



LAW AND PRACTICE RELATING TO SETTLEMENT OF CLAIMS THROUGH MOTOR VEHICLES CLAIM TRIBUNALS. A SOCIO-LEGAL STUDY IN UNION TERRITORY OF JAMMU AND KASHMIR

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Abstract--When it comes to car accident claims, the goal is to put the claimants in their pre-accident position. The numerous elements to be examined in calculating the amount of compensation, such as the deceased income, the amount he would have provided to dependants, and the likelihood that the deceased might have got better employment and thus earned more are all factors to be considered. Compensation cannot be determined arbitrary, and there must be a reasonable link between the loss and the compensation to be paid. When estimating the estate, the deceased's living costs should be considered while calculating the amount of compensation. Compensation must be reasonable and fair; it should neither be a windfall nor should be too little. As a result, the focus of this paper will be on the critical role provided by the Motor Accident Claims Tribunal using a variety of methods to award compensation to applicants, modes and techniques, as well as attempting to think outside the box when necessary in unusual situations.

Keywords: *Motor Accident Claims Tribunal (MACT), Fatal Accident, Permanent Disability, Just Compensation, Future prospect.*

INTRODUCTION

The Motor Vehicles Act 1988 regulates all the aspects of road transport vehicles. This Act came into force from first July 1989 and replaced the previous Motor Vehicle Act 1939, which earlier replaced the previous Motor Vehicle Act 1914. The Act provides in detail the legislative provisions regarding licensing of drivers/conductors, registration of motor vehicles, control of motor vehicles through permits, special provisions relating to state transport undertakings, traffic regulations, insurance, liability, offences and penalties etc. for exercising the legislative provisions made under the Central Motor Vehicles Rules 1989 (1st Amendment) Rules 2001.

In addition the Act 1988 was a central legislation which was applicable in British India, wherein, Princely States followed suit with local modifications and motor vehicles were first introduced in India towards the end of 19th century, but Act of 1914 was the first such legislation to regulate their use. It had 18 sections, which gave local governments the responsibility of registering and licensing vehicles, motorists and enforcing regulations. However, it was replaced by Act 1939.

Later on, over years many more amendments were followed but in the year 1988 a new Act replaced the old one for claiming compensation in case of any death or bodily injury caused in an accident arising out of the use of a motor vehicle. Actually, the entire road traffic in India, the legislations concerning of vehicles playing on the roads, the regulations of the drivers, the rules of the road regulations, road accidents and claims made by the victims of accidents indirectly their wards etc. all depends upon a single piece of Legislation known as the Motor Vehicles Act, originally enacted in the year 1939, during the British rule in India, since then this vehicles Act has undergone a sea of changes in between 1939 and 1988 which it was amended in tune with the Welfare State ideals in order to meet the growing demands of its people. Now almost all the States in India have enacted Motor Vehicles Rules to regulate the registration of vehicles and the issue of permits to the owners of the vehicles and issue of license to the drivers of the vehicles.



Accordingly, the Act can be hailed as welfare legislation as it deals with comprehensively,ⁱ the road accidents involving motor vehicles enabling the victims to claim compensation. The above said act had sections 165 and 176 comprehensively provides for the established of claims the tribunals by the state governments, the procedure for applying compensation by the victims, procedure and powers of the claims tribunals in making the awards, liability of the insurance companies, enabling the state government to make rules, awarding interest on the compensation amount, providing for appeals etc. The Act has also done away with the provisions concerning limitation period of six months to file a claim application for a victim. As such taking into account the difficulties of a victim or his legal heirs in procuring the documents pertaining to an accident, the limitation provision has been deleted which is definitely, a step forward in this right direction.

Earlier in order to file a suit, suit for damages one had to approach the civil court, on payment of advoloram court fee. But under the provisions of motor vehicle, an application claiming compensation can be made to the Claims Tribunal without payment of advoloram court feeⁱⁱ and the Tribunal has to follow a summary procedure for adjudication of claims regarding determination of liability. Therefore, as a new mode of enforcing liability for the determination of liability one has still to look for the substantive law like Law of Torts and Fatal Accident Act, 1865. In the case of ⁱⁱⁱ it was critically explained that the liability is still based on the Law of Torts and enactment like the Fatal Accident Act. Section 169 corresponds to section 110-C of the Motor Vehicles Act 1959.

“Discourage litigation; persuade your neighbours to compromise whenever you can, point out to them how the nominal winner is often a heel loser in fees, expenses and waste of time”. “Abraham Lincoln.”

Not only this but Settlement of cases by way of mutual compromise is quite often a better method of ending the dispute as soon as possible and is an alternative of fight by taking the matter in appeal from one court to another and the litigations apart from burdening the parties with heavy financial expenditure also leaves a trial of bitterness resulting more in consonance with justice, equity and good conscience. Therefore, this research can be achieved by having a mutual settlement of the dispute rather than in a court in one way or the other.

Basically, the need for compromise was highly felt in the field of motor accidents claims as social justice requires that a motor accident victim should get quick relief by way of compensation and since the damages are unliquidated, a complete restoration of traffic victim to the original status may be a difficult process and to compensate victims, in terms of money would be considered a relief concerning by way of mitigation of sufferings and ensuring the bodily injury and sudden death. Though it can never be a full restoration of the impairment or collapse of physical and mental integrity yet it constitutes the sole remedy which society through law can apply prevail as a sort of relief for their sufferings.

Further, the Seekers of justice are millions in numbers and it is becoming difficult for the courts to cope up with the ever-increasing cases, having limited with the present infrastructure and manpower, the courts are overburdened with cases and because of ever-increasing number of cases, the court system in India under great pressure. As such in order to reduce burden and heavy demand upon court, cases must always be resolved by restarting to alternative dispute resolution methods before they enter the portals of court. Therefore, here comes the significance of lok-adalat which has shows its significance by settling huge number of third party claims referred by except matters relating to offenders which are non-compoundable, for rest of all written this adalat jurisdiction i.e. when the dispute is at a pre-trial stage and not before a court of law it can be referred to Lok-Adalat.



Interestingly, a large number of cases are settled through lok-adalats. Initially, there was no statutory backing for its functioning; these lok-adalats were working as voluntary and conciliatory agencies. But now it is becoming popular day by day to provide a speedier system of administration of justice. Providing a statutory backing to the institutions of lok-adalats and the awards given by them. As such a statutory support would not only reduce the burden of the arrears of work upon regular courts, but also provides justice to the doorsteps of the poor and the needy making justice quicker and less expensive.

Therefore, this purpose to constitute legal service authorities act was to provide free and competent legal service to the weaker sections of the society, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic and other disabilities and to organize lok-adalats to ensure that the operations of the legal system promotes justice on the basis of equal opportunity. The function of lok-adalats are not to act as a judge of Law of court but to enable the parties who voluntary desires to seek the adalat's intervention to understand their respective rights and obligations with reference to the disputes brought before it. They don't judge the issues. Additionally, their role is to clarify the law and by way of gentle persuasion convince the parties as to how they stand to gain by an agreed settlement. Thus, it is this a forum where settlement of disputes between the parties is made through conciliatory and persuasive efforts.^{iv}

As a result, once the matter is settled in Lok-Adalat it becomes final and the motor vehicle claims tribunal has no power to review the award passed by the Lok-Adalat. However in case of any defect, both the parties had to approach the High Court under articles.¹

REVIEW OF LITERATURE

Review of literature simply means to look again at the literary work already existing in the various forms viz. books, text books, journals, statute books, research work both academic as well as non academic, reports of various commissions or committees and case law in the legal research etc. Before the researcher looks for the statement for research work he must know about the available literature in various forms published or unpublished. It will provide knowledge of the related field to enable researchers to define the frontier of his research area through the study of related literature. The available literature will help to avoid unintentional replication of previous work and enable the researcher to interpret the significance of his own result. It keeps researchers updated in the field and related area. As it is an accepted fact that an effective research is based upon the past knowledge, sum of past literature. The review of literature is not merely reading but it focuses and directed toward a specific purpose and is a selective one. It starts with the selection of research problems and continues through the various stages which end with a report for the current research work. It is important to review already available literature and to arrive at what has already been covered or uncovered to avoid duplication.

For the current research work under title "Law and practice relating to settlement of claims through Motor Vehicle Claims Tribunal. A socio-legal study in Union Territory of Jammu and Kashmir." The review of available leads to the following information.

Prof. M.P Jain, "Indian constitutional law" editor Justice Jasti Chelameswar, Constitution is a basic law defining and delimiting the principal organs of government and their jurisdiction as well as the



basic rights of man and citizen. The constitution of India contains twelve schedules, the seventh schedule of the constitution enumerates the subject matter of laws and this demarcated the division of responsibility between the union and the states. Seventh schedule has three lists each of which has a number of entries, entry 23 of list first to the seventh schedule is as, "Highways as declared by or under law made by central government are national highways". The subject matter of motor vehicles is dealt with by the central government. The government of India has a specific ministry concerned with the motor vehicle laws in India. M.P Jain is an authoritative, evergreen, and classic on Indian Constitutional Law. The author has made thematic presentation of the complex and multi-dimensional subject of constitutional law in a lucid, comprehensive and systematic manner. The book contains in depth insights that will be of immense help to researcher or any interested citizen. Although the book does not contain any provisions of the Motor Vehicles Act, but it helped the researcher in introduction part from where it draws the attention of the researcher how to start the work. The other deep study relating to the research topic is contained in other related books mentioned below.

Jaggi's *Motor Vehicle Laws and Rules*, is a commentary on Motor Vehicles. This book gives the readers an accurate idea of the changes made by the Act 56 of 1969, a chart showing parallel study and the position of the 1939 Act 56 of 1969, Motor Vehicle Act 1988, also included. I read the book with almost all the provisions of the Claims Tribunal, the compensation and procedure of awards followed by the tribunal is well understood by the researcher as given in the book. Author is very particular of all provisions that shows light on the various Acts like Act 1939 is also elaborated in this book. This book is very helpful for research. What are the loopholes in the Claims Tribunal can also be understood by the reading of this book.

Justice Rajesh Tandon, *An Exhaustive Commentary on Motor Vehicles Act, 1988 along with Rules, 1989 and Allied laws*. This book is divided into three divisions. Division 1 is a comprehensive commentary on the Motor Vehicles Act, 1988 updated with latest case laws. Division 2 contains the central motor vehicle rules, 1989. Division 3 incorporates various other enactments connected with road transport as also other rules, orders, regulations and notifications.

Dr. D.K Gaur's text book *on the Indian Penal code* expands duties of driver of Motor Vehicles and if the driver fails to observe his duties he will be liable not only in civil law but also under criminal law and will be guilty of negligence. Thus, the author suggests enhancing the penalties provided under the existing legislations so as to curb these socio-economic offences.

Universal's *the Motor Vehicles Act* with exhaustive case laws. Universal law publication deals with deeply with all the provisions of the Motor Vehicle Act. The book is good for comparative study with other similar working books.

The Motor Vehicles Act, as amended by the Motor Vehicles Amendment Act 2019 (32 of 2019) adding with state Amendments, notes table of offences and punishment/fine notification. Deals also with the Motor Vehicle (driving Regulations 2017, same specific provisions w.e.f, 1-9-2019. Also, highlights the ministry of road transport and highways notification. New Delhi, 30th Aug. 2019.

Motor Vehicle Act and Rules, by LP'S, this book analytically enunciates the principles underlying the provisions of this important law. The book also presents the basic principles as laid down in the Motor Vehicle Act, 1988, adumbrated by the judicial pronouncements along with developments of this law by the Motor Vehicles Amendment Act, 2001 with contract Motor Vehicle Rules corrected up to -day. The Motor Vehicle Act 1988 as amended by 2019 with notes of clauses, statement of objects and reasons, comparative table of new and old Act, offences and punishment fine under Motor Vehicle Act and notification.



P K.Sarkar, in the book of *'the motor vehicles act'*, explained the philosophy behind award of compensation as far as pain and suffering proceeds on the footing that even though no monetary loss is usual because of the psychological aspect which the law takes cognizance of and which has been dealt with in some detail. The book will aid in understanding the concern of the victims and their satisfaction with the award of the Claims tribunal. More so, the book follows an analysis of the pronouncement of the Supreme Court and the High Courts providing different remedies to the motor accident issues. Some of the issues are like, conditions of permit, cancellation of permit, how to get a driving license, transfer of ownership of vehicles, hire-purchase agreement, negligence, pollution control, claims tribunal.

Kunal Mehta, on the book of *'An Analyze of Law'* relating to accidents claims in India is an article governing the accidents arising out of use of vehicles. The concept of *'No fault liability'* claim applications, assessment of claim, legal defence available to the insurance companies towards third party, gratuitous passenger, dishonour of cheque of insurance premium, Claim Tribunals and appeals to High Court, awards, costs on false claims, etc. The elaborate commentary on the provisions of the Claims Tribunal in the Motor Vehicle Act, has assisted in pinpointing the lacunae in the Act.

R P Kathurva, on *'Law of crimes and criminology'* has discussed the road accidents cases and the burden of proof. Burden of proof is generally on the prosecution to prove gross negligence on the part of the accused. This onus never shifts, sometimes *res ipsa loquitur* can be used to corroborate the evidence. This book aims to give an insight as to the working of Claims Tribunal, the study of which is necessary to analyze the reasons which prompted the legislature to amend the various provisions of the Act.

Dr. D. G. Chaturvedi, in *'law of motor accident claims and compensation'* deals with different aspects of Motor Accident Claims and has the concept of awarding compensation to victims of Motor Accidents. Author states that if the Government opts for mandating the automobiles to carry a statutory inscription that riding kills or maims, because it is an unimpeachable truth that India's motorized mayhem has officially made it the most dangerous place to drive in the world. Suffice this to betray the Division Bench decision of the High Court of Madras in *B. Govinda Rajalu Chetty v. M.L.A. Goondaraja Mudaliar*, that a motor vehicle without which modern life would become impossible, cannot or should not be held to be inherently a dangerous thing. The tremendous pace, at which modern life moves, has made it used to things inherently dangerous, like electricity, cooking gas, railways, aircraft, etc., but that cannot and should not mean that the things warranted most in a fast life are not inherently dangerous. India has the dubious distinction of being one of the countries with the highest number of road accidents and the longest response time in securing first aid and medical treatment.

Ratanlal & Dhirajlal, has thrown light upon *Motor Vehicles Accidental Claims in India*. In this book, an attempt is made to present facts and incidents to enable readers to interpret the Law relating to Accidental Claims. The notable legislative activity in recent years is creation to a certain limit of no fault liability, in respect of death or bodily injury resulting in motor accident, providing for payment of compensation in certain cases of accidents without proof of fault or negligence on the part of the owner or the driver of the motor vehicle is being discussed by the author. The book furnishes a systematic examination and statement of the principles of the Indian case law. Much has been written on the Law of Torts. The author has also mentioned the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 which has attracted worldwide attention.



Dr. R K Bangia, in *Law of Torts*, including compensation under the Motor Vehicles Act, deals with accidents which occurred due to involvement of Motor Vehicles and law relating to compensation to victims of such accidents and says that insurance of Motor Vehicles compulsory and owner of every motor vehicle is bound to insure his vehicles against third party risk. Also provides the constitution of claim tribunals, working procedure to be followed by the Tribunals, appeal thereto, against the decisions of the Tribunals.

K C Dutt, on *Motor Accident Claims* explained the concept of awarding compensation to victims of motor accidents and deals with accidents which occurred due to use of motor vehicles and law relating to compensation to victims of such accidents. The author has dealt with the compensation given to the victims and does more emphasis and deep analysis on the provision regarding the compensatory procedure.

SOME IMPORTANT CASE LAWS

Haynes v. Harwood^v, is a case based on rescue operation where a defendant who owned a duty to another was held to owe a duty also to those who might attempt to rescue that other from acute peril in which the defendant's negligence has pleaded win.

Donough v. Stevenson^{vi} In this case it finally sets at rest any possible doubts whether the tort of negligence was capable of further expansion or was to be rigidly tied down by existing precedents, it was a clear insistence of the court's to take into account the new conditions of mass production and complex marketing of goods wherein there are many intermediaries between manufacturer and consumers and by a concerns work of Judicial legislation imposing on manufacturer a certain minimum standards of care in favour of the consumers.

Govina rajalu chetty v.goondaraja hudalier^{vii} that a motor vehicle without which modern life would become impossible and cannot be held to be inherently a dangerous thing. But, the tremendous pace, at which modern life moves has made use of these things inherently dangerous to the electricity, cooking gas, railway, aircraft etc. but that cannot and should not mean the things warranted most in a fast life are not inherently dangerous. India has the dubious distinction of being one of the countries with the highest number of road accidents and the longest response time in securing first aid and medical treatment which is a very unfortunate thing.

In Threch case defined the no fault liability the High Court of kerala said in a care of composite negligence which one of the two vehicles involved in the accident can be identified. It is not a hit and run case and is such a care compensation under the no fault liability rules can be claimed.

JUSTIFICATION

The road accidents are the most burning issue almost everywhere and emerge as an important public health issue. Road accidents are increasing day by day which has become a great concern for concerned agencies on how to tackle and prevent it. Injuries and deaths are becoming alarming in our country. Different methods, uniform laws are made but all are ineffective.

More so, during recent years, the number of road accidents in the country has increased more alarmingly. Almost every day one finds sad tales of road accidents. Road accidents in India claim more than 1.4 Lakh lives in 2017. And in UT of J&K, up to Nov. 2018, 351 road accidents on record. And 42 fatal and 360 got injured. The approach to implement the rules and regulations available to prevent road accidents is often felt ineffective and half hearted.



As such there is an urgent need for design and construct the mechanism through which the victims or their legal representatives are compensated for their loss in such accidents so that they may be able to receive an appropriate amount in the form of compensation for the damages as a solution for some of the problems relating to the motor vehicles act giving their in appropriate shape and support. Therefore, the public awareness and rule to strictly implement the traffic rules and new scientific technology methods to measures are the need of the hour to prevent this public health issue. Message for road safety and public awareness is the real intention of present research.

OBJECTIVES

1. To know the working efficacy of tribunals in Jammu and Kashmir.
2. To know whether the existing provisions of awarding compensation to the victims of motor accidents covers all types of accidents.
3. To know whether the compensation so awarded to the victim is just, fair and reasonable or not.
4. To know and enquire about the quantum of compensation. .

STUDY AREA

While considering the problems of road accidents, the main focus of the present study is to analyze in depth the provisions relating to motor accident claims, the proper procedure and function of claim tribunals for awarding compensation in motor accident claims. In the matters of the reckless negligent cases relating to motor accidents to find the role of maxim res ipsa loquitur and criminal liability. What are the existing trends in grant of compensation in calculating the amount of compensation in respect of all accidents arising out of use of motor vehicles relating to bodily injury, death and damages to the vehicles and the property, methods which are used by the courts in calculating the amount of compensation while deciding the cases in respect of bodily injury, death and damages to the vehicles and property if any. Relevant provisions applied by the lok-adalat. The conditions, which are considered compulsory by the courts and tribunals for accepting claims of compensation under motor vehicles act. To enquire the relevant factors, which are considered by the courts and tribunals as vulnerable for a claim of compensation under motor vehicle act?

The present research will cover Jammu and Kashmir work shall be done on select parameters of implementation of the Act on social-legal provisions. The research intends to take one district from Kashmir division and one from Jammu for empirical study.

RESEARCH METHODOLOGY

The pursuit of knowledge is the one of the prime deriving forces of intellectual man. The research is as old as man's intellectual consciousness and the desire to seek. This urge of the human brain to re-examines and to re-understand things may rightly be called research, at least to begin with. The research is always expected to be something that may rightly be called research, at least to begin with. The research is always expected to be something original or a piece of work that advances human knowledge, which may be done either by ways of re-understanding an existing theory or investigation of an unexplored area or development of new theory. Accordingly, to *P.V Young* a social research may be defined as a scientific understanding which by means of logical and systematized technique seek to discover new fact or to verify and test the old fact and also to analyze their sequences inter relationship and causal which were desired within an appropriate theoretical frame of reference or to develop a new scientific tools, concept and theory which would facilitate reliable and valid study of human



behaviour. Research means an endeavor to discover intellectual and practical answers to the problems through the application of scientific methods to the known universe. It is a careful and exhaustive investigation of a phenomenon with an objective of advancing knowledge.

Legal Research It is a branch of knowledge which deals with the principle of law and legal institutions.

Purpose is to find out the lacunae in the existing law and to suggest suitable measures or preventions to reform law.

METHOD OF LEGAL RESEARCH

- I. Doctrinal study
- II. Non-Doctrinal study

A method is a tool or technique used to collect data whereas the research methodology is a description, explanation and justification of the methods concerned with research strategy as a whole. All the above methods are applicable in legal research. But researchers opted for the Non-Doctrinal method, which is also called arm chair of research due to the peculiar nature of the research area chosen for the present research work. As under this method, one or more legal propositions are taken as a starting point to focus upon.

SOURCES FOR PRESENT WORK: There are two categories of legal sources namely;

- I. Primary
 - i. Motor Vehicle Act, 1914
 - ii. Motor Vehicle Act, 1939
 - iii. Motor Vehicle Act, 1988
 - iv. Motor Vehicles Amendment Act 2000
 - v. Motor Vehicles Amendment Act 2004
 - vi. Motor Vehicles Amendment Act 2019
 - vii. Legal Service Authority Act.
 - viii. Law of Tort.
 - ix. Indian Penal Code.
 - x. Criminal law.
 - xi. Constitutional law.
 - xii. Law on criminology.
 - xiii. Works Compensation Act.
 - xiv. And Other Compensation Statutes.
2. Secondary
 - i. Recent case laws
Articles
 - ii. Reports
 - iii. Journals

The research shall be done at the empirical level. The research tool used for data collection in field study is interview schedule as well as questionnaires. The interview consisting of structured close as well as open ended questions to get a better view of respondents shall be used. For sampling stratified random sampling and purposive sampling method shall be used.



EVALUATION OF COMPENSATION UNDER THE MOTOR VEHICLE ACT

It is impossible to put a price on life. Similarly, no human being can place a monetary value on his or another person's limb. How does one value the loss of all faculties when some accident victims lose their mental faculties and go into a vegetative condition? The courts can only recompense for monetary and non-monetary losses, as well as some other costs, but no compensation for loss of life or limb. It is mostly necessary to measure monetary loss. Funeral expenses, loss of consortium, and traditional losses are all included in the nominal damages. Earning capability is linked to a long life expectancy. Because of its very nature, whenever a Tribunal or a Court is called upon to determine the amount of compensation to be paid in circumstances it entails some guesswork, some hypothetical thinking, and a certain level of risk. Sympathy is tied to the king of the handicap that has resulted.

Principles to Follow The Tribunal's job has been made a little easier by the Apex Court's recent decision in *Sarla Verma vs. Delhi Transport Corporation*,^{viii} which states that the Tribunal must examine the following elements before making an award compensation:

1st Step (ASCERTAINING THE MULTIPLICAND)

The deceased's annual income should be determined. A deduction is to be taken from the said income for the amount that the deceased would have spent on him by way of personal and living costs are concerned. The equilibrium that should be considered the multiplicand is the contribution to the dependent family.

2nd Step (ASCERTAINING THE MULTIPLIER)

The proper multiplier should be chosen based on the deceased's age and active professional duration.

STEP 3 ACTUAL CALCULATIONS

- The "loss of family dependency" is calculated by multiplying the annual contribution to the family (multiplicand) by such multiplier.
- As a loss of estate, a typical amount in the range of Rs.10,000/- may be applied. If the deceased leaves a widow, an additional payment in the range of Rs.10,000 to Rs.20,000 should be paid to the loss of consortium section.
- The legal heirs of the deceased are not entitled to any compensation for pain, suffering, or difficulty.
- Funeral costs, body transportation costs, and medical care costs for the dead before death (if any) should all be included.
- The deceased's personal and living expenditures should be deducted from his earnings.

COMPENSATION DETERMINATION METHODS

UNIT METHOD: 2 units per adult, 1 unit each child - divide income by total units, and then deduct the value of the deceased's units. The datum figure is balance. When revenue is low, this strategy is preferable.

2nd METHOD: Deduct 1/3 of income for the deceased's personal expenses. Deduct income tax if you have a big income. When the claimant(s) inherits a business or orchard from a deceased person, the value of the deceased person's services must be assessed in order to calculate the datum figure.



Provisions 140, 163A, and 166 are the only sections in the MACT cases where a claimant can seek compensation. The application is finally decided under Section 166, and an interim order can be obtained under Section 140. A final adjudication is made under Section 163 A, whereas an interim order is made under Section 140. The applications filed under Sections 163-A and 140 of the MV Act cannot be combined, whereas the applications filed under Sections 166 and 140 of the MV Act can. Furthermore, Section 155 of the MV Act says that an accident must occur as a result of the usage of a motor vehicle, and that no other accidents are covered by the Act.

CONCEPT OF JUST COMPENSATION

It is pertinent that Section 168 of the Motor Vehicles Act deals with the concept of "just compensation" which ought to be determined on the foundation of fairness, reasonableness and equitability because such determination can never be arithmetically exact and can never be perfect. Section 168 of the Motor Vehicles Act provides that the learned Tribunal shall conduct an inquiry into the claim petition. Section 169 of the Motor Vehicles Act provides that the learned Tribunal shall follow such summary procedure as it deem fit to conduct such an inquiry. The inquiry stipulated in section 168 of the Motor Vehicles Act is different from the civil trial. Section 168 of the Motor Vehicles Act casts a duty on the learned Tribunal to conduct an inquiry in a meaningful manner. The object of the legislature behind making this provision is that the victims of road accidents are not left at their own mercy.

It indicates that "*Just Compensation*" is a sum of money determined by a tribunal or the courts to be enough for an injured person or the legal representatives of a deceased person in the event of a traffic accident. Fairness, reasonableness, and equitability will be the guiding principles. On the one hand, compensation should not be used as a means of exploitation or earning, and on the other side, it should not be less than what is required for equality. A person's loss of life, limbs, or mental torment in an accident cannot be measured on a monetary basis. Compensation should be adequate and based on fairness, equality, and reasonability standards. The concept of "Just Compensation" is based on a number of well-established principles and accepted legal criteria, as well as a number of other factors like good conscience, equity and reasonableness.

HYPOTHESIS

- The law on accidental claims is as per the Act.
- Law relating to accidental claims has been effectively implemented.
- Law covers all types of accidental claims.

RESEARCH DESIGN

In this study, descriptive, explanatory, and analytical research design is used.

FIELD STUDY

Questionnaire was divided into two categories. The first one was for the active lawyers before the Claims Tribunal in district Anantnag (Kashmir), and Jammu, while the second was for litigants who had petitioned the Claims Tribunals in these two districts of the UT Jammu and Kashmir.

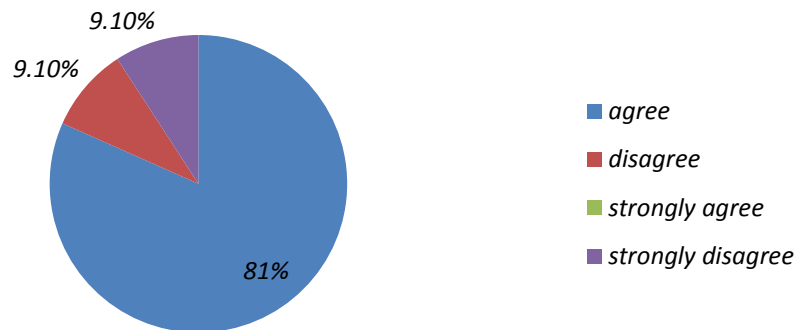
Both of the above-mentioned questionnaires are graphically presented in depth. 75 Advocates and 75 litigants were chosen at random to complete the questionnaire. Because this is a research study for a

paper, the researcher finds it useful to compile data from both respondents together in order to assess the Claims Tribunals operating efficacy. The following is the model questionnaires and its graphical analysis of both respondents.

The empirical study is based on four issues concerning the working efficiency of claims tribunals, which are discussed in depth in the research report. The research will inform us of the actual position of the claims tribunals while they are operating. The researcher focused his research on only four concerns in order to provide a thorough picture of the study's phenomenon.

In First Case: the question was, generally it is believed that Claims Tribunal is not working up to the satisfaction of the public.

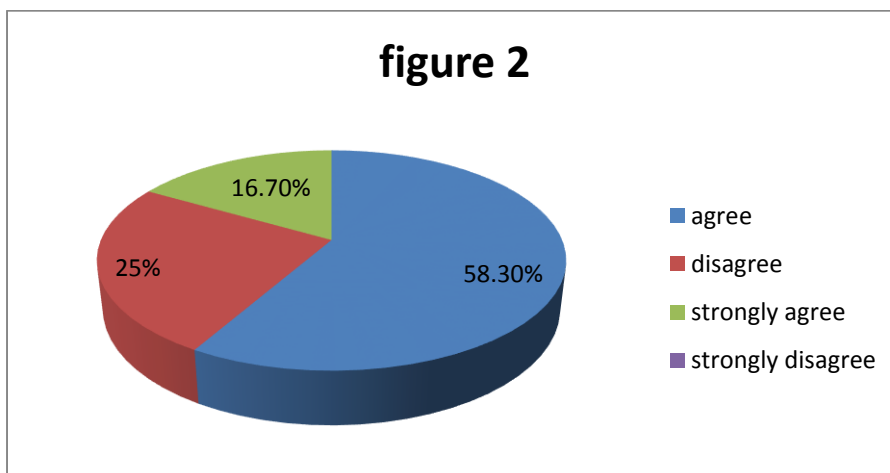
figure 1



In the aforementioned question, it is commonly regarded that the Claims Tribunals in both of the districts are not performing to the public's satisfaction. The 81% of the population believes that the Claims Tribunals are not performing to the public's satisfaction, which is extremely disappointing. This indicates that the general public believes the Claims Tribunals are ineffective. Only 9 % of the population disagrees with this. However, we must see as many responses as possible that are unsatisfactory in terms of claims tribunals.

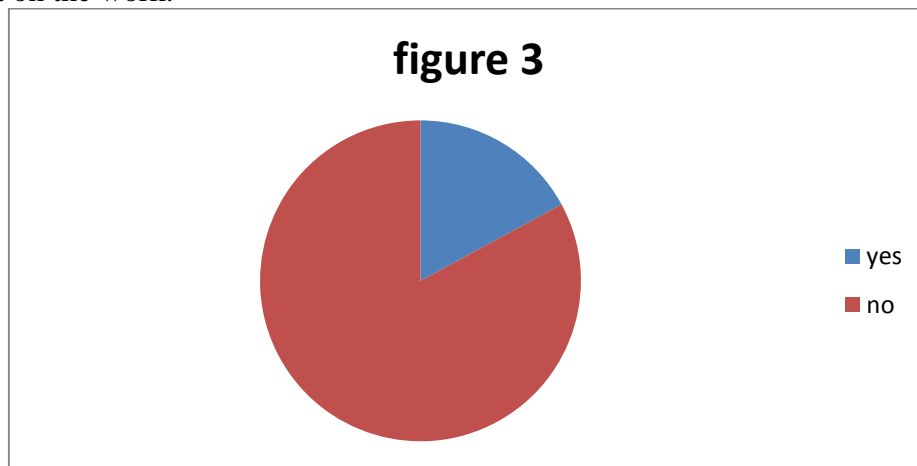
In second case: generally it is believed that claims tribunals are overburdened in addition to their assigned duties.

figure 2

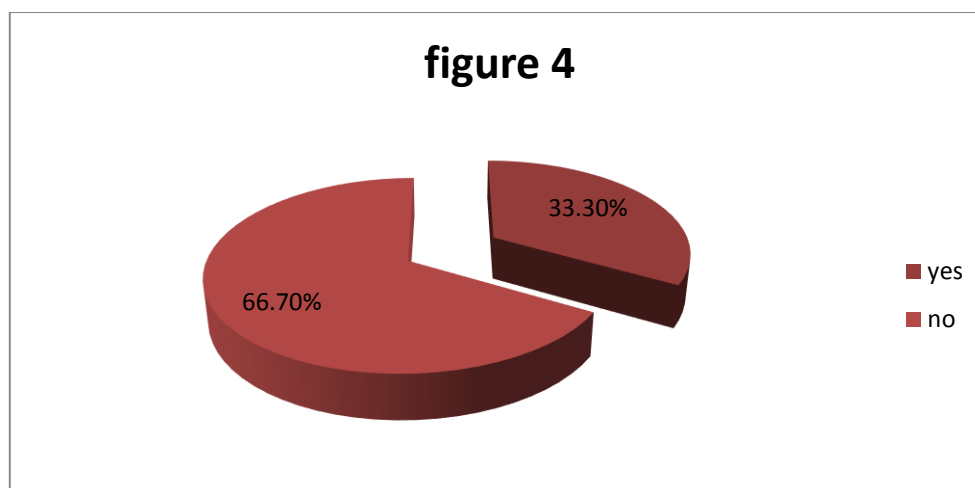


In the second scenario, the research's most anticipated question is whether claims tribunals are overburdened. There is a positive response. The majority of the participants in the study i.e 58 % of respondents of both the sides believes that the Claims Tribunals in both districts are overburdened. Further, described it as the tribunals additional charges is the cause. There are a small number of the people who claim the tribunals are not overburdened.

In third case, do you agree that claims tribunal can conduct proper hearing of the MACT Claims? Another concern is if the tribunals are doing a preliminary investigation properly. 66% believe that tribunals are doing proper investigations. Rest is in small number, and research is required that will have no impact on the work.



Whether reliefs provided under the MACT are sufficient to satisfy the grievance of the victim? The research paper's most crucial question is whether the claimants are pleased with the compensation awarded by the tribunals. There is also no positive outcome. The compensation is unsatisfactory for 66% of respondents, while only 33% are satisfied. We must aim for a large outcome. Our task is to investigate the claims tribunals operational efficiency, which is unfavorable.





FINDING OF THE STUDY

The study's findings are disappointing. The study's findings suggest that more research into the subject is needed in order to predict future outcomes. The Motor Vehicles Act is a welfare law, with the goal of providing convenience rather than being disparaging. As a result, the study suggests that more research is needed in this area. My study on this topic is not new, but the goal of my research is to look into a previously researched topic to evaluate how the situation has changed till now. My work is brand fresh and is based up to the year of 2022 which reveals that the field is still not reformative. The study also found that existing measures for compensating victims of motor vehicles accidents are needed to achieve the final legislation's goal. The study also discovered that compensation awards are not necessarily fair, just or reasonable. The research is limited to two districts, from which we can infer the total operating efficiency of claims tribunals throughout the Union Territory of Jammu and Kashmir.

CONCLUSION

Accident claims in several states are sitting interminably before tribunals due to a lack of judicial staff or other pathological factors, according to "Justice Krishna Ayer". Courts must give this bleeding class of cases top attention, follow a simplified procedure that does not violate natural justice, explore pre-trial agreements to minimise the dispute, and remember that "wiping every tear from every eye" has judicial significance. Because the law owes it to Justice to follow its word. Whatever mechanism is used in awarding compensation to the victims or legal heirs of the deceased in tragic incidents, it is the responsibility of the Legislature and the tribunals to ensure that the award sum is disbursed to the victims or legal heirs. Should be disbursed to the affected parties as soon as possible, and the process for determining the amount of compensation should be as quick as possible. "Justice J.R. Midha" stated in a 'Annual National Seminar on the Working of the Motor Accident Claim Tribunals in India' that settling MACT cases is fairly simple. He stated that if the cases are not resolved in a timely manner, the entire country will be clogged with MACT cases. He claims that if the person's age, family members, and income are known, solving the case will take only three minutes. No one can truly compensate for the loss of life or a limb in an accident. The goal is to compensate the person to the greatest extent possible. Although the future is uncertain, there is a need to standardize somewhere. Compensation must be equitable, not inequitable, nor a lottery.

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