The fear of death is the most unjustified of all fears, for there's no risk of accident for someone who's dead.

Albert Einstein

Amanpreet Kaur
PREFACE

With the enormous increase in the number of motor vehicle accidents on the Indian roads, the precious life of a pedestrian, a cyclist, a scooterist and an occupant of motor car or passenger bus, has been put to a great risk and danger. The fundamental right to life is the most precious human right and thus forms the arc of all other rights. The preservation of human life is, therefore, of paramount importance. Unfortunately the number of deaths and injuries on account of road accidents is as alarming as any other dreaded disease and need to be controlled by every possible effort on part of those who owe a sacred duty towards the preservation of human lives.

The Motor Vehicles Act can be hailed as welfare legislation since it deals comprehensively about the road accidents involving motor vehicles and also enabling the victims to claim compensation. Remedy for the victims of motor vehicle accidents has been provided under the Motor Vehicles Act. Tribunals have been constituted to entertain petitions of compensation against the negligent drivers, the owners of the vehicles, and the Insurance Companies. A victim on the street is never in a position to ask for adequate compensatory relief for his lawfully entitled claims from a rich and privileged adversary, because no sooner he gets claim in action, he finds himself in a number of procedural problems.

The main object of the present research work is to analyze the existing system of awarding compensations to the victims of motor accidents. Further, an enquiry is also made to know whether the compensation so awarded to the victims is just, fair and reasonable or not. An attempt is also made to find out the factors, which are taken in to consideration by the courts to determine the quantum of compensation. An attempt is also made to study the factors, which are dangerous to “claims” of compensation under Motor Vehicle Act, 1988. Extracts from important judgments of various High Courts and Supreme Court of India have been discussed at the appropriate place. The results of the study may provide the criteria to evaluate the legislation and judicial philosophy in the matter of awarding compensation in Motor accidents. It would also help in bridging the gap between judicial interpretation and social perception in respect of matters of grant of
compensation to the victims of Motor Accidents. The practical utility of the work lies in the fact that the policy making institutions may formulate their strategies and approach in view of the social perception on different issues concerning grant of compensation to the victims of Motor Accidents.

The first chapter is regarding Introduction. This chapter covers statement of problems, Aim and Objective of the present study, review of existing literature in the field of grant of compensation and research methodology. In order to give effective rights to the person injured or expired in an accident, Fatal Accidents Act, 1885 was enacted in India. This Act provided only a procedure and a right of named legal heirs to claim compensation from the person committing negligence. Motor Vehicles Act is a Statute which creates new rights and liabilities and prescribes an elaborate procedure for their regulation.

The second chapter deals with Relevant Provisions Regarding Compensation in Torts and Crime. It deals with Criminal Liability in Motor Accidents. In this chapter an attempt has been made to study the nature and scope of penal liability of owners, agents and drivers of vehicles involved in accidents. This chapter also explains the various provisions of Indian Penal Code, which have direct bearing with the cases involving motor driven vehicles. This chapter also throws light on the application of various principles like, No Fault Liability, Act of God, Absolute and Vicarious Liability, Negligence, Contributory Negligence and application of doctrine of *res ipsa loquitur* etc. in grant of compensation.

Third chapter is about Compensation under The Motor Vehicles Act, 1988 with a brief discussion of History, Object, Scope and Salient Features of the Motor Vehicles Act, 1988. In this chapter history of the Motor Vehicles Act, 1988 and various definitions of terms used in the Act have been discussed. This chapter also deals with role of the Lok Adalats in awarding compensation in motor accident cases, relevant provisions of Legal Services Authority Act, 1987 and Civil Procedure Code, 1908, The Railways Act, 1989, etc. are also examined.

Fourth Chapter deals with the Analysis of Workmen’s Compensation Act, 1923 and it is all about Workers compensation in India which may seem to be a headache for businesses in India, but it is a boon for both employees and employers. It gives employees several benefits, which helps in keeping up motivation and
loyalty towards the company. Workers compensation is the insurance coverage given by an employer to its employees.

Fifth chapter is about Appraisal of Public Liability Insurance Act, 1991 and it tells about award of compensation on no fault liability basis, requirement of insurance against third party risk, liability of insurer and defence available to insurer, rights of third party against insurers on insolvency of insured, duty to give information as to insurance, duty to furnish particulars of vehicle involved in accident, special provisions as to compensation in case of hit and run motor accident, special provisions as to payment of compensation on structured formula basis and power of central government to make rules etc., have been discussed in this chapter.

Sixth chapter deals about Formation of Claims Tribunal and Award of Compensation. Claims Tribunal, Its Establishment, Composition, Jurisdiction and Procedure and powers have been discussed. In this chapter an attempt has been made to discuss the application for compensation, options regarding claims for compensation in certain cases under other Acts like Railways Act, 1989 etc., procedure and power of claim tribunals, award of claim tribunal, appeal against decisions of claim tribunal, recovery of money from insurer as arrears of land revenue, bar on jurisdiction of civil courts and consumer forums, etc.

The last chapter i.e. chapter seven is of Conclusion and Suggestions. Some conclusions based on the study are drawn. At the end of this chapter, some useful and realistic suggestions are also made.

The object of this Act is to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong. In any such action or suit, the executor, administrator, or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default.

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