

## Laws governing road traffic in India

by [Yatin Chadha](#) on August 19, 2016



On 09<sup>th</sup> of August 2016 the Motor Vehicle (Amendment) Bill 2016 was introduced in Lok Sabha. The Hon'ble Transport Minister Shri Nitin Gadkari has termed the bill as biggest reforms in the road safety & transport sector.

India has one of the largest road networks in the world, consisting of National Highways, Expressways, State Highways, Major District Roads, Other District Roads and Village Roads. Roads are used not only by the motorized transport, but also by pedestrians, trailers, cycles, cycle rickshaws and vehicles pulled by animals or humans.

More people die of road accidents than by most diseases. Last year more than 20 people died every hour of road accidents in India. Fatalities amongst the most productive age group (15-45 years) are more disturbing. Pedestrians, cyclists, two-wheeler riders and handcart pullers are most vulnerable groups.



Road deaths should not be treated as a mere statistic. Behind each statistic is a human being and behind each human being is a shattered family.

Driving dangerously, crossing speed limit, jumping red light, driving without licence, driving by untrained and disqualified driver, driving by minor, driving under the influence of liquor, driving while using mobile, driving without helmet, ill-health of vehicle and bad road infrastructure are amongst the major causes of road accidents.

Archaic penalties and outdated rules of Motor Vehicle's Act of 1988 are the major cause of increasing road accidents.

For proper road safety and traffic management, focus should not only be on drivers and vehicles, but also on the behavior of all kinds of road-users, road infrastructure development, activities around roads and environmental concerns. There is an exigency to improve road-watch, surveillance and detection, effective and holistic regulation of all kinds of traffic on the roads and proper deterrence by stricter implementation of law.

In India, there is no comprehensive Central legislation to effectively and holistically regulate all kinds of traffic on roads. The Motor Vehicles Act, 1988 is contained in Entry 35 of the Concurrent List and the National Highways Act, 1956 is contained in Entry 23 of the Union List. The subject-matter of roads, traffic thereon, and non-motorized vehicles falls under Entry 13 of the State List.

The following laws govern Indian roads and regulate motor and non-motorized vehicles:

## **The Motor Vehicles Act, 1988**

The Motor Vehicles Act, 1988 (MVA) is the principal statute regulating motor vehicles in India.

*Section 19, 20, 21 and 22* confer wide powers upon the licensing authority and courts to disqualify habitual drunkard, drug addicts, dangerous/reckless/negligent drivers from holding a driving licence and empowers them to revoke, suspend, cancel their licences. However, lack of exercise of these powers and lenient approach has not served the purpose of law.

*Section 112* regulates the maximum and minimum limits of speed. Rule 118 of the Central Motor Vehicles Rules, 1989 provides for notified transport vehicles to be fitted with a sealed speed governor.

*Section 119* provides for the duty to obey traffic signs.

*Section 122* directs that motor vehicle shall not be placed in public place in such a manner as to cause or likely to cause danger, obstruction or undue inconvenience to others.

*Section 125* prevents driver to allow any person to stand or sit or to place anything in such a manner or position as to hamper the driver's control over the vehicle.

*Section 128* lays down that no driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the motor cycle who shall be seated behind the driver's seat.

*Section 129* mandates wearing of protective headgear/ helmet (confirming to B.I.S.) by every person driving or riding except a Sikh wearing a turban.

*Section 134* directs that in the event of accident by a motor vehicle its driver shall :

- (a) take all reasonable steps to secure medical attention for the injured person by conveying him to the nearest medical practitioner or hospital,
- (b) give any information demanded by a police officer, or, if no police officer is present, report the circumstances of the occurrence, and
- (c) report the occurrence of accident (in writing), within twenty-four hours, to the insurer by providing insurance policy number and period of its validity; date, time and place of accident; particulars of the persons injured or killed in the accident; name of the driver and the particulars of his driving licence.

*It shall be the duty of every registered medical practitioner or the doctor on the duty to immediately attend the injured person and render medical aid or treatment without waiting for any procedural formalities.*

*Section 184* punishes, with 6 months imprisonment or fine upto INR. 1000 or both, whoever drives at a speed or in a manner which is dangerous to the public. Use of mobiles while driving is punishable under this section.

*Section 185* punishes, with 6 months imprisonment or fine upto INR. 2000 or both, whoever while driving or attempting to drive (a) has in his blood alcohol exceeding 30 mg. per 100 ml. of blood (detected in a test by a breath analyzer) or (b) is under the influence of drug to such an extent as to be incapable of exercising proper control over the vehicle.

## **The Road Regulations, 1989**

The Rules of the Road Regulations, 1989 regulate driving of motor vehicles by enacting specific provision for right of way to pedestrians, keeping left, overtaking prohibited, caution at road junction, signals to be given by drivers, parking, visibility of lamps and registration marks, lane driving, respecting stop sign on road surface, distance from vehicles in front, no abrupt brake except for safety reasons, no projection of loads, non-carriage of dangerous substances on any public service vehicle, restriction on driving backwards, carrying of documents, viz., driving licence, certificate of registration, certificate of insurance of the vehicle and in case of transport vehicle the permit and fitness certificate also.

## **The Indian Penal Code**

The Indian Penal Code (IPC) is general penal code of India.

*Section 279, 336, 337 and 338* criminalize act of driving vehicle rashly or negligently.

*Section 304A* punishes, with 2 year imprisonment or fine or with both, whoever causes the death of any person by doing any rash or negligent driving.

'Rashness' conveys the idea of recklessness or driving without due consideration, deliberation or caution. 'Negligence' connotes want of proper care or the standard of conduct which a reasonably prudent person would exercise in a similar situation.

The *Hon'ble Supreme Court of India* has held that that if a person willfully drives a motor vehicle into the midst of a crowd and thereby causes death to some person, it will not be a case of mere rash and negligent driving and the act would amount to culpable homicide.

In the case of *Dalbir Singh v. State of Haryana* the *Hon'ble Supreme Court of India* has observed that When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction.

## **The National Highways Act, 1956**

*Section 8B* punishes, with 5 years imprisonment or fine or with both, whoever commits mischief by doing any act which renders or which he knows to be likely to render a national highway impassable or less safe for travelling or conveying property.

## **The Delhi Municipal Corporation Act, 1957**

According to this Act, all roads in Delhi vest in the Corporation and it is the duty of the Commissioner of the Corporation to maintain, control and regulate them. The Commissioner may prohibit vehicular traffic on any road so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality.

## **Safety Laws For Pedestrians And Non-Motorized Traffic**

There is no central legislation comprehensively regulating the use of roads by the pedestrians and non-motorized traffic. It is left to the States to legislate thereon.

The following provisions in Road Regulations, 1989 provide certain primacy to pedestrians:

*Regulation 11* postulates that the pedestrians have the right of way at uncontrolled pedestrian crossings. When any road is provided with footpath or cycle track, any other vehicle shall not be driven on such footpath or track."

*Regulation 19* directs that when stop signal is given no driver shall drive a motor vehicle on to any line painted on or inlaid into the surface of any road or a pedestrian crossing.

Apart from above legislations, several provisions of The Central Motor Vehicles Rules 1989, The Carriage by Road Act 2007 as read with the Carriage by Road Rules 2011, The Road Transport Corporation Act, 1950 also regulate Indian roads and motorized traffic.

## **New Bill**

On 03<sup>rd</sup> of August 2016 Cabinet approves Motor Vehicle (Amendment) Bill 2016 and on 09<sup>th</sup> of August 2016 the bill was introduced in Lok Sabha with the objective to make roads safer.

The Bill aims to bring major amendments to the Act and to reform third party insurance claims and settlement process, the process for testing and certification for automobiles.

Stricter provisions are being proposed in respect of offences like juvenile driving, drunken driving, driving without licence, dangerous driving, over-speeding, overloading etc. Specific provisions for helmets have been introduced along with provisions for electronic detection of violations.

The Guardian/owner shall be deemed to be guilty in cases of offences by the Juveniles and Juvenile to be tried under JJ Act. Registration of Motor Vehicle to be cancelled

**Proposed Amendments in Various Penalties under Motor Vehicle Amendment Bill - 2016**

Section		Old Provision / Penalty	New Proposed Provision / Minimum Penalties
177	General	Rs 100	Rs 500
New 177A	Rules of road regulation violation	Rs 100	Rs 500
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
182 B	Oversize vehicles	New	Rs 5000
183	Over speeding	Rs 400	Rs 1000 for LMV Rs 2000 for Medium passenger vehicle
184	Dangerous driving penalty	Rs 1000	Upto Rs 5000
185	Drunken driving	Rs 2000	Rs 10,000
189	Speeding / Racing	Rs 500	Rs 5,000
192 A	Vehicle without permit	upto Rs 5000	Upto Rs 10,000
193	Aggregators (violations of licencing 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		Rs 1000 per extra passenger
194 B	Seat belt	Rs 100	Rs 1000
194 C	Overloading of two wheelers	Rs 100	Rs 2000, 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	New	Rs 10,000

	emergency vehicles		
196	Driving Without Insurance	RS 1000	

Safe roads in India are a long way to go. However, suitable steps towards incorporating road safety features into land-use, urban planning and transport planning; designing safer roads; better signage; improving the safety features of vehicles; improving and promoting public transport; stringent laws; effective enforcement of road laws; public awareness campaigns and improving post-accident care for victims would ensure orderly traffic flow and safer roads.