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## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
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# CRITICAL ANALYSIS OF THIRD-PARTY INSURANCE OF MOTOR VEHICLES ACT

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## ABSTRACT

India tops the list of all nations for the greatest number of fatalities from traffic-related incidents. In India, traffic-related deaths, serious accidents, and minor injuries affect more than seven million people annually, making traffic-related accidents the sixth most common cause of mortality. Despite being a significant public health problem that affects both the most at-risk and the most productive members of society. In India, the cost of road accidents is 2% of GDP annually. Motor vehicle Act is one of the most comprehensive legislations regulating and combating the issues and problems pertaining to all major facts, existing issues and components of the motor vehicle related domain. It may be regulation practices, license, safety of roads, roads infrastructure or granting compensation in any accident case. Although the parliamentary and legislative intent with the judicial precedents are tackling the complexities involved in Motor Vehicle Act 1988 and its amendment in 2019. But there are a few major highlighting issues such as just compensation, tortious liability, no fault liability & liability of insurance companies; international road safety jurisprudence under Motor Vehicle Act and the role of insurance companies require more deliberations and explanations. The present research article is dealing with the major specific deliberations involved in the Motor Vehicle Act in the light of judicial precedents and legislative intent and discusses how the government. The Motor Vehicles Act of 2019 will bring about significant changes and will also investigate the impacts of implementing new legislation. It is supported by a strong-willed commitment to boosting road safety and lowering accidents.

Keywords :- Keywords: Motor Vehicle Act 2019, Amendment, Road Safety, Accidents, Deaths, compensation, tortious liability, no fault liability, insurance companies.

## INTRODUCTION

Insurance is a contract between two parties—an insurer and an insured—under which one party guarantees the other's financial security in exchange for payment of a premium. Motor vehicle insurance is one of several types of insurance and is governed by the Motor Vehicles Act of 1939, which was later revised in 1988.

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Road accidents are now more likely given the growth in the number of vehicles using the roads. The injured parties—peddlers, rickshaw drivers, and other automobile owners who incurred damage—sue the negligent driver. But frequently the driver of the at-fault car is either unable to recompense the injured party or is not in a position to do so makes the problem worse and renders the injured individual incapable of receiving .To address this problem The idea for third-party liability insurance originated in England. India's laws have been built along the pattern of numerous English statutes. Now, each vehicle using the route must have required third-party insurance so that the insurance provider will be compensated to pay this makes the situation worse and injured person is left helpless and can not receive. This was done to ensure that the victim of the accident would not suffer if the driver refused to compensate them. In certain circumstances, the insurer defends the insured against third-party liability. Only once the insured's liability is established does insurance become responsible to pay.

Someone other than the insured and insurer is the beneficiary of this insurance, it is known as third party insurance. In the event that a third person sustains either death or physical harm, the insurer is held entirely responsible. According to a recent source, a bill that would limit the insurer's liability has been passed. Defendants' insurance essentially functions as a type of liability insurance. Regardless of what caused the losses or damages, the first person is liable for them. Automobile insurance is one of the most popular forms of third-party insurance.

Third party insurance provides protection against claims of losses and damages sustained by the principal driver, who is not covered by the insurance policy because he or she is not insured. The third party is the driver who damaged the property.

Insurance, or a piece of insurance, that shields the first party (the policy holder) from legal responsibility to a third party (the other person/property involved, such as the other automobile involved in a traffic collision), is known as third-party liability insurance.

The policyholder, or I, is the first party.

The second party is the insurer, in this case RAS Insurance Ireland DAC for car insurance.

The other person or piece of property involved, such as the other automobile in a traffic collision or the claimant, is referred to as the third party.

Increasingly, the scope of vendor management includes subcontracting and on-sourcing arrangements to reduce fourth party risk. Third party risk management is the process of identifying and reducing risks connected without sourcing the third-party vendors or service providers lowers the chance of a fourth party vehicle involved in a traffic collision

1. For high-risk vendors who handle sensitive data, intellectual property, or other sensitive information, this is especially crucial. Regulators throughout the world are enacting new regulations to make it more difficult for vendors to engage in certain digital risks, which regulatory obligation for vendor risk management. This may involve overseeing sourcing agreements and subcontracting management (fourth party risk).
2. Section 146 of the Motor Vehicles Act of 1988 mandates that all motor vehicles have third-party risk insurance. Now, section 177 of the Act provides penalties for violating this provision. According to sections 146(2) and 146(3) of the Act, motor vehicles owned by the federal, state, or local governments and utilised for governmental purposes only, unrelated to any commercial operation, are free from the requirement to carry third-party insurance.
3. According to Section 140(1), the owner of the vehicle, or as the case may be, the owners of the vehicles, shall be jointly and severally liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section. This liability shall apply whether the accident resulted in temporary or permanent disability of any person. It is prohibited to assign a specific meaning to the word "Usage" in the phrase "accident arising out of the use of a Motor Vehicle" under this provision. As a result, it will cover the incident in which a worker loading a motor vehicle was electrocuted as a result of a high tension wire drawn above that location. AIR 1996 Ker 95, Babu V. Remensen.
4. Section 142 of the Act defines "permanent disability." It states that an accident of the kind described in sub-section (1) of section 140 shall be deemed to have caused permanent disablement of a person if that person has sustained any injury and injuries involving- (a) Permanent privation of the sight of either eye or the hearing of either ear or privation of any member or joint; (b) destruction or permanent impairing of the power of any member or joint; (c) or permanent disfi

This is crucial for high-risk situations.

## LITERATURE REVIEW:-

### BOOKS :-

- According to Ivamy<sup>1</sup>, "A contract of insurance in the broadest sense of the term may be defined as a contract where one person, the insurer, undertakes in turn to pay another person, the insured, a sum of money or its equivalent on the happenings of a specified event for the agreed consideration called the premium."
- Modern Insurance Law, according to Jhon Birds<sup>2</sup>: "The contract of insurance is generally governed by the laws that are a part of the general law of contract, but there's no denying that over the years it has attracted many principles of its own."
- According to Robert E. Keeton, "most insurance regulation initiatives have been initially designed to serve one or more of three main aims." Priority one is to prevent insurance overreach, priority two is to ensure the stability and solvency of insurers, and priority three is to ensure that rating categories and rates are appropriate and fair.

1

### ARTICLES:-

- **Madan Mohan Dutta, Goutam Mitra.**

Indian Journal Of Management Science 5(2) 72, 2015.

The auto insurance business in India has made a significant contribution to the growth of the general insurance industry. In India, it generates 53% of all premium income from general insurance. **Akshat Choudhury**

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Footnotes. 1. Hardy, Ivami ER. General Principles of Insurance law. New York: Butter Worths Law, 1993.

Bird S John . Modern Insurance Laws. 9<sup>th</sup> . Sweet and Maxwell, 2013 n 17p, 556

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Motor vehicle act in one of the most comprehensive legislation regulating and combating the issues and problems pertaining of all the major facts, existing issues and components of the Motor Vehicle related domain. It may be regulating, practices, procedures adopted for granting permits, license safety at roads or granting compensation in any case. Although the Parliamentary and legislative intent with the judicial precedents are tackling in complexities involved in Motor Vehicle Act 1988 and its amendment in 2019. But there a few major highlighting issues such as just compensation, tortious liability , no fault liability & liability of insurance companies requires more deliberations and expectations.

➤ **Ann laya Melbin, Anna Ashna Raphel, Anshiya a Antony**

Since its implementation on September 1, 2019, the Motor Vehicle (Amendment) Act of 2019 has increased the fines for a number of offences in an effort to reduce traffic accidents and enhance road safety around the nation. The Motor Vehicles Bill of 2019 revised the Motor Vehicles Act of 1988 to address the threat of traffic accidents. On July 23, 2019, the Lok Sabha will vote to approve this new law, and on July 31, the Rajya Sabha will do the same.

## **Statement of Problem**

Unlike other insurance policies, purchasing or renewing third party insurance policies is not that much simpler because not all insurers offer this online. Nevertheless, we can look for insurers that do and buy or renew it online. There are some cases associated to third party insurance, just like there are pros. One of them is the reality that, should an accident occur, our insurance would not shield us from the harm done to our car. If we caused the accident, we are also responsible for paying for all necessary repairs. A third-party insurance coverage can protect us from a lot of financial and legal headaches. Third-party insurance coverage varies from firm to company., therefore before making a decision, we would have to analyse the costs and advantages provided by the different businesses .A third --party liability policy offered a driver/owner personal accident insurance policy up to Rs 2 lakhs. This is depending on the rules and regulations mentioned in the car insurance policy. Considering today's hospitalization and medical treatment charges, such as a cover might not be sufficient. Our

medical expenses might be much higher than the claim amount received in case we suffer a personal injury while driving the car.

## Rationale of Study

The rate of motor vehicle accidents and the intricacies generated by motor vehicle on the road is a phenomenon which is well-known to one and all in India. Alarming rates and rapid increase of motor vehicle accidental negligence cases are at a rise as rightfully observed by the most intricate and dangerous means of transportation, according to the council on road safety and traffic management. ‘’. Road safety is the basic and utter concern for every citizen. The causalities generated by the tragic incidents at roads require a careful understanding and a liberal approach towards the injured a careful understanding and compensation is term which has a very wide meaning. Just means something which is fair and satisfying. On aspect of liability, more dependence on the motor vehicle status & rules is not a correct approach; there must be a resort towards common law principles. Common law principles are the source code as to causality generated by the tragic incidents at roads the injured or deceased. On the aspect of liability more a correct approach; there must be a resort towards common law principles.

2

## Research Questions

1. Why insurance against third party is necessary?
2. What are the grounds under which an insurer can defend payment in a third claim?
3. What is the risk of a motor vehicle to other parties??
4. The third party is who? What does it mean and do gratuitous people qualify as "third parties"?
5. What exactly does third party insurance cover, and is the insured himself covered or not?
6. Whether third party claim on car transfers exists and if so, how much compensation is paid.?

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<sup>2</sup> Author is an Advocate at the High Court for judicature for Rajasthan Jaipur India and an Alumnus of Hidayatullah National Law University ,Raipur India.

Sundar Committee on Road Safety and Traffic Management of Road Transport and Highway para 1.2  
2020 Inter national The Journal of Law Management and Humanities. (ISSN 2581- 5369)

## Research objectives

This essay aims to clarify third party insurance concerns and issues in the context of the Motor Vehicles Act of 1988. It will investigate the insurer's level of responsibility, third party determination, and any other objections.

1. To determine if the structured compensation schedule outlined in the third-Party Risks is still relevant.
2. To determine the difficulties in regulating the insurance industry brought on by the risks associated with third-party motor vehicles.
3. It is advised that a public service vehicle insurance rule be adopted that takes into account the requirements of both the insurance sector and insurance policyholders.

## Research Methodology

To comprehend the idea of third party insurance, the research looked at a variety of web sources. The doctrinal technique of study has been employed with the aid of several books, legal precedents, and journal articles.

### CHAPTER-1

#### 1.1. **Meaning**

A third party liability insurance coverage protects us from the financial burden of third-party losses. One may be held liable for the person's financial loss if our car damages a third party's vehicle, their property, or causes them physical harm. It is a specific kind of plan that compensates the third party on our behalf and covers these monetary losses.

#### 1.2 **Nature**

➤ According to the Motor Vehicle Act of 1988, which oversees traffic laws in India, any vehicle that travels on Indian roads must carry third-party liability insurance. In the event that we incur any financial losses as a result of the car, the third-party car insurance policy is the absolute minimum insurance coverage to defend their interests.

Following are the characteristics of third-party coverage:

- The cover is required. If we are detected without a proper cover, we may be subject to legal repercussions, such as fines, penalties, and in certain cases, jail.
- If we purchase a new vehicle, we must purchase third-party insurance for a minimum of three years straight. It is also necessary to have long-term insurance.
- However, annual coverage is available for older vehicles.
- The cost is the same for all insurance providers.
- The premium is paid annually, and rates may change if necessary.

### 1.3 Scope

The cover is required. If we are detected without a proper cover, we may be subject to legal repercussions, such as fines, penalties, and in certain cases, jail.

If we purchase a new vehicle, we must purchase third-party insurance for a minimum of three years straight. It is also necessary to have long-term insurance.

However, annual coverage is available for older vehicles.

The cost is the same for all insurance providers

The premium is paid annually, and rates may change if necessary.

If we were to incur a financial obligation in any of these scenarios, the insurance would take care of the obligation and provide compensation. But if our automobile is damaged or stolen and we lose money, such loss would not be covered by the insurance.

## **CHAPTER-2**

### 2.1. Judicial precedents in 18<sup>th</sup> and 19<sup>th</sup> century

As evidenced by the findings of the "Motor Vehicles Insurance Committee 1936-1937," chapters vii of the 1939 Act and chapter xi of the 1988 Act were adopted in accordance with the general structure of various English statutes. It is crucial to trace the historical development of the law for compulsory third-party in England in order to determine the true aim behind the enactment of Ss. 96 of the 1939 Act, which corresponds to Ss. 149 of the 1988 Act. Prior to 1930, there was no law requiring third-party rights to be protected by mandatory insurance. England When an accident occurred, the wounded person used to file a lawsuit against the driver to recover damages.

However, it frequently turned out that the driver of the at-fault car lacked the financial resources to compensate the injured party or the dependent of the deceased, making it impossible for claimants to obtain compensation. Different laws were passed as a result of these conditions. The "Third Parties' Rights against Insurance Act 1930" was first passed in England to address the dilemma. S.97 of the 1938 Act, which provided third parties the authority to sue insurers directly, included a provision of this Act. The Road Traffic Act of 1930 was subsequently passed, mandating mandatory insurance for motor vehicles. S95 of the Act's provisions was incorporated into the It is important to note that certain insurance policy provisions were rendered useless insofar as third parties were concerned by the English Act of 1930. The purpose of the clause was to ensure that the third party would not suffer as a result of the insured's failure to adhere to the insurance policy's requirements. 1939 act and s146 of 1988 Act

The second Road Traffic Act was subsequently passed in 1934. This legislation's goal was to fulfil the insured's responsibility. Three activities were permitted by this law. The first step was to pay the judgement that was entered against the insured. The second was that the claimant had the right to take legal action against the insurance if it did not release its liability. The insurer could, however, disclaim obligation in certain circumstances, including those listed in section Ss146(2)(a), which is equivalent to section 149(2)(a) of 1988 Act, insurer could defend his liability.

S10(3) of the Road Traffic Act specified the third measure that was contemplated. the 1988 Act. According to this clause, the insurer justifies denying his responsibility to pay the judgement by arguing that the insurance policy was obtained by deception or fraud. This clause was included in S.149(2)(b) of the 1988 Act as well. Both the 1939 Act and the 1988 Act, which included all three actions, were enacted. Neither the 1939 Act nor the 1988 Act gave the insurer more rights than what had been granted by English Law. Therefore, under common law, there was contributory carelessness or an insurer was not negligent. The only legal defences allowed by statute were those that the insurer could use to dispute the claim. Thus, the legislature's aim when passing chapters viii of the 1939 Act or chapter xi of the 1988 Act was even though they may be nationalised corporations, to safeguard the rights of third parties rather than the insurer.

The purpose of the ban on driving without a required insurance policy is to allow anyone injured while using a motor vehicle to get compensation, regardless of the owner's or driver's financial situation.

## **2.2. JUDICIAL VIEW IN 21<sup>st</sup> CENTURY**

In response to this situation, the Indian government has passed laws that will make travel much safer. It has occasionally passed laws to accomplish this goal

- Indian Motor Vehicle Act 1914
- Motor Vehicle Act 1939
- Motor Vehicle Act 1988
- Motor Vehicle (Amendment) Act 2019

India is a signatory to the UN Decade of Action for Road Safety, which seeks to reduce the number of roads by 50% by the year 2020.

The mandatory personal accident (CPA) coverage was increased from 2 lakhs to 15 lakhs as per the Supreme Court of India order, which took effect on September 1, 2018. New cars and two-wheelers purchased after that date would need to have a long term THIRD PARTY BIKE INSURANCE POLICY of 3 years or 5 years, respectively.

According to a circular from the Insurance Regulatory and Development Authority of India (IRDAI), the personal accident component of motor insurance was separated on January 1st, 2019..

In accordance with a circular released by the Insurance Regulatory and Development Authority of India (IRDAI), motor vehicle firms will be permitted to offer separate STANDARD ANNUAL OWN DAMAGE COVER for vehicles and two-wheelers starting on September 1, 2019. Motor Vehicle amendment Act 2019 has strong implications for the offenders; The Motor Vehicles (Amendment Act) 2019's sections 50 to 57 and 93 have been declared by the Central Government to take effect on April 1st, 2022.

## **CHAPTER:-3**

### **Comparative Methodology: -**

## **United States:**

The purpose of vehicle insurance in the US, commonly referred to as car insurance or auto insurance, is to protect against the risk of financial liability or the loss of a motor vehicle in an accident that causes property or bodily harm. The majority of states mandate that motor vehicle owners maintain a certain minimum amount of liability coverage. States like Virginia, where an uninsured motor vehicle tax may be paid to the state, New Hampshire, and Mississippi, which gives vehicle owners the option to post cash bonds, do not need automobile owners to carry auto insurance. Article IV of the US's privileges and immunities clause. The right of people in one state to visit another state is protected by the Constitution. Usually, the owner of a vehicle insures a monthly fee, often called an insurance premium. known as an insurance The type of covered vehicle, marital status, credit score, whether the driver rents or owns a home, the age and gender of any covered drivers, and the area where the vehicle is generally driven and stored all play a role in determining the insurance premium a motor vehicle owner must pay. Based on these variables, the majority of insurance firms will raise insurance premium prices; discounts are offered less frequently.

## **UNITED KINGDOM**

The purpose of vehicle insurance in the US, sometimes referred to as car insurance or auto insurance, is to pay insurers a monthly premium, also known as an insurance The Every person who used a motor vehicle on public roads in the UK was required by law to carry third party personal injury insurance by 1930. The Road Traffic Act 1988, which was last modified in 1991 and is now known as the RTA1988 as amended, establishes this law today. The Act protects drivers from liability for injuries to others (including passengers) and for damage to other people's property resulting from use of a vehicle by requiring them to have insurance or make a specified deposit and keeping those funds deposited with the Accountant General of the Supreme Court a consequence of driving on a public road in other public places.

Vehicles kept in the UK are required to maintain ongoing insurance coverage unless a statutory off-road notification (SORN) has been duly filed. This need resulted from a legal modification made in June 2011 when a rule known as continuous enforcement of insurance was implemented. The result of this was that in the UK, a vehicle that has not been declared SORN is required to have a current insurance policy, regardless of whether it is driven or not and regardless of whether it is stored on a public road.

## **INDIA**

The Motor Vehicle Act of 1988 went into effect on July 1, 1989. It replaced the Motor Vehicles Act of 1939, which had previously replaced the original law. Vehicles Act of 1914.

The "Indian Motor Vehicle Act 1920" (Act on xxvii of 1920), approved by the imperial legislative council, revised the Indian Motor Vehicle Act of 1914. On September 2, 1920, the Governor General of India gave his approval. Sections 11 and 18 of the 1914 Act were modified by the Act..

The Indian Motor Vehicles Act of 1924 made more changes to the Act (Act no xv of 1924). In 2016, the Motor Vehicle Act underwent yet another revision.

Indian Motor Vehicles (Amendment)Act. 2019

The Indian Motor Vehicles (Amendment)Act of 2019 raises the fines for traffic violations and went into effect on September 1st.

Indian Motor Vehicles (Amendment)Act 2017.

The laws governing vehicles will be significantly improved by this. In order to lower accident rates, it calls for body checks on traffic officers and RTO officials to prevent corruption, 7 years in prison instead of the present 2 years for drink-driving fatalities, third-party insurance requirements for all vehicles, and harsher punishments for moving offences.

But the Rajya Sabha's financial problems and the Indian Nation Congress' lack of support prevented the measure from becoming law, and it expired after the interim budget session and because of the general elections.

## **CHAPTER:- 4**

### **Critical Analysis**

While we can look for insurers who provide this online and buy or renew it there, purchasing and renewing third party insurance policies is not as simple as it is for other insurance policies. As previously said, obtaining third-party insurance might spare us from a lot of financial and legal hassles. The third party liability insurance policy varies from business to business. Third party liability insurance is obviously insufficient for our vehicle. The option is to purchase comprehensive car insurance. It contains the component of the third-party liability insurance

coverage that is required. By doing this, after acquiring the coverage, we abide by the law.

However, one must keep in mind that a third-party policy only offers limited protection; insurance does not include coverage for car theft or damage to our own vehicle. The third-party insurance, which only covers personal accident add-one, does not offer a number of valuable add-ones including zero depreciation, roadside assistance, and accessories coverage, which are available with a comprehensive plan. Therefore, it is strongly advised that, if we can afford it, we purchase a complete insurance policy that also included third-party coverage. However, if the vehicle is towards the end of its useful life and its current worth is assessed to be too low to justify renewing comprehensive insurance policies, opting for only third-party coverage makes sense.

## **CHAPTER: -5**

### **5.1. Suggestions:**

Road accidents typically affect two groups of people: ourselves and a third party. In real life, there are no casualties like there are in video games, and there are usually consequences for harm done to other parties. In real life, if we get into a collision with a third party, we might have to deal with the financial and legal fallout regardless of who was at responsibility for the event. In such a situation, having car insurance will shield you from any potential legal and financial obligations that may result from harm done to a third party.

The insured's legal liability in the event of a third party's illness or disability is covered, even if this insurance does not cover damage to the vehicle or injuries to the policyholder. While there is no cap on the liability cover for injury or death, the Insurance Regulatory and Development Authority Of India (IRDA) standards limit the cover for third party property damage insurance at Rs 75 lakh. It also covers damage to third party vehicles and proper due to an accident.

This plan provides protection against damage to our car caused by riots, strikes, and other unnatural occurrences as well as man-made ones like storms, fires, and earthquakes.

Making an informed choice is even more crucial now that multi-year third party covers are available. Customers should research several insurers and plan possibilities before choosing

one because the upfront cost will be higher than it was previously. They ought to shop around and get the best alternative while being wary of those that make false claims about cashless transactions, warranties, etc.

Making an informed judgement while buying has suddenly become more crucial. We had to request separate quotes from the dealer for the car and for the insurance. The next step is to go online, receive comparable quotations from all of the insurance that are accessible, and then make an intelligent decision. They will be able to compare all of the available insurers and make an intelligent choice even though the new legislation may result in higher upfront costs for long-term policies. In this approach, they can save a lot of money even if the new rule would result in higher overall expenses.

## **5.2. Conclusions**

I have made an effort to evaluate the third-party insurance need critically. It is a component of welfare legislation designed to help outside parties. In order to prevent loss for those injured in traffic accidents, it has been made mandatory for all cars operating on roadways. When the offending car cannot be recovered, third parties are put in danger since occasionally even they are unable to make restitution. The victims frequently aren't even aware of this policy. This must be disclosed to the third party by the insured.

They have expressed their discomfort with having an endless liability placed on the insurance by doing so. To address this, it is necessary to create a centralised database for claims relating to fatalities, injuries, and total or partial disabilities in order to maintain track of the claims. As well as reviewing the status of the investigators handling the third-party claims, it is advisable to look into the false claims made by the claimants. While insurance is required at the time of registration, the authorities must take proactive measures to locate motor vehicles that do not have it.

Additionally, the government, not the insurer, determines the very low rate that the insured must pay for third-party insurance, keeping in mind the insured's limitless responsibility.

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