

CHANGES IN MOTOR VEHICLE ACT -- IMPACT ON THIRD PARTY LIABILITY

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MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

New definition - Golden Hour

MV Act 1988

Section-Not present

New Motor Amendment Bill 2019

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;

IMPACT - This provision is very progressive. The concept of Golden Hour is very vital because during this period the losses arising out of the accidents could be mitigated to a great extent.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

New Motor Amendment Bill 2019

Section-Not present

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;’;

New definition

**Community
service**

IMPACT- A great initiative towards adopting and encouraging the reformatory theory of Punishment. It will serve the dual purpose of Punishment as well as the Social Service, thereby protecting the interests of the offender and the community at large.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Renewal of Driving Licences

MV Act 1988

Section-15

- Where the application for the renewal of a licence is made ***more than thirty days after the date of its expiry***, the driving licence shall be ***renewed with effect from the date of its renewal***.
- (3) Where ***an application*** for the renewal of a driving licence is made ***previous to, or not more than thirty days*** after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf.
- (4) Where an application for the renewal of a driving licence is ***made more than thirty days after the date of its expiry***, the fee payable for such renewal shall be such amount as may be prescribed by the Central government .

New Motor Amendment Bill 2019

Section- 15

- Where the application for the renewal of a licence is made ***more than 1 year after the date of its expiry***, the driving licence shall be ***renewed with effect from the date of its renewal***.
- (3) Where ***an application*** for the renewal of a driving licence is made ***previous to, or not more than 1 Year*** after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf.
- (4) Where an application for the renewal of a driving licence is ***made more than 1 Year after the date of its expiry***, the fee payable for such renewal shall be such amount as may be prescribed by the Central government

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Renewal of Driving Licences (Contd...)

MV Act 1988

Section- 15

- **Proviso :** If the application is made *more than five years after the driving licence has ceased to be effective*, the licensing authority may refuse to renew the driving licence, unless the applicant undergoes and passess to its satisfaction the test of competence to drive.

New Motor Amendment Bill 2019

Section- 15

- **Proviso :** If the application is made **more than Three years** after the driving licence has ceased to be effective, the licensing authority may refuse to renew the driving licence, unless the applicant undergoes and passess, to its satisfaction, the test of competence to drive.

IMPACT - For renewal of DL one has to apply within 1 year. If application is made within 1 year from the expiry of DL it will be renewed from the date of expiry. If the application for renewal is made after 3 years from the date of expiry of DL then the licencing authority may refuse to renew the Licence.

The possibility of bogus and fake licences may lessen, thus improving the quality of drivers and lesser accidents.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

New Motor Amendment Bill 2019

Section-Not present .

Section- 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, for establishing a framework for grant of transport permits. The Section directs the Central Government to consult the State Governments before formulation of policy.

IMPACT- It is a step towards integration of technology and simplification of process all over India under one policy.

Permit is one of the most contentious issue and document. With standardisation likely to come about due to Central Govt. involvement, this aspect may not bother at the time of claims.

**National
Transportation
Policy
(New)**

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Protection of good Samaritans (New)

MV Act 1988

Section- N.A.

New Motor Amendment Bill 2019

Section 134A of The Bill defines "Good Samaritan" as 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 transporting such victim to the hospital.

It makes provision for protection of Good Samaritans from unnecessary trouble or harassment from civil or criminal proceedings and empowers Central Government to frame Rules for their protections which will be a welcoming factor to get the medical aid to injured/ victim.

IMPACT-

Hitherto the eyewitnesses to the accident and those in and around the spot remain mute spectators or turn a blind eye to the goings on, let alone help the victim. With this measure in place, the possibility of the victims getting attention and timely medical aid will improve, thereby avoiding death and disabilities.

This will help reduce claims in terms of numbers as also outgo.

Requirement Of Policies and Limits of Liability

MV Act 1988

Section- 147

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 vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place ;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place;

New Motor Amendment Bill 2019

Section-147

- The sub-section-(2) has been substituted by the following sub-section-

For the purposes of third party insurance related to either death of a person or grievous hurt, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium.

IMPACT- Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy in consultation with the Insurance Regulatory and Development Authority. As such the concept of Third party liability from being unlimited has been made to be linked with TP premium.

The insurance liability may reduce and for higher liability limits the premium will also be higher, thereby bringing some improvement to loss ratio.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

Section- 147

Provided that a policy shall not be required –

(i) to cover liability in respect of the death, arising out of and in the course of this employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen’s Compensation Act, 1923 (8 of 1923), in respect of the death of, or bodily injury to, any such employee -

- (a) engaged in driving the vehicle, or
 - (b) if it is a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or
 - (c) if it is a goods carriage, being carried in the vehicle, or
- (ii) to cover any contractual liability.

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

New Motor Amendment Bill 2019

Section- 147

- 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.

The parallel operation of two documents is being attempted to be avoided and also the period of validity of Cover Note is being defined/restricted.

This will eliminate the ill intent of taking a cover and then not honouring the premium and present the obtained cover note as the evidence of insurance to prefer claims. A measure intended to safeguard the insurers and avoid undue liability.

Requirement Of Policies and Limits of Liability (Contd.)

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

Section- Not present .

New Motor Amendment Bill 2019

Section- 149

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. 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.

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.

IMPACT- Upon receiving information regarding the accident, the Insurance company will have to appoint an officer to settle the claims relating to such accident ,who shall offer to the claimant the settlement. If the claimant accepts it, the decree shall be recorded to that effect. This is a very good way of promoting settlements outside Courts .

This will result in diminishing the burden of the Courts by avoiding unnecessary litigations as also of the insurers as it will reduce the burden of interest.

**Settlement by
Insurance
Company and
the Procedure
thereof
(New)**

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

Section- Not present .

New Motor Amendment Bill 2019

Section- 159

Information to be given regarding accident : 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.

IMPACT- This is a welcome development for insurance industry w.r.t investigation and document collection of claims.

Probability of foul play involving planting of vehicle/driver etc. will be reduced, thus effecting some saving for insurers.

Information to be given regarding the accident (New)

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Amendment in Special Provision as to compensation in case of Hit and Run Motor Accident

MV Act 1988

Section- 161

To 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 **twenty-five thousand rupees;**

(b) in respect of **grievous hurt** to any person resulting from a hit and run motor accident, a fixed sum of **twelve thousand and five hundred rupees.**

New Motor Amendment Bill 2019

Section-161

To 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.

IMPACT- The amount of Compensation has been increased. In case of Death - from Rs.25,000 to Rs. 2,00,000 Lakhs and in case of Grievous hurt- from 12,500 to Rs.50,000.

The outgo of insurers will increase.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Scheme for Golden Hour (New)

MV Act 1988

Section- N.A.

New Motor Amendment Bill 2019

Section- 162

The insurance companies for the time being carrying on general 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.

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.-

IMPACT - New provision has been inserted. Insurance companies bound to provide treatment to accident victims . Govt. shall make a scheme for **CASHLESS TREATMENT** of victims during the GOLDEN HOUR and for creation of fund for the same purpose. First aid will be ensured and thereby diminishing the loss of lives in many cases.

While on one hand expenses/outgo may increase, it may be set off by the likely reduction in deaths/disability.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Section- 164

The owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of –

- Death - 5,00,000
- Grievous hurt – 2,50,000

In any claim for compensation under this), 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/driver of the vehicle concerned. 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.

IMPACT- The Amendment replaces Section 163A with Section 164. Now proposes payment of rupees five lakhs in cases of death and rupees two lakhs and fifty thousand in cases of grievous hurt, in case the claimants do not want to plead negligence of offending driver. Further, Section 165(1) states that acceptance of payment of compensation under Section 164 will result in lapse of claim petition under any other section.

THIS IS FIXED AND DEFINITE PAYMENT WITHOUT PROTRACTED LITIGATION. May reduce claims outgo.

**Payment of
Compensation
in case of
death or
grievous hurt,
etc.
(New)**

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Motor Accident Fund (New)

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Section- 164 B

Under Section 164B, Motor Vehicle Fund is to be augmented by a special tax or cess. The Fund is to be utilized for giving immediate relief to victims of motor accidents, GOLDEN HOUR and also hit and run cases and any other compensation which the Govt. would announce. The compensation paid out of the fund shall be deductible from the compensation which the victim may get in future from the Tribunal.

IMPACT -Concept is innovative but the actual way in which Fund will be raised and how it will function has to be derived from modified Central Motor Vehicle Rules, or some new gazette notification published by Government .

Insurers may also be directed to contribute to this fund

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Time Limitation on filing of cases (New)

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Section- 166(3)

Time-limit of six months for filing claim:
Sub-section(3) proposed to be REINSERTED to
Section 166 states that the claim petition has to
be filed within six months of the date of
accident. Said provision fixing time limit was
deleted as per 1994 Amendment IS REVIVED.

IMPACT -This is a major boost for cases to be filed before Tribunal within particular time line . It will pave the way for eradication of fraudulent cases and also as per CMV rules duty is cast on investigating police officer who will investigate and present findings in AIR(Accident Information Report) within 30 days.

This change is a boost for reducing, if not eliminating doctored claims and also faster settlement.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

As per present law, a claim for personal injury would abate on the death of the claimant and would not survive to his estate, due to operation of section 306 of the Indian Succession Act. The claim would survive to the estate only if death had nexus with the injuries and only in such cases the legal heirs would be entitled to come on record and continue with the prosecution of the claim.

New Motor Amendment Bill 2019

Section 166(5) mentions that the person has right to claim compensation for injury in an accident, upon death of the person injured survive to his legal representatives

IMPACT - Insurers will have to bear the burden

Abatement of claim due to death of claimant no longer defence to Insurance Company

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Liability of Guardians in case of accidents by juveniles

(New)

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Section- 199(A)

Liability of Guardians in case of accidents by juveniles:

Newly Section 199A PROPOSES to impose liability on guardian or the owner of the vehicle responsible for an accident caused by a juvenile.

IMPACT -This is progressive approach towards controlling driving by youngsters who have not attained the age to be eligible to get a driving licence.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Driver Refresher Training Course:

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Section- Section 20 with Section 200

Driver Refresher Training Course:

Condition to undergo "driving refresher training course" for reviving license after suspension/ revocation under Section 19, and also for compounding of traffic offences under Section 200 has been introduced.

IMPACT - Requirements of refresher and qualifying test make it necessary for the driver to be equipped to drive well and safe.

Will possibly reduce mayhem on the roads and resultantly reduce accidents. Good for insurers.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

New Motor Amendment Bill 2019

Section- Not present

Appeal limit increased to 10 times:

To reduce litigation and appeals by insurance companies, appeal limit increased from Rs. 10,000 to Rs. 1 lakh.

**Increase in
Appeal limit
increased to 10
times
(New)**

IMPACT -This will mitigate various frivolous litigation for meagre amount.

Practically insurers are not invoking appeals for such small amounts

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Clarity on status of Driver and Cleaner in coverage and Claims

MV Act 1988

Section- Not present

New Motor Amendment Bill 2019

Driver and other co workers of transport vehicles now included in the mandated third party insurance.

IMPACT - It will eliminate reference to Employee Compensation Commissioner. Case can be dealt at a single forum.

Compensation may marginally go up.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

New Motor Amendment Bill 2019

Section- Not present

Non Receipt of premium

In section 150(2) a ground of defence has been added wherein if there is non-receipt of premium as required under section 64VB of the insurance Act 1938 then the insurer could seek exoneration

IMPACT- This is very welcome and progressive step towards curbing payment for cases wherein there has been non receipt of premium.

**Inclusion of
New defence
Non Receipt of
premium**

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

MV Act 1988

New Motor Amendment Bill 2019

Section- Not present

Drunk Driving curbed: Giving statutory defence to insurance companies.

**Inclusion of
New defences**

IMPACT - It will facilitate Insurance Companies to contest cases on the ground of drunken driving as major statutory defence.

Will ease out the burden on insurers to convince the Judiciary that drunk driving is not legal and should be so considered for MACT Claims.

THANK YOU

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Currency of licences to drive motor vehicles.

MV Act 1988

Section- 14

1) A driving licence-

- In the case of a licence to drive a **transport vehicle-effective** for a period of **three years**.
- Licence to drive a transport vehicle carrying goods of dangerous or hazardous nature - **effective for one year** and **renewal** thereof shall be subject to the condition that **the driver undergoes one day refresher course**.

3) Other licence –

- (i) if the person obtaining the licence has not attained the age of 16 on the date of issue or, as
- be effective for a period of twenty years from the date of such issue or renewal ; or

New Motor Amendment Bill 2019

Section- 14

1) A driving licence-

- In the case of a licence to drive a **transport vehicle-effective** for a period of **Five years**.
 - Licence to drive a transport vehicle carrying goods of dangerous or hazardous nature - **effective for Three years** and **renewal thereof shall be subject to such conditions as the Central Government may prescribe;**
- 2) In the case of any other licence –
- (i) If person has not attained the **age of thirty years** - effective **until person attains the age of forty years;** or
- (ii) If he has attained the age **of thirty years but has not attained the age of fifty years** -be **effective for ten years** from the date of such issue or renewal;

IMPACT -The driving Licence to drive a transport vehicle valid for 5 years. Licence to drive transport vehicle carrying dangerous or hazardous goods is valid for 3 years and renewal according to conditions prescribed by the government.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Currency of licences to drive motor vehicles (Cntd...)

MV Act 1988

Section-14

- until the date on which such person **attains the age of 17** whichever is earlier ;
- (ii) if **the person has attained the age of fifty years** - effective, for period of five years from the date of such issue or renewal.
Proviso : That every driving licence shall, notwithstanding its expiry , continue to be effective for a period of thirty days from such expiry.

New Motor Amendment Bill 2019

Section-14

(iii) has attained the **age of fifty years but has not attained the age of fifty-five years** - effective until 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.**

- The proviso has been omitted.

IMPACT- In other Licences validity will be as follows: If his age is below 30 years the DL is valid till he attains age of 40 years. OR if his age is between 30 to 50 years DL is valid upto 10 years from the date of the renewal. OR if age of person is 50 to 55 years then validity will be until he attains age of 60 years. OR if the person has attained the age of 55 years then it will be effective for a period of 5 years from the date of such issue or renewal.

MOTOR VEHICLE ACT Amendment- COMPARATIVE ANALYSIS

Definition Clauses – Adapted vehicle

MV Act 1988

Section- 2(18)

“invalid carriage” means a motor vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;

New Motor Amendment Bill 2019

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;

IMPACT-Terminology only changed with not much effect on usage as such .

Section/ Offence	Old Penalty	New Penalty
General (177)	Rs 100	Rs 500
Rules of road regulation violation (new 177A)	Rs. 100	Rs 500
Travelling without a ticket (178)	Rs 200	Rs 500
Disobedience of orders of authorities (179)	Rs 500	Rs 2000
Unauthorized use of vehicles without licence (180)	Rs 1000	Rs 5000
Driving without licence (181)	Rs 500	Rs 5000
Driving without qualification (182)	Rs 500	Rs 10,000
Oversized vehicles (182B)	New	Rs 5000
Over speeding (183)	Rs 400	Rs 1000 for LMV, Rs 2000 for Medium Passenger Vehicle
Dangerous driving penalty (184)	Rs. 1,000	Upto Rs 5000
Drunken driving (185)	Rs 2000	Rs 10,000
Speeding/ Racing (189)	Rs 500	Rs 5,000
Vehicle without permit (192A)	Upto Rs 5000	Upto Rs 10,000

Section/ Offence	Old Penalty	New Penalty
Aggregators (violations of licencing conditions) (193)	New	Rs 25,000 to Rs 1,00,000
Overloading (194)	Rs 2,000, and Rs 1,000 per extra tonne	Rs 20,000, and Rs 2,000 per extra tonne
Overloading of Passengers (194A)	N.A.	Rs 1000 per extra passenger
Seat Belt (194 B)	Rs 100	Rs 1,000
Overloading of two-wheelers (194 C)	Rs 100	Rs 2,000 , Disqualification of licence for 3 months
Not providing way for emergency vehicles (194E)	New	Rs 10,000
Driving without insurance (196)	Rs 1,000	Rs 2,000
Offences by Juveniles (199)	New	Guardian/ Owner shall be deemed guilty. Rs 25,000 with 3 years imprisonment. Juvenile to be tried under JJ Act. Registration of Motor Vehicle to be cancelled.
Power of officers to impound documents (206)	N.A.	Suspension of driving licence under sections 183, 184, 185, 189, 190, 194C, 194D, 194E,
Offences committed by enforcing authorities (210B)	N.A.	Twice the penalty under the relevant section