

**AMENDMENT OF MOTOR VEHICLES ACT, 1988 BY MOTOR  
VEHICLES (FIFTH AMENDMENT) ACT, 2022**

The Central Government has notified Sections 50 to 57 and 93 of the Motor Vehicles (Amendment) Act, 2019 which came into force with effect from 1<sup>st</sup> April, 2022. Sections 51 to 57 of the Motor Vehicles (Amendment) Act, 2019 have wholly replaced Chapter XI of the Motor Vehicles Act, 1988 which dealt with insurance of motor vehicles against third party risks. These provisions have also made substantial amendments to Sections 163, 166, 168 and 169 of the Motor Vehicles Act 1988 relating to the filing of claims before Motor Accidents Claims Tribunal. Section 93 of the 2019 Act omits that Second Schedule of the 1988 Act which provided for Structure Formula for compensation on No-Fault basis under Section 163A. The gist of important amendments relating to Motor Accident Claims in Motor Vehicles Act, 1988 by Motor Vehicles (Amendment) Act, 2019 are as under:

1. **Omission of Chapter-X** – Chapter-X (Sections 140-144) of Motor Vehicles Act, 1988 which contained provisions relating to interim compensation on the basis of “*No fault liability*”, has been omitted. In view of the above omission, no interim compensation is payable in motor accident claims.
2. **Substitution of Chapter-XI with New Provisions** – Chapter-XI (Section 145 to 164) of Motor Vehicle Act, 1988 dealing with insurance of Motor Vehicles against third party risks has been substituted with new provisions namely Sections 145 to 164D. The major change in law due to the substitution of Chapter-XI is as under:-
  - (i) **Section 149(1) - Insurance Company has to appoint a Designated Officer within 10 days** - The Insurance Company shall, upon receipt of information of an accident, either from the claimant(s) or through Accident Information Report (AIR) or otherwise, designate an Officer to settle the claims relating to an accident.
  - (ii) **Section 149(2) - Offer of Settlement by the Insurance Company** - The Designated Officer of the Insurance Company has to make an offer for settlement to the claimant(s) before the Claims Tribunal within 30 days in terms of the Procedure prescribed in Central Motor Vehicles Rules.

- (iii) **Section 149(3)(a) - Consent Award by Claims Tribunal** – If the claimant accepts the offer made by the Designated Officer of the Insurance Company under Section 149(2), the Claims Tribunal shall record the settlement and pass an award whereupon the Insurance Company shall make the payment within 30 days of the recording of the settlement.
- (iv) **Section 149(3)(b) - If Claimant rejects the offer of te Insurance Company** - If the Claimant rejects the offer made by the Designated Officer of the Insurance Company, the Claims Tribunal shall fix the date of hearing to adjudicate the claim on merits.
- (v) **Section 150 - Duty of Insurance Company to satisfy judgment/ award against persons insured in respect of third party risks** – The insurance company has to pay the amount of compensation notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy. However, the defences of the Insurance Company have been widened and the Insurance Company now can take the defence that the premium paid by the insured through cheque has been dishonoured and that they have not received the premium in respect the policy. The Insurance Company can also take a defence that the owner was driving under the influence of alcohol or drugs as laid down in Section 185.
- (vi) **Section 156 - The death of the insured shall not be a bar to the claim against the Insurance Company** - The death of the insured after the accident shall not be a bar to a Motor Accident Claim.
- (vii) **Section 158 - Duty of the Driver to produce all documents relating to the use of vehicle** - The driver of the Motor Vehicle has a duty to produce all relevant documents relating to the use of vehicle before the Police Officer *namely* Certificate of Insurance, Certificate of Registration Certificate of Pollution Control, Driving License, Fitness, Permit etc..
- (viii) **Section 158(2) - Duty of Owner to produce to the relevant documents relating to the accident** - If the driver of the vehicle does not produce the above mentioned documents, the owner shall produce the relevant documents before the Police Officer.
- (ix) **Section 159 - Duty of Police to file Accident Information Report (AIR) before the Claims Tribunal within three months** - The Police

Officer shall file an Accident Information Report (AIR) before the Claims Tribunal within three months of the accident.

- (x) **Section 160 - Duty of the Registering Authority and the Police to furnish particulars of the vehicle involved in the accident to the victim(s)/ claimant(s)** - The Registering Authority and the Police shall furnish all relevant particulars relating to the accident to the victim(s)/ claimant(s) upon payment of prescribed fees, namely particulars of the offending vehicle, driver, owner, insurance company, identification marks etc.
- (xi) **Compensation relating to Hit and Run Motor Accident** - The compensation in respect of *Hit and Run Motor Accidents* has been enhanced from Rs.25,000/- to Rs.2,00,000/- in death cases and from Rs.25,000/- to Rs.50,000/- in grievous hurt cases.
- (xii) **Section 162 - Scheme for Golden Hour** - The Insurance Company shall provide cashless treatment of victims of road accident in the *Golden Hour* under the Scheme to be formulated by the Central Government. The word “*Golden Hour*” defined in Section 2(12A) means time period lasting one hour following a traumatic injury during which there is highest likelihood of preventing death by providing prompt medical care.
- (xiii) **Section 164 - Compensation on the basis of “No Fault Liability”** – Section 164 prescribes “*No Fault Liability*” compensation of Rs.5,00,000/- in death cases and Rs.2,50,000/- in grievous hurt cases without any need to prove the negligence of the driver. Section 93 of 2019 Act has omitted the Second Schedule of 1998 Act which provided the Structured Formula for compensation on *No-Fault* basis under Section 163A. Upon accepting the compensation under Section 164, the Claimant cannot claim the compensation under Section 166 of the Motor Vehicle Act.
- (xiv) **Section 164A - Power to make Scheme for interim relief for claimants** – Section 164A empowers the Government to make Scheme for interim relief to the claimants.
- (xv) **Section 164B - Motor Vehicles Accidents Fund**– Section 164B empowers the Central Government to constitute a *Motor Vehicles Accident Fund* for providing compulsory insurance cover to all road users in India. The Fund shall be utilized for the purpose of treatment

of the injured in road accidents, and compensation to the representatives of a person who die or sustain grievous hurt in a *Hit and Run Motor Accident*. Section 164B empowers the Central Government to prescribe compensation to be paid to such persons out of the said Fund. Section 164(C)(2)(w) empowers the Central Government to make Rules in respect of the persons to whom compensation may be paid. The maximum liability amount in such cases shall also be prescribed by the Central Government.

(xvi) **Section 164C - Power of Central Government to make Rules -**

Section 164C empowers the Central Government to make Rules for the purpose of carrying into effect the provisions of Chapter-XI including the form of Accidents Information Report (AIR), manner and time of submitting the Report to the Claims Tribunal, and procedure for payment of compensation under Section 164(1), sources from which Fund may be recovered for the Scheme under Section 164A(2), sources of income that may be credited into *Motor Vehicles Accidents Fund* under Section 164B(1), persons to whom compensation may be paid under Section 164B(3)(D) and maximum liability amount under Section 164B(4).

(xvii) **Section 166(3) - Limitation for making claim for compensation-**

Section 166(3) has introduced a period of limitation of six months from the occurrence of accident for filing an application for compensation. Prior to this amendment, there is no period of limitation for filing an application for compensation.

(xviii) **Section 166(5) - Legal representatives of the injured are entitled to peruse the claim after death of the injured -**

Section 166(5) empowers the legal representatives of the injured to continue the claim after death of the injured irrespective of whether cause of death is relatable or has nexus to the injury.

(xix) **Section 173(2) - No appeal in case of award of less than Rs.1,00,000/-** - Section 173(2) prohibits the appeal against the award of the Claim Tribunal if the amount in dispute in the appeal is less than Rs.1,00,000/-.

## **CENTRAL MOTOR VEHICLES (FIFTH AMENDMENT) RULES, 2022**

The Central Motor Vehicles (Fifth Amendment) Rules, 2022 have come into force on 1<sup>st</sup> April, 2022. The aforesaid Rules lay down a new procedure for expeditious investigation and adjudication of the Motor Accident Claims. The new Rules mandate the timeline for investigation and adjudication of all Motor Accidents Claims within a period of six months to one year.

The new Rules have revolutionized the motor accidents compensation jurisprudence as the claimants shall get the compensation within one year to the accident. The new Rules are based on the Scheme framed by the Delhi High Court in judgment dated 8<sup>th</sup> January, 2021 titled *Rajesh Tyagi vs. Jaibir Singh*, IV (2010) ACC 859.

The new Rules have fixed the following timelines for different stakeholders for quick settlement of Motor Accident Claims:-

- The Police has to file *First Accident Report (FAR) Form-I* before MACT within 48 hours of the accident.
- The Police has to intimate the victims of their rights in *Form-II* within 10 days of accident.
- The Driver of the offending vehicle has to submit the *Driver's Form-III* to the Police within 30 days of the accident.
- The Owner of the offending vehicle has to submit the *Owner's Form-IV* to the Police within 30 days of the accident.
- The Police, on verification of the *Driver's and Owner's Forms*, has to submit *Interim Accident Report (IAR)* before MACT within 50 days of the accident.
- The Victims have to submit *Victim's Form-VI and VIA* to the Police within 60 days of the accident.
- The Police has to submit the *Detailed Accident Report (DAR) Form-VII* before MACT within 90 days of the accident.
- The Insurance Company, on verification of *Victims Form-VI*, has to submit the response and offer of settlement before MACT within 30 days of receipt of *Detailed Accident Report (DAR)*.
- If the Insurance Company accepts the liability and submits a fair/reasonable offer of compensation which is acceptable to the Claimants, the Claims Tribunal shall pass a Consent Award within 6 months of the accident.

- If the Insurance Company accepts the liability but the amount offered is not fair and/or not acceptable to the claimants, the Claims Tribunal shall hear the arguments with respect to the quantum of compensation and pass an award within 9 months of the accident.
- If the Insurance Company disputes the liability, the Claims Tribunal shall conduct an inquiry to be completed within 12 months of the accident.

**Justice J.R. Midha**  
Former Judge of Delhi High Court

**FLOW CHART OF SCHEME FOR MOTOR ACCIDENT CLAIMS**

