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PUBLIC LIABILITY INSURANCE ACT 1991, AND WORKMEN COMPENSATION ACT 1923 AND MOTOR VEHICLE ACT 1988

5.0 INTRODUCTION

In this chapter we will discuss various Acts where an employee or third party will get compensation because of no fault of his/her. For eg. A vehicle driver hits pedestrian on road with out his fault then the owner of vehicle is responsible to payment the compensation to the nominee of the deceased. But an individual may not be financial strong to pay the compensation therefore the law was enacted to insure all the vehicles so that affected person gets the compensation from insurer. Similarly the owner of any industry may have to pay compensation to the general public because of no fault but they are affected because of the industry.

5.1 OBJECTIVES

At the end of this lesson, you will be able to

- How the compensation can be claimed from the industrialist because of general public is affected.
- How the industrialist can cover their risk through insurance.
- How the vehicle owner can protect himself to pay the compensation.

Notes

5.2 PUBLIC LIABILITY ACT 1991

5.2.1 Introduction

The workers who are handling hazardous substances and likely to fall victims of accidents. The employees used to escape their liability on the grounds of assumed risk or contributory negligence brought legislation to protect the workers for their safety in hazardous occupation. One of the ways to protect workers is through providing Insurance to them. The employer has also to share the burden in this.

Very often, the majority of the people affected are from the economically weaker sections & suffer great hardships because of delayed relief & compensation. While workers and employees of hazardous installations are protected under separate laws, members of the public are not assured of any relief except through long legal processes. Industrial units seldom have the willingness to readily compensate the victims of accidents & the only remedy now available for the victims is to go through prolonged litigation in the court of law.

It is, therefore, essential to provide for Mandatory Public Liability Insurance for installations handling hazardous substances to provide minimum relief to the victims. Such Insurance, apart from safe guarding the interests of the victims of accidents would also provide cover & enable the industry to discharge its liability to settle large claims arising out of major accidents. If the objective of providing immediate relief is to be achieved, the mandatory public liability Insurance should be on the principle of "no fault" liability as it is limited to only relief on a limited scale. However, availability of immediate relief would not prevent the victims to go to courts for claiming higher compensation.

An Act to provide for public liability insurance for the purpose of providing immediate relief to the persons effected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto, was introduced in 1991. The Act gives relief on the principle of "No Fault".

Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to give following relief for such death, injury or damage.

(i) Reimbursement of medical expenses incurred upto a maximum of Rs. 12,500 in each case.

(ii) For fatal accidents the relief will be Rs. 25,000 per person in addition to reimbursement of medical expenses, if any incurred on the victim up to a maximum of Rs. 12,500.

(iii) For permanent total or permanent partial disability or other injury or sickness, the relief will be (a) reimbursement of medical expenses incurred, if any, upto a maximum of Rs. 12,500/- in each case and (b) cash relief on the basis of percentage of disablement as certified by an authorised physician. The relief for total permanent disability will be Rs. 25.000.

(iv) For loss of wages due to temporary partial disability, which reduces the earning capacity of the victim, there will be a fixed monthly relief not exceeding Rs. 1,000/-per month up to a maximum of 3 months provided the victim has been hospitalised for a period exceeding 3 days and is above 16 years of age.

(v) Upto Rs. 6,000 depending on the actual damage, for any damage to private property.

INTEXT QUESTIONS 5.1

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1. Mention the compensation payable under permanent disability.

2. Mention the medical expenses payable.

5.3 WORKMEN'S COMPENSATION ACT 1923

5.3.1 Introduction

The Workmen's Compensation Act 1923 came into force w.e.f. 1/7/1924. The object of this Act is to make provision for the payment of compensation to a workman only i.e. to the concerned employee himself in case of his surviving the injury in question and to his dependents in the case of death.

The growing complexity of industry in the country, with the increasing use of machinery & consequent danger to workmen, along with the comparative poverty of the workmen themselves renders it advisable that they should be protected from hardship out of accidents. A legislation of this kind helps to reduce the number of accidents in a manner that cannot be

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achieved by official inspection and to mitigate the effect of accidents by provision for suitable medical treatment, thereby making industry more attractive to labour & increasing its efficiency.

The Act provides for cheaper & quicker disposal of disputes relating to compensation through tribunals than was possible under the civil law.

Section 2 (1) & (4) of the Act defines the amount of compensation to be paid in the case of death, permanent total disablement and Permanent partial disablement due to an injury while on duty or due to disease contracted which is peculiar to that environment also called “occupational disease”.

The following is the amount payable in different cases:—

(a) On death an amount equal to 50% of the monthly wages last drawn by the deceased workman multiplied by the relevant factor or Rs.80,000/- whichever is more.

(b) Where permanent total disablement occurs an amount equal to 60% of the monthly wages last drawn by the injured workman multiplied by the relevant factor or Rs.90,000/- whichever is more.

(The relevant factor mentioned in (a) & (b) above is based on the age of the employee and is given in the act. For e.g. at age 16 the factor is 228.54; at age 30 it is 207.98; at age 50 it is 153.90. For the purpose of arriving at the compensation the act has fixed the maximum monthly wages of Rs.4,000/- p.m. and in case his salary is more than Rs.4,000/- p.m. he shall be deemed to be getting a wage of Rs.4,000/- p.m. only).

(c) In case of permanent partial disablement the amount payable will be a percentage of the amount payable due to permanent total disability and the percentage is specified in the act. Some examples are:

Amputation through shoulder joint	-	90%
Loss of thumb	-	30%
Loss of four fingers of one hand	-	50%
Loss of middle finger (whole)	-	12%
Loss of Ring or little finger (whole)	-	7%

(d) In case of temporary total or partial disablement a half monthly payment of the sum equivalent to 25% of the monthly wages of the workman.

In addition to the above in case of death of an employee, a sum of Rs.2,500/- is required to be deposited by the employer with the commissioner for payment to the eldest surviving dependant of the workman towards funeral expenses.

Some examples of occupational disease are:

1. Hearing impairment caused by noise.
2. Lung cancer caused by asbestos.
3. Lung disease caused by cotton, flex, hemp etc.
4. Skin disease caused by physical, chemical or biological agents.

5.4 THE MOTOR VEHICLE ACT 1988

5.4.1 Introduction:

The first law relating to Motor Vehicles was the Indian Motor Vehicle Act 1914, which stayed in operation till the year 1939. During this long period there was a vast change in the transport scenario and the need was felt to comprehensively renew the old law as the developments rendered the working of the old Act of 1939 inconvenient and it was not in tune with the change in time and the new Act of 1988 was enacted.

The Motor Vehicle Act was amended in 1988 to make Third Party Liability Insurance compulsory thus no uninsured vehicle is allowed to play on the roads or in any public place in India. The need of this enactment was felt due to the growing number of vehicles and the increasing number of accidents causing injury and death of the people involved in the accident and not being able to get relief from the owner/ driver of the vehicle because of long protracted legal battle involved, which many victims could not afford. (Section 146)

The Act now provides that irrespective of the fact that the fault was of the driver/ owner or not (No-fault) the victim of an accident will be entitled to a payment of Rs. 50,000/- in case of death and Rs. 25,000/- in the case of grievous bodily injury.

Motor Accident Claim Tribunals (MACT) have been set up by the State Government to provide speedy redressal of Third

Party claims. Damage to property of Third party is also covered and the limit is Rs.6,000/-.(Section 140 of Motor Vehicle Act).

In addition to the above claim the affected party can claim more compensation on account of death or permanent disability under any other law of the country. (Section 141 & 142).

Motor Vehicle Act also provides for the creation of a "Solatium Fund" to cater to the victims of Hit and Run cases. The fund is created by the contribution from Insurance companies, state and central Government and the victims of Hit & Run cases are entitled to receive Rs.25,000/- in case of death and Rs.12,500/- in the case of grievous bodily injury. (Section 161)

Section 147 defines the requirement of an Insurance policy and the limits of its liability. It also makes the issue of certificate of Insurance compulsory, as well as the limitation of a cover note.

Section 163A makes special provisions for payment of compensation on a structured formula basis by the insured or the insurer as the case may be. The structure formula is based on the age of the deceased or injured person, his earning capacity and his/her dependents.

INTEXT QUESTIONS 5.2

1. What is relevant factor under WC Act 1923?
2. Why is MACT set up?

5.5 SUMMARY

To protect an individual on account of any accidents because of no fault then he is entitled for the compensation under Public liability Act or Motor Vehicle Act and if he/she happens to be an employee in any industry then he/she is entitled for the compensation under Workman's Compensation Act. Under these Acts the amount or formula is defined so that every individual is compensated properly or sufficiently, not arbitrarily. In-spite of these acts there are many disputes in respect of compensation as the affected parties demand more compensation because of his/her earning capacity and age etc. In Indian Courts most of the cases are related for Motor Vehicle Act. To settle these cases speedily the Govt has set up Tribunal i.e. Motor Accidents Claim Tribunal(MACT) in each State.

5.6 TERMINAL QUESTIONS

1. Mention the compensation amount payable under Public Liability Act 1991.
2. Write short note on Workman's Compensation Act 1923 or Motor Vehicle Act 1988.

5.7 OBJECTIVE TYPE QUESTIONS

1. Death Benefit under Public Liability Act 1991

   a. Rs 25,000/- b. Rs 50,000/-

   c. Rs 1,00,000/- d. Rs 12,500/-

2. Public Liability Act 1991 is applicable to ________(All Industries/ hazardous industries).
3. No benefit is available in case of bodily injury under Public Liability Act 1991. (wrong/correct)
4. Workmen's Compensation Act is applicable to _________. (manufacturing/ service industry)
5. If a workman dies due to accident, the minimum Compensation is payable under Workman's Compensation Act is _______ (Rs 80,000/-/ Rs 90,000/-).
6. **Under Motor Vehicle Act, 1988 Third Party claims can be adjudicated by:**

   a. Insurable Ombudsman b. Motor Accident Claims Tribunal

   c. Lok Adalat d. Lok Nyayalaya

7. **Compensation for death U/S 140 of the Motor Vehicle Act is:**

   a. Rs.25,000 b. Rs.12,500

   c. Rs.50,000 d. Unlimited

8. **Third Party death liability in Private Car is unlimited. The liability in case of Motor Vehicle is:**

   a. Rs.5 lakh b. Rs.1 lakh

   c. Unlimited d. None of the above

9. **Compulsory insurance of motor vehicle is provided for the first time under:**

a. Motor Vehicle Act, 1988.

b. Motor Vehicle Act, 1939.

c. Insurance Act, 1938.

d. Road Transport Authority Act

10. **The compensation for death U/S 161 of the Motor Vehicle Act is:**

a. Rs.50,000 b. Rs.25,000

c. Motor vehicle act Rs.12,500 d. Unlimited

5.8 ANSWERS TO INTEXT QUESTIONS

5.1

1. Rs 25000/-
2. Rs 12500/-

5.2

1. Age of the employee at the time of accident.
2. For speedy redressal of the settlement of claim.

5.9 ANSWERS TO OBJECTIVE TYPE QUESTIONS

1. a	2. hazardous industry
3. wrong	4. Manufacturing
5. Rs 80000/-	6. b
7. c	8. c
9. a	10. b