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**INTERNATIONAL ROAD FEDERATION  
FIFTH REGIONAL CONFERENCE**

**ON**

**INSTITUTIONAL ARRANGEMENTS FOR  
REDUCTION OF ROAD FATALITIES**

# INSURANCE & COMPENSATION SYSTEM FOR RELIEF TO VICTIMS

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## ROAD SAFETY

### “Health of the Nation is more important than the wealth of the Nation”

- ⑩ Road safety is a major public health concern.
- ⑩ Indian road network is second longest in the world covering more than 3 million Kilometers.
- ⑩ 80% of road length consists of village and other roads and 12% constitutes major districts roads.
- ⑩ 85% of passenger loads and 70% of freight load is carried by road.
- ⑩ As per 2004 data there were 72.7 million vehicles on roads and vehicle fleets are doubling after every 6 to 7 years.
- ⑩ Financial outlay for road transport sector during 10th plan i.e. 2002-2007 was 9416.90 crores.

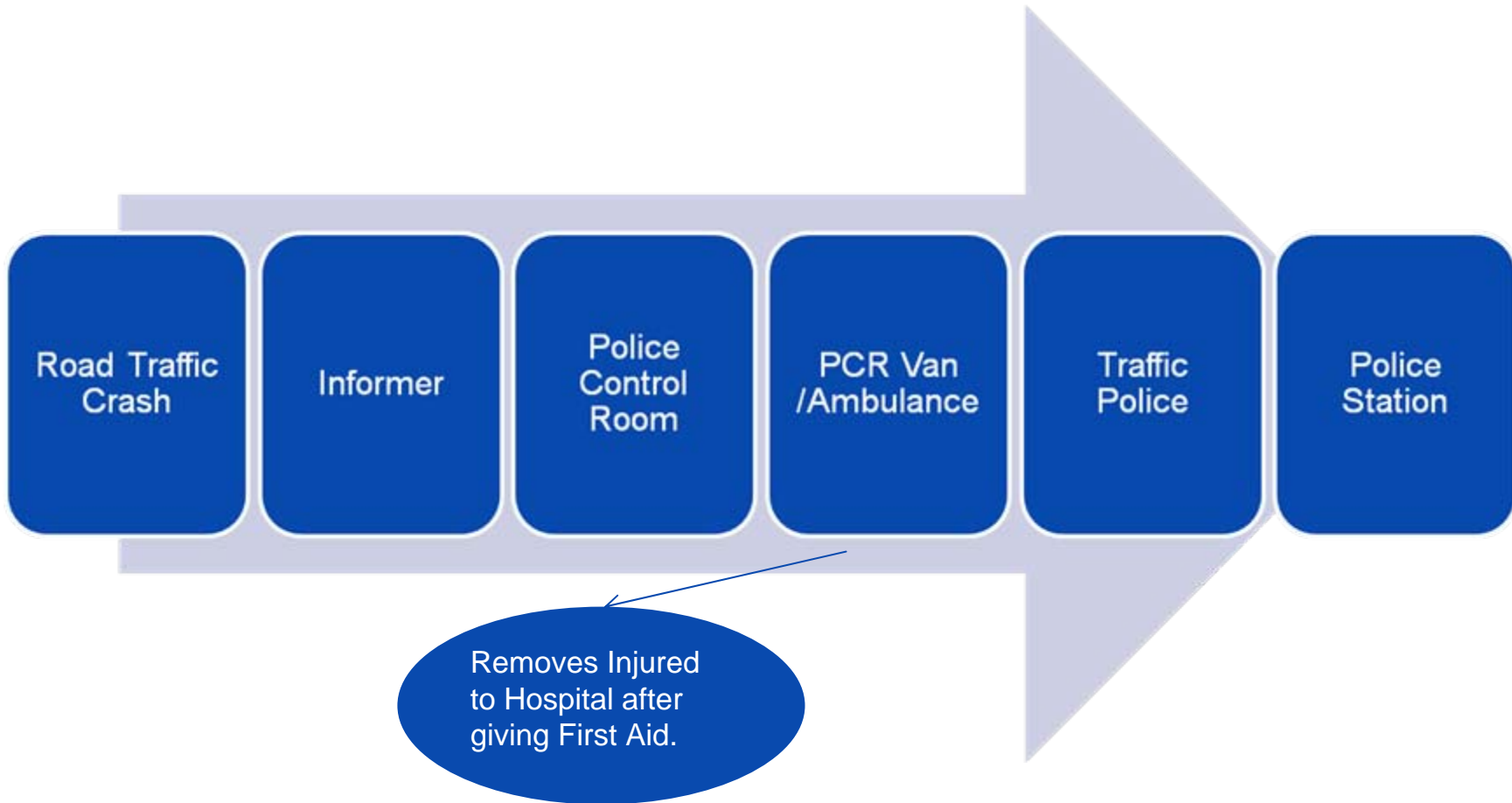
## WHAT FIGURES SAYS...

### Road Accidents In India (In Thousand)

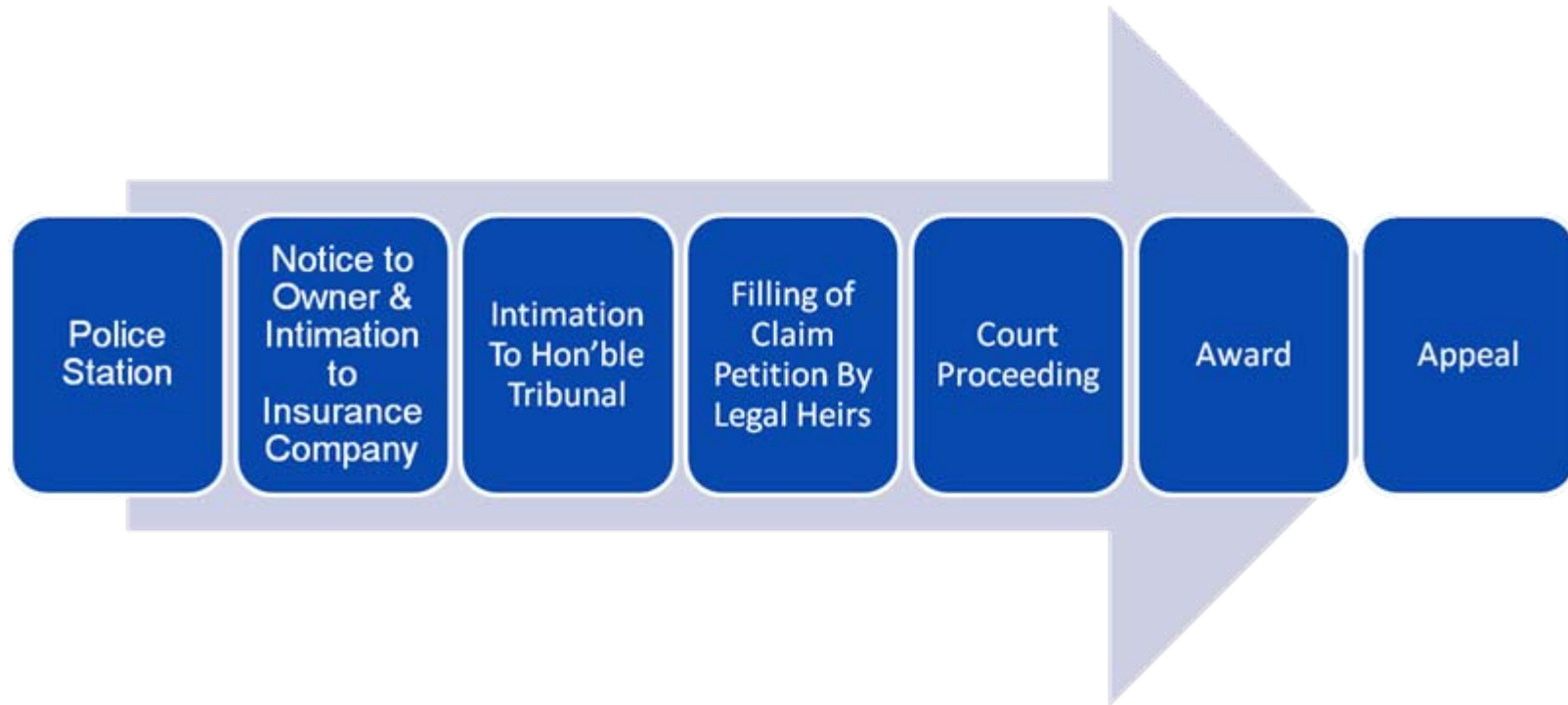
Year	Road Accidents	Persons Killed	Persons Injured
1980	153.2	24.6	109.1
1990	282.6	54.1	244.1
2000	391.4	78.9	399.3
2005	439.2	94.9	465.2
2010	500	>130	>550

## ACCIDENT & CLAIM SYSTEM

Flow of information in case of road traffic crash



Further Action:



# INSURANCE & COMPENSATION SYSTEM FOR RELIEF TO VICTIMS- INDIA

## AN OVERVIEW

- ⑩ Fatal Accident Act, 1885- Provided procedure & named legal heirs to claim compensation from the wrong doer.
- ⑩ Governed by Motor Vehicles Act, 1939. The Motor vehicle act was amended in 1988 to make Third Party Liability Insurance Compulsory.
- ⑩ The need for enactment was felt due to the growing number of vehicle proportionately increasing the number of accident causing death , injury and third party property damages & the long protracted legal battle which the victim could afford many a time.



## Contn....

- ⑩ Motor Accident Claim Tribunals (MACT) has been set up by State Government to provide Speedy Redressal of Third Party Claims.
  
- ⑩ Concept of No Fault Liability - Entitled the kith & kin of deceased/ victim of the accident payment of Rs.50,000 in case of death & Rs. 25,000 in case of grievous Injuries.






**REQUIREMENT:** 1. Accident by Offending Vehicle  
2. Offending Vehicle Being Insured  
3. Death & Grievous Injury Been caused

- ⑩ Motor Vehicle Act further provides for the creation of “Solatium Fund” to cater the victim of Hit Run Accident.

## Continue...

- ⑩ This Fund is created by the Contribution from Insurance Companies, State Government & Central Government & the Victims are entitled to receive 25,000 in case of death and 12,500 in case of permanent disability.
- ⑩ ESTABLISHMENT OF TP POOL- 1-Apr-2007- For payment to victim in case , vehicle Involved is a commercial type.

## CLAIM PROCEDURE (Petition for Compensation):

-  Claim Under Section 163 A, MV ACT 1988
-  Claim under Section 166 & 140, MV Act 1988
-  Claim Under Section 166 , MV Act 1988
-  Claim Under Section 169 (3), MV Act 1988
-  Appeals

## **COMPENSATION ON THE BASIS OF STRUCTURED FORMULA**

With the 54<sup>th</sup> Amendment in the year 1994, special provision as to payment of compensation on structural formula basis has been provided.

This provision is being introduced to provide compensation to the third party victims without proving negligence or tortuous act. Schedule-II has been appended to the Act to give such structural formula. Hon'ble Supreme Court has held that award under Section 163A is final, independent and not in addition of award in claim petition under Section 166 where claim is sought on negligence basis. Thus, one can claim compensation in either of the Section.

## ASSESSMENT OF CLAIM

In every such assessment certain assumptions are to be made and there is all possibility of variance from Judge to Judge in applying the various principles enunciated by the Courts from time to time .

### KINDS OF ASSESSMENT

- ⑩ Nance's Method- Popularly known as Discounting Method
- ⑩ Davis Method – Presently Followed

## HON'BLE SUPREME COURT ON ASSESSMENT

- ⑩ C.K Iyer's Case
- ⑩ Lord Diploc on Assessment
- ⑩ Susamma Thomas Case

### Relevant Considered Factors:

1. Monthly Income of deceased/ Injured
2. Age of victim
3. Number Of dependants
4. Deductions

## **RECENT DEVELOPMENT & CHANGES - DELHI**

### **Rajesh Tyagi & Others Vs Jaibir Singh – Implementation of Pilot Project**

- ⑩ Claim Tribunal Agreed Procedure- Commencement- 2<sup>nd</sup>- Apr-10
- ⑩ Directions to Police
- ⑩ Expedited Settlement of Cases
- ⑩ Active Implementation of Pilot Project- JAI PRAKASH CASE (SC)
- ⑩ Hon'ble Supreme Court- Suggesting for Cashless Medical Facilities to Victim.

## **KEY ISSUES**

### **1. EXISTING & POTENTIAL INFLUENCE - MOTOR INSURANCE INDUSTRY**

(As the basic objective of insurance systems is to compensate for losses incurred, the motor and personal injury insurance sector have a potentially key role in ameliorating the consequences of those casualties and crashes not avoided. They will also have an economic interest in the reduction of outlays, via a reduced number of casualties and crashes.)

### **2. FAIR ,TIMELY & JUST COMPENSATION TO VICTIMS & NOT EXHORBITANT**

### **3. PROMOTION OF SAFE DRIVING & DISCOURAGEMENT OF UNSAFE DRIVING.**

(Premium pricing incentive to promote safer driving)

### **4. CONTROL OVER FRAUD CLAIMS**

(False Implantation of vehicle in connivance with Police, Conversion of non accidental cases into accident cases, Fake Insurance)

### **5. CURRENT LEGAL REQUIREMENT & CHALLENGES**



## MAJOR PROBLEMS

Types of vehicles plying on Indian roads along with their wrong usage according to their capacity is a matter of great concern for road safety. These vehicles create traffic chaos and are a cause of road crashes.

Few examples are :--



A mini shop on a cycle



Wrong sitting posture of a man in a goods carrier



Vertical overload



Improper Overloading



Jeep with over capacity of passengers



■ Lack of parking space alongside highways leading to parking on roads.

## TRAFFIC SAFETY & MANAGEMENT

### **Accidental Threats :-**

- ⑩ Movement of animals on busy roads -
- ⑩ Flouting of rules by road users.
- ⑩ No separate pathway for the non motorized transport and pedestrians.
- ⑩ Poor visibility due to fog.
- ⑩ Parking of any type of vehicle at own convenience.
- ⑩ Playing mischief on road (specially with women drivers) while driving.
- ⑩ Seeking attention on road by playing gimmicks like leaving the handle while driving, standing while driving etc.
- ⑩ Use of pressure horns or horns with loud and funny noises.
- ⑩ Listening to loud music etc.



## JUDICIAL & ADMINISTRATIVE MANAGEMENT

- ⑩ Consideration of Aspect of Contributory Negligence
  
- ⑩ Apportionment of Liability on Owner in case of violation of requirement of driving licenses, issue of permits, grant of fitness certificates for vehicles on roads, prescription of emission and safety related norms for motor vehicles, norms for type approval in production of new motor vehicles as per the provisions and Law.
  
- ⑩ No passenger / occupant beyond sitting capacity
  
- ⑩ Control on Drunken Driving.

## SUGGESTIONS – IMPLEMENTATION OF ROAD SAFETY AWARENESS MEASURES

- ⑩ Thrust of road safety is 4 E's i.e. education, enforcement, engineering and environment.
- ⑩ 80 % of road accidents are due to driver negligence and fault, so there is a need to monitor driver training school regarding their infrastructure, equipment, quality control, qualified driver training instructors, strict code for issue of driving licenses, regular and random health checkups of drivers along with counseling sessions, checking for any drug and alcohol addiction, overloading, over speeding and refresher training for existing drivers.
- ⑩ Need for parking spaces and truck terminals out side the cities to reduce traffic crashes.
- ⑩ Need to avoid using mobiles while driving.

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- ⑩ Need to use helmets and seat belts while driving.
- ⑩ Need to inculcate road safety culture.
- ⑩ Need to count traveling time for reaching the destination.
- ⑩ Need to design roads in a way that even if a person is wrong the system does not permit him to do that wrong.
- ⑩ Need to strictly enforce yellow colour code for school buses and to regulate their speed.
- ⑩ Need to stop the ringing up a person while he is driving.
- ⑩ Need for stress free driving, avoid driving while under stress.

**PREVENTION ALWAYS BETTER THAN CURE**

THANKS