

# Scheme for Payment of Compensation in Case of Hit and Run Motor Accidents

**Tushar R. Ghoniya**

Ph.D. Scholar, Department of Law, Saurashtra University, Rajkot, India.

Email – [adv.tushar@gmail.com](mailto:adv.tushar@gmail.com)

**Abstract:** This article contains the basic information regarding legal framework along with statutory enactment for providing compensation to the victims of hit and run motor accidents.

**Key Words:** Law, Motor vehicles, hit and run, compensation.

## 1. INTRODUCTION:

In India, The motor Vehicle Act, 1988 is the special statute enacted for regulation of the road safety requirements, transportation of dangerous and explosive materials and pollution control measures. The Indian Motor Vehicle Act of 1988 was established to solve the following issues in particular:

- i. Sticking to strict procedures for granting licences and calculating the validity period of such licences.
- ii. To maintain road safety requirements, dangerous and explosive material transportation rules, and pollution control measures.
- iii. To maintain the country's rapidly growing quantity of personal and commercial cars.
- iv. To raise the amount of compensation available to hit-and-run cases.
- v. To eliminate the time limit for traffic accident victims to file a compensation claim.

## 2. PAYMENT OF COMPENSATION IN CASE OF HIT AND RUN :

Section 161 of the Motor Vehicle Act deals with scheme for payment of compensation in case of hit and run motor accidents. It provides that the Central Government may, by notification in the Official Gazette, make a scheme specifying, the manner in which the scheme shall be administered by the General Insurance Corporation, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such 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 scheme and the payment of compensation.

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

- (a) a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both;
- (b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central Government, by such officer or authority to any other officer or authority;
- (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 under the Motor Vehicles Act, 1939 (4 of 1939) as it stood immediately before the commencement of this Act.

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.

## 2. SPECIAL PROVISIONS AS TO COMPENSATION IN CASE OF HIT AND RUN MOTOR ACCIDENT:

Apart from the general provisions for the compensation to the victims of motor vehicle accidents embodied in the Motor Vehicle Act, Section-161 is an example of special provision for compensation in case of hit and run accident which provides that-

- (1) For the purposes of this section, section 162 and section 163—
- (a) “grievous hurt” shall have the same meaning as in the Indian 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 in spite of reasonable efforts for the purpose;
  - (c) “scheme” means the scheme framed under section 163.
- (2) Notwithstanding anything contained in the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or any other law for the time being in force or any instrument having the force of law, the General Insurance Corporation of India formed under section 9 of the said Act and the insurance companies for the time being carrying on general insurance business in India shall provide 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.
- (3) Subject to the provisions of this Act and the scheme, there shall be paid as compensation—
- (a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of two lakh rupees;
  - (b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees.
- (4) 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.

### 3. JUDICIAL APPROACH:

Judicial approach in dealing with the issue of compensation to the victims of hit and run crashes seems to be beneficial for the victims of accidents. In **New India Assurance Co. Ltd v. Rajendra Prasad Bhatt** it was held by the court that a Scheme under section 163 in the name of Solatium Scheme, 1989 has been framed and Rule 20 of that Scheme makes it clear, that an application for compensation thereunder has to be filed in Form 1 before the Claims Enquiry Officer of the Sub-Division in which the accident has taken place and not before the Motor Accidents Claims Tribunal.

In **Mohammed Iyub v. Muzahed Pasha** it was held that in a case when an uninsured vehicle is involved and the standing of the owner or the user of the vehicle is not known, the vehicle itself is the most proximate asset, in respect of which, the claimant in a motor accident, could proceed. Notwithstanding that the vehicle may have been under the use of a person other than the owner for hire or otherwise, a charge ought to be fastened on the vehicle, disabling any disposal of the vehicle to protect claimants such as the petitioner from recovering some portion of the compensation by bringing the vehicle to sale. There is no such legal provision available which would operate to ensure the recovery of money by bringing such a vehicle to sale.

### 4. A NEW SCHEME FOR COMPENSATION TO VICTIMS OF HIT AND RUN MOTOR ACCIDENTS :

In exercise of the powers conferred by section 161 of the Motor Vehicles Act, 1988 ( 59 of 1988) and in supersession of the Solatium Scheme, 1989, the Central Government has enacted scheme “The Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022”. After the amendment in the Motor Vehicle Act, 2019, the Government of India has initiated this exemplary step for the benefit of the victims of hit and run motor accidents under the power sub-section (1) of section 212 of the Motor Vehicles Act, 1988. It came into force with effect from the 1st April, 2022. The said scheme has also published rules regarding creation, operation and sources of the Motor Vehicle Accident Fund, to be used for providing compensation in case of hit and run accidents, treatment for accident victims and also other purposes as may be specified by the Central Government.

### 5. CONCLUSION:

The hit and run accident is a big challenge for any government in providing equal rights to the citizens, but the bottleneck is the vehicle involved in such accidents are not traceable which results in injustice to the victims of accidents more particularly in matter of compensation. However, there was a provision to award compensation to the victims but that was meagre. After amendment in The Motor Vehicle Act, 2019, the amount of compensation to the victim of hit and run accident has been enhanced from Rs. 25000/- to Rs. 2,00,000/- in case of death, and from Rs. 12,500/- to Rs. 50,000/- in case of grievous injuries. Not only that but a special scheme has been enforced to avoid possible delay in granting compensation in advanced manner.



**REFERENCES:**

1. The Motor Vehicles Act, 1988,
2. The Motor Vehicles (Amendment) Act, 2019,
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4. Mohammed Iyub v. Muzahed Pasha, 2010 (1) TAC 313 (Del.)
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