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# Critical Analysis of Motor Vehicle (Amendment) Act, 2019 in Reference to Modern India

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## ABSTRACT

*Road accidents are common in newspapers and T.V. channels even after enacting Motor Vehicle Act, 1988. Therefore, amendment of 2019 came to bring some change in the scenario. This paper critically analyzes the Motor Vehicle Act, 2019 and what is its impact on the Indians and their lives. It also discusses upon the amount of fine or penalty that is to be imposed under the law and how can the amended law help in reducing the no. of motor vehicle accidents. This paper also analyzes the safety issues involved in online taxis or cabs.*

*The author tries to explain the positive and negative impact of this Amendment. As this law promotes digitalization in fields such as license issuance, address change, receipt issuance etc. in order to bring efficiency in the mechanism, it also is considered as a threat to autonomy of the states of the country. The paper discusses all these in detail.*

**Keywords:** *Insurance, compensation, road safety, transportation, license, moto vehicle*

## I. OVERVIEW

The number of road accident cases is continuously increasing. We might have encountered at least once in our lifetime the site where blood is spread all over the road and there's traffic due to ambulance, police cars etc. Or if not so, you must have seen some crane that is trying to lift the cars that got slipped and went off road because of meeting an accident. Cases of death, injuries or grievous injuries in road accidents are increasing with a very high speed and the only way to help the family members of the deceased is to provide them with compensation. There have been many amendments in the Motor Vehicle Act since its enactment and the recent one is of 2019 which repealed the old laws.

The Motor Vehicle Act, 1988 came into force from 1 July, 1989 that included almost all the sections of road vehicles and also regulations for traffic guidelines, vehicle protection, enlisting the engine vehicles, checking the licenses and punishments.

In order to make the roads safer, and to reduce the accidents, the Indian Government after

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having a conversation with the State transport pastors came on a conclusion to bring up Motor Vehicles (Amendment) Bill, 2017 which got the assent of Lok Sabha on April 10, 2017. Then in August 2019, Motor Vehicles (Amendment) Bill, 2019 came to improve the Motor Vehicle Act, 1988 and since then, many changes have been made which was of immense need at that time. Nitin Gadkari, the then Union Minister for Road and Transport said that the motive behind the amendments is to diminish accidents on roads.

The Act included compensation in manslaughter cases resulting to death, from Rs. 25,000- Rs. 2,00,000. In case of an accident resulting into horrifying injuries, the compensation granted is from Rs.12,500 to Rs.50,000. The new Act provides protection to the street clients, made changes in the definition of good Samaritans, and provided orders for other transportation arrangements and establishment of Road Safety Board. The Act also provides for the review procedures of vehicles so that any imperfection in the vehicle does not cause any harm to the nature, driver, or other street clients.

## II. NEED OF THE AMENDMENT

According to Nitin Gadkari, *“People need to have a fear of law. It’s the time that the country starts thinking about saving lives. Every year 1,50,000 people get killed on roads and 65 percent of them are 18-35 years old. They have not been killed in terror strikes or riots. This (new law) was done to save lives.”*

According to the data of MoRTH in 2017, 4,65,000 cases of road mishaps have been reported in which 1,47,000 have lost their lives, and it was also found that the 2-wheeler vehicle accidents constitute one-third of the total cases of road accidents.

The Motor Vehicle Act, 2019 was brought by the Ministry of Road Transport and Highways in order to promote digitalization, avoid harassment of public on road by the police officers, and reduce road mishaps and to create an effective and smooth functioning of laws. The earlier laws had very lenient provisions regarding penalties and for some cases there were no provisions. Such as cases of violation of road regulations, dangerous driving, drunken driving case, offences relating to accident, racing and speeding, etc. The earlier laws were not efficient enough and it proved to have absolutely no sympathy towards the victim or their families. The number of road accident cases has been continuously on hike which proves the incapability of the previous Motor Vehicle Act in reducing the road mishaps.

In order to reduce the road accidents, help the public from being harassed by police officers and to promote digitalization, an amendment in the law was the need of the hour. An amendment was required to help common and prudent people and punish the perpetrators who

think the laws are made to be broken. In the era of digitalization, it was necessary to bring such laws that promote digitalization and lower down the burden of carrying out physical documents on road. Thus, this law came to provide stringent laws, to lower the burden of carrying physical documents, to help the common public, to provide compensation to the victims and their family, to speed up the treatment of injuries from accidents, and to protect the Samaritans.

### **III. OBJECTIVE OF THE ACT**

With each step towards increasing urbanization, it becomes clear that road traffic has increased. Today it is quite common to have at least one motor vehicle in each house due to which traffic is expanding and so the chance of accidents to occur. But the worst part about current scenario is that the probability is in coincides with the reality of accident cases. The reasons behind increasing road accidents may be reckless driving, ignoring traffic rules, leniency in implementing the traffic rules, irresponsible staff and traffic officers.

The Motor Vehicle Act, 2019 primarily aims:

1. To ensure safety at road;
2. To provide compensation to the victims or family of the deceased;
3. Third party insurance; and
4. Proper well-maintained vehicles so that they do not harm nature, driver or any other person.

### **IV. SALIENT FEATURES OF THE ACT**

Following are the salient features of the Act, 2019:

#### **1. Concern Regarding Environment**

The Amendment has a value for environment and therefore it during inspection any vehicle is found to be harmful to the environment or can have a negative impact on others' health then the vehicle has to get returned or replaced by the manufacturer and he has to either reimburse or replace the defective vehicle with a good vehicle.

#### **2. Increase in Penalties**

In order to reduce the number of accidents on roads due to reckless driving or ignorance to traffic rules, the penalties have been increased so that the drivers follow the traffic rules and be alert on roads. The amendments have included stricter laws in relation to juvenile driving, drunk and drive cases, driving without a license, etc. Even riding without wearing helmet also has a hefty penalty under this amendment.

Earlier, in case of drunken driving, the penalty was Rs. 2000 but the current law has increased the fine up to Rs. 10,000. In case of driving without license, the penalty is fine of Rs. 5,000.

For dangerous driving, punishment of imprisonment of 6 months to 1 year or with fine of Rs.5,000- 10,000 or both in the first instance is to be given to the culprit. For the second time within 3 years, the punishment is of 2 years imprisonment or fine up to Rs.10,000 or both.

### **3. Condition of Vehicle**

The amendment focuses on the condition of the vehicle as it can pose severe threat to environment and therefore it is very important that the vehicle must be fit and it does not have any imperfection. It would help improve the nature and also would reduce the traffic units from roads. Under this amendment, a certificate is to be provided to the vehicles that have been successful in the test. The Act also sets a testing standard and brings the agencies to issue automotive approval under this Act.

### **4. Establishment of National Road Safety Board**

This Act provides for the establishment of National Road Safety Board to advise the state and central government relating to traffic management and road safety.

### **5. Provisions for Compensation**

This Act provides for provisions for the cashless treatment of the victim during the “*golden hour*”. Golden hour is the first hour of accident in which the probability of survival is maximum. The Act also attempts to provide the procedure for the cashless treatment.

### **6. Protection of Good Samaritan**

The term “Samaritan” denotes the person who steps forward to help the victim of the road accident, but it is found that quite often the Samaritans become victims of harassment. A Good Samaritan provides emergency medical or non-medical assistance to the person in need on the location of the accident. Such person voluntarily helps the victims without an expectation of getting any reward in return. But what they actually get in return is harassment and civil or criminal proceedings. This Act provides protection to such people and ensures that the Samaritans are not harmed in any manner and protect them from any kind of civil or criminal proceedings even in the case of death of the victim due to negligent driving.

### **7. Compulsory Insurance**

The Amendment directs the central government for the establishment of “*Motor Vehicles Accident Fund*” to provide compulsory insurance to all the drivers that are on road. The fund will be used for compensating the victims of the road mishaps or their heirs in case of the

victim's death.

### **8. Taxi Aggregators**

Taxi Aggregators are the intermediaries who through digital platform act as a bridge between drivers and passengers. Such intermediaries have to get a license from their respective state governments. They also have to follow the Information and Technology Act, 2000.

### **9. National Transportation Policy**

The Act provides that the central government should form the "National Transportation Policy" in collaboration with all the state governments, in order to provide a framework for the road transportation.

### **10. Training the Drivers**

The Amendment strives to provide training to the drivers so that fast license can get issued. The Act directs to establish more training institutions to ensure that the drivers are properly trained. The Act also provides for the establishment of driver training schools

### **11. Vehicle Registration**

The Act provides for establishment of a "National Register for Driving License" and "National Register for Vehicles" to provide integrate issuance of driving license with vehicle registration. The issuance can be done through online portal of "Sarathi" and "Vahan". Through this process, a uniform system of licensing and vehicle registration is possible in the overall country.

### **12. Digital Driving Licensing**

The new Amendment provides for the online issuance of learner's license by providing identity verifications online that would be provide transparency and reduce the chances of fake licensing and improving efficiency. The Act provides for commercial license that is valid for 5 years. Earlier it was for 3 years.

### **13. Insurance Facilities**

The Act puts no liability for insurers. It also includes driver's attendants in the third-party insurance and the third-party insurance to be increased by 10 times. The Act also provides for compensation that if the victim's family gets agreed upon the compensation of 5 lakhs, then the family should get the compensation within one month. The Act has simplified the process of claiming compensation and it has also increased compensation for hit and run cases and cases in which grievous hurt is caused to the victim.

## V. PROS OF THE AMENDMENT

1. The Amended Act provides for e-governance and now it is not mandatory to possess any special educational qualification to obtain a license. The Act facilitates online training for the driver's license. It also extends the validity of the driver's online through online portals.
2. This Act is a helping hand and would act as savior for those families who had lost their family member due to an accident or for those families who do not have the financial capability to pay the expenses for the treatments. In short, this Amendment provides for a better and quicker social security.
3. The Act facilitates convenient procedures for vehicle registration through online portals of "Sarathi" and "Vahan".
4. The stringent rules relating to the fitness of vehicles would lower the air pollution level of the country. Thus, it can be called as an eco-friendly Act.
5. Through the convenient procedures of e-governance and other online processes, the system might work efficiently in controlling mishaps.

## VI. CRITICAL ANALYSIS OF THE AMENDMENT

The Amendment of 2019 came as a savior for the common, prudent public and as a punisher for the culprits or the negligent ones. This law had many positive points that could help lower down the accident but it had some major issues that are provided in the provisos of the Act. These are:

- The Amendment Act of 2019 provides for a Motor Vehicles Accident Fund for compensating victims of road accident cases. But a fund for similar cause has already been set up in previous Act. Thus, establishing a fund for similar cause is unreasonable and futile.
- Strict laws without proper implementation are useless and therefore, it is very important that the law gets implemented properly and efficiently. But in this case, uniform implementation of the Amendment in the entire country is very difficult.
- The Act provides for punishing each and every violator of rules and for this, installation of digital machines or modern technologies would be required. The Act thus would require huge investment in such installations, etc for which the Act is completely silent and ambiguous.

- The Act empowers the Central Government in various circumstances and therefore the state governments raised the issue that the Amendment has curtailed their autonomy by the hands of the Central Government.
- The Amended Act does not clearly specify those offences that might result into penalties. The Act also provides for the relief of the victims but its ambiguity might result in making the whole process of providing relief, futile.
- The Amendment provides for safe vehicles manufacturing, but the manufacturers are still insufficient in complying with the safety procedures of the manufacturing. Therefore, the Act is good as a script but its actual implementation is still a doubt.

## **VII. AMENDED ACT OF 2019 IS A CHALLENGE TO FEDERALISM**

The Motor Vehicle Act, 2019 has various outstanding features that would put hefty penalties and extra dose of forceful law may lead to reduction of road accidents and law-abiding citizens. But this Amendment has challenged the state and center relationship. Many states have declined from accepting the Act or some of them have diluted its stricter provisos. Under Constitution, state transport comes under the State List and therefore the states have power to make rules and regulations relating to road transport. Since, under this Act, Central Government is given excessive power relating to the laws of road and transport, this Act has raised conflict between state and central government. The Constitution has distributed powers under the three Lists. It also has promoted federalism but this Act giving major of the powers to the Centre has raised a challenge to federalism.

Federalism gives power to each state to take control of their respective states and by using that power many states have opted to not implement this law in their states.

## **VIII. RECOMMENDATIONS**

Although this Amended Act has many positive impacts but it also has some issues that needs to be addressed. There are some points that are recommended by the author:

### **1. Proper Implementation**

Strict law along with proper implementation is the only key for the success of any law. Until any law is not properly implemented, its enactment is futile. Therefore, it is recommended that there must be a proper mechanism for the implementation of this law.

### **2. Specific Provisions**

The law is not specific enough while talking about the offences therefore in order to be



unambiguous for its proper implementation; it needs to be unambiguous and specific.

### **3. Proper Mechanism**

Since the law only talks of the end result, it should also have provisions regarding the ways to get the result. For an example, the law talks to punish the violator of laws with penalties but in order to catch the culprit it is necessary to have CCTV cameras installed on the traffic signals, etc and to install such technologies there is a need for investment. Therefore, the law must also have provisions regarding these.

### **4. Maintain Federalism**

The Act is receiving criticism from many states on the ground that it is curtailing their autonomy. Since the subject of road and transport is under the State List therefore, states should be given an upper hand in this law instead of Centre.

## **IX. CONCLUSION**

The Motor Vehicle Amendment Act, 2019 has been beautifully drafted for common interest of public. It has many provisions that are the need of the hour that if implemented properly could bring an immense change in the country's position. This law was enacted with a thought that when people in order to escape themselves from heavy fines and penalties, they will follow the law and will prevent themselves from violating any law. The coercive law will not only prevent the wrong doers but also help protect the people who are of good faith. Usually, people who come forward to help the victims of road mishaps find themselves trapped in civil or criminal proceedings and have to face several harassments by the police officers. But this law has made provisions for protecting them as well. The Act has some issues that need to be addressed but in the current scenario, it was the need of the hour in order to save people from accidents and make roads safer for people to travel. The newspapers that almost daily has one news relating to these accidents will now have space for something worth reading and this law has inflicted a hope that there will be day where in newspapers we won't have to read any case of road accidents. The Act will help people become prudent, responsible and law-abiding citizens.

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