



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



a professional
Procurement from the World Bank.

Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CHURNING OUT FAKE THIRD-PARTY MOTOR VEHICLE CLAIMS

AUTHORED BY - PRIYANSHU AGARWAL & RAVINA KUMARI

Abstract:

Motor vehicle accidents are a significant socio-economic challenge in India, with alarming rates of fatalities and injuries underscoring the urgent need for robust compensation mechanisms. This paper explores the legal framework governing third-party motor accident claims, particularly focusing on the prevalent issue of fraudulent claims that undermine the efficacy of the system. Drawing from statutory provisions under the Motor Vehicles Act, 1988 and landmark judicial pronouncements, the research dissects the structured methodologies employed by the Motor Accidents Claims Tribunal (MACT) to calculate compensation in death and injury cases, including the application of the multiplier method and the assessment of future prospects, consortium, and non-pecuniary damages. Despite these well-established legal protocols, the system remains susceptible to exploitation through fabricated claims, often orchestrated by vested networks involving claimants, intermediaries, and sometimes even legal or medical professionals. To counteract this, the paper proposes the implementation of a centralized, technology-driven information system to improve transparency, expedite claims processing, and mitigate litigation costs. Features such as real-time notification, head-wise claim assessment, virtual negotiations, and assisted claim calculations are envisioned to transform claim resolution into a more accountable and efficient process. By combining doctrinal analysis with a policy-oriented approach, the study aims to highlight the need for systemic reform to deter fraudulent practices and reinforce the integrity of the compensation regime in India's motor accident jurisprudence.¹

¹ Priyanshu Agarwal, PhD scholar, Faculty of Law, Jamia Millia Islamia and Ravina Kumari, Advocate at the Supreme Court of India

1. INTRODUCTION

Road accidents are human tragedy which involve enormous human suffering and they impose huge socio-economic costs in terms of untimely, deaths, injuries and loss of potential income. Road safety is an important issue of national concern. It is this element of negligence which distinguishes an accident simpliciter from the anathema of inevitable accident, conceived in common parlance as act of God, a stock phrase often deployed as defence to counter a claim for compensation on account of an accident.² Whatever the injury or damage, no compensation can be awarded unless there are grounds to make the wrongdoer liable.³ Winfield has defined tortious law arising from breach of a duty primarily fixed by law, this duty is towards persons generally and its breach is redressable by an action for unliquidated damages.⁴ *Rylands v. Fletcher*,⁵ is a classic case on the concept of liability, stretched to its extreme by House of Lords, in the nomenclature of strict, absolute unqualified or the unexceptionable liability. Similarly, in certain cases no fault liability in case of motor accidents can be attributed.⁶ In case of joint tortfeasors, the claimants are entitled to claim entire compensation from all or any of the drivers, owners or insurers involved in the accident, without compensation, contribution, apportionment or indemnity among them.⁷

The Price of Speed”

On crowded roads and silent streets,

Where life and metal often meet,

The tale begins with shattered glass—

A moment lost, too swift to pass.

A crash, a scream, a rising toll,

The echo of a slipping soul.

But justice waits with careful eyes,

To weigh the truth from crafted lies.

From highways wide to village bends,

Where journeys start and sometimes end,

² Dr. R.G.Chaturvedi, “Law of Motor Accident Claims and Compensation” (2010) p.2.

³ Dr. R.G.Chaturvedi, “Law of Motor Accident Claims and Compensation” (2005) p.2.

⁴ Jay Laxmi Saltworks (P) Ltd. v. State of Gujarat, 1994 (4) SCC 1; see also supra n.4 p.3.

⁵ *Rylands v. Fletcher*, (1868) LR 3 HL 330: (1861-73) All ER 1.

⁶ Dr. R.K.Bangia, “Law of Torts” (1997) p.74 & 75.

⁷ *U.P. State Road Transport Corporation v. Rajani*, 2007 ACJ 1771.

A tribunal waits with laws in hand,
To sift the grain from crafted sand.

They speak of multipliers and loss,
Of future dreams turned into cost.
A widow's tears, a child's lone cry,
Are measured under judgment's sky.

But fraud now slips through legal seams,
In crafted tales and broken dreams.
Ghost injuries, forged claims arise,
As justice stares through veiled disguise.

A license faked, a witness bought,
A wound rehearsed, a story taught.
Each claim a coin, a twisted plea—
A crime dressed in sympathy.

Yet in the storm, a light appears:
A system cleansed of doubt and fears.
With tech to track, and courts online,
And screens that blink where papers sign.

The FastDAR files, the VC talks,
The uploads made in digital blocks.
Where claim meets code and truth is scanned,
And justice moves with steadier hand.

From Himachal's hills to Gwalior's courts,
The stories shift, the fraud distorts.
But truth still walks, though slow, alone,
On roads where fakes once cast a stone.

So let us guard the claims we make,

With laws that punish, eyes awake.
And may each soul behind the wheel,
Find not just claims—but truth to heal.

1.1 Road Accidents in India: A Grim Reality

The data provided by the National Crime Records Bureau (NCRB) highlights the growing number of road accident-related fatalities in India over the three-year period from 2020 to 2022, underscoring a persistent challenge in road safety and law enforcement. Road accidents accounted for 150,998 deaths in 2022, up from 120,176 in 2020, marking a significant rise of over 25%. This increase in cases and crime rates, from 8.9 in 2020 to 10.9 in 2022, emphasizes the escalating impact of negligence on roadways. The concerning rise in "Hit and Run" cases, with an increase from 41,196 incidents in 2020 to 47,806 in 2022, further reflects a troubling trend in accountability issues and highlights a need for focused regulatory interventions. These incidents, despite efforts to address road safety, contribute approximately 1.3% to total Indian Penal Code (IPC) crimes, presenting a unique set of social, ethical, and administrative challenges that need addressing at both state and national levels.

Analyzing state-wise data reveals varying patterns in road accidents and fatalities due to negligence. States with large populations and expansive road networks, such as Uttar Pradesh, Maharashtra, and Tamil Nadu, consistently report high numbers of road fatalities, though their specific crime rates fluctuate. Tamil Nadu, for instance, reported a notably high crime rate of 22.1 in 2022, reflecting the unique intensity of road fatalities relative to its population and road usage. Conversely, regions like Arunachal Pradesh and Meghalaya report fewer cases but with comparatively higher rates of "Hit and Run" incidents. This distribution of data suggests that states with higher road network densities or large rural-urban divides may experience unique challenges in enforcing traffic regulations and ensuring road safety. Union Territories like Delhi also show high incident rates, particularly in densely populated regions, indicating the compounded effect of urban congestion on road safety. These patterns underline the urgent need for tailored, region-specific policies, including stringent surveillance, better road infrastructure, and heightened public awareness to mitigate the alarming rise in road-related deaths across India.⁸

⁸ Data as Collected from the National Crime Records Bureau regarding deaths due to road accidents and Hit and Run Cases.

A total number of 4,61,312 road accidents have been reported by States and Union Territories (UTs) during the calendar year 2022, claiming 1,68,491 lives and causing injuries to 4,43,366 persons. The number of road accidents in 2022 increased by 11.9 percent compared to previous year 2021. Similarly, the number of deaths and injuries on account of road accidents were also increased by 9.4 percent and 15.3 percent respectively. These figures translate, on an average, into 1,264 accidents and 462 deaths every day or 53 accidents and 19 deaths every hour in the country.⁹

2. PRESENT LAW REGARDING THE CALCULATION OF MOTOR ACCIDENT CLAIMS

In India, Motor Accidents Claims Tribunal has been created by the Motor Vehicles Act, 1988. It has been constituted to provide speedier remedies to the victims of accidents by motor vehicles. The Tribunals take away the jurisdiction of Civil Courts in matters that concern the Motor Accidents Claims Tribunal. Appeals from the Claims Tribunal lie with High Courts. The appeal is limited by time and has to be filed in the High Court within 90 days from the date of award of the Claims Tribunal. Chapter XI of the Motor Vehicles Act, 1988 deals with Provisions regarding insurance of motor vehicles against third party risks.

2.1. Calculation in death cases

The calculation of compensation in death cases follows the principles laid down by landmark judgments, primarily under the Motor Vehicles Act, 1988. The Supreme Court in cases like *General Manager, Kerala State Road Transport Corporation v. Susamma Thomas*,¹⁰ and *Sarla Verma v. Delhi Transport Corporation*,¹¹ established the multiplier method for determining compensation. In *General Manager, Kerala State Road Transport Corporation v. Susamma Thomas*,¹² the apex court observed that The assessment of damages to compensate the dependants is beset with difficulties because, from the nature of things, it has to take into account many imponderables, e.g., the life expectancy of the deceased and the dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased

⁹ Ministry of Road Transport and Highways, *Road Accidents in India – 2022* (October 2023) available at https://morth.nic.in/sites/default/files/RA_2022_30_Oct.pdf (last accessed 28 December 2024).

¹⁰ 1994 (2) SCC 176.

¹¹ 2009 INSC 506.

¹² 1994 (2) SCC 176.

may not have lived or the dependants may not live up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income altogether.

This method involves the below stated key steps:

Step 1 (Ascertaining the multiplicand)¹³

The income of the deceased per annum should be determined. Out of the said income, a deduction should be made in regard to the amount that the deceased would have spent on himself by way of personal and living expenses. The balance, which is considered to be the contribution to the dependent family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier)

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step 3 (Actual calculation)

The annual contribution to the family (multiplicand) when multiplied by such a multiplier gives the 'loss of dependency' to the family. Thereafter, a conventional amount in the range of Rs. 5,000/- to Rs.10,000/- may be added as loss of estate. Where the deceased is survived by his widow, another conventional amount in the range of 5,000/- to 10,000/- should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the deceased. The funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred) should also be added.

A. Multiplier:

The Supreme Court in the case of *Sarla Verma vs. Delhi Transport Corporation*,¹⁴ stated that the multiplier method involves the ascertainment of the loss of dependency or the multiplicand

¹³ *Sarla Verma v. Delhi Transport Corporation*, 2009 INSC 506.

¹⁴ 2009 INSC 506.

having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed-up over the period for which the dependency is expected to last.¹⁵

Age Group of the Deceased	Multiplier Applicable
15-25 Years	18
26-30 Years	17
31-35 Years	16
36-40 Years	15
41-45 Years	14
46-50 Years	13
51-55 Years	11
56-60 Years	9
61-65 Years	7
66-70Years	5

The current multiplier table used to calculate was decided in *New India Assurance Co. Ltd. v. Charlie*,¹⁶ which built on the principles laid down in *General Manager, Kerala S.R.T.C v. Susamma Thomas*,¹⁷ that govern the determination of the quantum of compensation in the case of death in a motor accident.

¹⁵Sneharghya Saha, "All about relating to Motor Accident Claims and Compensation" (*Latest Laws*, 18 January 2020) available at <https://www.latestlaws.com/articles/all-about-relating-to-motor-accident-claims-and-compensation/> (last accessed 28 December 2024).

¹⁶ 2005 INSC 164.

¹⁷ 1994 (2) SCC 176.

Deceased with a permanent job (salaried)	Addition made	Where deceased was self-employed or on a fixed salary	Addition made
Below 40 years	50%	Below 40 years	40%
40-50 years	30%	40-50 years	25%
50-60 years	15%	50-60 years	10%
The calculation is actual salary, less tax		The calculation is established income, less tax	

B. Future Prospects

C. Deductions towards personal expenses

Number of Dependents	Deduction towards personal expenses
If Unmarried	1/2 (Subject to the exception that in case of proved dependency, it could be lowered to 1/3)
Married	1/3
2 to 3	1/3
1-6	1/4
>6	1/5

D. Loss of Dependency

LOSS OF DEPENDENCY= Annual Income * Multiplier(A)* Future Prospect(B) *Deduction towards personal expenses (C)

E. Loss of Consortium and loss of love and affection

In *National Insurance Co. v. Pranay Sethi*,¹⁸ the court indicated what should be the correct approach in awarding amounts towards consortium. The Apex court observed that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-

¹⁸ (2017) 16 SCC 680.

centric. We think that it would be condign that the amount that we have quantified should be enhanced on a percentage basis every three years and the enhancement should be at the rate of 10% in a span of three years.

Nature of Consortium	Amount
Parental Consortium	Rs. 40,000/- each for every child of the deceased
Spousal Consortium	Rs. 40,000/- surviving spouse
Filial Consortium	Rs. 40,000/- each for parents of the deceased

These amounts are to be enhanced at the rate of 10% with every three-year period.

F. Funeral Expenses and Loss of Estate

Heads	Amount
Funeral Expenses	15,000
Loss of Estate	15,000

Total Compensation (G) = Loss of Dependency (D) + Loss of Consortium and loss of love and affection (E) + Funeral Expenses and Loss of Estate (F)

2.2. Calculation in Injury Cases

The calculation of compensation in injury cases aligns with the multiplier method used in death cases but incorporates additional parameters unique to the nature and impact of injuries. A crucial factor in determining the compensation is the extent of functional disability, which affects the injured individual's ability to earn a livelihood and maintain their previous quality of life. Courts assess the claimant's occupation, the nature of the injury, and its long-term implications to arrive at an equitable compensation amount.

In cases involving permanent disability, the loss of future earnings is a significant component of compensation. This is calculated by considering the injured person's annual income, potential future prospects, and the percentage of disability sustained. For instance, an injury that limits a laborer's physical capabilities may result in higher compensation compared to the same injury's effect on an office worker. The assessment ensures that the claimant is

compensated for the economic losses caused by their diminished earning capacity.

Courts have also recognized various heads of compensation to address both tangible and intangible impacts of injuries. Pecuniary damages, or special damages, cover measurable losses such as medical expenses, loss of earnings during recovery, future medical costs, transportation, nourishment, and the cost of assistive devices like prosthetics. These damages aim to reimburse the claimant for their out-of-pocket expenses and anticipated future financial burdens.

On the other hand, non-pecuniary damages, or general damages, address the more subjective impacts of injury. These include compensation for pain and suffering, loss of amenities or enjoyment in life, loss of marriage prospects, and a reduced expectation of life in severe cases. Such compensation acknowledges the emotional and psychological toll of injuries, which may not be easily quantifiable but are no less significant.

Legal precedents like *Raj Kumar v. Ajay Kumar*,¹⁹ provide comprehensive guidance for awarding compensation in personal injury cases. The judgment outlined the heads under which compensation may be granted and emphasized the importance of specific medical evidence for claims involving permanent disability, future medical expenses, or loss of marriage prospects. The court highlighted the necessity of tailoring compensation to the severity of the injury and its impact on the claimant's personal and professional life.

The philosophy behind award of compensation as far as pain and suffering proceeds on the footing that even though no monetary loss is occasioned because of this situation, that it is because of the psychological aspect which the law takes cognizance of and which has been dealt in detail in the *Jhulan Rani Saha's case*,²⁰ where both the English and Indian law have been analyzed in some detail. It was laid down by the court that it is obliged to compensate the party to whom such pain and suffering may have been caused, to the extent that is necessary.²¹ In routine cases, courts typically award compensation for immediate medical expenses, loss of earnings during recovery, and pain and suffering. However, in cases of severe injury where the claimant faces long-term consequences, additional compensation may be granted under heads

¹⁹ (2011) 1 SCC 343.

²⁰ *Jhulan Rani Saha v. National Insurance Co. Ltd*, AIR 1994 Gau. 41.

²¹ P.K Sarkar, *The Motor Vehicles Act, 1988*, (2004), p.10.

such as future earnings loss and loss of amenities. By addressing both pecuniary and non-pecuniary losses, the compensation framework seeks to restore, as much as possible, the injured individual's financial and personal stability.

3. CHALLENGES IN THE CURRENT SYSTEM AND THE PROPOSED CENTRALISED INFORMATION SYSTEM

The implementation of a centralised database addresses various operational inefficiencies, enhances analytical capabilities, and empowers insurance companies to make well-informed decisions. The advantages of the system is manifold few are:

Efficient Communication and Categorisation for Swift Claims Resolution: The proposed technological solution will serve as a catalyst for real-time communication among insurance companies, claimants, and various stakeholders. In the event of an accident, the platform will swiftly notify insurers, ensuring immediate awareness regardless of the incident's location. This timely notification mechanism would be crucial for expediting the claims process. Upon receiving notification, cases will promptly be assigned within the platform, facilitating a streamlined and efficient assessment of claims.

Cost-Effective Resolutions: Mitigating Expenses and Interest Rates through Facilitated Discussions: The platform will facilitate constructive discussions between insurers and claimants, conducive to reaching mutually agreeable settlements. This proactive engagement will not only expedite the claims settlement process but will also yield additional benefits such as a reduction in interest rates, diminished litigation costs, and a lowered likelihood of contested claims escalating to the Motor Accident Claims Tribunal (MACT).

Streamlining Head-wise Responses (Accept/Modify/Reject): The "View Claim" feature, coupled with the ability to respond to claims head-wise with options to "Accept," "Modify," or "Reject," represents a pivotal advancement in the efficiency and transparency of claims handling within the insurance domain. The "Accept" option will enable insurers to promptly acknowledge and approve claims that meet the necessary criteria, expediting the settlement process for valid and straightforward cases. In instances where modifications are required, the "Modify" option will allow insurers to communicate adjustments or request additional information directly within the system, promoting a streamlined and transparent dialogue with claimants. On the other hand, the "Reject" option will serve as a clear and unequivocal response for claims that do not align with policy terms or display inconsistencies which opens the door

for the negotiation process. If the negotiation process fails, rejected claims would then be open for adjudication and can be contested by the parties in the Court.

Streamlining Negotiations Virtually: The proposed Video Conferencing (VC) platform proposes to introduce a smart approach to facilitate negotiation processes between insurers and claimants in motor accident cases. With a specific focus on the Motor Accident Claims Tribunal (MACT) context, this platform will serve as a dynamic tool to facilitate virtual discussions, offering two key pathways for resolution: "Settle" and "Send to Regular Court for Contesting."

Streamlined Process with Online Submission and Assisted Calculations: This modernised approach would streamline the submission of claims by allowing policyholders to electronically submit proofs in a well-defined format, including critical documents such as age verification, income statements, driving licences, and comprehensive vehicle information. The structured format would ensure that the necessary details are submitted in an organised manner, reducing the likelihood of errors or omissions. The inclusion of assisted calculation features will add an additional layer of convenience. Policyholders can input relevant information, and the system aids in calculating the claim amount based on predefined criteria. The electronic submission of proofs would bring forth several advantages. It would significantly reduce the reliance on traditional paperwork, making the process eco-friendly and expediting the verification stage. Additionally, it would allow for real-time submission, contributing to faster claims processing and quicker disbursement of settlements.

Swift Claims with Virtual Court: The establishment of a Virtual Court marks a significant advancement in the facilitation of the claims process between claimants and insurers. This innovative approach integrates various features, including online verification and summons alerts to insurance companies, creating a comprehensive and efficient platform.

3.1. Comparative Analysis of Singapore, United Kingdom, New South Wales, Australia

The **Motor Claims Framework (MCF)**²² in Singapore, launched by the General Insurance Association (GIA), is designed to streamline the process of resolving traffic accident claims in a fair, efficient, and speedy manner. Supported by all motor insurers under GIA, the MCF

²² General Insurance Association of Singapore, "Motor Claims Framework," available at <https://gia.org.sg/motor-insurance/22-premium-renewal-of-policy/348-motor-claims-framework.html> (last accessed 28 December 2024).

facilitates the resolution of claims related to personal injury to third parties, repair costs, and financial damages. The framework mandates that traffic accidents must be reported to insurers or the Traffic Police within 24 hours if there are injuries or substantial damage. In the **United Kingdom**, the **Official Injury Claim (OIC)** service assists individuals in England and Wales in making personal injury claims for road traffic accidents valued at £5,000 or less. Operated by the Motor Insurers' Bureau on behalf of the Ministry of Justice, the OIC involves a streamlined five-step procedure. Claimants begin by providing details of the accident, including location, injuries sustained, and responsible parties. The claim is then forwarded to the responsible driver's insurer, termed the 'compensator,' for investigation. Medical assessments are conducted by experts who prepare reports on the claimant's injuries. Once liability is established and evidence of losses or injuries is submitted, the compensator makes a compensation offer. Claimants can accept or challenge the offer, after which the claim is closed, and payment is arranged. The OIC platform allows claimants to track progress and receive updates, ensuring a transparent and claimant-friendly process.

In **New South Wales, Australia**, the Personal Injury Commission has implemented an innovative online **Motor Accident Claims Portal** for electronic document management and lodgment. Launched as the Commission's Pathway portal, this system enables parties involved in motor accident claims to file documents, manage cases, and communicate with the Commission electronically. Since its launch on 20 June, all new matters are filed through the portal, and existing matters have been migrated. The Electronic Case Management (ECM) system ensures seamless handling of claims, allowing claimants and insurers to submit necessary documentation and track progress digitally.²³ Together, these frameworks in Singapore, the United Kingdom, and New South Wales, Australia, demonstrate innovative approaches to addressing motor accident claims.

4. DETAILED ACCIDENT REPORT AND INSURANCE FRAUD

News is filled with reports of various kinds of road accidents – a vehicle knocking another vehicle, damaging property, or killing or injuring people. Life Insurance is thus not purely a business or an exclusive commercial activity but also a social measure²⁴ Insurance fraud,

²³ "Motor Vehicle Accidents," *Obiter*, available at <https://obiter.bylawyers.com.au/category/motor-vehicle-accidents/> (last visited Dec. 29, 2024).

²⁴ *Life Insurance Corporation of India and Ors. v. Executive Officer, Nagar Palika Parishad and Ors.*, (19.01.2005 - ALLHC) : MANU/UP/0027/2005

particularly in the realm of motor vehicle claims, is a pervasive issue that undermines the integrity of the insurance industry. The increasing prevalence of fraudulent third-party motor vehicle claims poses a significant challenge to insurance companies, law enforcement agencies, and the overall integrity of the insurance industry. Fraudulent claims may take various forms, such as exaggerating damages, staging accidents, or implicating third parties who were not involved. Fraudulent claims not only disrupt the insurance industry but also erode public trust and increase the financial burden on honest policyholders as it leads to inflated premiums. Moreover, when fraudulent claims are filed, they waste valuable resources and contribute to an already overburdened judicial system. In many cases, fraudulent claims are facilitated by inadequate investigation procedures. Police officials may lodge cases without thorough inquiry, leading to unwarranted charges and prolonged legal battles for innocent parties. Such inefficiencies not only burden the judicial system but also contribute to the mistrust surrounding the claims process.

4.1 The Growing Challenge of Fake Third-Party Claims

An analysis reveals several recurring patterns that may indicate fraudulent practices. Firstly, the occurrence of multiple claims on single insurance policies suggests the possibility of exploitation. These cases warrant close scrutiny, particularly if they involve similar circumstances, legal representatives, or geographical locations. Secondly, discrepancies between the claimed amounts and gross provisions highlight potential overestimations in claims, raising questions about the credibility of supporting evidence. To delve deeper, specific case studies can be designed around high-claim policies to assess patterns of alleged accidents, the involvement of stakeholders, and the credibility of evidence. Another promising area for investigation involves cases with stark discrepancies between claimed and settled amounts, focusing on the strategies employed and the underlying evidence presented.

Other essential parameters include cross-verifying victim and petitioner details to ensure authenticity, analyzing the time gap between the accident and claim filing to detect suspicious delays, and ensuring consistency between police reports, medical evidence, and court filings. Delays or irregularities in the timeline of claims processing are another significant indicator. Fields like FIR date, claim registration date, and claim intimation date can be analyzed to identify unusual delays or gaps that suggest fraud. For instance, claims registered long after the accident date may involve fabricated or backdated evidence. Ensuring proper alignment of police reports, medical certificates, and other supporting documents can prevent misuse of the

system. To counter these fraudulent activities, insurance companies and law enforcement agencies must rely on systematic approaches to identify red flags in claims. Several indicators serve as warning signs for potential fraud. For example, inconsistencies in the accident report, such as discrepancies in the timeline, location, or severity of damages, can raise suspicions. Conflicting witness statements are another common sign, as they may indicate fabricated accounts of the incident. Suspicious claim patterns, such as repeated claims by the same parties or sudden spikes in claims from a specific area, also suggest fraudulent behavior.

In *New India Assurance Co. Ltd. v. Rakesh Ahuja*,²⁵ Delhi High Court constituted a Committee to draw up a mechanism for prosecution of fake driving licence holders/forgers under Sections 465, 468, 471 and 474 of the Indian Penal Code and to make Delhi roads safe by ensuring that the fake driving licence holders do not drive freely on Delhi roads any more.

4.2 Detailed Accident Report (DAR)

The Detailed Accident Report (DAR) plays an essential role in investigating motor vehicle accidents, serving as a foundational document for the accurate assessment of each incident. In cases involving third-party claims, the DAR enables a clear application of insurance policies. The Court's observation in *National Insurance Co. Ltd v. Fakir Chand*,²⁶ highlights that third-party insurance policies are designed to protect all individuals impacted by an accident, regardless of their association with the insured. Additionally, the Supreme Court has addressed issues such as non-road accident claims falsely attributed to vehicular accidents, as observed in *Safiq Ahmed v. ICICI Lombard General Insurance Co. Ltd.*,²⁷ where fraudulent documentation is often used to inflate claims. Hence, the DAR not only serves as a record but also as a tool in the verification process to prevent exploitation of the system.

In *Rajesh Tyagi v. Jaibir Singh*,²⁸ Justice Midha framed a Special Scheme on 16th December, 2009 for time bound settlement of Motor Accident Claims within 90 to 120 days which was implemented in Delhi w.e.f. April, 2010. Between 2nd April, 2010 to August, 2012, about 21,820 accident cases were reported in Delhi out of which the Claims Tribunal granted compensation within 90 to 120 days in 10,762 cases by following the Special Scheme. The

²⁵ MANU/DE/3616/2009; IV (2010) ACC 34.

²⁶ 1996 ACJ 111.

²⁷ 2021 SCC OnLine SC 1259, order dated 16.12.2021.

²⁸ *Rajesh Tyagi & Ors v. Jabir Singh & Ors*, FAO no.842/2003 dated 21 December 2009.

Special Scheme revolutionized the Motor Accident Compensation Law in as much as the claimants received the compensation within 120 days of the accident. The Supreme Court approved the aforesaid Scheme and directed all States to implement this Scheme across the country.²⁹

On 8th January, 2021, the Justice Midha launched a new improved Scheme in *Rajesh Tyagi's case* for expeditious investigation as well as adjudication of all Motor Accident Claims within a period of six months to one year. Justice Midha framed the new Scheme after considering the Best International Practices and conducting extensive research of the Mandatory Formats formulated in developed countries for motor accidents cases to ensure that the procedure for settling the claims of victims of road accident is made hassle free, just and expeditious. Justice Midha also framed a FASTDAR Scheme for payment of compensation within ten days in road accident death cases. The FASTDAR Scheme was launched on 1st May, 2021 and the first case of road accident on 1st May, 2021 was resolved within ten days and the compensation of Rs.32 lakhs was deposited by the Insurance Company on 12th May, 2021.

In *Rajesh Tyagi's case*,³⁰ Justice Midha recommended to the Government to amend the Motor Vehicles Act to incorporate the Special Scheme formulated by the Delhi High Court. Justice Midha also advised the Government to create a Road Accident Fund for providing compulsory insurance coverage to all road users. Justice Midha also recommended to the Central Government to incorporate the new Scheme in Central Motor Vehicle Rules. The Central Government has accepted the above recommendations and has amended the Motor Vehicles Act, by Motor Vehicles (Amendment), Act 2019 which came into force on 1st April, 2022.³¹ The Central Government has also incorporated the entire Scheme along with the formats annexed to the Judgment dated 8th January, 2021 in Central Motor Vehicles (Fifth Amendment) Rules, 2022 which came into force on 1st April, 2022.³²

The directive in *Rajesh Tyagi Case* was endorsed by the Hon'ble Supreme Court in *Jai Prakash v. National Insurance Company*,³³ requires all states to adopt this process to expedite

²⁹ J.R. Midha's Landmark Judgments, National Law University, Delhi, available at <https://nludelhi.ac.in/research/hmj-j-r-midhas-landmark-judgments/> (last visited December 28, 2024).

³⁰ *Rajesh Tyagi v. Union of India*, W.P. (C) No. 6439/2017, order dated 8th January 2021, Delhi High Court

³¹ Motor Vehicles (Amendment) Act, 2019, No. 32 of 2019, § 1, (2019)

³² Central Motor Vehicles (Fifth Amendment) Rules, 2022, S.O. 303(E), (2022).

³³ 1 (2010) ACC A SC.

settlements. The Hon'ble Supreme Court issued the following directions to the Director Generals of police of all states. Police should also collect and furnish the following additional particulars in the AIR to the Tribunal: (i) The age of the victims at the time of accident; (ii) The income of the victim; (iii) The names and ages of the dependent family members. (ii) The AIR shall be accompanied by the attested copies of the FIR, site sketch/mahazar/photographs of the place of occurrence, driving licence of the driver, Insurance policy (and if necessary, fitness certificate) of the vehicle and postmortem report (in case of death) or the Injury/Wound certificate (in the case of injuries). The names/addresses of injured or dependant family members of the deceased should also be furnished to the Tribunal. The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim (in case of death) and the driver, owner and insurer.

The documents required to be enclosed in the FastDAR (Fast Dispute Amicable Resolution) process are as follows:³⁴

1. **FIR Copy:** A copy of the First Information Report (FIR) filed with the police.
2. **Site Plan/Photographs/Video Clips:** Visual evidence such as photographs or video clips and a site plan detailing the scene of the accident.
3. **Mechanical Inspection Report:** A report confirming the mechanical condition of the offending vehicle, which is essential to assess its role in the accident.
4. **Section 161 CRPC Statements:** The statements taken by the police under Section 161 of the Criminal Procedure Code, typically from witnesses or involved parties.
5. **Driving License/Insurance/Fitness/Permit Documents:** Copies of the driver's **valid driving license**, the offending vehicle's **insurance policy**, **fitness certificate**, and **permit** (if applicable).
6. **Vehicle Documents:** The vehicle's registration certificate and other relevant documents proving the legitimacy of the vehicle.
7. **MLC/Post-Mortem Report with Opinion on Cause of Death:** A copy of the **Medical Legal Certificate (MLC)** and **post-mortem report**, including the medical opinion on the cause of death.
8. **Details of Family Members of Claimants:** The claimant's family details, such as their relationship with the deceased.

³⁴ Delhi Police, "Detailed Accident Report (DAR)," available at <https://delhipolice.gov.in/doc/DAR.pdf> (last accessed 28 December 2024).

- 9. Details of Deceased's Employer/Income/ITR:** Information regarding the deceased's employment, income details, **Income Tax Returns (ITR)**, and other supporting documents (if available).

4.3 Role of the stakeholders

The study identified key stakeholders integral to the claims process, including the police, the General Insurance Council, insurance companies, medical authorities, the Ministry of Road Transport and Highways (MoRTH), legal services, the Motor Accident Claims Tribunal (MACT), and claimants or their legal heirs.

The FastDAR Standard Operating Procedure (SOP) outlines the roles and responsibilities of key stakeholders involved in resolving fatal accident claims efficiently. Delhi Police (Police/10) is tasked with notifying the General Insurance Council (GIC) Call Centre, collecting post-mortem reports, arranging vehicle inspections, and verifying the Driving License and Registration Certificate of the offending vehicle from the relevant transport authorities. They must ensure that all required documents are collected and the FastDAR Form is completed within the stipulated time. The Transport Authority is responsible for verifying the Driving License, Registration records, and the vehicle's fitness and permit (if applicable) within 24 hours of receiving a request from the investigating officer. The Delhi State Legal Services Authority (DSLISA) plays a vital role in monitoring the progress of selected cases, providing a panel counsel to claimants, and organizing Special Lok Adalats for amicable resolution within 10 days. The MACT Tribunal holds Pre Lok Adalat sittings and facilitates the resolution of claims by assisting in the settlement of compensation amounts, ensuring that the case is disposed of within two working days of receiving a legal offer from the insurance company.

The General Insurance Council (GIC) is responsible for setting up a 24x7 Call Centre to receive notifications from the police and forward the details to the relevant Insurance Companies. Upon receiving these details, the Insurance Companies must conduct investigations and offer a reasonable settlement within three days, sharing the offer with both the claimants and the Tribunal. The Medical Authority is required to conduct post-mortem examinations promptly and provide a report, including the cause of death. The SOP also mandates that all stakeholders comply with the Delhi High Court's directions and ensures that the SOP is made accessible to the public through the websites of DSLISA, Delhi Police, and GIC. This collaborative process

aims to resolve claims efficiently, ensuring timely and fair compensation for the claimants.³⁵

4.4 Challenges in Resolving Motor Accident Claims: Case Study of Himachal Pradesh and Madhya Pradesh

Himachal Pradesh's rugged terrain and scattered settlements contribute to significant delays in acquiring necessary documentation for motor accident claims. This challenge is compounded by bureaucratic inefficiencies and limited accessibility to legal and administrative offices. Many cases remain unresolved due to incomplete or missing documentation, as evidenced by the shared data.

The fraudulent life insurance claims case in Madhya Pradesh, centered around Gwalior and neighboring districts, exemplifies the systemic vulnerabilities in India's insurance framework. Fraudsters orchestrated a large-scale scam by securing life insurance policies for individuals who were terminally ill or deceased, using forged Aadhaar cards, falsified medical records, and manipulated documents. They claimed payouts posthumously, and upon rejection, escalated the cases to consumer commissions, exploiting legal loopholes and insufficient evidence protocols. Conflicting claims on the same policy led to the summoning of the original complainant, revealing the fraud's magnitude. This proactive step marked a historic moment for the Gwalior Consumer Commission and significantly reduced fraudulent filings.³⁶

5. CONCLUSION & SUGGESTIONS

The issue of fraudulent third-party motor vehicle claims presents a significant challenge to the efficiency and credibility of the motor insurance industry and the judicial system. To enhance the effectiveness of the legal system in addressing motor accident cases, there is a pressing need for sensitization and training programs targeted at judicial officers. The Judicial Academy conducted a Sensitization programme on Motor Accidents Claims Cases for all the Presiding Officers of Motor Accidents Claims Tribunal on 23 July 2022.³⁷ Public awareness campaigns can also discourage fraudulent practices by educating claimants about their rights and responsibilities. Enhanced collaboration among police departments, insurance companies,

³⁵ Delhi Police, "Detailed Accident Report (DAR)," available at <https://delhipolice.gov.in/doc/DAR.pdf> (last accessed 28 December 2024).

³⁶ *Rajkumari v. Maxlife Insurance*, Consumer case 113/2022.

³⁷ Supreme Court of India, *Annual Report 2023*, available at https://main.sci.gov.in/Annualreport/annual_report/SupremeCourt-2023.pdf (last accessed December 3, 2024).

medical authorities, and legal services is crucial to streamline the claim verification process. By leveraging technology and fostering collaboration among stakeholders, the system can be made more transparent and efficient. The integration of a centralized digital platform linking police departments, hospitals, and insurance companies can expedite the sharing of essential documents. Implementing these measures can reduce pendency and enhance the efficiency of claims settlements, particularly during Lok Adalats.

