determine by the MACT
- The Tribunal shall deliver copy of the award to the party concerned within 15 days from the date of an award
- The party directed to make the payment of compensation shall deposit the entire amount within 30 days as per the directions of the Tribunal
- The measure of damages in fatal accident cases is the pecuniary loss suffered and likelihood to be suffered by each defendant as a result of death

“Just compensation”

- The guiding principles in all such cases of determination of amount of compensation is arrive at an amount which deceased would have earned if he had lived his natural life and contributed to his family
- The concept of ‘just compensation’ has to be viewed through the prism of fairness, reasonableness and non-violation of principle of equality
- In case of death, the legal heirs cannot expect a windfall. However, at the same time the compensation granted cannot be a pittance
- A tribunal though has wide discretion in the matter of calculating the amount of compensation but it should always be guided by the expression ***“just compensation”.***

Steps involved in determination of “just compensation”

- Courts have evolved standard method of calculating the amount of just compensation
- The standard method being followed by the courts involves following steps:

  (i) Calculate the income of the deceased with future prospects

  (ii) Deduction for personal and living expenses of the deceased

  (iii) Selection of multiplier

  (iv) Computation of compensation
- The above standard method aims at bringing consistency in the matter of calculation of compensation payable to the victims or their legal heirs

Income of the deceased with future prospects

- Actual income of the deceased after taxes needs to be considered.
- The future prospects of the deceased are to be considered in the manner stated in the table given below, depending on the age as well as nature of occupation of the deceased:

Age of the deceased	Future prospects of a deceased having permanent job with increments	Future Prospects of deceased who was self –employed/ fixed salaried
Below 40 years	50%	40%
Between 40 -50 years	30%	25%
Between 50-60 years	15%	10%
Above 60 years	Nil	Nil

Income of the deceased with future prospects

- Accordingly, if a deceased having permanent job with increment, and having annual income of, say Rs 1,00,000, the salary with future prospect shall be taken as under depending on his age:

(i) Age below 40 years - Rs. 1,50,000 (Rs. 1,00,000 + 50% of 1,00,000)

(ii) Age between 40-50 years - Rs. 1,30,000 (Rs. 1,00,000 + 30% of 1,00,000)

(iii) Age between 50-60 years - Rs. 1,15,000 (Rs. 1,00,000 + 15% of 1,00,000)

(iv) Age above 60 years - Rs. 1,00,000 (Rs. 1,00,000 + Nil)

- If the deceased was self employed or having a fixed salary job, and having annual income of, say Rs 1,00,000, the salary with future prospect shall be taken as under depending on his age:

(i) Age below 40 years - Rs. 1,40,000 (Rs. 1,00,000 + 40% of 1,00,000)

(ii) Age between 40-50 years - Rs. 1,25,000 (Rs. 1,00,000 + 25% of 1,00,000)

(iii) Age between 50-60 years - Rs. 1,10,000 (Rs. 1,00,000 + 10% of 1,00,000)

(iv) Age above 60 years - Rs. 1,00,000 (Rs. 1,00,000 + Nil)

Deduction of personal and living expenses

- It is assumed that out of his actual disposable income, deceased would have spent a part of his income on his own personal and living expenses. Remaining amount would have been his contribution to the family.
- Deceased's personal and living expenses on one hand and his contribution to his family will have direct bearing to the marital status and number of dependants of the deceased. A bachelor would tend to spend more on himself rather than a married man with family.
- The courts have evolved following standard parameters for working out the deductions towards personal and living expenses of the deceased:

(i) Deceased being a married person, deduction towards his personal and living expenses would be as under:

1/3 rd	- where deceased had 2-3 dependant family members
1/4 th	- where deceased had 4-6 dependant family members
1/5th	- where deceased had more than six dependant family members

(ii) Deceased being a bachelor, deduction towards his personal and living expenses would be as under:

1/2	- where deceased is survived by parents and siblings, mother being only dependant of deceased
1/3	- where deceased has large number of dependant young non-earning siblings
	- this part may also vary depending on facts and circumstances of each case

Multiplier to be adopted

- Depending on the age of the deceased a multiplier has to be adopted which cannot be more than 18.
- Following Multiplier are relevant:

Age of the deceased	*Multiplier*
Up to 15 years	*15*
15 to 20 years	*18*
21 to 25 years	*18*
26 to 30 years	*17*
31 to 35 years	*16*
36 to 40 years	*15*
41 to 45 years	*14*
46 to 50 years	*13*
51 to 55 years	*11*
56 to 60 years	*09*
61 to 65 years	*07*
Above 65 years	*05*

Other components

- In addition to calculating compensation in the manner stated above, following amounts shall also be paid to the family of victim in case of death:
  - Loss of estate - Rs.15,000/-
  - Loss of consortium - Rs.40,000/-
  - Funeral expenses - Rs.15,000/-
- The above expenses shall be enhanced @10% in every three years (base year 2017)
- The amount of compensation calculated is distributed among the legal heirs of the deceased on the basis of their proximity. This is done by the court depending on the facts and circumstances of each case.

Important judgements

- ***Sarla Verma (Smt.) & Others Vs. Delhi Transport Corporation & Another****; (2009) 6 SCC 121. (Two Judges' Bench Judgement)*

  In this case the Supreme Court worked out the table of multiplier taking into account the judgments passed in various cases

- ***Reshma Kumari & Others Vs. Madan Mohan & Another****; (2013) 9 SCC 65; (Three Judges' Bench Judgment) (para 43)*

  In this case, the Supreme Court approved the parameters of determining the compensation in the judgment of Sarla Verma

- ***National Insurance Company Ltd. Vs Pranay Sethi & Others****; (2017) 16 SCC 680 (para59)*

  In this case, the Supreme Court though approved the parameters of determining the compensation in the judgment of Sarla Verma but made few more addition

- **Royal Subdram Alliance Insurance Co. Ltd. Vs. Mandala Yandagri Goud & Ors.; (2019) 5 SCC 554**

  In this case the court held that the age of deceased, and not of the dependent, is relevant for adopting the multiplier

Sample calculation of compensation (based on Sarla Verma case)

- Deceased was aged at 38 years at the time of his death in a road accident, which occurred on 18.04.1988
- He was working as scientist Indian Council of Agricultural Research, drawing a salary of Rs.4,004 per month. He has eight members in family including himself.
- Addition to income to future prospect(@50% deceased being less than 40 years) = Rs. 6004 (Rs. 4004 + Rs. 2002)

  Annual income (6006 X 12) = Rs. 72,072
- Deduction towards personal & Living Expenses (1/5) = Rs. 57,658 (72,072–14,414)
- Multiplier based on age of 38 years = 15
- Amount of compensation = Rs. 8,64,780 (Rs. 57,658 X 15)
- Addition to be made on other factors:

  Loss of Estate = Rs. 5,000

  loss of consortium = Rs. 10,000

  Funeral Expenses = Rs. 5,000 Rs. 20,000
- Total amount of compensation = Rs. 8,84,780 (Rs. 8,64,780 + Rs. 20,000)
- Interest @6% from the date of the Petition till the date of payment

Compensation in case of permanent disability

- In case of permanent disability, the compensation is calculated primarily on the basis as explained above
- However, depending on the percentage of disability and its impact on the victim, the amount so calculated is reduced appropriately. This exercise is done by the court depending on facts and circumstances of each case.
- The percentage of disability is taken from the schedule provided in Workmen Compensation Act, 1923
- Where death or disability gives rise to compensation under the Motor Vehicle Act, 1988 and Workmen Compensation Act, 1923, the person entitled to compensation, can claim compensation under one of the Acts and not under both

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