

## KEY PROVISIONS IN MOTOR VEHICLES (AMENDMENT) BILL, 2019

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

**Motor Vehicles Act, 1988:** There are currently no provisions in the Motor Vehicles Act (MVA) for the safety of pedestrians and non-motorised road users.

**Motor Vehicles (Amendment) Bill, 2019:** 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:** 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. 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

**Motor Vehicles Act, 1988:** There are no provisions to protect children during commute.

**Motor Vehicles (Amendment) Bill, 2019:**

- 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 child restraints has been provided for, the Central Government must expeditiously notify rules for ensuring the safety of children below 4 years of age.

### III. RECALLING OF VEHICLES

**Motor Vehicles Act, 1988:** Currently there is no provision to recall vehicles that are old or are harmful to the environment or do not meet safety standards.

**Motor Vehicles (Amendment) Bill, 2019:** New provisions 110A and 110B to empower Central Government to recall vehicles which do not meet standards and it also provides for establishment of testing agencies for issuing certificates of approval.

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

**Motor Vehicles Act, 1988:** 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.

**Motor Vehicles (Amendment) Bill, 2019:** Section 198A is to hold road contractors, consultants or concessionaires accountable for faulty road design, construction and maintenance and failure to do so will lead them to being fined up to Rs. one lakh.

**Analysis:** ‘Engineering/designing fault’ caused 1289 accidents in 2016, killing 589.<sup>1</sup> However, no provision exists in the current Motor Vehicles Act 1988, 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.

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

**Motor Vehicles Act, 1988:** 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 recognized by the State Government.
- To drive a transport vehicle, an applicant is required to possess minimum educational qualifications.

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<sup>1</sup> Ministry of Road Transport and Highways, Transport Research Wing, ‘Road Accidents in India’, 2016, p.83.

### **Motor Vehicles (Amendment) Bill, 2019:**

- The licensing system would be digitized and the identification of the applicant would also be linked as per the UID mechanism.
- 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 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.

## **VI. REGISTRATION OF NEW MOTOR VEHICLES BY VEHICLE DEALERS**

**Motor Vehicles Act, 1988:** Under Section 41 of the existing Act, vehicle dealers cannot carry out registration of motor vehicles.

### **Motor Vehicles (Amendment) Bill, 2019:**

- The amendment proposed for Section 41 will now enable the vehicle dealers to register new vehicles.
- The newly registered vehicles will have distinguishable registration marks
- There is also a provision that fixes penalties for dealers who fail to duly register a vehicle or falter in their duties. Such dealers can be fined for up to Rs. 15,000/-

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

**Motor Vehicles Act, 1988:** 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.

### **Motor Vehicles (Amendment) Bill, 2019:**

- 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 Regional Power Authority 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 a date as notified by the Central Government. **Amendment to Section 117 puts a duty on the State government to prioritize the safety of road users and ensure free flow of traffic while designating parking zones.**

#### **Analysis:**

- Allowing applicants to obtain transport license without other requirements such as minimum educational qualifications and experience in driving LMVs 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 Bill.

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

#### **Motor Vehicles (Amendment) Bill, 2019:**

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.

#### **Analysis:**

The increased fines will act as a deterrent and shall prevent road users from driving recklessly. However, many stakeholders and even the Parliamentary Standing Committee recommended that if drunk driving caused death then that act should be constituted as ‘culpable homicide not amounting to murder’ instead of just ‘negligence’. This recommendation hasn’t been included in the final amendment as it involves amendment in the IPC for which the Ministry of Home Affairs has to move appropriate amendments. *A more detailed comparison of the penalties is described at the end of this document.\**

### **IX. REVISION OF FINES**

**Motor Vehicles Act, 1988:** There exists no provision for a steady increase of fine so that the fines are consistent with the changing inflation levels.

**Motor Vehicle (Amendment) Bill, 2019:** A new provision **Section 199B** is to effectuate a fixed increase in all fines under the Act @10% on an annual basis on the 1<sup>st</sup> day of April every year.

**Analysis:** The annual increase in fines will ensure that fines are not stagnant and are consistent with the changing times.

## **X. ELECTRONIC MONITORING AND ENFORCEMENT OF ROAD SAFETY**

**Motor Vehicles Act, 1988:** With enforcement being a State subject, the current scenario with regard to electronic enforcement differs across States.

**Motor Vehicles (Amendment) Bill, 2019:** 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**

**Motor Vehicles Act, 1988:** 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.

**Motor Vehicles (Amendment) Bill, 2019:** 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 the Ministry of Road Transport and Highways, in 2016 alone, total and fatal road accidents involving underage drivers were 18,738 and 5,383 respectively.<sup>2</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**

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<sup>2</sup> Ministry of Road Transport and Highways, Transport Research Wing, ‘Road Accidents in India’, 2016, p.90.

of the vehicle being cancelled can ensure that guardians do not allow their juveniles to drive their vehicle.

## **XI. DANGEROUS DRIVING**

**Motor Vehicles Act, 1988:** 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.

**Motor Vehicles (Amendment) Bill, 2019:** 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.**

**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 Bill provides the enforcement agencies to crack down on traffic rules violators more efficiently and provides a uniform penalty for such offences.

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

**Motor Vehicles Act, 1988:** 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.

**Motor Vehicles (Amendment) Bill, 2019:** 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.

### **XIII. NATIONAL ROAD SAFETY BOARD**

**Motor Vehicles Act, 1988:** There is currently no provision for a national body for road safety.

**Motor Vehicles (Amendment) Bill, 2019:** The proposed new **Section 215D** establishes a **National Road Safety Board**. The Board will render advice to the Union as well as State Government on all aspects of road safety and traffic management including the standards of road design, vehicle maintenance, road maintenance, sustainable utilization of road transport, safety of vulnerable road users, road construction technology, motor vehicle standards, etc.

### **XIV. TRANSPORT AGGREGATORS**

**Motor Vehicles Act, 1988:** The current Act does not recognize aggregators of transport like cab service providers etc.

**Motor Vehicles (Amendment) Bill, 2019:** The new legislation under Section 93, gives statutory recognition to transport aggregators.

### **XV. NATIONAL TRANSPORTATION POLICY**

**Motor Vehicles Act, 1988:** There are no provisions for formulating a unified transportation policy for the country.

**Motor Vehicles (Amendment) Bill, 2019:** New provisions **66A** and **66B** to empower the Central Government to implement a **National Transportation Policy in consultation with the States**.

### **XVI. PENALTY MULTIPLIER**

**Motor Vehicles Act, 1988:** There is no provision in place for the State Governments to multiply any penalties.



### **Motor Vehicles (Amendment) Bill, 2019:**

- The proposed 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.
- Section 210B also imposes a penalty on any enforcing authority under this Act. It would have to pay twice the penalty corresponding to that offence under the Act.

### **Analysis:**

- The new provision gives State Governments the power to increase fines in their jurisdiction by up to ten times the amount specified in the Act. For instance, the proposed fine for over-speeding is Rs. 1000 but any State Government can levy a fine of up to Rs. 10,000 and not less than Rs. 1000 for over-speeding in the jurisdiction of that respective State.
- Penalizing enforcing authorities will push them towards discharging their duties more efficiently and deter them from lapsing on their part.

## **XVII. COMPENSATION IN HIT-AND-RUN CASES**

**Motor Vehicles Act, 1988:** 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.

**Motor Vehicles (Amendment) Bill, 2019:** 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 2016 alone, there were 55,942 reported cases of hit-and-run accidents in India, which resulted in 22,962 deaths (which stands at 15.2% share in total road accident deaths). 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.

**NOTE:** In the 2019 version of the Amendment Bill, the following three changes may be noted:

**(i) Section 28:** This Section in the 1988 Motor Vehicles Act provided power to the State Government to determine how they wanted to maintain the State Registers for Driving Licenses. The Section (28 (2) (j)) has now been omitted and may be to ensure uniformity in maintenance of State Registers. This omission wasn't made in the 2017 version but has been made in the 2019 one.

**(ii) Section 56:** This Section provides for vehicle fitness testing in automated testing centres. In the 2017 version the date after which only vehicle fitness certificates from automated testing centres would be considered valid was 1<sup>st</sup> October, 2019. In the 2019 version there is no specific date but a date that will be notified by the Central Government.

(iii) **Section 41:** Section 41 deals with registration of vehicles and its sub-parts 11, 12 and 13 provide fines for delays in registration. The fines are drawn from Section 177 in the Motor Vehicles Act, 1988 which was INR 100. In the 2017 Amendment Bill the fine was raised to up to INR 5000. However, in the 2019 version sub-section 11, 12 and 13 are omitted.

**\*COMPARITIVE CHART: REVISED AND EXISTING PENALTIES**

Section	Title	Existing Penalty	Proposed minimum penalty
177	General	Rs. 100/-	From Rs. 500/- up to Rs. 1,500/-
New 177A	Rules of road regulation violation	Rs. 100/-	From Rs. 500/- up to 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	<b>Dealer:</b> Rs. 1 lakh per vehicle 1 year imprisonment <b>Manufacturer:</b> Up to Rs. 100 crore <b>Dealer selling safety equipment:</b> Up to Rs. 1 lakh <b>Consumer:</b> Rs. 5,000/- or 6 months imprisonment or both
182 B	Oversize vehicles	New	From Rs. 5000/- up to Rs. 10,000/-
			Rs .1000/- for LMV

183	Over speeding	Rs. 400/-	From Rs. 2000/- up to Rs. 4,000/- for Medium passenger vehicle/Heavy passenger vehicle/Medium goods vehicle/Heavy goods vehicle
184	Dangerous driving	Rs. 1000/-	From Rs. 1000/- up to Rs. 5000/- and/or 6 months-1 year imprisonment
185	Drunken driving	Rs. 2000/-	From Rs. 10,000/- up to Rs.

Section	Title	Existing Penalty	Proposed minimum penalty
			15,000/-
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. 200/- 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
198 A	Failure to comply with standards for road design, construction and maintenance	New	Up to Rs. 1,00,000/-
199	Offences by Juveniles	New	Guardian / owner shall be deemed to be guilty. Rs 25,000 with 3 year imprisonment, 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 corresponding section

