INSURANCE EXAM · IC-72

IC-72 Motor Insurance

Revision book

11	2	209
chapters	master tables	numbered sections

FREE SAMPLE: Chapter 1 of 11

CHAPTER 1

Introduction To Motor Insurance

1.1	History	1.2	Use and File, 31 Mar 2023
1.3	Expenses of management	1.4	Principles
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MUST KNOW

1. First policy **1895** (third party); accidental damage **1899**; Car and General **1903**; UK compulsory TP: Road Traffic Acts **1930** and **1934** (**1960** consolidated).
2. MV Act **1988** (Act 59 of **1988**) replaced **1939** Act; effective **1 Jul 1989**. Chapters XI (145-164B), XII (165-176); old Chapter X (140-144) omitted **2019**.
3. Own damage tariff withdrawn **1 Jan 2007**; TP base rates notified by the central government.
4. **Expenses of management:** **30%** (general), **35%** (health only) of gross premium written in India.
5. Proposal declaration = contractual utmost good faith; any wrong answer makes the contract voidable.
6. IDV for TL / CTL / theft; repairs on parts less depreciation. Section 157 transfer: apply within **14 days**.
7. **Permit:** S.66(1); exempt: govt, police, local body, fire, ambulance, crane, goods up to 3,000 kg GVW.
8. Ages 16 / 18 / 20. Licences: learner **6 months**, transport **5 years**, hazardous goods **3 years**.
9. **Hit and run (from 1 Apr 2022):** **Rs 2 lakh** death, **Rs 50,000** grievous hurt; Fund S.164B.

1.1 History

- **UK:** **1894** first car; **1895** TP policy; **1899** comprehensive; **1903** Car and General Insurance Corporation Ltd.
- **After WWI:** Road Traffic Acts 1930, **1934**; consolidated by Road Traffic Act **1960**.
- **India:** MV Act **1939** (Act 4) brought compulsory TP law; MV Act **1988** from **1 Jul 1989**.

TODAY'S RULE

OD tariff withdrawn **1 Jan 2007**; IRDAI asks insurers to keep standard wordings and principles.

TP base premium: notified by the central government (still regulated).

- Loss ratio **81.3%** (**2021**-22) vs **75.6%** (**2020**-21).
- TP rates rose slightly **2022**-23 after no rise in 2020, **2021**.

- **Growth:** EVs, renewals via large brokers and web aggregators, scrapping policy.
- **Trends:** more claims, no standard process, litigation cost, technology (machine learning, EVs), fraud (forum shopping; no common database; about half uninsured), competition, regulatory change (file and use).

1.2 Use and File, 31 Mar 2023

- Documents go to the insurer's PMC (Product Management Committee), not IRDAI; PMC gives final approval.
- IRDAI may call documents for a few products each month; insurer sends within **2 days**.
- CEO certificate (Annexure-A); quarterly report (Annexure-B) for first 4 quarters.
- Website upload in UIN order, before launch or within **7 days** of UIN.
- Covers base products and riders / add-ons.

1.3 Expenses of management

- Commission cap removed; one overall limit.

Insurer	Limit
General	**30%** of GPW in India
Health only	**35%**

- **Extra allowance:** rural, PMJAY, PMFBY: up to **15%** of incremental premium (and not above last year's actual expenses); PMSBY: up to **15%** of its gross direct premium.
- Board policy yearly; commission as per IRDAI (Payment of Commission) Regulations **2023**.
- Excess charged to P&L. Over **10%** above plan: no variable pay for MD, CEO, WTD, KMPs (not for insurers up to **5 years**).
- **Other actions:** no new offices, warning, S.102 penal action, removal / administrator, limit on incentives.

1.4 Principles

- **Insurance vs wager:** real chance of the event; no profit to either side in a wager.
- **Unique contract:** own damage + liability to third party property, injury, death (passengers, employees). Liability = statutory (S.146(1), Ch XI).
- **Utmost good faith:** disclose previous accidents, compulsory excess, use, area, driver health, driving history. Proposal compulsory.

> **TRAP**
> Wrong answer, material or not, makes the contract voidable; insurer proves concealment.

1.5 Insurable interest

Person	Interest
Owner	At taking, during period, at claim, at renewal
Seller	Until property passes; unpaid seller lien
Buyer	When sale contract is complete
Hire purchase	Financier until all instalments paid
Hypothecatee	To extent of loan outstanding
Joint owners / partners	As per partnership provisions
Motor traders	As bailees (garage)
Legal heirs	Intestate heirs, executors, administrators, official assignees, receivers
User	Owner arranges cover as agent

- Also hotel owners. Ten in all.
- **Hire purchase:** S.51 registration in user's name; IMT 5 and 6 (GR 19, 20) Financier's interest clause. Hypothecation: IMT 7 (GR 21) Pledgee's clause.

> **TRAP**
> Financier is not owner for an accident needing possession (Supreme Court **2008**).

- Motor Traders Policy covers garage; standard policy does not cover while in a garage.

1.6 Indemnity

Claim	Basis
TL / CTL / theft	IDV (constant; not market value)
Repair	Parts replaced less depreciation (GR 9)
Third party	Damages + interest + legal costs; PA limit

- TL / CTL / theft depreciation table is GR 8; repairs GR 9.
- IDV = new vehicle price at start less agreed depreciation.

1.7 Subrogation and contribution

- **Subrogation:** after payment; policy condition allows before. Recovered stolen parts go to insurer. Modified by Knock for Knock Agreement. Insured joins as co-plaintiff.
- **Contribution:** double insurance (GR 24); pro-rata. Private car: special wording for owner driving other cars.
- **Proximate cause:** also for TP; injury by use of vehicle by or on instructions of insured.

1.8 MV Act 1939 to 1988

- **1939 Act (No 4):** use, registration, construction, control of traffic. Ch VIII from **1 Jul 1946**; Ch VII-A from **1 Oct 1982**.
- Working group Jan **1984**; GIC expert committee **1985**.
- **1988 Act:** definitions, licences, parts standards, anti-pollution, fitness by testing stations, registration marks, tourist and national permits, Solatium Fund (GIC), state registers, Road Safety Councils, tougher punishment.

Amendment	Points
54 of 1994	Eco-fuel exempt S.66, 67; benami ceilings off; STATs; hit and run up; no time limit for claims; age-income formula
27 of 2000	No alterations (incl. bigger tyres); LPG allowed
39 of 2001	CNG exemption in S.66, 67 removed

TODAY'S RULE

Amended again in **2019** (fines, compensation).

- **Law Commission 119th Report:** claim where accident took place / claimant lives or works / defendant lives.

TRAP

Road Safety Councils: original Act 59 of **1988**.

1.9 Licence disqualification (S.19; also S.22 power to revoke)

- Habitual criminal or drunkard; narcotics addict (NDPS Act **1985**); cognizable offence; dangerous driving; fraud; nuisance (as prescribed); failed S.22(3) tests; minor who has left care of consenting person.

1.10 Chapters

Chapter	Sections	Subject
X	140-144	No fault liability (old; omitted 2019, now S.164)
XI	145-164B	TP insurance
XII	165-176	Claims Tribunals

- **1939:** VII-A (92-A to 92-E) and VIII now in XI and XII.

TODAY'S RULE

No fault now: S.164, **Rs 5 lakh** death, **Rs 2.5 lakh** grievous hurt.

1.11 Definitions

Term	Meaning
Contract carriage	Hired as a whole; no other passengers; includes maxi cab, motor cab
Stage carriage	More than 6 passengers; separate fares
Maxi cab	7 to 12 passengers
Motor cab	Up to 6 passengers
LMV	GVW up to 7,500 kg (earlier 6,000)
MVW	7,500-12,000 kg
HGV	Above 20,000 kg

- **Articulated vehicle:** with semi-trailer. Driver includes steersman of drawn vehicle. GVW = total weight certified and registered.
- **Private service vehicle:** over **6 persons**, own business, no hire. Public service vehicle: hire; maxi cab, motor cab, contract and stage carriage.

- Public place includes stage carriage stand. Property: goods carried, roads, bridges, culverts, causeways, trees, posts, milestones. Third party includes Government.
- **Not a motor vehicle:** fixed rails; factory-only; fewer than 4 wheels and up to 25 cc. Includes chassis without body and trailer.

1.12 Registration, certificate, transfer

- S.39 registration; S.56 expired fitness = not registered (CMVR 52, 62).
- **Certificate of insurance:** Form 51; includes cover note; shown to traffic police on demand; issued by authorised insurer.
- **S.157:** automatic transfer of certificate; apply in **14 days**; TP only; OD needs application.
- **14 days** as grace for OD if request sent; TP always liable.

> **TRAP**
> **Personal contract:** no transfer without insurer's consent (except as Act provides).

1.13 Permits

- **S.66(1):** permit for transport vehicles, loaded or not. No waiver. OD and TP claims may fail without a valid permit or outside the area.
- **Exempt:** Central / State Govt, police, local body, fire, ambulance, crane, goods up to 3,000 kg GVW.
- STA acts under S.86 (and 192A).

Permit	Section
Stage carriage	72
Contract carriage	74
Goods carrier	79
Temporary	87
Counter signature	88

- **Forms:** 45 tourist vehicle; 46 authorisation tourist / national; 48 national; PCA contract carriage; PGA goods; P.TEMP.A temporary; PSA private service; PRA renewal / counter signature.
- **National permit:** 4 continuous states incl. home (Rules 86, 87 CMVR **1989**); age **12 years** (15 multi-axle); Forms 46, 48.
- **Maxicab:** up to 12 seats. Phat Phat Sewa: up to 9. Eco Friendly Sewa: battery, up to 10.
- **Temporary:** fairs, religious gatherings; seasonal business; temporary need; pending renewal.
- **Rent-a-Cab:** **1989**; self drive; fleet of 50, **50%** AC; valid across India.
- **School buses:** contract carriage permit, no road tax, golden yellow.
- **All India Tourist:** white, blue ribbon 5 cm, circle 60 cm; cab seats 5, white only. Invalid after **9 years** (cab) / **8 years** (other) unless replaced by vehicle not over **2 years** old. Forms 45, 48.
- **Counter signature:** Delhi (**5 Jan 2006**) none for other states' goods vehicles up to 7,500 kg not on clean fuel.

1.14 Licensing

Section	Rule
4(1)	Under 18 no driving; motor cycle up to 50 cc from 16
4(2)	Under 20 no transport vehicle
7(1)	Learner for transport vehicle: LMV licence held **1 year**
7(2)	Under 18, motor cycle without gear: written consent
10	Contents; transport vehicle term from **14 Nov 1994**
13	Effective throughout India
14	Currency
15	Renewal
19	Disqualification

Licence	Valid
Learner	**6 months**
Transport	**5 years**
Hazardous goods	**3 years**
Private	Under 30: to age 40; 30-49: **10 years**; 50-54: to age 60; 55+: **5 years**

- **Renewal:** from **1 year** before to **1 year** after expiry; later than that, test again. No automatic 30-day extension.
- **Minimum age:** 16 non-geared; 18 geared and others; 20 transport.
- **Effective licence:** proper authority, valid on date of accident, vehicle-type endorsement, transport endorsement, public service authorisation, hazardous endorsement (Rule 9 CMV Amendment Rules **1993**).

1.15 Bus body builders

- Order 2007, S.O. 425(E), **23 Mar 2007**; accreditation certificate. AIS 052 (buses), AIS 063 (school buses), GSR 589(E) **16 Sep 2005**.
- **Rs 1,000** registration + **Rs 50,000** assessment fee, to Director CIRT, Pune. West and South: CIRT; East and North: ARAI.

1.16 MV (Amendment) Bill 2008 (proposed)

- **Aims:** higher fines; state powers; compensation; time limit for appeals.

Item	Act 1988	Bill 2008
Fines (set)	**Rs 100**-5,000	**Rs 500**-20,000
Other violations	**Rs 300**	**Rs 1,000** / **Rs 5,000**
Appeals	No limit	**45-60 days**
Licensing	RTO test	associations issue driving certificates

- On-spot licence suspension up to **3 months** for failed breath test.
- **Compensation:** fault shown: court / MACT; no fault: income x age factor (no upper limit). Interest up to **2%** simple.
- **1989 no fault:** **Rs 25,000** death, **Rs 12,500** permanent disablement.

- **Rash and negligent driving:** S.279 / 304A IPC (now BNS **2023**); extra fine up to **Rs 5,000** into Solatium Fund. S.279 old: **Rs 1,000** / **6 months**.
- Consignor liable for overloading (proposed).

Speed above limit	Penalty	Alcohol per 100 ml	Penalty
20%	**Rs 500**	30-60 mg	**Rs 2,000**
50%	**Rs 1,000**	60-150 mg	**Rs 4,000** and / or prison
100% +	Licence cancelled (S.184)	Over 150 mg	**Rs 5,000**, prison, cancellation

- **Drunk driving:** limit 30 mg per 100 ml. Rash driving civil liability up to **Rs 5,000**; drunk driving **Rs 5,000** and **2 years**.
- **Overloading:** UK any person breaking rules; US driver / owner; NZ operator; Canada driver and owner; Philippines vehicle fined.
- Other countries use de-merit points.

1.17 Solatium Scheme

- **1989** Scheme under S.163(1), S.O. 440(E), **12 Jun 1989** (replaced **2022**); Bill proposed to delete S.163. S.161: hit and run definition.

> **TODAY'S RULE**
>
> **Now:** **Rs 2 lakh** death, **Rs 50,000** grievous hurt (**1 Apr 2022**); Motor Vehicle Accident Fund S.164B.

- **Breach:** up to **3 months** or **Rs 500** or both.
- **Procedure:** Form I to Claims Enquiry Officer (sub-division) within **6 months**; Tribunal has no jurisdiction; Officer reports in Form III within **1 month** (Forms II, IV); Commissioner sanctions in **15 days**; Form V under S.162.
- Insurers join claims only with permission of the Tribunal.