

AS PASSED BY THE RAJYA SABHA
ON 8TH MAY, 2012

Bill No. XXXVI-C of 2007

THE MOTOR VEHICLES (AMENDMENT) BILL, 2012

(As Passed by the Rajya Sabha)

A

BILL

further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2012.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint; and different dates may be appointed for different provisions
of this Act and any reference in any such provision to the commencement of this Act shall be
construed as a reference to the coming into force of that provision.

59 of 1988.

2. In section 2 of the Motor Vehicles Act, 1988 (hereinafter referred to as the principal
Act),—

Amendment
of section 2.

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(i) after clause (3), the following clause shall be inserted, namely:—

‘(3A) “Carriage for persons with disability” means a motor vehicle specially

designed and constructed for the use of a person suffering from some physical disability, and used solely by or for such a person;’;

(ii) after clause (4), the following clause shall be inserted, namely:—

‘(4A) “common carrier” means a person engaged in the business of collecting, storing forwarding or distributing goods to be carried by goods 5
carriages under goods receipt or transporting for hire, of goods from place to place, by motorised transport on road, for all persons indiscriminately and includes a goods booking company, contractor, agent, broker and courier agency, but does not include the Government.

Explanation.— For the purpose of this clause, courier agency means an 10
agency engaged in the door to door transportation of documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;’;

(iii) for clause (8), the following clause shall be substituted, namely:—

‘(8) “dealer” includes a person who is engaged— 15

(a) in building bodies for attachment to chassis; or

(b) in the business of hypothecation, leasing or hire purchase of motor vehicles; or

(c) in the manufacture of motor vehicles; or

(d) in the sale of motor vehicles on the authority of a motor vehicle 20
manufacturer’;

(iv) clause (18) shall be omitted;

(v) in clause (28), after the words “twenty-five cubic centimetres”, the words 25
“or a battery operated vehicle equipped with motor having a thirty minutes power of less than 0.25 Kilowatt” shall be inserted;

(vi) after clause (28), the following clause shall be inserted, namely:—

‘(28A) “multi-axle vehicle” means a vehicle having more than two axles.’.

Amendment
of section 7.

3. In section 7 of the principal Act,—

(i) in sub-section (1), for the words “one year”, the words “two years” shall be 30
substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

‘(1A) No person shall be granted a learner's licence to drive a three wheeler transport vehicle or a light motor transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.

Explanation.—For the purposes of this sub-section, the "light motor 35
transport vehicle" means a transport vehicle, a public service vehicle, a goods carriage, an educational institution bus, a private service vehicle or omnibus the gross vehicle weight of any of which or a motor car or tractor or road-roller the unladen weight of any of which does not exceed seven thousand five hundred kilograms; 40

(iii) in sub-section (2), for the words “motor cycle without gear”, the words, figures and letters “motor cycle with engine capacity not exceeding 50 cubic centimetres or battery operated motor cycles equipped with a motor having a thirty minute power of less than 0.50 Kilowatt ” shall be substituted.

	4. In section 8 of the principal Act, in sub-section (5), the following proviso shall be inserted, namely:—	Amendment of section 8.
5	“Provided that the licensing authority may exempt the applicant from the test to drive a motor vehicle (not being a transport vehicle) if the applicant possesses a driving test certificate issued by an institution or automobile association recognised in this behalf by the State Government.”.	
	5. In section 9 of the principal Act, in the second proviso to sub-section (3), after the words, “issued by any institution”, the words “or automobile association” shall be inserted;	Amendment of section 9.
	6. After section 9 of the principal Act, the following section shall be inserted, namely:—	Insertion of new section 9A.
10	“9A. The State Government may, if circumstances so require, recognise an institution or automobile association referred to in the proviso to sub-section (5) of section 8 or the second proviso to sub-section (3) of section 9, for the purposes of grant of driving test certificate or driving certificate, as the case may be, and shall ensure that such institution or automobile association fulfils all the criteria prescribed by the Central Government regarding qualifications of the instructors, infrastructure requirements and other regulatory provisions under section 12.”.	Grant of recognition of institution or automobile association by State Government.
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	7. In section 10 of the principal Act,—	Amendment of section 10.
	(i) in sub-section (1), for the words “such form”, the words “such form, including electronic form” shall be substituted;	
20	(ii) for sub-section (2), the following sub-section shall be substituted, namely:—	
	“(2) A learner’s licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:—	
25	(a) motor cycle with engine capacity not exceeding 50 cubic centimetres;	
	(b) motor cycle with engine capacity exceeding 50 cubic centimetres;	
	(c) battery operated motor cycles of a specified description;	
	(d) carriage for persons with disability;	
	(e) light motor vehicle non-transport;	
30	(f) transport vehicle of either description such as three wheelers, light motor vehicles, medium goods or passenger motor vehicles, heavy goods vehicles, heavy passenger vehicles and such other categories of vehicles as may be prescribed;	
	(g) road-roller;	
35	(h) any other motor vehicle of a specified description.”.	
	8. In section 15 of the principal Act, in the second proviso to sub-section (1), for the words “the age of forty years”, the words “the age of fifty years” shall be substituted.	Amendment of section 15.
	9. In section 17 of the principal Act,—	Amendment of section 17.
40	(i) in sub-section (2), after the words, “ to the prescribed authority which shall decide the appeal”, the words “as far as practicable, within a period of forty-five days from the date of filing of such appeal” shall be inserted;	
	(ii) in sub-section (2), the following proviso shall be inserted, namely:—	

“Provided that in the event of the appeal being disposed of after the period so specified, the prescribed authority shall record in writing, the reasons for the same at the time of disposing the said appeal.”.

Amendment of section 21.	10. In section 21 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—	5
	“(5) Where the authority authorised to check the driving licence of any driver, is satisfied after breath analyzer test or any other test as may be prescribed by the State Government that the driver is under the influence of alcohol, may suspend the driving licence on the spot for a period not exceeding three months.”.	
Amendment of section 28.	11. In section 28 of the principal Act, in sub-section (2), clause (k) shall be renumbered as clause (m), and before clause (m) as so renumbered, the following clauses shall be inserted, namely:—	10
	“(k) construction of driving tracks, their use and the fee to be charged for use of driving tracks;	
	(l) issue of special licence for instructor of the driving school, the qualifications of such instructor and remuneration payable to such instructor.”.	15
Amendment of section 41.	12. In section 41 of the principal Act,—	
	(i) for sub-section (3), the following sub-section shall be substituted, namely:—	
	“(3) The registering authority shall within a period of fifteen days issue to the owner of a motor vehicle registered by it a certificate of registration in such form, including electronic form and containing such particulars and information and in such manner as may be prescribed by the Central Government.”;	20
	(ii) in sub-section (11), for the words “such amount not exceeding one hundred rupees”, the words “such amount which shall not be less than one hundred rupees and not more than five hundred rupees for motor cycle and not less than five hundred rupees and not more than one thousand rupees for all other motor vehicles” shall be substituted.	25
Insertion of new section 49A. New registration mark and no objection certificate not required in case of temporary change of address.	13. After section 49 of the principal Act, the following section shall be inserted, namely:—	
	“49A. Where an owner of a motor vehicle (other than transport vehicle) on which one-time or long-term tax has been paid, ceases to reside at the address recorded in the certificate of registration of the vehicle on account of his transfer on official duty or shift of residence, the registering authority shall, where the vehicle was registered prior to such transfer or shift of residence, on application for no objection certificate under section 48, refund the pro-rata unutilised tax on the vehicle; and the registering authority where the vehicle is being shifted shall levy and collect pro-rata tax for the remaining valid period of registration of such vehicle.”.	30 35
Amendment of section 50.	14. In section 50 of the principal Act, for sub-section (7), the following sub-section shall be substituted, namely:—	
	“(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority or the last registering authority, as the case may be.”.	40
Amendment of section 51.	15. In section 51 of the principal Act,—	
	(i) in sub-section (2), for the words “if the last registering authority is not the original registering authority”, the words “or the last registering authority, as the case may be, by registered post with acknowledgment due” shall be substituted;	45
	(ii) in sub-section (9), after the words “the appropriate authority may”, the	

words “within a period of thirty days from the date of receipt of such application and” shall be inserted;

(iii) in sub-section (11), after the words “ shall intimate the financier of such transaction”, the words “by registered post with acknowledgment due” shall be inserted.

16. In section 52 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:— Amendment of section 52.

“(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), any registered owner holding a vehicle under hire purchase agreement, lease or hypothecation shall not make any alteration to the vehicle except on the approval of the registering authority and with the written consent of the financier.”.

17. In section 57 of the principal Act, in sub-section (2),—

Amendment of section 57.

(i) for the words “The appellate authority”, the words “The prescribed authority” shall be substituted;

(ii) after the words “as it thinks fit”, the words, “within a period of sixty days from the date of filing the appeal under sub-section (1) of this section” shall be inserted;

(iii) the following proviso shall be inserted, namely:—

"Provided that in the event of the appeal being disposed of after the period so specified, the prescribed authority shall record in writing, the reasons for the same at the time of disposing the said appeal.”.

18. In section 58 of the principal Act, in sub-section (3), for the proviso, the following proviso shall be substituted, namely:— Amendment of section 58.

“Provided that where it appears to the Central Government that heavier weights than those specified in the notification under sub-section (1) may be permitted for vehicles of a particular type, the Central Government may, by order in the Official Gazette direct, that the provision of this section shall apply with such conditions and modifications as may be specified in the order.”.

19. In section 67 of the principal Act, in sub-section (1),—

Amendment of section 67.

(a) in clause (i), after the words “goods carriages”, the words “or constituting an independent regulator for fixation of such fares and freights;” shall be inserted;

(b) in clause (iii), after the words “goods traffic”, the words “or for laying down quality of service requirements for operators;” shall be inserted;

(c) after clause (iii), the following clause shall be inserted, namely:—

“(iv) regarding determination of routes for plying stage carriages.”.

20. In section 68 of the principal Act, in sub-section (3), clause (ca) shall be omitted. Amendment of section 68.

21. In section 71 of the principal Act, in sub-section (3), for clause (a), the following clause shall be substituted, namely:— Amendment of section 71.

“(a) The State Government may, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns.”.

22. In section 74 of the principal Act, in sub-section (3), for clause (a), the following clause shall be substituted, namely:— Amendment of section 74.

“(a) The State Government may, having regard to the number of vehicles, road

conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns.”.

Amendment of section 88. **23.** In section 88 of the principal Act, in sub-section (8), for the words “made under this Act by the Central Government”, the words “notified under this Act by the State Government in the Official Gazette” shall be substituted. 5

Amendment of section 89. **24.** In section 89 of the principal Act, in sub-section (1),—
 (i) in clause (g), after the words “give a decision thereon”, the words “within a period of forty-five days from the date of such appeal” shall be inserted; 10
 (ii) after clause (g), the following proviso shall be inserted, namely:—
 “Provided that in the event of the appeal being disposed of after the period so specified, the State Transport Appellate Tribunal shall record in writing, the reasons for the same at the time of disposing the said appeal.”.

Amendment of section 100. **25.** In section 100 of the principal Act, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:— 15
 “Provided further that the previous approval of the Central Government shall not be required in a scheme covered under inter-State agreement between two or more concerned States.”.

Amendment of section 110. **26.** In section 110 of the principal Act, in sub-section (1),— 20
 (i) for clause (f), the following clause shall be substituted, namely:—
 “(f) specifications of speed governors;”;
 (ii) clause (o) shall be omitted;
 (iii) after clause (p), the following clauses shall be inserted, namely:—
 “(q) design of the bodies for goods carriage and medium or heavy 25
 passenger vehicles and the material to be used for such bodies;
 (r) cabin design on a bare chassis;
 (s) the conditions for the purpose of licensing and regulating the establishments for fabrication of bus or truck bodies on bare chassis;
 (t) the placement of audio-visual or radio or tape recorder type of device 30
 in the transport vehicle;
 (u) seating arrangements in public service vehicles and the protection of passengers against the weather; and
 (v) any matter relating to construction equipment, maintenance of motor vehicles, trailers and fitness of all categories of motor vehicle.”. 35

Amendment of section 111. **27.** In section 111 of the principal Act, in sub-section (2),—
 (i) in clause (f), the word “and” shall be omitted;
 (ii) after clause (f), the following clauses shall be inserted, namely:—
 “(g) installation of speed governors in transport vehicles; and
 (h) installation of fog lights in motor vehicles.”. 40

Amendment of section 113. **28.** In section 113 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—
 “(5) If on the basis of documents in possession of the person in charge of the vehicle at the time of checking is established that the load carried is in excess of the

prescribed ceilings, the checking authorities shall presume that the offence was committed with the knowledge of or under the orders of the consignor or the common carrier whosoever has issued the said documents and in such an event the penalty shall be on such consignor or as the case may be, the common carrier:

5 Provided that in case the overloaded vehicle is carrying goods of more than one consignor, responsibility shall rest with the common carrier who engaged the vehicle:

 Provided further that if the vehicle with such overloaded goods is operating under the charge of the owner or the driver himself, then the responsibility shall lie with such owner or the driver, as the case may be.”.

10 **29.** In section 114 of the principal Act, in sub-section (1), for the words “he may, by order in writing, direct the driver to off-load the excess weight at his own risk and”, the words “he shall, by order in writing, direct the driver to off-load the excess weight at his own risk and cost and” shall be substituted.

Amendment
of section
114.

30. In section 130 of the principal Act,—

Amendment
of section
130.

15 (i) in sub-section (1), in the proviso, for the words “or other acknowledgement issued”, the words “issued in a prescribed form” shall be substituted;

 (ii) after sub-section (4), the following sub-section shall be inserted, namely:—

 “(5) Any police officer or an officer authorised by the Motor Vehicles Department shall display his identity card and establish his identity, before seeking any such document from the driver or owner of the motor vehicle.”.

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31. Chapter X of the principal Act shall be omitted.

Omission of
Chapter X.

32. In section 145 of the principal Act,—

Amendment
of section
145.

(i) for clause (a), the following clause shall be substituted, namely:—

 “(a) “authorised insurer” means an insurer for the time being carrying on general insurance business in India duly licensed by Insurance Regulatory and Development Authority constituted under section 3 of the Insurance Development Authority Act, 1999 and any Government insurance fund authorised to do general insurance business under the General Insurance Business (Nationalisation) Act, 1972;”;

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41 of 1999.

57 of 1972.

30 (ii) in clause (c), for the word and figures “section 140”, the words, figures and letters “section 163A or as the case may be, section 163B” shall be substituted.

 (iii) after clause (g), the following clause shall be inserted, namely:—

 “(h) “permanent disablement” means permanent disablement of a person resulted from an accident, arising out of use of a motor vehicle or motor vehicles and if such person has suffered by reason of the accident, any injury or injuries involving—

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 (i) permanent privation of the sight of either eye or the hearing of either ear or privation of any member or joint; or

 (ii) destruction or permanent impairing of the powers of any member or joint; or

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 (iii) permanent disfiguration of the head or face.’.

33. In section 147 of the principal Act, in sub-section (2),—

Amendment
of section
147.

(i) for clause (a), the following clause shall be substituted, namely:—

 “(a) save as provided in clause (b), the amount of liability as per section 163A or the award given by the court in terms of section 163B;”;

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(ii) the proviso shall be omitted.

Amendment
of section
149.

34. In section 149 of the principal Act,—

(i) in sub-section (1), after the words "or may have avoided or cancelled the policy", the words, letters, figures and brackets "except where the policy is void on the grounds of non-disclosure or misrepresentation or because of non-receipt of premium as required under section 64VB of the Insurance Act, 1938 read with clause 5 4 of 1938. (b) of sub-section (2) and sub-section (4) of this section" shall be inserted;

(ii) in sub-section (2),—

(I) in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) a condition excluding driving by a named person or persons or 10 by any person who is not duly licenced to drive the vehicle in terms of sub-section (1) of section 3 or by any person who has been disqualified for holding or obtaining a driving license during the period of disqualification; or”;

(II) in clause (b), after the words “in some material particular”, the words, 15 letters and figures “or because of non-receipt of premium as required under section 64VB of the Insurance Act, 1938” shall be inserted.

(III) after clause (b), the following clause shall be inserted, namely:—

“(c) that the insurer on acceptance of the policy shall have the right 20 to contest the claim on any relevant ground including quantum.”.

(iii) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) If on the date of filing of the petition, the claimant is not aware of the insurance company with which the vehicle had been insured, it shall be the duty of the owner of the vehicle who is a respondent to the petition to furnish to the Tribunal or court the information as to whether the vehicle had been insured on 25 the date of the accident and if so with which company it is insured or the vehicle was not covered under any insurance on the date of accident."

Amendment
of section
151.

35. In section 151, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) It shall be obligatory on the part of the owners of the transport vehicles to 30 keep a photocopy of the driving licence of the driver employed and deliver an attested copy of the same along with an attested copy each of the registration certificate and permit to the insurers on demand.”.

Amendment
of section
157.

36. In section 157 of the principal Act, in sub-section (2), for the words “The transferee shall apply within fourteen days”, the words, “The transferee shall apply within thirty 35 days,” shall be substituted.

Substitution
of new
section for
section 161.

37. For section 161 of the principal Act, the following section shall be substituted, namely:—

“161. (1) For the purposes of this section, section 162 and section 163—

(a) "grievous hurt" shall have the meaning assigned to it in the Indian 40 Penal Code, 1860; 45 of 1860.

(b) "hit and run motor accident" means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained inspite of reasonable efforts;

(c) "scheme" means the scheme framed under section 163; 45

Special pro-
visions as to
compensation
in cases of hit
and run
motor
accident.

(d) "Solatium Fund" means the Fund established under sub-section (2).

(2) The Central Government may, by notification in the Official Gazette, establish a Fund to be known as the Solatium Fund.

5 (3) The Solatium Fund shall be utilised for paying, in accordance with the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(4) The Insurance Regulatory and Development Authority or any other agency specified by the Central Government shall manage the Solatium Fund.

10 (5) The Insurance Companies shall make such contribution to the Fund as the Central Government may, from time to time, by order specify.

(6) Subject to the provisions of this Act and the scheme, there shall be paid as compensation out of the Solatium Fund,—

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of one lakh rupees;

15 (b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees.

(7) The provisions of sub-section (1) of section 166 shall apply for the purpose of making applications for compensation under this section as they apply for the purpose of making applications for compensation referred to in that sub-section.

20 (8) The Central Government may, by notification in the Official Gazette increase the rate of compensation referred to in sub-section (6), after every three years taking into account the rise in the price index.”.

38. After section 161 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 161A.

25 “161A. (1) The Central Government may, by notification in the Official Gazette, make a scheme specifying the authority in which the Solatium Fund shall vest, the manner in which the Fund shall be administered, the form, manner and the time within which applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the Fund and the payment of compensation therefrom.

Scheme for administration of Solatium Fund.

(2) A scheme made under sub-section (1) may provide that—

35 (a) a contravention of any provision thereof shall be punishable with fine which may extend to such amount as may be specified but in no case exceeding five thousand rupees;

(b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated, with the prior approval of the Central Government, by such officer or authority to any other officer or authority;

40 (c) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund:

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

45 (3) Every scheme made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to validity of anything previously done under that scheme.”.

Omission of section 163.

39. Section 163 of the principal Act shall be omitted.

Substitution of new section for section 163A.

40. For section 163A of the principal Act, the following section shall be substituted, namely:—

Special provisions as to payment of compensation on structured formula basis.

“163A. (1) Notwithstanding anything contained in this Act or in any other law for time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer, in case a valid insurance policy subsists, as defined under section 145, shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, in the manner provided in the Second Schedule to the legal heirs or the victim, as the case may be.

Explanation.— The expression “permanent disability” shall, subject to clause (h) of section 145 have the meaning assigned to such expression and the extent as in the Workmen's Compensation Act, 1923.

8 of 1923.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government keeping in view the cost of living and the rise in the price index, may, by notification in the Official Gazette, revise the amount or the multiplier specified in the Second Schedule after every three years.”.

Substitution of new section for section 163B.

41. For section 163B of the principal Act, the following section shall be substituted, namely:—

Compensation in cases not claimed on structured formula basis.

“163B. (1) A person not preferring to claim compensation under section 163A may claim compensation under this section from the Motor Accidents Claims Tribunal or a civil court, as the case may be.

(2) In such a case the onus for proving any wrongful act, neglect or default of the owner or driver of the motor vehicle causing the accident shall rest on the person claiming such compensation:

Provided that if a person preferring a claim under this section fails to prove such wrongful act, neglect or default of the owner or driver, his claim shall be determined as per the provisions contained in section 163A.

(3) A claim filed before the Motor Accidents Claims Tribunal or a civil court shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the claim within a period of two years from the date of its filing:

Provided that no adjournment shall be ordinarily granted by the Motor Accidents Claims Tribunal or a civil court, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Tribunal or court:

Provided further that the Motor Accidents Claims Tribunal or a civil court, as the case may be, shall make such orders as to the cost occasioned by the adjournment as it may consider necessary:

Provided also that in the event of a claim being disposed of after the period so specified, the Motor Accidents Claims Tribunal or a civil court, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said claim.”.

- 5 **42.** After section 163B of the principal Act, the following section shall be inserted, namely:— Insertion of new section 163C.

“163C. Where a person is entitled to claim compensation under section 163A and section 163B, he shall claim the relief only under one of the said sections and the option once exercised shall be final.”. Option to claim.

- 10 **43.** In section 165 of the principal Act, in sub-section (1), in *Explanation*, for the words, figures, and letter “section 140 and section 163A” the words, figures and letters “section 163A or as the case may be, section 163B” shall be substituted. Amendment of section 165.

44. In section 166 of the principal Act,— Amendment of section 166.

(i) in sub-section (2), the proviso shall be omitted.

- 15 (ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“**(5)** Notwithstanding anything contained in the Motor Vehicles Act, 1939, or any law for the time being in force, in respect of claims for compensation under the said Act which are pending at any stage, at the date of commencement of the Motor Vehicles (Amendment) Act, 2012 in a Claims Tribunal or court, the right of an injured person to claim compensation shall upon the death of injured person be available to his legal representative, irrespective of whether the cause of death was relatable to or had any nexus with the injury or not:

Provided that in case where the cause of death is not relatable to or has no nexus with the injury, the compensation shall be restricted to the period between the date of injury and the date of death of the person so injured.

(6) No application for compensation shall be entertained unless it is made within three years of the occurrence of the accident subject to the general principles provided in the Limitation Act, 1963:

- 30 Provided that in case of a simple injury, not involving permanent partial disability or permanent total disability, no claim for compensation shall be entertained unless it is made within a period of six months from the date of occurrence of the accident.”.

- 45.** In section 167 of the principal Act, the words and letter “without prejudice to the provisions of Chapter X” shall be omitted. Amendment of section 167.

- 35 **46.** After section 167 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 167A.

“**167A.** Notwithstanding anything contained in section 166 and section 168, an insurer shall endeavour to settle the claims out of the Tribunal or a civil court under section 163A and section 163B directly with the claimant either *suo motu* or on receipt of a notice within a period of three months, by mutual consent and on receipt of the compensation by the claimant, the Tribunal or the court shall, if satisfied that a lawful compromise or agreement has been arrived at by them, dispose of the application filed by the claimant in this regard:

Provided that if valid reasons exists, the Claims Tribunal or the court may extend the period of three months so specified in this section.

Explanation.—An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 shall not be deemed to be lawful within the meaning of this section.”

Amendment of section 168.	47. In section 168 of the principal Act, in sub-section (I), the proviso shall be omitted.	
Substitution of new section for section 171.	48. For section 171 of the principal Act, the following section shall be substituted, namely:—	
Award of interest where any claim is allowed.	“171. Where any claims Tribunal or a civil court allows a claim for compensation made under this Act, such Tribunal or the court, as the case may be, may direct that in addition to the amount of compensation, simple interest at two hundred basis points (two per cent.) above the ‘Bank Rate’ (prevailing on the date of award as notified by the Reserve Bank of India) shall also be paid from such date not earlier than the date of making the claim as it may specify in this behalf.”.	5
Insertion of new section 171A.	49. After section 171 of the principal Act, the following section shall be inserted, namely:—	10
Interim payment in case of claim for compensation.	“171A. Notwithstanding anything contained in this Chapter, the Claims Tribunal may award an interim compensation to the victim in respect of death or permanent disability or severe bodily injury or to the claimants against the claim, within three months from the date of filing the application with full particulars:	15
	Provided that such interim compensation shall not exceed—	
	(a) one lakh rupees in case of death or permanent total disablement;	
	(b) fifty thousand rupees in case of permanent partial disablement resulting from loss of a limb or sight of either eye or grievous hurt leading to such disablement:	20
	Provided further that any interim compensation awarded by the Claims Tribunal shall be subject to adjustment in the final amount of compensation.”.	
Amendment of section 173.	50. In section 173 of the principal Act, in sub-section (I),—	
	(a) for the words "ninety days", at both the places where they occur, the words 'sixty days" shall be substituted;	25
	(b) in the first proviso, for the words 'twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less", the words "fifty per cent. of the amount so awarded" shall be substituted.	
Substitution of new section for section 177.	51. For section 177 of the principal Act, the following section shall be substituted, namely:—	30
General provision for punishment of offences.	“177. Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence, be punishable –	
	(a) for the first offence with a fine of five hundred rupees; and	35
	(b) in the event of any second or subsequent offence with fine of not less than one thousand rupees but which may extend to one thousand five hundred rupees.” .	
Amendment of section 180.	52. In section 180 of the principal Act, for the words “or with fine which may extend to one thousand rupees, or with both”, the words “or with fine of not less than one thousand rupees but which may extend to two thousand rupees, or with both” shall be substituted.	40
Amendment of section 181.	53. In section 181 of the principal Act, for the words “or with fine which may extend to five hundred rupees, or with both”, the words “or with fine of not less than five hundred rupees but which may extend to two thousand rupees, or with both” shall be substituted.	

54. In section 183 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amendment
of section
183.

“(1) Whoever drives a motor vehicle in contravention of the speed limits notified under section 112 shall be punishable with a fine which may extend to,—

5 (a) one thousand rupees, if the speed limit exceeds the notified maximum speed up to ten kilometres per hour; or

 (b) two thousand rupees, if the speed limit exceeds the notified maximum speed over ten kilometres per hour but does not exceed twenty-five kilometres per hour; or

10 (c) five thousand rupees, if the speed limit exceeds the notified maximum speed over twenty-five kilometres per hour.

(2) Whoever causes any person who is employed by him or is subject to his control to drive a motor vehicle in contravention of the speed limits notified under section 112 shall be punishable with a fine which may extend to,—

15 (a) one thousand rupees, if the speed limit exceeds the notified maximum speed up to ten kilometres per hour; or

 (b) two thousand rupees, if the speed limit exceeds the notified maximum speed over ten kilometres per hour but does not exceed twenty-five kilometres per hour; or

20 (c) five thousand rupees, if the speed limit exceeds the notified maximum speed over twenty-five kilometres per hour.”.

55. After section 183 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
183A.

25 183A. Whoever uses a mobile phone while driving the motor vehicle, shall be punishable with a fine of five hundred rupees, or, if having been previously convicted of an offence under this section is again convicted of an offence under this section, with a fine of not less than two thousand rupees but which may extend to five thousand rupees.

Punishment
for use of
mobile
phone while
driving.

30 *Explanation.*—For the purposes of this section, "mobile phone" means any appliance, instrument or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic mission, Radio or Hetzian waves (that is the electro-magnetic waves of frequencies lower than 3000 giga cycles per second propagated in space without artificial guide), galvanic, electric or magnetic means.”.

35 **56.** In section 184 of the principal Act,—

Amendment
of section
184.

 (a) for the words “with fine which may extend to one thousand rupees”, the words, “a fine of one thousand rupees” shall be substituted;

 (b) for the words, “or with fine which may extend to two thousand rupees, or with both”, the words “or with fine of two thousand rupees which may extend to five
40 thousand rupees or with both” shall be substituted.

57. For section 185 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 185.

“185. (1) Whoever, while driving, or attempting to drive, a motor vehicle,—

45 (a) is under influence of alcohol and on a test by a breath analyser detects the presence of alcohol in his blood to the extent of,—

 (i) not less than 30 mg per 100 ml but not exceeding 60 mg per 100 ml, shall be punishable for the first offence with imprisonment for a term

Drinking by a
drunken
person or by
a person
under
influence of
drugs.

which may extend to six months, or with fine of two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years or with fine of double the amount provided above for the offence or with both; 5

(ii) more than 60 mg per 100 ml but not exceeding 150 mg per 100 ml, shall be punishable for the first offence with imprisonment for a term which may extend to one year, or with fine of four thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment 10 for a term which may extend to three years or with fine of double the amount provided above for the offence or with both;

(iii) exceeding 150 mg per 100 ml, shall be punishable for the first offence with imprisonment for a term which may extend to two years, or with fine of five thousand rupees or with both; and for a second or 15 subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to four years or with fine of double the amount provided above for the offence or with both;

(b) is under influence of any narcotic substance or drug or any other drug 20 to such an extent as to be incapable of exercising proper control over the vehicle shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees or with both; and for a second or subsequent offence with imprisonment for a term of six months or with fine which may extend to ten thousand rupees or with both, 25 and cancellation of the driving licence issued to him on the conviction for second or subsequent offence.

(2) The Central Government may, for the purposes of clause (b) of sub section (I), by notification in the Official Gazette, having regard to the prevalent medical standards, specify the drugs which shall be deemed to render a person incapable of 30 exercising proper control over a motor vehicle."

Amendment
of section
186.

58. In section 186 of the principal Act, for the words "with five which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees", the words, "with a fine of five hundred rupees and for a second or subsequent offence with fine of one thousand rupees" shall be substituted. 35

Amendment
of section
187.

59. In section 187 of the principal Act, the words, brackets, letter and figures "of clause (c) of sub-section (I) of section 132 or" shall be omitted.

Insertion of
new section
187A.

60. After section 187 of the principal Act, the following section shall be inserted, namely:—

Liability of a
person while
driving a
motor
vehicle in
certain cases.

187A. (I) Without prejudice to the provisions contained in the Indian Penal 40 Code, 1860 whoever drives a motor vehicle in rash or negligent manner and causes injury to a person or damages any property, shall be liable to penalty which may extend to five thousand rupees.

(2) The penalty realised under sub-section (I) shall be credited to the Solatium Fund established under section 161A in such manner as may be prescribed." 45

61. In section 192 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

Amendment
of section
192.

“(I) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 shall be punishable for the first offence with a fine of four thousand rupees which may extend to ten thousand rupees and for a second or subsequent offence with imprisonment which may extend to one year or with fine of ten thousand rupees which may extend to twenty thousand rupees or with both:

Provided that the court may, for reasons to be recorded, impose a lesser punishment.”.

62. In section 192A of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—

Amendment
of section
192A.

“(I) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of sub-section (I) of section 66 or section 79 or section 84 shall be punishable for the first offence with a fine of four thousand rupees which may extend to ten thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine of ten thousand rupees which may extend to twenty thousand rupees or with both:

Provided that the court may, for reasons to be recorded, impose a lesser punishment.”.

63. For section 198 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 198.

“198. Whoever, otherwise than with lawful authority or reasonable excuse enters or moves any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine of five hundred rupees which may extend to one thousand rupees and in case such tampering involves emission control device fitted by the manufacturer, shall be punishable with fine of one thousand rupees which may extend to two thousand five hundred rupees.”.

Unauthorised
interference
with vehicle.

64. In section 200 of the principal Act, in sub-section (I), for the word and figures “section 194”, the word, figures and letter “section 192A” shall be substituted.

Amendment
of section
200.

65. After section 217A of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
217B.

“217B. Notwithstanding anything contained in the Motor Vehicles Act, 1939 or any law for the time being in force, in respect of claims for compensation under the said Act which are pending at any stage, at the date of commencement of the Motor Vehicles (Amendment) Act, 2012 in any Claims Tribunal or court, the right of an injured person to claim compensation shall upon his death be available to his legal representative, irrespective of whether the cause of death was relatable to or had any nexus with the injury or not:

Right to claim
compensation
in certain
cases.

Provided that in cases where the cause of death is not relatable or has no nexus with the injury, the compensation shall be restricted to the period between the date of injury and the date of death of the person so injured.”.

66. For the Second Schedule of the principal Act, the following Schedule shall be substituted, namely:—

(See section 163A)

The multiplier applicable for different age groups:—

Age Group (in years)	Multiplier
(1)	(2)
Above 15 years but not exceeding 16	15
Above 16 years but not exceeding 20	16
Above 20 years but not exceeding 25	17
Above 25 years but not exceeding 30	18
Above 30 years but not exceeding 35	17
Above 35 years but not exceeding 40	16
Above 40 years but not exceeding 45	15
Above 45 years but not exceeding 50	13
Above 50 years but not exceeding 55	11
Above 55 years but not exceeding 60	8
Above 60 years	5

Notes:—

1. For death of non-earning persons, a fixed compensation shall be payable:—
 - (a) Rs. 1,00,000 for children up to 5 years of age.
 - (b) Rs. 1,50,000 for persons more than 5 years of age.
2. Minimum amount payable is Rs. 1,00,000.
3. Factors to be considered for working out compensation:—
 - (a) Age of the victim.
 - (b) Multiplier.
 - (c) Annual income up to Rs. 1,00,000 (the maximum annual income for calculation of compensation will be deemed to be Rs. 1,00,000 even if the income exceeds Rs. 1,00,000).
4. Steps for working out compensation:—
 - (a) The proven annual income of the victim is to be worked out.
 - (b) Appropriate multiplier (higher of the multiplier based on the age of the victim and the age of the surviving/dependent parents/spouse/children) to be applied.
 - (c) Multiply the proven annual income by the appropriate multiplier to arrive at compensation amount, subject to following, namely:—
 - (i) The amount of compensation payable for Permanent Total Disablement as defined in Schedule I of the Workmen's Compensation Act, 1923 (8 of 1923) shall be determined by application of appropriate multiplier to proved income, subject to maximum of Rs. 10 lakhs.
 - (ii) The amount of compensation so arrived shall be reduced by 1/3rd in respect of fatal accidents (reduction of 1/3rd represents living expenses for deceased person, had he been alive).
5. Compensation in case of injury to non-earning persons in non-fatal accidents:—
 - (a) Grievous Injury Not exceeding Rs. 50,000
 - (b) Non-Grievous Injury Not exceeding Rs. 20,000

6. Disability in non-fatal accidents in cases other than non-earning persons:—

The following compensation shall be payable in case of disability to the victim arising out of non-fatal accident:—

5 A. Loss of income, if any, for actual period of disablement not exceeding fifty-two weeks PLUS either of the following subject to maximum of Rs. 10.00 lakhs.

10 (i) In case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the appropriate Multiplier applicable to the age of the victim on the date of determining the compensation.

15 (ii) In case of Permanent Partial disablement, the amount of compensation payable shall be arrived at by multiplying the compensation payable in case of permanent total disablement as specified under item (i) above by the percentage of loss of earning capacity caused by that injury.

8 of 1923. B. For injuries deemed to result in permanent total disablement / permanent partial disablement as per section 145 (h), the percentage of loss of earning capacity shall be as per Schedule I of the Workmen's Compensation Act, 1923.

7. General damages in case of death:—

20	(i) Pain and suffering	Up to Rs. 5,000
	(ii) Loss of consortium, if beneficiary is the spouse	Up to Rs. 10,000
	(iii) Loss of estate	Up to Rs. 5,000
	(iv) Medical expenses – incurred before the death duly supported by bills/vouchers.	Not exceeding Rs. 50,000

8. General damages in case of disability in non fatal accidents:—

25	(i) Pain and suffering – non grievous injury	Up to Rs. 5,000
	(ii) Pain and suffering – grievous injury	Up to Rs. 20,000
	(iii) Medical expenses – incurred before the death duly supported by bills/vouchers.	Not exceeding Rs. 50,000".

RAJYA SABHA

A
BILL
further to amend the Motor Vehicles Act, 1988.

(As passed by the Rajya Sabha)