

COMPLETE REPORT

ON

MOTOR VEHICLES ACT, 1988

ACCOMPLISHED BY :

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**LEVEL - I ANALYSIS OF VARIOUS SUPREME COURT JUDGMENTS
UNDER MOTOR VEHICLE ACT, 1988 BRINGING OUT ISSUES THAT
ARE RELEVANT AND CONSIDERED BY COURTS FOR DECISION
MAKING**

Sr. No.	Name of the case	Sections Applicable	Name of the judges	Judgement	Reasons / Extra Remarks
1.	Asha Verma and ors v Maharaj Singh & ors	166	V.gopala & C. Nagappan	It was held that the compensation should be enhanced keeping in view the loss of dependency, loss of estate, loss of love and affection to children, funeral expenses, medical expenses as well as loss and affection to parents.	<u>Death of the deceased</u> SC enhanced the compensation on matters involving death of the deceased.
2.	Arwind Kumar Mishra V New India Assurance Co. Ltd and Anr.	163A & 166	Aftab Alam and R.M Lodha	The compensation awarded for pecuniary damages ie. The amount expended by the plaintiff towards his treatment including the medical expenses and a non-pecuniary damages ie. for his permanent disablement to the extent of 70% for the loss of right wrist and paralysis of right upper limb	<u>Permanent disable to the extent of 70%</u> Since the deceased was only at the age of 25 yrs, pecuniary and non-pecuniary damages was awarded.

				as also for his loss of vision in his right eye.	
3.	Ashok Gangadhar Maratha V Oriental Insurance Co. Ltd	66, 3, 75(2), 77, 78	S.Saghir Ahmad & D.P Wadhwa	The state commission has allowed the complaint of the appellant and had directed the respondent- insurer to pay to complainant-appellant a sum of Rs. 2,70,000 with interest at 18% per annum from the date of accident till payment for satisfying his claim under the policy issued by the respondent.	The insurer alleged that the appellant committed breach in terms in insurance policy and violated provisions by entrusting "Transport vehicle" to person who did not hold a valid license. The vehicle was light motor vehicle and the driver had the license to drive light motor vehicle, since there is no statutory requirement to have specific authorization on license of driver under form 6 under Central Motor Vehicle Rules, 1989 – Rule 3 & Rule 16.
4.	Ashutosh Swain & Ors V State Transport Authority & Ors	49 & 63(&) of Motor vehicle act ,1939	A. N Sen & D.A Desai	It was held by the High Court that only holder of existing contract carriage permit was eligible to make application for endorsement of	Sec 64(2) of Motor Vehicle Act,1939 were the state transport authority granted all India tourist permits

				<p>permit on all India operation and quashed all permits granted to appellants on ground that appellant did not hold existing contract carriage permit.</p>	<p>to some appellants.</p> <p><u>It was held not to be necessary that applicants for all- India permit must have pre-existing contract carriage permit which alone could be endorsed so as to convert it into an all India tourist permit.</u></p>
5.	Vishnu Dutt and Ors V State of Rajasthan & Ors	88	Ashok Bhan & C.K Thakker	<p>Order of S.T.AT challenged in High Court single judge granted interim order restraining R.T.A from considering applications as directed by S.T.A.T – But the interim order was not granted to R.T.A and R.T.A Granted permits. But High Court quashed the order of remand of S.T.A.T.</p> <p>Hence, action taken by R.T.A had no effect in eye of law and the order of R.T.A issuing permits had no legal effect.</p>	<p><u>Inter State Carriage Permits</u></p> <p>Permits granted by R.T.A i.e.; the order of R.T.A quashed by S.T.A.T and matter remitted for consideration of applications of private parties.</p>

6.	Yadava Kumar V The Divisional Manager, National Insurance Co. Ltd and Anr.	5, 163A	G.S Singhvi & A.K Ganguly	High Court of Karnataka enhanced compensation of appellant which was granted by the tribunal. High Court while granting compensation refused to award any amount towards future earnings. It was held that the concept of "just compensation" obviously suggested application of fair and equitable principles and reasonable approach could be adopted by courts.	<u>Appellant suffered 33% disability which prevented him from painting.</u> The appeal – whether, courts below had reasonably compassionate appellant, while assessing compensation.
7.	Ved Prakash Garg V Premi Devi and Ors.	147 & 167	S.B Majmudar & V.N Khare	It was held by the Labour and Industrial court that compensation acc to sec 3, 4A(3) of workmen compensation act, 1923 that the insurance companies are liable to make good not only principle amounts but also the interest if ordered by the commissioner to be paid by insured employers by workmen commissioner	Whether insurance companies are liable to pay the interest along with the amount of compensation to the party insured. Sec 147 deals with requirements of policies and limits liability.

				<p>under the act, 1923 on conjoint operation of sec 3 and 4A(3) (a) Insurance companies are liable to reimburse the claim and it would be the liability of insured employer alone in respect of additional amount of compensation by way of penalty imposed on insured employer by workmen's commissioner under sec 4(3)(b).</p>	
8.	Vikram Shitole & Ors v The M.P State Road Transport Corporation & Ors.	68D(3)	K. Ramaswamy & G.T Nanavati	<p>Acc to section 68D(3), a scheme was framed under which unemployed graduates were permitted under "self employment scheme" to operate the stage carriages on the notified route subject to certain terms and conditions, It appeared that the appellant did not comply with the said terms and conditions as a result of which their permits were cancelled by the authorities. Calling the action in question the</p>	<p>It is seen that in a notified frozen route no private operator⁵ is entitled to ply the state carriage. Accordingly, we hold that dismissal of the appellant's writ petition by the High Court is vitiated by an error of law warranting interference.</p>

				appellant filed a writ petition. The High Court has dismissed the said writ petition. Thus, this appeal by special leave.	
9.	United India Insurance Company Ltd V Lehu & Ors.	3, 180	S.N Variara and B.N Agrawal	It was held that the insurance companies are liable to pay the compensation even if the driving license of the driver is fake; the insurance company can recover from the insured if there is any breach in the terms of the policy.	According to <u>sec 3</u> , prohibits the driving of a motor vehicle in public if the driver does not have a effective driving license also according to <u>sec 180</u> punishment with imprisonment or fine if the owner of the motor vehicle permits a person without a driving license to drive the vehicle.
10.	U.P State Road Transport Corporation	86, 207	S.B Sinha & Cyriac Joseph	It was held that the Assistant commissioner of police had no power to suspend permit but Only on authority which granted the permit. It was held that in the present case the U.P State Transport Authority granted the permit and so it only has full authority ton suspend the same. It was also held	<u>Inter stage carriage permits</u> Acc to sec 86 – only the transport authority which granted a permit may cancel the permit or may suspend it.

				under 207 direction issued by respondent was found to be illegal & impingent.	
11.	The Madhya Pradesh State Road Transport Corporation V The regional Transport Corporation	62	P.B Gajendragadkar, K.N Wanchoo, M. Hidayatullah, V. Ramaswami	It was held that RTA granted temporary permit for 2 months to appellant and hence RTA extended permit for another 4 months. Consequently RTA's order was challenged in the High court, consequently High Court quashed the order and appellant reached supreme court. It was decided by the SC that RTA can issue temporary permit to meet the temporary needs and further held that where formalities under sec 57 are not completed within 4 months time RTA can issue second temporary permit.	The major question was whether the order of regional transport authority (RTA) granting temporary permit for 4 months to appellant violated sec 62.
12.	The New Indian Insurance Company V Darshana Devi and Ors.	166, 168	S.B Sinha & V.S Sirurkar	It was held by tribunal which awarded compensation payable by insurer but recoverable by it from owner and	<u>Death of the deceased</u> Also the driver not having driving license. It was a question whether it is the

				<p>High Court affirmed award of tribunal.</p> <p>It was held that the insurer is not liable if driver has no license to drive particular category of motor vehicle.</p> <p>In compensation matters, the liability of owners is important.</p>	<p>liability of the insurer where driver has no license to drive particular category of motor vehicle</p>
13.	Usha Rajkhowa and Ors V Paramount Industries and Ors.	173	S.B Sinha & V.S Sirpurkar	<p>It was held, the award of tribunal was questioned and further the case went to the High Court appealed against by the appellant under sec 173 of the Motor Vehicle Act, 1988 but the theory of contributory negligence was ground to be wrong and no weightage was given to it by the High Court and full amount of compensation was granted. Further held that claimant was entitled to compensation from United India Insurance Company with the accrued interest of 9% p.a. from the date of filing of claim.</p>	<p>Sec 173 states that any person who is aggrieved by the award of the tribunal may appeal to the High Court within a period of 90 days.</p> <p>It was proved that accident took place because of defendant's fault and therefore it was held not to be a case of contributory negligence.</p>

14.	Fazilka Dabwali Transport Co. Pvt. Ltd. V Madan Lal	Sec 8 of Motor Vehicle Act, 1939	A.N Ray, Jaswant Singh & M.Hameedullah Beg	It was held by the tribunal that driver was negligent and so awarded Rs.7000 the damages as there was loss of the plaintiff where his left foot was amputated because of the injury as a result of the accident. Appeal was presented to the High Court and it further increased the amount of compensation to Rs.12000 as there was injury to the other leg which gave limp to child. Supreme Court agreed with the judgment of the High court as transport company was running bus without insurance and so they were negligent and finally the transport company was ordered to pay the cost of the appeal.	-----
15.	The Oriental Insurance Co. Ltd. Etc. V Hansrajbhai v. Kodala and Ors etc.	163A	M.B Shah & D.P Mohapatra	The High Court held that the award under sec 163A was an interim award and the claimants were entitled to proceed further with determination of compensation under sec 168 of	The claimants filed an application under sec 163A of the act for interim compensation on structural basis. The appellants

				the act. That order is under challenge.	contended that as the bus was not insured with it, it was not liable to pay compensation. Sec 168A was inserted and is not inserted and is not meant for interim compensation but is an alternative to the determination of compensation under sec 168.
16.	Subulaxmi V M.D., Tamil Nadu State Transport Corporation and Anr.	166, 171	K.S. Panicker Radhakrishnan & Dipak Misra	<p>The amount of compensation was increased as a result of grievous injuries in accident resulting in amputation of left leg below knee and abrasion in right shoulder and later amputation of right foot.</p> <p>Loss of future earnings – Rs.2,78,640 Pain & Suffering – Rs.1,00,000 Loss of amenities – Rs. 1,00,000 and also medical expenses. 9% interest p.a granted on enhanced amount of compensation.</p>	<p><u>86% Permanent Disability</u></p> <p>The ratio of the above judgment is that if the victim of accident suffers permanent or temporary disability, then efforts should always be made to award adequate compensation not only for physical injury and treatment, but also for pain, suffering and trauma caused.</p>

17.	Surendra Kumar Arora and Anr V Dr. Manoj Bisla and Ors.	163A, 166	H.L Dattu & Anil R. Dave	The High Court confirmed the order passed by tribunal holding that driver of vehicle was not driving vehicle in a rash and negligent manner. It was held that petition filed by claimant was under sec 166 and not under 163A of the act. The defendant was unable to set up the defense of the rash and negligent driving and therefore the decision of tribunal was confirmed by High Court.	The entire responsibility of parents of deceased was to establish that the driver was negligent in driving the vehicle but they could not establish the same and the decision of the tribunal; was held to be final.
18.	State of West Bengal and Ors V S.K. Nurul Amin	72, 72(1)	R.V Raveendran & P.Sathasivam	Grant of permit to others for routes touching kolkata during pendency of matters, could not affect validity of orders of authority and the appeal was allowed. Division bench allowed appeal filed by respondent and held that orders of authority violated sec 72(1). It was held that 72(1) prohibited grant of permit in respect of any route or area not specified in	<u>State Carriage Permits</u> The reasons cited by the resolutions of authority that curtailment was necessary because there was a need to restrict entry of new passenger transport vehicle into kolkata on account of heavy traffic congestion and increasing vehicular pollution.

				application.	
19.	State of Kerala V E.T.Rose Lynd and Ors.	118, Road Regulation, 1989 – rule 15(2)	There was a appeal to High Court aggrieved by the award of tribunal.	It was held that some guidelines were issued by the High Court against the award of M.A.C tribunal and hence the state of kerala accepted three directions and rejected the other two because the other two rejected directions were suffering from serious flaws and cannot be sustained. The appeal was granted with no order as to costs.	Direction 1 the traffic police can seize any vehicle on highways. Direction 2 goods vehicle should be operated with proper indicators, head lights on the road during day and night time. Direction 3 authorities to construct proper humps and zebra crossings and also sign boards to avoid number of accidents.
20.	V. Sudha V P.Ganapathi Bhat and Anr.	168, 173(1)	G.S Singhvi & H.L Gokhale	High Court enhanced the compensation. It was held under sec 168 in which the tribunal passes an award requires the tribunal to determine the amount of compensation which should be just and fair. The award should put the claimant in same position as he was before the accident. On petition filed by the claimant an	<u>Loss of future earnings</u> The future treatment would cost more than Rs.90,000. But the High Court further awarded an additional amount of Rs.15,000 towards future expenses.

				amount of Rs. 3,50,000 but the tribunal awarded 1,94,350 which later was enhanced by the High Court to 2,65,000.	
21.	Suresh Yallappa Patil V The General Manager, K.S.R.T.C and Anr.	166,167,173	V.N Khare and Ashok Bhan	It was held to be a case of contributory negligence as the driver took the victim to the hospital. High Court gave the orders of 50% appellant's fault. But this order of High Court was not accepted. After detailed examination the loss of future earning at 78,000 was assessed. But after not giving any valid reason the loss of future earning was assessed to Rs.25,000.	<u>55% Permanent Disability</u> in right foot and loss of income. Tribunal fixed the compensation to Rs.1,40,000 and further High Court reduced it to Rs.45,000.
22.	Smt. Kaushnuma Begun & Ors V The New India Assurance Co.Ltd and Ors.	140,163A,165(1), 171,175	K.T Thomas & R.P Sethi	At first the tribunal dismissed a claim made before it solely on ground that there was neither rashness nor negligence in driving the vehicle and hence the driver has no liability, and the corollary of which is that the owner	Rule of Rylands v Fletcher The major question before the court was that whether a claim can be sustained on the basis of Strict Liability as given in Rylands v Fletcher 1961.

				<p>has no vicarious liability to pay compensation to the dependants of the victim of a motor accident. A division Bench of the High Court of Allahabad dismissed the appeal filed by the claimants by a cryptic order stating that there is no error in the tribunal's order. Hence, this appeal by special leaves. It was also held by the tribunal that if there is no rashness and negligence on part of the driver then the driver is not liable.</p>	<p>Driver disclaimed his liability but the tribunal made the insurance company to pay a particular amount.</p>
23.	Smt. Asfar Jahn Begum etc. V State of Madhya Pradesh and others	68C, 102(2)	K.Ramaswamy and G.S Patnaik	<p>It was held that substitution was allowed. Relaxation was provided for the benefit of the public. It was held if petitioner have any right under modified scheme than such matter would go to RTA or STA after due notice to state transport undertaking all other interested persons.</p>	<p>Acc, to sec 68C the scheme provides relaxation from frozen notified route. In case of intersection of the any route with the notified route, then he has to necessarily ply vehicle strictly in conformity with restrictive corridor shelter. Sec 102 deals with the</p>

					cancellation and modification of the schemes. The state government can modify any if in the public interest.
24.	Smt. Mallawa etc V The Oriental Insurance Co.Ltd & Ors.	140, 147	M.K Mukherjee, G.T. Nanavati & B.N Kirpal	It was held that under the insurance policy there is no extra coverage in respect of a passenger like an owner or hirer traveling in the vehicle and therefore also, the insurance company is not liable to pay compensation to the claimants either on the ground of fault liability.	<u>Sec 140 deals with Interim compensation.</u> The High Court set aside the order the tribunal stating that under the motor vehicle insurance policy issued by an insurance company is not liable to pay compensation ion respect of death or bodily injury to any person traveling in goods carriage as passengers whether as a hirer or otherwise.
25.	Smt. Manjuri Bera V The oriental Insurance Company Ltd. And Anr.	140, 140(2), 158(6), 162, 166, 168	Dr. Arijit Pasayat & S.H. Kapadia	It was held that married daughter is not dependent. It was held the right to file a claim application has to be considered in the background of right to entitlement.	It was a question before the courts that can a married daughter is entitled to compensation taking into the fact that is she a dependent on

				<p>The person who indemnify the liability if any and next is qualification. But the liability does not cease because of absence of dependency. It was held that if the claimant is a legal representative that only he is entitled to compensation and of course the quantum of which should be less than from the following from sec 140 of MV Act 1988.</p>	<p>the deceased. By the impugned judgment the Calcutta High Court held that though the appellant, a married daughter of the deceased could maintain a claim petition in terms of sec 166 of MV Act 1988, she was not entitled to any compensation as she was not dependent upon the deceased.</p>
26.	Shakti Devi V New India Insurance Co. Ltd and Anr.	166	Aftab Alam & R.M Lodha	<p>The High Court upheld the order delivered by Motor Vehicle Accident Tribunal. This decision was delivered because of the reasons as deceased was 22 yr old and not married and also that the deceased was to be employed in forest department after retirement of his father.</p>	<p><u>Where age of claimant is higher than the age of deceased, the age of deceased has to be taken into account for capitalization of lost dependency.</u> And hence the appropriate multiplier was 11.</p>
27.	Sanobanu Nazirbhai Mirza and Ors V Ahmedabad Municipal Transport Service	163A, 166	G.S Singhvi & Gopala Gowda	<p>The compensation was enhanced as the deceased was working as a polisher, which is a skilled job. But the</p>	<p><u>Death Case</u> The question was that whether the interference of</p>

				<p>compensation awarded by the tribunal was reduced by the High Court from 3,51,300 to 2,51,800 by High Court. And lastly it was held by Apex Court that the compensation cannot be awarded more then claimed by the appellant. It is statutory duty of tribunal and appellate court to award just and reasonable compensation to legal representations of deceased to mitigate their hardship and agony.</p>	<p>High Court with quantum of compensation awarded by tribunal, legal, valid and justified.</p> <p>Appeallants entitled for amount of 16,96,000 by way of compensation under various heads and then the compensation awarded was 16,96,000 to carry interest @ 7.5% p.a.</p>
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28.	Sapna V United India Insurance Co. Ltd and Anr.	166, 168	S.B Sinha and L.S Panta	<p>The compensation was enhanced as the injury suffered by a 12 yr old girl. It was held that the amount of compensation should be just and fair in consideration to the age of the claimant, the court set a multiplier of 15.</p> <p>And hence a sum of Rs. 25,000 was enhanced and the award given was of Rs.2,25,000. It was also held that sum amount should be awarded for mental agony and also some consideration should be given for future treatment.</p> <p>And after considering this entire amount awarded was Rs.75,000.</p>	<u>Permanent Disability</u>
29.	Saraladevi Vs. Divisional Manager,Royal Sundaram Alliance Ins. Co. Ltd.	166	<u>Dipak Misra and V. Gopala Gowda</u>	<p>It was held by the High court that erred in deduction of 1/4th of monthly income of deceased to arrive at multiplicand and reducing compensation by adopting split up multiplier. The High Court adopted the multiplier method.</p>	<p>Whether High Court correctly reduces the compensation which was awarded by tribunal. There was no evidence as to support finding of contributory negligence on part of</p>

				<p>Multiplier of 8 was adopted to calculate loss of dependency. There was a mistake done by High Court that error was committed in law in deducting 1/3 rd amount towards personal expenses of the deceased. Therefore, compensation awarded by High Court was liable to be set aside and award of tribunal was affirmed.</p>	<p>deceased. The High Court did not award the compensation correctly under the head of loss of consortium and loss of estate.</p>
30.	<p>Secretary, Quilon Distt. Motor Transport Workers' Co-operative Society Ltd. Vs. Regional Transport Authority and Others</p>	<p>58 of Motor Vehicle Act, 1939 and 73 of Motor Vehicle Act, 1988</p>	<p><u>K.Ramaswamy</u> and N.P. Singh</p>	<p>The High Court upheld same order which on appeal the state transport authority confirmed and rejected application as no power under act to grant renewal to a permit. It was also held that with expiry of period of grant given in permit under repealed act, by necessary implication operator had to make fresh application in prescribed manner to authorities and sought to grant under 72 of the</p>	<p>The appellant made an appeal for seeking renewal of permit. Since, application was not made for fresh grant under, the rejection of renewal application was perfectly legal. If permit of intervener was cancelled and renewal was made in favour of Appellant thus, renewal would stand cancelled and permit</p>

				new act.	granted to intervener would stand revived - Appeal dismissed.
31.	S. Satyapal Reddy and Ors. Vs. Govt. of A.P. and Ors.	213(1), 213(4), 217	<u>K. Ramaswamy and N.G. Venkatachala</u>	Challenge on ground of repugnancy between Rules made by Union and State regarding qualification for appointment to AMVI. Post of AMVI comes within State's service.	<u>Service Qualification</u> <u>Under sec 217, 213(1), 213(4),</u> Andhra Pradesh transport Subordinate Service Rules - prescription of higher qualification for appointment of Assistant motor vehicle inspector (AMVI) by State challenged
32.	New India Assurance Co. Ltd. V Harshadbhai Amrutbhai Modhiya and Anr.	147, 149	S.B. Sinha and P.K. Balasubramanyan	It was held by the High Court that there are no provisions regarding the liability of the employer in Motor Vehicle Act, 1988, insisting on the insurer to cover entire liability arising out of an award towards compensation to the third party arising out of a motor accident. It was held that if	<u>Insurance Contracts</u> The question before the court was that is the insurer liable to indemnify the employer. The obligation of the insurance company clearly stands limited and the relevant proviso providing for exclusion of liability for interest or

				contract of insurance excludes the liability of the insurer then the insurer is not liable to pay the interest on amount of compensation too and hence the claimant can recover it from the employer.	penalty has to be given effect to.
33.	New India Assurance Co. Ltd. V Kendra Devi and Ors.	147	Tarun Chatterjee and P. Sathasivam	It was held by High Court that insurance company is not liable to pay as according to insurance policy was issued for 'paid driver' and not for 'owner' and the owner was driving was driving the motor vehicle at the time of accident. It also says that the owner had paid premium only for paid driver.	<u>Death of the deceased</u> The deceased being the owner cum driver and without additional premium for owner cum driver, the insurance company is not liable to pay any compensation for death of the deceased who was owner cum driver and not paid driver.
34.	New India Assurance Co. Ltd V Kiran Singh and Ors. With Smt. Kiran Singh and Anr. V New India Assurance Co. Ltd and Anr.	147,149,166	S.N. Variava and H.K. Sema	It was held by tribunal awarding compensation of Rs.6, 25,000 with 12 % interest. But later an appeal was filed to High Court and High Court consequently reduced the interest to 9%. The	<u>Death of the young assistant engineer.</u> The order was in question that whether it is justified.

				High Court reduced the interest percent as insurer filing copy of insurance policy showing endorsement IMT 13 but failing to prove its genuineness.	
35.	New India Assurance Co. Ltd. V Vedwati and Ors.	2(8), 2(14), 2(25), 2(29), 2(33), 95, 96, 140, 145, 147, 166	Dr. Arijit Pasayat and S.H. Kapadia,	The High Court gave its decision as the compensation would be entitled to the claimant whom is to be paid by the insurer expression goods vehicle, public service vehicle, transport vehicle as well as state carrier. But it was held that there are vast differences between the old act and the new act. And nowhere in the act has it followed that the provisions nowhere have any statutory liability on owner of goods carriage to get his vehicle insured for any passenger. The appeal got its assent and it was held that the insurer can have no liability against passengers traveling by goods	<u>Insurers can have no liability against the passengers traveling by goods vehicle.</u> Hence, the appeal was allowed that is the leave was granted.

				vehicle.	
36.	National Insurance Company Ltd. V Smt. Saroj and Ors.	163A, 166	S.B.Sinha and Mukundakam Sharma	It was held that the compensation should be awarded taking into consideration many factors such as the age of the deceased, future prospective and then only the multiplier can be set. It would also be taken into account the family prospects such as the allowances and perks which would have benefited the whole family. Leave was granted. In the present case a multiplier of 16 was found suitable taking all the instances into considerations.	<u>Death of the deceased.</u> The multiplier can be set only taking into account these considerations and only then can the compensation be determined. The weight age was given on the point that no new case can be taken up directly before the supreme court.
37.	National Insurance Corporation Ltd V Mrs. Kanti Devi and Ors.	2, 3, 10, 149, 166	Dr. Arijit Pasayat and S.H. Kapadia	MACT held that the respondent was entitled to compensation of Rs.2,24,800 together with 8% interest from the date of filing of claim petition under sec 166. The insurer was held liable to compensate the claimant.	<u>Obligation on the driver to hold a valid driving license.</u> Disputes in this case was because the driver hold a fake driving license and also the driver did not have license to drive a particular type

				It was held that in these type of cases the insurer be liable.	of vehicle. It was proved from the facts of the case that the insured did not took adequate care and caution to verify genuineness of license held by driver.
38.	Nagashetty V United India Insurance Co. Ltd. and ors.	44, 46, 47, 10	K.T. Thomas and S.N. Variava	It was held by the High Court that the driver had driving license to drive a tractor only but the tractor had a trailer attached to it and therefore the tractor was used as a goods vehicle. And also the driver of the tractor has no license to drive a goods vehicle and therefore it was held that the driver has no driving license. It was held by the High Court that the owner to pay the entire amount.	<u>Insurance company liable.</u> If a goods vehicle is attached to a tractor then it will be considered as a goods vehicle and a proper driving license is needed of goods vehicle. But if in the insurance policy an additional premium has been taken for trailer then the insurance company will be held liable.
39.	National Insurance Co. Ltd V Mam Chand & Ors	166	Dr. Arijit Pasayat and S.H. Kapadia	The tribunal granted compensation to respondent and held appellant liable to pay the compensation amount as appellant said that the accident occurred due to	Whether fixation of liability can be done in absence of respondent? But the insurance coverage was a dispute between the parties and there was no need of issuing

				<p>rash and negligent driving of respondent. Thus appeal in relation to respondent 1 dismissed and was allowed towards other respondent. <u>Hence, it was held by High Court that fixation of liability cannot be adjudicated effectively in the absence of claimant.</u></p>	notice to respondent.
40.	National Insurance Co. Ltd V Mastan and Anr.	166, 167, 143, 170, 173	S.B. Sinha and P.K. Balasubramanyan	<p>It was held that M.V act is applicable to proceedings under Workmen Compensation Act, 1923 only to matters of no fault liability by virtue of sec 143. Also fault liability of MV act is not applicable to proceedings under Workmen Compensation Act. And hence impingent judgments of High Court were set aside and matters were remitted to High Court.</p>	Whether appellant can urge in appeal even when grounds not available under sec 149(2) of Motor Vehicle Act.
41.	National Insurance Co. Ltd V Prem Patil and Ors.	3, 167, 166	R.C. Lahoti, CJI, G.P. Mathur and A.K. Mathur	<p>It was held that when the driver of the motor vehicle died in accident then claimant can</p>	<u>Death of the deceased.</u> Whether compensation can be claimed

				claim compensation under 167 of MV act or under Workmen Compensation act but not under both.	both under MV act and Workmen Compensation Act, 1923 in case of death of the deceased?
42.	National Insurance Co. Ltd V Rattani and Ors.	147, 166, 168	S.B. Sinha and Cyriac Joseph	<p>It was held by High Court that Appellant insurer is not liable to pay amount of compensation to claimants.</p> <p>It was held that if sufficient material brought on record to enable court to arrive at definite conclusion but held that the party on whom the burden of proof lays would still be liable to produce direct evidence to establish that deceased and injured were gratuitous passengers.</p>	Whether insurer is liable to pay if victims of accident were traveling in truck as gratuitous passengers and not as representatives of owner of goods. What is the liability of insurer if there are gratuitous passengers in goods vehicle.
43.	National Insurance Co. Ltd V Vidhyadhar Mahariwala and Ors.	147, 149	Dr. Arijit Pasayat and H.S. Bedi	It was held by the court that the insurer is not liable because in the present case when the accident took place the driving license of driver was valid up to 14.12.2003 and thereafter renewed from 16.5.2005.	<p>Whether insurer is liable if driving license of the driver was expired before the date of accident.</p> <p>There is no liability on the insurer if there is no valid driving</p>

				And the accident took place on 11.6.2004, as the driver did not have a valid driving license on date of accident. The amount can be recovered from the owner of the offending vehicle.	license of the driver.
44.	R.K. Malik and Anr. V Kiran Pal and Ors	163A, 166, 168	S.B. Sinha and Mukundakam Sharma	The tribunal and the High Court awarded any compensation in case of a school going girl keeping in view her future prospects. Rs.75,000 was awarded in this regard.	<u>Death of the deceased</u> The multiplier method is applicable only in claim petition filed under 163A even if the compensation provided in 166 read with 168 is deviated from the structural formula. This is not ordinarily permissible except in exceptional cases.
45.	Raj Kumar V .Ajay Kumar and Anr.	163A, 168, 169	R.V. Raveendran and H.L. Gokhale	Tribunal held that the income of the appellant be assessed at Rs.900 per month. But the petition was rejected by High Court sorting out reasons such as the disability certificate produced by appellant was not reliable. Extent of	Whether principles adopted for assessing compensation were erroneous and compensation requires to be increased. To assess the permanent functional

				<p>permanent disability of limb could not be considered to be functional disability of the body nor a loss to the earning capacity. Hence, the appeal was allowed.</p>	<p>disability of the body as 25 per cent and the loss of future earning capacity as 20 per cent, an injured claimant with a disability was proposed. What was calculated was the future loss of earning of the claimant, payable to claimant. Therefore there was no need to deduct one-third or any other percentage from out of the income, towards the personal and living expenses as the Loss of earning during period of treatment increased.</p>
46.	<p>Oriental Insurance Co. Ltd.V Dhanbai Kanji Gadhvi and Ors.</p>	163A, 166	<p>J.M. Panchal and H.L. Gokhale</p>	<p>It was held that the remedy for payment of compensation both under 163A and 166 being final and independent of each other as statutorily provided cannot be pursued simultaneously. Claimant must opt/elect to go either for</p>	<p>Whether sec 163A and 166 can be applicable together or simultaneously at the same time. The High Court held that Who had already obtained compensation under Section</p>

				proceeding under Section 163A or under Section 166 of the act but not both. Since Respondents obtained compensation, finally determined under Section 163A of the act they become precluded from proceeding further with Petition under Section 166 of the act.	163A of the act to proceed with application filed under Section 166 of the act.
47.	Oriental Insurance Co. Ltd. V Syed Ibrahim and Ors	168	Dr. Arijit Pasayat and L.S. Panta	<p>It was held that insurer not liable to indemnify award, but the compensation amount deposited pursuant to order of supreme court hence quantum maintained.</p> <p>Ratio: "Compensation in case of minor - Compensation in case of minor cannot be determined with reasonable uncertainty as neither the income of the deceased child is capable of assessment on estimated basis nor the financial loss suffered by</p>	<p><u>Death of child of 7 yrs.</u> Driver licensed to drive light motor vehicle and not heavy motor vehicle such as lorry, and the insured in the present case was the father of the driver.</p>

				<p>the parents is capable of mathematical computation. Compensation in such cases involves a good deal of guess work. Where parents are claimants age of parents are relevant factor. "</p>	
48.	<p>Oriental Insurance Co. Ltd. V Mohd. Nasir and Anr.</p>	166	<p>S.B.Sinha and Mukundakam Sharma</p>	<p>High Court determined income at Rs. 10,000 p.m. of an advocate who was practicing advocate but was out of practice from last 39 months. Considering the principle of the second schedule of the MV act, loss of income could not have exceed 52 weeks. The amount of compensation was calculated by applying the multiplier of 5, the decision was given by the tribunal and the judgment of High Court was set aside.</p>	<p><u>Compensation for injury.</u> <u>50%</u> <u>Disablement</u> There was no basis indicated and no reasons assigned</p>
49.	<p>Malla Prakasarao V Malla Janaki and Ors.</p>	166	<p>V.N Khare, Shivaraj V. Patil and Ashok Bhan</p>	<p>The tribunal declined to grant any compensation to claimants because deceased himself was negligent. But the High Court was of the view that there</p>	<p>Compensation amount can be enhanced after perused record determining compensation has appropriate or not.</p>

				<p>was contributory negligence and therefore appellants were entitled to compensation. Hence, a multiplier of 12 was found suitable. Since, liability of insurance company was 40% of enhanced amount, respondent company should pay balance amount along with interest at rate of 7% on enhanced amount.</p>	
50.	Nagashetty V United India Insurance Co. Ltd and Ors	Nagashetty V United India Insurance Co. Ltd and Ors	K.T Thomas & S.N Variava	<p>It was held by the tribunal that insurance company is liable. Since, driver had a permanent valid license for tractor only, but the tractor was attached with loaded trailer, as well as in insurance policy an additional premium has been taken for trailer.</p>	<p>When a trailer is attached to a transport vehicle, it is considered as a goods vehicle</p>
51.	National Insurance Co. Ltd V Cholleti Bharatamma and Ors.	147	S.B Sinha & H.S Bedi	<p>It was held that the act did not contemplate that a goods carriage should carry a large number of passengers with small percentage of</p>	<p>Whether insurance company is held liable to pay compensation on account of death or bodily injury of</p>

				goods. Considerably insurance policy covers death or injuries either of owner of goods or his authorized representative. The decisions under old act of gratuitous passengers were of no avail. Therefore, insurance company was liable to pay compensation.	gratuitous passengers including owner of goods or his representative, traveling in a goods vehicle
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