

# Stringent Road Safety Laws; Need of the Hour to Stop the Homicides on Indian Roads: A Regulatory Perspective

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## Abstract

Indian roads are deemed to be the most dangerous, considering the number of annual fatalities, which touched 151,113 in the year 2019, the highest in the world. Causes ranging from poorly designed roads, tardy enforcement of traffic rules, delay in giving medical assistance, ill equipped hospitals, refusal of treatment by hospitals, all contribute to this unenviable predicament. A lax regulatory environment with minor penalties, has accentuated the crisis. Having held the pivotal position amongst 199 countries, there is a dire need for concrete action by Government. While 2,211,439 road accidents in the US in the year 2016 took away 37,461 lives, a relatively lower number of 480,652 accidents snuffed out 150,785 lives in India. Creating comparable safety levels could take decades for a developing country. But with the country's share constituting about 11% of road accident casualties worldwide and the estimated social cost hovering around \$58 billion, the problem begs for an immediate fix. Tightening regulations would be a practical solution for both short and long-term gains. Enough deterrents need to be put in rules governing road safety; the Motor Vehicles Act to ensure defensive driving. This paper examines how certain loopholes need to be plugged in the new Motor Vehicles Act 2019 to achieve the higher goal of road safety.

**Keywords:** Road accidents, traffic regulations, MV Act amendment 2019.

## Introduction

With India occupying the pivotal position amongst 199 countries for having the highest number of road accidents per annum, there is little doubt that the bull must be taken by the horns. While 2,211,439 accidents in the US in the year 2016 resulted in 37,461 deaths, in India just 480,652 incidents took away 150,785 lives<sup>(1)</sup>. Despite the number of accidents being one fifth, the death toll was four times higher in India. Hence, the immediate concern is to reduce fatalities. Reaching comparable safety standards of US would take decades, because improvements are required simultaneously in many areas including road infrastructure, surveillance,

behaviour of road users, medical facilities, as well as safety regulations. However, with a massive annual social cost estimated at \$58 billion by UNESCAP<sup>(2)</sup> there is a crying need for immediate action. The one way to have both short and long-term gains is to have a stringent regulatory environment. One of the early researchers in the domain of road safety created the Haddon Matrix<sup>(3)</sup>, wherein there is interaction of human, machine (motor vehicle) and environmental factors in traffic accidents. While infrastructural environment consists of highways, bridges etc, the regulatory environment comprises the legal ecosystem having norms for manufacture, sale, registration and use of motor vehicles on public roads, including fuel/emission norms. It also consists of traffic rules on use of roads, licensing of drivers, issue of vehicle permits, motor vehicle taxes/insurance, certification of road worthiness of vehicles, scrapping of old/damaged vehicles etc. The Motor vehicles Act governs the use of motorized vehicles on public roads and one of its objects is to regulate conduct of road users, to make highways accident free.

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**Background of the study:** The largescale homicides happening on Indian roads pricks the conscience of all road users. It is high time that a concrete solution has

been found to bring it under control. The dismal five-year accident record below speaks volumes about the gravity of the situation.

**Table 1<sup>(4)</sup>: Break-up of numbers injured/dead**

Year	No. of road accidents	No. of deaths	No. of injuries	No. of non-injury cases
2015	501,423	146,133	500,279	57,395
2016	480652	150,785	494,624	36,091
2017	464,910	147,913	470,975	34,743
2018	467,044	151,417	469,418	34,087
2019	449,002	151,113	451,361	27,339

**Socio-economic cost of road accidents in India:** Although UNESCAP had estimated annual loss of \$58 billion as the socio-economic cost of road accidents in the year 2018, calculations done independently by Indian

Institute of Technology, New Delhi and Delhi Integrated Multi-Modal Transit System (*DIMTS*) Ltd indicates a figure of INR 8.53 Lakh crores (as in Table 2) according to the Ministry of Road Transport and highways (morth).

**Table 2: Socio-economic cost<sup>(5)</sup>**

Head	MORTH data for 2018 (persons)	Cost impact (Rs. in Crores)
Fatalities	151,417	137,016
Grievous injuries	178,641	5,649
Minor injuries	290,777	1,096
Property damage cost Rs. 2,088 Crores		Administrative cost Rs. 1,264 Crores

**Major share of socio-economic cost:**

**Death:** Medical cost (Rs.88,000), Lost output (Rs.74 Lakh) Pain/Suffering (Rs.14.8 Lakh) & Other costs (Rs.70,000).

**Research Question:** Can stringent regulations bring down road accident casualties in India?

**Literature Review:** Road accidents have been a research topic from different standpoints like road safety, vehicle design, human error, external terrain, regulatory as well as road user behaviour. Another research strand has papers estimating probability of occurrence of road accidents and quantification of potential losses following accidents, done from an actuarial perspective for the purpose of insurance pricing. Shortlisting the ones on road accidents studied from a regulatory perspective, the earliest one was about the effect of legislation on road accidents<sup>(6)</sup>. Subsequently a matrix was designed, showing the interaction of human, machine and environment on road accidents<sup>(3)</sup>. A later study

established that non-installation of legally mandated safety devices in motor vehicles increased highway fatalities to the tune of 20%<sup>(7)</sup>. A study on the causes leading to motor accidents in India was also made<sup>(8)</sup>. Research was also carried out on how mandatory regulation for installation of daytime running lights could save lives of motorcyclists in New Zealand<sup>(9)</sup>. The effect of traffic safety regulation on accidents in Sweden was also studied<sup>(10)</sup>. A study was also made on the regulations adopted by different states in US to control road accidents<sup>(11)</sup>. There was also a study on Risk homeostasis and the purpose of safety regulation<sup>(12)</sup>. The intention of pedestrians to violate traffic laws was also studied<sup>(13)</sup>. A further study of the cost benefit analysis of imposing safety measures was made<sup>(14)</sup>. Road safety was also studied from a policy making perspective<sup>(15)</sup>. The impact of vehicle impoundment regulations on road accidents in Israel was then studied<sup>(16)</sup>. Similar studies on impact of safety regulations on motorist's behaviour was also studied in China<sup>(17)</sup>.

## Methodology

This paper contains a critical study of Government's regulatory amendments in road safety laws; the Motor vehicles Act 2019, the shortcomings and the gaps to be addressed. This is a qualitative study.

## Discussion and Results

**Amendments made by Government in Motor Vehicles Act for improving road safety:** Based on recommendations of the ten member Sundar committee,

the Government has made major changes in Motor Vehicles Act 1988, replacing it with the Act of 2019 giving more teeth to road safety provisions. The new Act primarily focusses on making traffic rules stricter, by having a steep hike in penalties ranging from doubling to a twenty-fold increase for road traffic offences to serve as a deterrent for motorists. The Table-3 shown below indicates the major changes in Motor vehicles Act 2019, in comparison with the erstwhile Act of 1988 and the new provisions included.

**Table 3<sup>(18)</sup>: Major amendments in Motor Vehicles Act 2019**

Section	Type of offence	Old Penalty (MV Act 1988)	New Penalty (MV Act 2019)
177	General	Rs. 100	Rs. 500
New 177A	Rules of road regulation violation	Rs. 100	Rs. 500
178	Ticketless travel	Rs. 200	Rs. 500
179	Disobedience of authorities' orders	Rs. 500	Rs. 2,000
180	Unauthorized use of vehicles without license	Rs. 1,000	Rs. 5,000
181	Driving without license	Rs. 500	Rs. 5,000
182	Driving despite disqualification	Rs. 500	Rs. 10,000
182 B	Oversize vehicles	New	Rs. 5,000
183	Over speeding	Rs. 400	Rs. 1,000 for LMV Rs. 2,000 for Medium passenger vehicle
184	Dangerous driving penalty	Rs. 1,000	Up to Rs. 5,000
185	Drunken driving	Rs. 2,000	Rs. 10,000
189	Speeding/Racing	Rs. 500	Rs. 5,000
192 A	Vehicle without permit	Up to Rs. 5,000	Up to Rs. 10,000
193	Aggregators (violations of licensing conditions)	New	Rs. 10,000
194	Overloading	Rs. 2,000 and Rs. 1,000 per extra tonne	Rs. 20,000 and Rs. 2,000 per extra tonne
194 A	Overloading of passengers	New	Rs. 1,000 per extra passenger
194 B	Seat belt	Rs. 100	Rs. 1,000
194 C	Overloading of two wheelers	Rs. 100	Rs. 2,000 Disqualification for 3 months of the licence
194 D	Helmets	Rs. 100	Rs. 1,000 Disqualification for 3 months of the licence
194 E	Not providing way for emergency vehicles	New	Rs. 10,000
196	Driving without Insurance	Rs. 1,000	Rs. 2,000
199	Offences by Juveniles	New	Guardian/Owner shall be deemed to be guilty. Rs. 25,000 with 3 yrs imprisonment.

Section	Type of offence	Old Penalty (MV Act 1988)	New Penalty (MV Act 2019)
206	Power of Offices to impound documents	New	Suspension of driving licenses u/s 183, 184, 185, 189, 190, 194C, 194D, 194E
210 B	Offences committed by enforcing authorities	New	Twice the penalty under the relevant section

### New Penal provisions in the amended Motor Vehicles Act 2019:

- a) Oversize vehicles (Sec182B): Some unscrupulous vehicle owners carry out minor alterations on their vehicles after its registration. This marginally increased size and posed a hazard by obstructing view particularly when light weight cargo like hay was being carried. Creation of a new provision would sort out the issue henceforth.
- b) Aggregators (violation of licensing conditions) Sec.193: Technology has brought in car rental companies Zoomcar, Revv and aggregators like Ola, Uber etc. Whether renting out a car or aggregator including a new entrant into their fleet, there is onus on them to ensure validity of all vehicle documents. Hence this new provision is created.
- c) Overloading of passengers (Sec194A): In rural areas, we see the ubiquitous six-seater Mahindra Jeep carrying as many as 25 passengers, clinging onto body frame from all three sides. It often resulted in instability of the vehicle, causing more accidents. The RTO officials would turn a blind eye in the absence of penal provisions. The issue is addressed by the new provision.
- d) Obstructing emergency vehicles (Sec194 E): Often ambulances carrying critical patients or organs for transplant are unable to reach their destination at the expected time due to insensitive motorists not allowing them to pass. The RTO was unable to impose fines without adequate provisions. This new section addresses the issue.
- e) Juvenile offences (Sec 199): Sadly, in the erstwhile Act, whenever juveniles without eligibility to drive got involved in accidents, the RTA could frame charges on the driver only for non-possession of a valid driving license. There was no way that their parents or guardians could be booked. The tweaked provisions fix accountability even on guardians/ vehicle owners who have let a minor drive the vehicle, making them liable for payment of steep fines as well as imprisonment.
- f) Power to impound documents (Sec 206): This is also a new provision aimed at empowering the RTA. Besides imposing fines for violations, they are empowered to confiscate driving licenses/ Registration books or suspend validity of these documents.
- g) Offences committed by enforcing authority (Sec 210B): Interestingly, the amended Motor vehicles Act has this new provision to impose fines on RTA officials for failure to implement motor vehicle rules or penalize anyone breaking traffic laws. It deters corrupt officials from turning a blind eye towards offenders for some consideration.

**Other benevolent provisions in the Act:** Besides enhancing penalties for traffic offences, the amended Act has created provisions which are protective than punitive, like creation of a Motor Accident fund (with contribution from Insurers/Government) under Sec 164B. This fund would be utilized to meet emergency treatment cost at hospitals for road accident victims during 'Golden hour' (the first one hour of accident occurrence as defined u/s 162). It would save lives because in the past, hospitals were reluctant to treat victims who were unaccompanied by bystanders or unable to pay. Likewise, the fund would also be utilized to compensate victims of 'hit & run' cases where accident vehicles are not traceable. The amounts for such victims have also been enhanced from INR 25000 to INR 2 Lacs and from INR 12500 to INR 50K respectively for accident death and grievous injury (u/s 161). In the past, good Samaritans who rushed accident victims to hospitals were often harassed and even accused of being the culprit. They have been given protection in the amended bill. The new Act provides for community service, more stringent rules for delay in driving license renewal, provision for recall of unsafe/unfit motor vehicles and subsequent replacement of the same to buyer. To avoid protracted litigation, claimants could directly negotiate with Insurers through Motor Accidents Claims tribunals (Sec 149). In instances where victims are unwilling to take up case for driver's negligence before a court, they could opt for direct settlement with Insurers (Sec 164). Reinstatement of

the 6 months' time limit for filing compensation cases in road accidents would help insurers get rid of many spurious claims which were getting into their books in the past.

**Will the amended motor vehicles Act amendment enhance road safety?:** The Government's amendment of the erstwhile Motor Vehicles Act 1988 generally focuses on hiking penalties across the board. Although it was effective from 1<sup>st</sup> Sept 2019, the impact of amended regulation is yet to be known, particularly because of the nationwide lockdown imposed and consequent restrictions on vehicle movement from the month of March 2020. Nevertheless, will hiking fines across the board for all traffic offences control motor accidents? It would only help partially only because the propensity to cause fatalities is different for each of the offences. Hence logically, the penalty should be commensurate with the potential for an offence to cause fatalities. The Table-4 gives a clear picture, comparing the cause-wise road accident deaths for the year 2019 with respect to the previous year. Hence specific provisions need to be reviewed in the light of certain offences causing a relatively higher number of fatalities on Indian roads. Table-4 shown below indicates the cause-wise number of road accident deaths in the year 2019 compared to the previous year. It becomes obvious from the table-4 that those infringements causing higher number of casualties need to have more stringent penalties.

**Table-4<sup>(1)</sup>: Cause-wise comparison of road accident deaths for last two years:**

	2018	2019
Speeding	97,588	101,723
Not wearing of helmet	43,614	44,666
Driving without licence	37,585	44,358
Hit & run	28,619	29,354
Not wearing of seatbelt	24,435	20,885
Driving on wrong lane/breaking lane discipline	8,764	9,201
Use of mobile phones	3,707	4,945
Potholes	2,015	2,140
Jumping traffic light	1,545	1,797
Driving under influence of alcohol/drugs	1,188	5,325

**Offences which deserve more stringent penalties than those stipulated in the act:**

a) **Over-speeding:** Although penalty for over-

speeding has been hiked from INR400 to INR 1000 for cars and to INR 2000 for larger vehicles, under amended Motor vehicles Act 2019, it is only logical to increase it further against the backdrop of a staggering 101,723 number of deaths in the year 2019 resulting from over-speeding. Suspension of driving license and impoundment of vehicles for repeat offenders can be contemplated. However, proper implementation of the rule would entail fixing of warning boards showing speed limits and installation of speed guns at all potential areas.

b) **Non-use of helmets/seatbelts:** The amended Act provides for a ten-fold hike from INR 100 to INR 1000 for both the offences, but the total number of deaths on these counts last year were a staggering 65,551 numbers. There is also temporary suspension of driving license apart from fines for non-use of helmets. In view of the high number of deaths due to non-use of seatbelts, the same additional penalty can be made applicable. Though the Act is mum regarding helmet quality, motorists using non-ISI helmets need to be penalized as it serves only ornamental purpose, often breaking with even mild impact.

c) **Driving without valid driving license:** With 44358 number of deaths caused by drivers not possessing a valid driving license, the offence warrants more stringent penalty than just fines. As vehicle impoundment regulations have positively impacted road safety in countries like Israel and China as seen above, similar penalty should be applicable for this kind of offence.

d) **Hit and run cases:** When a vehicle speeds away without stopping after knocking down someone, apart from enduring pain, disability, and huge treatment costs, they have no possibility of getting any compensation as the accident vehicle is non-traceable. Drivers may do it deliberately to escape from potential liability when their vehicles are either uninsured or have some shortcoming in documents like fitness certificate/driving license/permit etc. The abominable practice needs to be stopped as it defeats the very purpose of sec 163 A/165 of the benevolent legislation like Motor vehicles Act. With 29354 cases in the year 2019, fines for such an offence needs to be hiked multi-fold.

d) **Drunken driving:** In the year 2019, there has been

5325 number of road accident deaths resulting from drunken driving. Although penalties for such offences have been hiked, non-monetary penalties like suspension/revocation of driving license of offenders need to be introduced to ensure that callous, irresponsible behaviour does not take away innocent lives. Vehicle impounding needs to be contemplated for repeat offenders.

- c) **Mobile-phone use while driving:** Use of mobile phones while driving had caused death of 4945 people in the year 2019, marginally lower than those resulting from drunken driving. Though it has been brought under the category of dangerous driving under the amended Motor vehicles Act with a hefty fine of INR 5000, more stringent action like suspension of driving license is needed.
- d) **Offensive driving:** It is unfortunate that more than 10,000 deaths on Indian roads have happened in the year 2019 due to extremely offensive, callous and aggressive driving, disregarding human life. As many as 9201 fatalities resulted from driving on wrong side whereas jumping red signal or lanes have caused 1797 deaths. Although the offences are chargeable under dangerous driving, such recklessness needs to be dealt more stringently by way of suspension/revocation of driving license.

### Conclusions

The alarming number of road accident casualties are a major concern for a country like India. Giving more teeth to traffic laws was conceived as one step towards raising safety standards and accordingly the Motor vehicles Act 1988 got amended in the year 2019 based on Sundar committee recommendations. The impact of amended Motor vehicles Act which became effective from 1<sup>st</sup> Sept 2019 cannot be analysed correctly at this stage because of the nationwide lockdown imposed from March 2020 and the consequent traffic restrictions declared by individual states. However, across the board hike in penalties for all road traffic offences may not be the panacea for reining in the indisciplined and reckless drivers on Indian roads. Fines/penalties for offences must be commensurate with propensity to cause fatalities on public roads. Hence the penalty provisions in the amended motor vehicles Act 2019 warrants a relook to ensure that serious life-threatening offences are dealt with an iron hand.

**Ethical Clearance:** The study involves a critical analysis of the amended Motor Vehicles Act 2019,

highlighting the gaps and shortcomings. It was done using data from secondary sources, without having any experiment or data from primary sources. Neither human nor animal subjects are involved in the study. Hence it complies with the ethical standards set by COPE.

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**Conflict of Interest:** There is no conflict of interest.

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