

## **KEY PROVISIONS IN MOTOR VEHICLES (AMENDMENT) BILL, 2016**

### **I. SAFETY OF PEDESTRIANS AND NON-MOTORISED TRANSPORT**

**Existing:** There are currently no provisions in the Motor Vehicles Act (MVA) for the safety of pedestrians and non-motorised road users.

**Proposed:** Amendment to Section 138 of MVA proposes the insertion of new sub-section (1A), which gives the **power to State Governments to regulate the activities of pedestrians and non-motorised road users in a public place**. The amendment proposes States to regulate the activities of pedestrians and non-motorised road users.

**Analysis:** Under the Chapter titled “Control of Traffic”, Section 138 gives power to the State Governments to make rules for a number of specified matters that are in control of the State Government. For e.g., *138 (2) (h) prohibiting the use of foot-paths or pavements by motor vehicles*. With the insertion of new sub-section (1A) in Section 138, the State Governments **may** make rules in their respective State Motor Vehicle Rules specifying the manner of regulating the activities of pedestrians and non-motorised road users. **Regulation of activities in a public place of pedestrians and non-motorised road users could include the creation of special zones such as cycle tracks and footpaths, NMT lanes etc., which could all be interpreted as regulation of such activities.**

### **II. SAFETY OF CHILDREN DURING COMMUTE**

**Existing:** There are no provisions, which protect children during commute.

**Proposed:**

- The insertion of **Section 194B makes it mandatory for every child to be secured** by a safety belt or a child-restraint system. Additionally, the section also provides for adult accountability for not seating children in a safe manner with a penalty of **Rs. 1000**.
- Amendment to Section 129 (Wearing of protective headgear) proposes that **every child above the age of four years being carried on a motorcycle must wear a helmet**, the design and specifications of which may be prescribed by the Central Government. Moreover, with the insertion of clause (aa) in section 137 (2), the Central Government from time-to-time can provide for standards of protective gear, and measures for safety of children below the age of four years of age riding under section 129.

### Analysis:

- While adult accountability for a child not being secured by a seat-belt or a child-restraint system has been provided for with a fine of Rs. 1000/- on the driver or any other adult who allows a child to be driven without being secured, **adult accountability in ensuring that the child wears a helmet on two-wheelers has not been called out.** In such a scenario, it is unclear as to who would be penalised if an adult carries a child who is not wearing a helmet on board a two-wheeler.
- While it has been provided that whoever drives or allows or causes a child below the age of fourteen years is not secured by a safety belt or a child restraint system shall be punishable, **it has not been specified until what age a child restraint system is to be used before graduating to a safety belt.**

Additionally, no amendments have been made with respect to the following:

- Creation of child zones such as near parks, schools and other areas frequented by children with restrictions on speed and over-taking.
- Designation of school buses, vans, omnibuses as special class of vehicles and their regulation thereof. While the Supreme Court guidelines on school buses exist, for proper implementation the guidelines need to be mandated by law and hence, it is essential to incorporate them into this Bill. **The guidelines specify mandatory use of safety belts in school vans, drivers of school buses, vans etc. to have a minimum of five years of experience of driving such category of vehicle, fixed capacity of the vehicle with no child being allowed to sit on the lap of any other child and appropriate permit for the vehicle,** among others.

### III. ROBUST, SCIENTIFIC AND STANDARDISED ACCIDENT INVESTIGATION AND DATA COLLECTION SYSTEM

**Existing:** Currently, accidents are not investigated scientifically and the data is derived from the First Information Report (FIR) prepared by the Police as per section 154 of Criminal Procedure Code (CrPC). The FIR is written in the same format for all types of offences, including road accidents, thereby limiting the scope of accident investigation.

**Proposed:** Through the amendment to Section 135, the Central Government may make schemes to conduct in-depth studies on the causes and analysis of road accidents.

**Analysis:** At present, State Governments have the power to make schemes to conduct in-depth studies on road accidents. Through the proposed amendment to Section 135, the Central Government can establish a uniform mechanism to investigate road accidents scientifically and collect data in a rigorous manner. **Currently, the existing Accident Information Report (Form 54) is inadequate to conduct a scientific investigation as it does not require a police officer to ascertain the various aspects of road**

accidents. The form only requires the police to note the details of the parties involved in the road accident. It is recommended that the Central Government be given power to make rules relating to the form and manner of reporting of accidents and have a scientific and standardized accident investigation methodology in place.

#### IV. STRINGENT PUNISHMENT FOR FAULTY ROAD DESIGN, ENGINEERING AND MAINTENANCE

**Existing:** There is currently no provision which holds road contractors and civic agencies accountable for faulty road design and non-maintenance of roads leading to accidents.

**Proposed:** There are no proposed amendments to address this issue.

**Analysis:** Faulty designs of roads have caused over 10,000 accidents in 2015. However, no provision has been proposed to hold road contractors liable for defects in construction and maintenance. **The insertion of a section to penalize contractors for faulty road design and engineering will ensure an accountability framework besides improving the quality of the roads.** Currently, contractors get away with faulty roads as there is no accountability framework in place. **Additionally, by connecting the provision for scientific investigation of road accidents, the authorities will be able ascertain the factors such as faulty road engineering that lead to road accidents.**

#### V. TRANSPARENT, CENTRALISED AND EFFICIENT DRIVER'S LICENSING SYSTEM

**Existing:** Chapter II of the MVA relates to Licensing of Drivers of Motor Vehicles.

- Under the existing Act, the lack of a centralized database of all licences and motor vehicles across India led to a situation where a **person may have multiple licences from different States.**
- The second proviso to Section 9 (3) **exempts applicants of drivers' licences to take the test of competence** if s/he possesses a driving certificate issued by any institution recognised by the State Government.
- To drive a transport vehicle, an applicant is required to possess minimum educational qualifications.

**Proposed:**

- Minimum educational qualifications for transport drivers given under Section 9 (4) has been omitted.
- By the insertion of sub-section (5) in Section 12, the necessity of possessing a licence to drive a light motor vehicle for at least one year before applying for a learners' licence to drive a transport vehicle has been removed. An applicant can now directly apply for the class of vehicle in which he has received training through an accredited school.

- **The renewal of transport licences under Section 14 (2) (a) has been increased to five years from three years. The renewal of transport licences for driving vehicles with hazardous goods has been increased to three years from one year subject to such conditions as may be prescribed by the Central Government.**
- To facilitate the grant of licences in a transparent and efficient manner, insertion of Section 25A provides for the establishment of National Register for Driving Licences containing data on all driving licences issued throughout India. The provision also provides for the State Registers to be subsumed in the national register. **It specifies that no driving licence shall be valid unless it has been issued a unique driving licence number under the National Register of Driving Licences.**
- **The exemption from taking the test of competence in case the applicant produces a certificate from an established school given in the second proviso to Section 9 (3) has been omitted.**
- The renewal period of a licence has been fixed at intervals of 10 years (forty years and fifty years) after the age of thirty years. The renewal period after attaining the age of fifty-five years has been fixed at every 5 years.
- Amendment to Section 19 provides for the licensing authority to disqualify a person from holding a licence and place his name in public domain unless he successfully completes a driver refresher training course from an established school after a certain number of offences.
- Under Section 27, the Central Government has been given the power to make rules for:
  - **The form and manner in which the licensing authority shall issue licences**
  - The curriculum and training modules for the regulation of schools and establishments referred to in Section 12
  - **The manner of placing a licence holders name in the public domain for disqualification due to a certain number of offences**
  - The nature, syllabus and duration of driver refresher training course
  - The matters referred to in Section 25A, i.e., maintenance of National Registers for driving licences

### **Analysis:**

- Since driving a transport vehicle requires special skills, a person should be able to handle a LMV for at least one year before graduating to a HMV, a provision which has been omitted in the Amendment Bill subject to formal training for that class of vehicle from an accredited school or establishment.
- In section 14, increase in renewal period to drive transport vehicles without any prescribed training or testing is detrimental to the safety of road users considering that HMVs are involved in a high number of accidents.
- In section 14, increase in renewal period for transport drivers carrying hazardous goods has been increased to three years instead of one year provided that he undergoes a refresher training programme as specified by the Central Government.

- At present, biometric information to obtain a driver licence is not mandatory and only a few states have introduced the concept. In order to keep a check on the duplicity and multiplicity of licences, the Sub-section (3) of section 25A must be amended to include the use of biometric information to issue a unique driving licence number.

## VI. MANDATORY SAFE DRIVING TRAINING FOR ALL

**Existing:** There are no current provisions which specify mandatory training of drivers.

**Proposed:**

- The amendment to Section 12 provides an option to the applicant to obtain a licence without being required to meet other requirements provided that he/she has obtained specialized training from accredited schools. The curriculum for the training module will be prescribed by the Central Government and the latter may make rules for the regulation of such schools.
- Section 9 (5) provides that if an applicant **does not pass the test of competence after three appearances, he will be required to undergo a remedial driver training course** from an established school.

**Analysis:** Accreditation and regulation of schools are crucial to ensure that the drivers who require specialized training receive it in a proper and regulatory manner. **However, the Bill fails to specify mandatory driver training for drivers other than transport drivers nor does it mandate the use of automation for the test of competence at the Regional Transport Offices.** While it allows a person to be eligible to obtain a licence directly if he has undergone training for a particular type of vehicle at an accredited school, the amendment is silent on the mandatory driver training for applicants who do not undertake training from such schools. Furthermore, as per section 9 (5), training is mandatory if he fails to pass the test of competence in over three appearances.

## VII. STRICT REGULATION OF HEAVY MOTOR VEHICLES (HMVS) SUCH AS TRUCKS, BUSES AND LORRIES

**Existing:**

- Minimum educational qualifications for drivers of transport vehicles are provided under Section 9 (4) of the principal Act.
- A learners' licence to drive a transport vehicle is granted only when the applicant possesses a licence to drive a light motor vehicle for at least one year provided under Section 7.

**Proposed:**

- Minimum educational qualifications for transport drivers given under Section 9 (4) has been omitted.

- **By the insertion of sub-section (5) in Section 12, the necessity of possessing a licence to drive a light motor vehicle (LMV) for at least one year before applying for a learners' licence to drive a transport vehicle has been removed.** An applicant can now directly apply for the class of vehicle in which he has received training through an accredited school.
- Amendment to Section 72 (Grant of stage Carriage Permit) **gives the power to the State Government to waive any condition prescribed in the section** to obtain a permit for a stage carriage in rural areas. **The conditions prescribed in Section 72 include**
  - (i) The **maximum number of passengers** and the maximum weight of luggage that may be carried.
  - (ii) Minimum and maximum number of daily trips that may be provided
  - (iii) Specifications of **approved body codes**
- The Bill proposes automated fitness testing for transport vehicles with effect from 1st October, 2018. The automated fitness testing for transport vehicles is proposed to be amended by amending Section 56 of the Act. Such amendment may specify 'testing process' and insert the word 'automated testing station'. Automation in fitness testing will eliminate corruption in obtaining a fitness certificate for transport vehicles and simplify periodic testing.
- **Amendment to Section 117 puts a duty on the State government to prioritise the safety of road users and ensure free flow of traffic while designating parking zones.**

#### **Analysis:**

- Allowing applicants to obtain a transport licence without other requirements such as minimum educational qualifications and experience in driving LMVs for at least one year is detrimental to the safety of road users.
- Fatigue tests, minimum safety standards for vehicles, training of transport drivers through simulated tests and the establishment of rest areas for transport drivers have not been provided for in the Amendment Bill.
- By the **amendment to Section 72, the state will be empowered to allow a stage carriage to carry more than the prescribed number of passengers or weight of goods in a stage carriage in rural areas**, which can potentially lead to overloading of buses. It also empowers the state to increase the maximum number of daily trips, which can encourage drivers to over-speeding. Therefore, the amendment to Section 72 can lead to decreased safety of road users in rural areas.

#### **VIII. STRINGENT PUNISHMENT FOR DRUNK-DRIVING, OVER-SPEEDING, VIOLATION OF HELMET AND SEATBELT LAWS**

- All the amendments in the MV Bill in the offences & penalties chapter seek to provide stringent penalties for grave offences like drunk-driving, over-speeding, seat-belts and helmets etc.
- Such enhanced penalties would act as a deterrent for those who violate traffic rules and cause preventable road accidents

- Below is a table of the increase in penalties for offences

Section	Title	Existing Penalty	Proposed minimum penalty
177	General	Rs. 100/-	Rs. 500/- Rs. 1,500/-
New 177A	Rules of road regulation violation	Rs. 100/-	Rs. 500/- Rs. 1000/-
178	Travel without ticket	Rs. 200/-	Rs. 500/-
179	Disobedience of orders of authorities	Rs. 500/-	Rs. 2000/-
180	Unauthorized use of vehicles without licence	Rs. 1000/-	Rs. 5000/-
181	Driving without licence	Rs. 500/-	Rs. 5000/-
182	Driving despite disqualification	Rs. 500/-	Rs. 10,000/-
182A	Punishment for offences relating to construction and maintenance of vehicles	Rs. 1000/- for the first offence and Rs. 5000/- for subsequent offence	Dealer: Rs. 1 lakh per vehicle 1 year imprisonment Manufacturer: Up to Rs. 100 crore Dealer selling helmets: Up to Rs. 1 lakh Consumer: Rs. 5,000/-
182 B	Oversize vehicles	New	Rs. 5000/- Rs. 10,000/-
183	Over speeding	Rs. 400/-	Rs. 1000/- for LMV Rs. 2000/- for Medium passenger vehicle
184	Dangerous driving	Rs. 1000/-	Up to Rs. 5000/-

Section	Title	Existing Penalty	Proposed minimum penalty
185	Drunken driving	Rs. 2000/-	Rs. 10,000/-
186	Driving when mentally or physically unfit to drive	Rs. 200/- for the first offence and Rs. 500/- for subsequent offence	Rs. 1000/- for the first offence and Rs. 2000/- for subsequent offence
187	Punishment for offences relating to accidents	Imprisonment of up to 3 months for first offence 6 months for second offence Fine: Rs. 500/- for first offence and Rs. 1000/- for the second offence	6 months for the first offence and one year imprisonment for subsequent offence Fine: Rs. 5000/- for first offence and Rs. 10,000/- for subsequent offence
189	Speeding / Racing	Rs. 500/-	Rs. 5,000/-
192 A	Vehicle without permit	Up to Rs. 5000/-	Up to Rs. 10,000/-
193	Aggregators (violations of licensing conditions)	New	Rs 25,000/- to  Rs 1,00,000/-
194	Overloading	Rs. 2000/- and Rs. 1000/- per extra tonne	Rs. 20,000/- and Rs. 2000/- per extra tonne
194 A	Overloading of passengers	New	Rs. 1000/- per extra passenger
194 B	Seat belt	Rs. 100/-	Rs. 1000/- Child Restraint: Rs. 1000/-

Section	Title	Existing Penalty	Proposed minimum penalty
194 C	Overloading of two wheelers	Rs. 100/-	Rs. 1000/-, Disqualification for 3 months for licence
194 D	Helmets	Rs. 100/-	Rs. 1000/- Disqualification for 3 months for licence
194 E	Not providing way for emergency vehicles	New	Rs. 10,000/- Imprisonment: 6 months
196	Driving Without Insurance	Rs. 1000/-	Rs. 2000/- Imprisonment: 3 months
199	Offences by Juveniles	New	Guardian / owner shall be deemed to be guilty. Rs 25,000 with 3 yrs imprisonment. For Juvenile to be tried under JJ Act. Registration of Motor Vehicle to be cancelled
206	Power of Officers to impound documents		Suspension of driving licenses u/s 183, 184, 185, 189, 190, 194C, 194D,194E
210 B	Offences committed by enforcing authorities		Twice the penalty under the relevant section

## IX. ELECTRONIC MONITORING AND ENFORCEMENT OF ROAD SAFETY

**Existing:** With enforcement being a State subject, the current scenario with regard to electronic enforcement differs across States.

**Proposed:** The insertion of new Section 136A puts the responsibility on the Central Government to make rules for the electronic monitoring and enforcement of road safety. State Governments shall ensure the implementation of the same.

**Analysis:** Legislating the establishment of robust electronic enforcement for traffic violations will result in reduction in human intervention and the associated corruption. A robust electronic enforcement system including speed cameras, closed-circuit television cameras, speed guns and such other technology will ensure violations being captured at a greater scale.

## X. OFFENCES BY JUVENILES

**Existing:** Under the current Act, allowing unauthorized persons to drive a vehicle invites a penalty of Rs. 1000/- and/or imprisonment of up to three months. Occasionally, provisions of the Indian Penal Code (IPC) are invoked in cases involving death or injury, such as Section 109 (Abetment) of the IPC read with either Section 304 II/Section 304A in case of death or Section 337-339 of the IPC in case of injury.

**Proposed:** The amendment Bill under Section 199A invokes adult accountability by proposing penalties for the guardian/owner of the vehicle for offences committed by Juveniles. The guardian or owner of the vehicle shall be guilty with a fine of Rs. 25000/- and/or imprisonment of up to 3 years, while the Juvenile will be tried under JJ Act. Additionally, the registration of said motor vehicle will be cancelled. The burden of proof shall lie on the guardian/owner.

**Analysis:** According to official figures, there were 0.60 lakh accidents caused by underage drivers between the years 2012 and 2014.<sup>1</sup> While in the existing Act, the penalty is for allowing “unauthorized persons” to drive vehicles, the amendment proposes to specify “juveniles”. **The penalties for the same have been increased with a 25x increase in the fine and a 12x increase in the period of imprisonment. In addition to the increased fines, registration of the vehicle being cancelled can ensure that guardians do not allow their juveniles to drive their vehicle.**

## XI. DANGEROUS DRIVING

**Existing:** The existing definition of driving dangerously has a narrow scope that does not take into account common traffic offences such as jumping red lights and using mobile phones while driving. Furthermore, considering the nature of offences, the existing fine prescribed is a meagre rupees one thousand.

**Proposed:** Besides enhancing penalties for dangerous driving, the amendment to section 184 has also broadened the scope of **the definition of “dangerous driving” to include the acts that are considered driving in manner dangerous to the public such as jumping a red light, violating a stop sign, use of hand-held communication devices while driving, driving against the flow of traffic, and passing or overtaking any motor-vehicle in a manner contrary to law.**

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<sup>1</sup> <http://www.thehindu.com/news/national/govt-060-lakh-accidents-caused-by-underage-drivers/article7987148.ece>

**Analysis:** All the above mentioned points, which were earlier missing in the Act, are risk factors that contribute to road accidents. By expanding the scope of the definition of dangerous driving, the proposed Bill provides the enforcement agencies to crack down on traffic rules violators more efficiently and provides a uniform penalty for such offences.

## XII. INSURANCE AND CLAIMS TRIBUNAL

**Existing:** Under the provisions of Section 147, a policy of insurance insures any person against any liability incurred in respect of death or bodily injury or damage to property of a third party arising out of the use of the vehicle in a public place. Such policy of insurance is not applicable to drivers or conductors.

As per section 147 (2), the liability of the insurer for indemnifying the owner for compensation claims in respect of death or bodily injury arising out of use of motor vehicle is unlimited. In other words, as per present Act, the insurer has to cover the liability incurred in respect of any accident to the extent of actual amount of liability incurred.

### **Proposed:**

- New chapter has been introduced in the Amendment Bill substituting the existing chapter of third party insurance claims.
- Proviso to sub-section (1) of Section 147 has been omitted. This effectively covers liability in case of death and bodily injury of an employee's (drivers and conductors) in the course of his employment.
- Section 165 and the proviso to Section 147 (2) provides for capping of third party insurance claims to a sum **not exceeding ten lakhs in case of death and five lakhs in case of grievous hurt.**
- It also provides for compensation on the basis of no-fault liability and scheme for the treatment of accident victims during the golden hour.

**Analysis:** The capping of third party claims, which is unlimited in the existing Act, will be detrimental in ensuring that claimants receive equitable compensation. The omission of the proviso to Section 147 (1) will ensure that even drivers and conductors are covered under an insurance policy.

## XIII. PROTECTION OF GOOD SAMARITANS

**Existing:** There is an existing Supreme Court judgment in *SaveLIFE Foundation v. Union of India* that has made the guidelines issued by the Ministry of Road Transport and Highways binding across all States and UTs under Articles 141 and 142 of the Constitution and given "force of law".<sup>2</sup>

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<sup>2</sup> W.P. (C) 235 of 2012, Supreme Court of India

**Proposed:** A new section 134A has been inserted to protect Good Samaritans, who come to the help of road accident victims, from any criminal or civil liability in pursuance of the Act. The proposed section also provides for the Central Government to make rules for procedure for examination of Good Samaritan.

**Analysis:** With this amendment, the guidelines will receive legislative backing as they will be enacted by the Parliament. **A Good Samaritan will not be held criminally or civilly liable for helping an accident victim.**

#### XIV. RECALL OF MOTOR VEHICLES

**Existing:** There is no existing provision which mandates a recall policy for vehicles.

**Proposed:** Through the insertion of new section 110A, the Central Government may by order direct the manufacturer to recall vehicles, in case of defects which may cause harm to the environment or the vehicle's occupants or other road users and in case of defect reported by such percentage of owners or testing agencies. The manufacturer whose vehicles were recalled shall be liable to reimburse the buyer for the full cost of the motor vehicle or replace the motor vehicle with another vehicle which complies with the standards specified under this Act and be liable to pay fines as specified.

**Analysis:** Legislating for a recall policy in the principal Act will ensure improvement in vehicle standards by providing for an accountability framework.

#### XV. COMPENSATION IN HIT-AND-RUN CASES

**Existing:** The compensation for hit-and-run cases is currently Rs. 12,500/- in cases of grievous hurt and Rs. 25,000/- in cases of death.

**Proposed:** The proposed amendment to Section 161 of the Act is slated to **increase the compensation in cases of grievous injury to Rs. 50,000 or higher and to Rs. 2 lakh or higher in cases of death.**

**Analysis:** In 2015, there were 57,083 cases of hit-and-run accidents resulting in 20,709 deaths<sup>3</sup>. In view of the high number of hit-and-run cases in India, **the increased compensation will enable immediate monetary assistance to the victim/victim families.**

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<sup>3</sup> *Road Accidents in India, 2015*, Ministry of Road Transport and Highways

## XVI. PENALTY FOR OFFENCES RELATED TO CONSTRUCTION AND MAINTENANCE OF VEHICLES

**Existing:** The existing punishment for offences relating to construction and maintenance of vehicles provided under section 182A is rupees one thousand for the first offence and rupees five thousand for any subsequent offence.

**Proposed:**

- Amendment to section 182A enhances penalties for contravention of chapter VII (Construction and maintenance of vehicles) by manufacturers, dealers, importers and owners of motor vehicles. It also provides a penalty for registration and issuance of certificate of fitness to oversized vehicles.
- The penalty for sale or offering to sell or alter in contravention of chapter VII shall be an imprisonment of up to one year or a fine which may extend to one lakh rupees.
- The penalty for failing to comply with the provisions of chapter VII during manufacture shall be a term which may extend to one year or a fine which may extend to rupees one hundred crore.
- The penalty to offer to sell or sell safety components not in compliance with chapter VII shall be an imprisonment of one year and a fine which may extend to one lakh rupees.

**Analysis:** Enhancing the penalties for construction and maintenance of motor vehicles by a manufacturer to up to rupees one hundred crore will ensure that manufacturers are held accountable for any defect in the vehicle. In the absence of a mandatory recall policy, this will enable safer vehicles on roads.

## XVII. PENALTY MULTIPLIER (POWER OF THE STATE GOVERNMENTS TO INCREASE PENALTIES)

**Existing:** There is currently no provision for State Governments having power to multiply given penalties.

**Proposed:** The proposed new section 210A gives power to the State Governments to specify a “multiplier” (not less than one and not greater than ten) to be applied to each fine.

**Analysis:** This means that **State Governments have the power to increase fines in their jurisdiction** by up to ten times the amount specified in the Act. For e.g., the proposed fine for over-speeding is Rs. 1000. State Governments can levy a fine of up to Rs. 10,000 and not less than Rs. 1000 for over-speeding in the respective State.