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

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

With this thought, we hereby present to you

# **A STUDY OF MOTOR VEHICLE INSURANCE** **OPERATION AND CLAIM PROCESSING**

AUTHORED BY - SAHAJ CHOUDHARY

## **INTRODUCTION**

Motor vehicle insurance is an essential component of financial protection and risk management, protecting the safety of vehicle owners, passengers, and third parties in the case of an accident, theft, or other unanticipated disaster. The landscape of motor vehicle insurance in India has changed dramatically over time, owing to legislative revisions, developing interpretations via case law, and the growing role of third-party insurance. This research paper takes readers on a trip through the convoluted history of motor vehicle insurance in India, concentrating on the provisions of the Motor Vehicle Act of 1988, Insurance Act of 1938, subsequent revisions, and key case laws pertaining to motor vehicle insurance claims.

The Motor Vehicle Act of 1988 established the foundations of motor vehicle insurance in India. This act was a crucial step in regulating motor vehicles on Indian roads, establishing a legal framework to oversee not just the behavior of drivers and owners, but also the mandatory demand for motor insurance. The Motor Vehicle Act of 1988 made third-party liability insurance required for all motor vehicles operating on public roadways. This critical legislative reform intended to guarantee that victims of traffic accidents, particularly those involving uninsured automobiles, would not face financial hardship.

The Insurance Act of 1938, a landmark piece of law in its own right, established the groundwork for India's insurance industry, including motor vehicle insurance. The Act oversees all elements of insurance, establishing rules and standards that insurance carriers must follow. This Act has been amended over the years to reflect the changing dynamics of the insurance sector. The junction of the Motor Vehicle Act and the Insurance Act has resulted in the creation of a legal framework within which motor vehicle insurance functions, reflecting the complicated interplay of two fundamental legislative documents.

Furthermore, the evolution of automobile insurance in India is not only due to regulatory changes. It is formed equally by the interpretation of legislation by the court and the development of legal

precedents through case law. Supreme Court rulings and High Court decisions have had a considerable influence on the operation and interpretation of auto insurance plans. In many situations, these decisions have defined the rights and duties of numerous stakeholders, ranging from policyholders to insurance firms to third-party victims of accidents.

The investigation of third-party insurance, which is inherent in the notion of motor vehicle insurance, is a critical feature of this research work. Third-party insurance is critical in indemnifying persons and companies that incur losses or injuries as a consequence of a third-party motor vehicle accident. The legislative structure controlling third-party insurance is critical, and comprehending its complexities is required for a thorough knowledge of motor vehicle insurance in India.

This study paper seeks to give a thorough overview of the historical, legislative, and judicial issues that have shaped India's motor vehicle insurance environment. We hope to shed light on the evolution and present situation of motor vehicle insurance in the country by reviewing the Motor Vehicle Act of 1988, Insurance Act of 1938, subsequent revisions, and key case laws. We hope that our investigation will add to the greater discussion of insurance legislation and its consequences for people, corporations, and society as a whole.

#### Statement of Problem

The issue covered in this study is the complicated and ever-changing environment of motor vehicle insurance in India, which is defined by the interaction of the Motor Vehicle Act of 1988, the Insurance Act of 1938, subsequent legislative revisions, and a body of case law. Understanding the historical, legal, and jurisprudential complexities that effect the operation and claims processing of motor vehicle insurance, particularly in the context of third-party liability coverage, is the difficulty. This study aims to discover particular concerns, ambiguities, and obstacles within this framework, with the ultimate goal of contributing to a better understanding of the present situation of motor vehicle insurance in India and its ramifications for all stakeholders.

#### Research Objectives

The primary goal of this study is to provide a comprehensive analysis of the historical, legislative, and judicial developments that have shaped India's motor vehicle insurance landscape, with a particular emphasis on the provisions of the Motor Vehicle Act of 1988, the Insurance Act of 1938, subsequent legislative amendments, and prominent case law. Furthermore, the study intends to highlight the key components of third-party insurance in this situation. The research seeks to identify and clarify the key issues, complexities, and challenges inherent in motor vehicle insurance operation and claims processing, ultimately contributing to a more profound understanding of the current state



of motor vehicle insurance in India and its broader implications for individuals, businesses, and the legal framework.

#### Research Questions

1. What are the essential aspects of India's Motor Vehicle Act of 1988 and Insurance Act of 1938 that govern motor vehicle insurance, and how have later legislative revisions affected these regulations?
2. What impact have key case laws, notably those decided by the Supreme Court and High Courts, had on the interpretation and application of motor vehicle insurance plans in India, and what consequences do these legal precedents have on stakeholders' rights and responsibilities?
3. What are the main obstacles and uncertainties surrounding third-party insurance in the Indian motor vehicle insurance system, and how do these challenges effect compensation and protection for victims in third-party accidents?

#### Research Limitation

The limits of this research work include its dependence on accessible legislation and case law, which may not cover the most recent changes and revisions to motor vehicle insurance rules and court judgments. Furthermore, the scope of this study may not capture all regional variances and complexities in motor vehicle insurance procedures across India's many states. Furthermore, the research focuses mostly on legal and regulatory concerns, and other non-legal factors impacting motor vehicle insurance may not be thoroughly investigated.

### **EVOLUTION OF MOTOR VEHICLE INSURANCE REGULATIONS IN INDIA**

The establishment of legal frameworks that intended to give financial stability and protection to vehicle owners, passengers, and third parties in the case of accidents has characterized the growth of motor vehicle insurance legislation in India. This chapter dives into the historical evolution of motor vehicle insurance legislation in India, explaining the key legal elements and their influence on the claims system. It is critical to grasp the legal roots upon which the modern automobile insurance environment is formed.

#### Historical Background

The origins of motor vehicle insurance in India may be traced back to the early twentieth century, when insurance practices first emerged. There were no explicit rules controlling motor vehicle

insurance at the period, and plans were frequently tailored agreements between insurers and vehicle owners. The lack of conventional insurance methods exposed both policyholders and third-party victims, necessitating judicial action.

The Motor Vehicles Act of 1939, which laid the framework for later advances in this subject, began the legislative route toward regulating motor vehicle insurance. This statute established the groundwork for India to recognize the need of vehicle insurance. The Insurance Act of 1938, on the other hand, expanded the legal framework for insurance in the country, particularly motor vehicle insurance. It established the concepts of absolute good faith (*uberrimae fidei*) and addressed different areas of insurance industry, establishing a framework for insurance firms to operate within.

The Motor Vehicle Act of 1988 was a watershed event in the history of motor vehicle insurance legislation in India. The regulatory environment has changed significantly as a result of this extensive law. Notably, it made third-party insurance required for all cars operating on public roads, guaranteeing that accident victims, particularly those involved in accidents involving uninsured vehicles, did not face financial ruin. The Act established the notion of "no-fault liability," which simplified the claims procedure by paying compensation without showing any party's guilt or carelessness.

#### Legal Provisions

##### 1. Section 146 of Motor Vehicle Act, 1988

Section 146<sup>1</sup>, requires motor vehicle insurance in India. This clause makes third-party liability insurance mandatory for all motor vehicles operating on public roadways. In other words, it makes car owners responsible for having a proper insurance coverage that covers any potential damages, injuries, or fatalities caused to third parties in the case of a collision involving their vehicle.

The following are the important elements of Section 146 of the Motor Vehicles Act of 1988:

1. **Mandatory Insurance:** Section 146 makes motor vehicle insurance mandatory as a prerequisite for vehicle registration. It is a legislative duty designed to safeguard the rights of third-party victims of accidents.
2. **Third-Party Liability:** This section's insurance coverage largely covers third-party liabilities. This implies that it compensates persons and entities other than the policyholder, like as pedestrians, passengers, or other vehicle occupants, who may sustain injuries or property damage as a result of an accident involving the insured vehicle.

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<sup>1</sup> The Motor Vehicle Act 1988, s 146 (2)

3. No-Fault Liability: Section 146 contains the notion of "no-fault liability," which implies that the insurance company is obligated to reimburse victims without needing the vehicle owner or driver to show blame or carelessness. This idea expedites the claims procedure and helps victims receive prompt recompense.
4. Consequences of Non-Compliance: Noncompliance with Section 146 may result in fines and legal ramifications for the vehicle owner. Operating a car on public roads without adequate insurance coverage not only violates the law, but also exposes the owner to significant financial responsibilities in the event of an accident.

## 2. Section 147<sup>2</sup>

This part of the vehicle Vehicles Act of 1988 specifies the rules for vehicle insurance coverage as well as the liability limitations. It describes the fundamental components of a motor vehicle insurance policy, such as the coverage given and the amount of the insurer's obligation. Section 147 defines the minimum level of insurance coverage required for various kinds of cars in order to ensure that accident victims receive proper compensation. It establishes the scope of insurance coverage and the limits of liability for insurers, ensuring that persons impacted by accidents involving insured cars have enough financial protection.

## 3. Section 149<sup>3</sup>

Section 149 of the Motor Vehicles Act of 1988 defines insurers' obligations to fulfill judgements and awards. It requires insurance firms to pay any judgment or award issued against a person insured for any responsibility covered by the insurance policy. This section guarantees that victims who have successfully sought compensation via legal means are paid in full by the insurer. It imposes on the insurance company the obligation to fulfill the financial responsibilities deriving from the covered incident, as determined by a court decision or settlement.

## 4. Section 157<sup>4</sup>

Section 157 of the Motor Vehicles Act of 1988 addresses the entitlement to compensation in the event of death or permanent disability as a consequence of an accident. It establishes an injured party's or a deceased victim's legal representative's right to compensation for death or permanent disability caused by an accident. This clause guarantees that persons and their families have the legal right to seek

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<sup>2</sup> The Motor Vehicle Act 1988, s 147

<sup>3</sup> The Motor Vehicle Act 1988, s 149.

<sup>4</sup> The Motor Vehicle Act 1988, s 157.

compensation in the event of a fatality or serious injury. It lays the groundwork for insurance claims and legal proceedings linked to accidents, allowing victims and their families to be compensated for their losses.

#### 5. Sections 64VB, 64VC, and 64VD of the Insurance Act, 1938

Section 64VB<sup>5</sup>: This section of the Insurance Act, 1938, deals with the mandatory requirement for insuring liability in respect of the death of or bodily injury to any person caused by an accident arising out of the use of a motor vehicle. It mandates that every insurer carrying on general insurance business in India must provide insurance cover for such liability. The section sets the framework for the compulsory third-party insurance coverage in motor vehicles, ensuring that victims of accidents involving insured vehicles have access to financial compensation.

Section 64VC<sup>6</sup>: Section 64VC focuses on the limits of liability in respect of third-party insurance coverage for motor vehicles. It specifies the maximum amount of liability that the insurer is required to cover for the death of or bodily injury to third parties in an accident involving the insured vehicle. This section ensures that the insurer provides coverage up to a prescribed limit, thus setting a threshold for the financial protection offered to victims in the event of an accident.

Section 64VD<sup>7</sup>: Section 64VD addresses the method for securing third-party insurance policies. It outlines the procedure for obtaining these policies and emphasizes the importance of issuing a certificate of insurance to policyholders. This certificate serves as evidence of insurance coverage and is a critical document that should be carried by the insured while operating a motor vehicle. The section also requires insurance companies to maintain a register of insurance policies.

Sections 64VB, 64VC, and 64VD of the Insurance Act of 1938, taken together, constitute the legal foundation in India for third-party insurance coverage in motor vehicles. They ensure that persons and businesses impacted by accidents involving insured cars get a predetermined level of compensation, and they establish the processes for obtaining and verifying insurance coverage. These restrictions are critical in protecting third-party rights and encouraging financial responsibility among car owners and insurance firms.

### **MOTOR VEHICLE INSURANCE CASE LAWS AND LEGAL PRECEDENTS**

The landscape of motor vehicle insurance in India is significantly influenced case laws and legal

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<sup>5</sup> The Insurance Act 1938, s 64VB.

<sup>6</sup> The Insurance Act 1938, s 64VC.

<sup>7</sup> The Insurance Act 1938, s 64VD.

precedents that have provided clarity on key issues. These cases have played a pivotal role in establishing the rights and obligations of policyholders, insurers, and third parties involved in accidents

1. *United India Insurance Co. Ltd. vs. Santro Devi*<sup>8</sup>

The requirements of mandatory insurance have been designed to achieve a societal goal. It is, in some ways, a component of the social justice doctrine. When a certificate of insurance is granted, the insurance company is legally obligated to compensate the owner. There can be no doubt that an insurance contract must meet the legislative criteria for the creation of a valid contract, but in the event of a third-party risk, the matter must be approached from a different perspective.

2. *New India Insurance Company vs Darshana Devi*<sup>9</sup>

Section 147 of the Motor Vehicle Act specifies the policy requirements and liability limitations. The responsibility of an insurance company to compensate the vehicle's owner and driver, who are principally liable for payment of compensation to a victim or dependent of a deceased stemming from usage of a motor vehicle, is statutory in nature. Whereas the owner of a motor vehicle is required by law to have it covered, an insurance company's defence is restricted.

3. *S. Rajasekaran vs Union of India*<sup>10</sup>

Court in its order dated 20 July 2018 held “On March 26, 2018, the Supreme Court Committee on Road Safety conducted a meeting to discuss the urgent problem of motor vehicle insurance in India. Alarming numbers were given. It was discovered that just around 6 crore of the approximately 18 crore automobiles on the road have the obligatory third-party insurance protection. This meant that a considerable 66% of automobiles were driving without third-party insurance coverage. As a result of the lack of insurance coverage, accident victims, including those who had suffered injuries or fatalities, as well as their legal representatives, were unable to get compensation.”

To address this pressing issue, the Committee held extensive discussions with various stakeholders, including the Insurance Regulatory and Development Authority (IRDA), the General Insurance Council, the Ministry of Road Transport and Highways, and the Department of Financial Services under the Ministry of Finance, Government of India.

Following extensive debate and consideration of all participants' viewpoints, the Committee reached

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<sup>8</sup> (2009) 1 SCC 558.

<sup>9</sup> (2008) 7 SCC 416.

<sup>10</sup> WP(C) No. 295 of 2012.

the following decisions:

1. **General Insurance Companies Must Issue Longer-Term Policies:** It was agreed that all General Insurance Companies must issue three-year third-party insurance policies for new vehicles and five-year third-party insurance policies for new two-wheelers. These would be available as stand-alone products or as part of larger insurance packages. The IRDA was responsible with sending guidelines to all General Insurance Companies to guarantee compliance.
2. **Sharing historical Insurance Data:** The General Insurance Corporation (GIC) and the Insurance Regulatory and Development Authority (IRDA) were directed to swiftly provide historical insurance data with the Ministry of Road Transport and Highways (MoRTH) for integration with the Vahan database.
3. **Improving Accessibility and Availability:** The IRDA was asked to guarantee that all General Insurers follow its directives issued on January 1, 2018, which urged them to make third-party insurance covers available to all applicants via online channels. This includes coordinating with police authorities to expedite the issuing and renewal of third-party insurance policies, as well as guaranteeing their broad availability.

These judgements attempted to address the major issue of automobile underinsurance on Indian roads, notably for third-party liability, and to make it easier for accident victims and their legal counsel to get compensation.

## **CONCLUSION**

This research study has investigated the complex terrain of motor vehicle insurance in India, including its historical history, legal underpinnings, case laws, and key modifications. It has highlighted the complex interplay between legislative laws and court rulings, which jointly define all parties' rights, obligations, and responsibilities in the motor vehicle insurance area.

The evolution of motor vehicle insurance legislation in India, as discussed in Chapter 1, offers the historical context required to understand the current legislative structure. Legislative legislation such as the Motor Vehicles Act of 1988 and the Insurance Act of 1938 have a significant impact on insurance practices, with Section 146 of the former requiring obligatory insurance to protect accident victims.

The second chapter dives into motor vehicle insurance case laws and legal precedents. These cases

resolve ambiguities, interpret policy wording, and create guiding principles for the insurance sector. These legal precedents serve as guides for insurance procedures, ensuring justice, equitable reimbursement, and the safety of policyholders, insurers, and third parties involved in accidents.

We have highlighted the main legislative modifications and measures that have influenced motor vehicle insurance in India throughout this paper. The Insurance Act of 1938, Sections 64VB, 64VC, and 64VD, enforce the required nature of third-party insurance, set liability limitations, and specify methods for procuring insurance coverage.

The issue of underinsurance, particularly in the context of third-party responsibility, is one of the key topics discussed in this study. Statistics released at a Supreme Court Committee hearing in 2018 highlight the scale of the problem, with a significant number of automobiles on the road missing the needed insurance coverage. The choices announced during this conference, which mandated longer-term policy, data sharing, and improved accessibility, represent efforts to address this issue and guarantee accident victims receive fair compensation.

Finally, this research paper presents a thorough analysis of motor vehicle insurance in India, focusing on its historical history, legal underpinnings, case laws, and current revisions. It emphasizes the critical importance of legislative measures and judicial judgments in protecting the interests of all players in the motor vehicle insurance ecosystem. The attempts to close the insurance coverage gap, particularly for third-party liability, are critical to protecting accident victims and preserving the ideals of justice and financial accountability in the field of motor vehicle insurance in India.

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