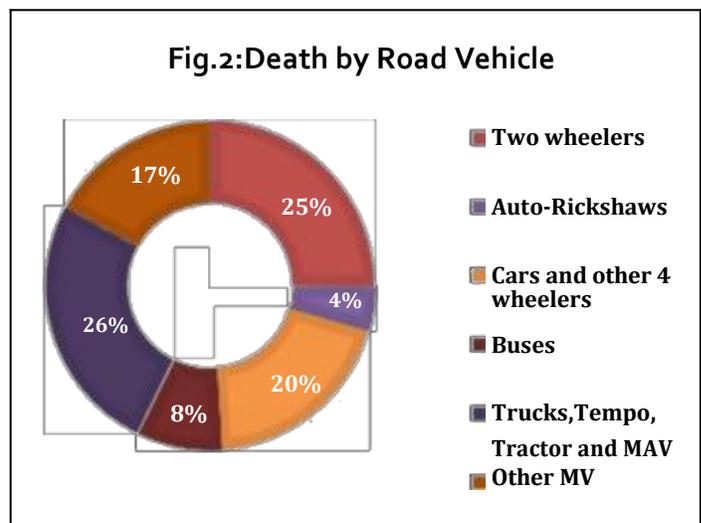
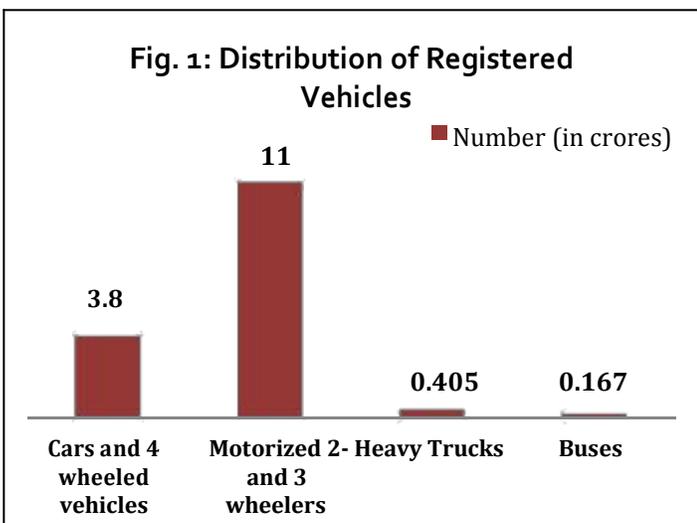


The Motor Vehicles (Amendment) Bill, 2017

Introduction

Road accidents has been recognised as a serious public health problem across the world. More than **1.2 million people** die each year on the world's roads, making road traffic injuries a leading cause of death in the world. As per Global Status Report on Road Safety 2015, road traffic crashes are a leading cause of death among young people, and the main cause of death among those aged 15– 29 years globally. According to the World Health Organization (WHO) most of these fatalities are due to key risk factors like (i) high speed of the vehicles (ii) drink driving (iii) inefficient usage of helmets (iv) low rate of seat belts and safety vehicles norms, which are not off the required criteria. Some of the developing countries have outlined strict legislation to counteract the abovementioned categories.

In India, according to National Crime Report Bureau 2015, **141,526 persons** were killed and **477,731 injured** in road traffic crashes in 2014. A government report indicated a loss to the economy of **3 percent** of GDP (1999-2000) due to road mishaps, compared to **1.5 percent** for other middle income countries. It was reported that the total number of road accidents in 2015 was **501,423**, which is **2.5 percent more than** 2014. National Highways accounted for **51,204 (29 percent)** road deaths in 2015 as compared to **47,649 (29.9 percent)** in 2014. State Highways registered **40,863 (28 percent)** deaths last year. **54.1 percent** of all persons killed in road accidents were in the 15 - 34 years' age group during the year 2015.



Source: National Crime Report Bureau 2015

Road transport plays a vital role in the economy of the country and this sector constitutes **4.5 percent** of the GDP of the country. To address the issues faced by the transport sector, the central government constituted a group of state transport ministers in April 2016 (Chair: Mr. Yunus Khan, Minister for

Transport, Rajasthan) to recommend reforms for the road transport sector. The group recommended that the Motor Vehicles Act, 1988 be amended to address urgent issues related to road safety. Thus, the Motor Vehicles (Amendment) Bill, 2016 was introduced in Lok Sabha on August 9th 2016 by Ministry of Road Transport and Highways, Mr. Nitin Gadkari. Then, the Standing Committee on Transport, Tourism and Culture submitted a report on the Bill on February 8th 2017, followed by few amendments to the Bill, circulated on April 7th, 2017, the Bill came to be known as the Motor Vehicles (Amendment) Bill, 2017. On 10th April, the Lok Sabha passed the Bill by voice vote.

In this context, the brief analyses the Motor Vehicle (Amendment) Bill, 2017, with respect to its salient features, the key shortcomings observed and expert's opinions on the Bill. Further, two sets of annexures are attached that provides an overview on new penalties introduced and compares the provision of Road Transport and Safety Bill 2014. This new law intends to halve the number of deaths and injury due to road accidents by 2020.

The Motor Vehicles (Amendment) Bill, 2017

Motor Vehicles (Amendment) Bill, 2017 (erstwhile 2016 Bill) was initiated to create an exhaustive and comprehensive legislative framework for road safety in India. A proposal of **68 amendments** to **233 sections** and the insertion of **28 new sections** in the 1988 Motor Vehicles Act were undertaken in the Bill. **89 clauses** were proposed for amendment out of which only **57 were accepted** by the Parliament Standing Committee on Transport, headed by Mr. Mukul Roy. Motor Vehicle (Amendment) Bill, 2017 after incorporating the recommendation of the Standing Committee on Transport, Tourism and Culture was passed in Lok Sabha. It aims to amend the Motor Vehicles Act, 1998, which is the primary central legislation that regulates the licensing and registration of motor vehicles and drivers. The Bill targets to address various issues such as road safety, third party insurance, regulation of taxi aggregators, recall of unsafe vehicles, and compensation for victims in case of road accidents.

Analysing the Salient Features of the Bill

The Bill seeks to revise some prominent clauses in the Motor Vehicle Act, 1988 and have undergone important changes compared to the Motor Vehicle (Amendment) Bill, 2016.

- **Cashless Treatment for the Road Accident Victims:** The Bill requires the central government to develop a scheme to provide **cashless medical treatment** to people injured in road accidents within the first hour of its occurrence. This clause has been included in recognition of the fact that the likelihood of saving the life of a severely injured person is the highest if medical attention is given within the first 60 minutes also known as '*Golden Hour*'.

➤ **Inclusion of Good Samaritan Guidelines:** The Bill defines a good Samaritan as a person who renders emergency medical or non-medical assistance to a victim at the scene of an accident. The assistance must have been

- In good faith
- Voluntary, and
- Without the expectation of any award

Such a person will not be liable for any civil or criminal action for any injury to or death of an accident victim. The central govt. may, through rules provide for procedures related to their questioning or disclosure of personal information.

➤ **Overhauled Regulatory Framework:** The Bill makes impressive strides towards ascertaining liabilities of every stakeholder at every aspect of road safety and traffic management. It builds a concrete model that begins and checks the functioning and holds accountable each actor in the said stage/process. This progression leads right up to the top and thus there is minimal scope of abuse of power. This accountability is also extended to service aggregators and providers of transport on roads and contribute to traffic. Another example is where the act discusses all possible contingencies in case of a juvenile driver is found to be in contravention of road and traffic laws.

➤ **Aggregator Licenses:** The Bill defines an ‘aggregator’ as a digital intermediary or market place. The aggregators’ services may be used by a passenger to contact a driver for the need of transportation. As per the Bill, State Government will grant licenses to the aggregators based on the guidelines outlined by the Central Government. The aggregators will need to comply with the Information Technology Act, 2000. This Bill makes the guidelines optional for the State Government to follow Central Government guidelines on aggregators.

➤ **Empowering Central Government to recall vehicles:** Under **Section 110A** of the Bill, Central Government can order to recall motor vehicles if a defect in the vehicle may cause damage to the environment, or the driver, or other road users. Vehicles may also be recalled if defects in a vehicle are reported to the central government. The manufacturers will have to

- Reimburse the buyers for the full cost of the vehicle, or
- Replace the defective vehicle with another vehicle with similar or better specifications.

➤ **National Road Safety Board:** The Bill under **Section 215D** introduces the National Road Safety Board, which will be led by a Chairman and comprise of representatives from the states. The functions of this board will be advising the State and Central Governments on issues related to road safety and traffic management. The Board will be looking into the qualitative intricacies of issues ranging from road construction techniques to sensitizing drivers and other stakeholders on issues about road safety.

- **Greater Power to State Governments in framing Transportation Schemes:** According to the Bill, the State Government has the power to frame schemes and issue license under said schemes for transportation of goods and passengers within the state. These licenses are in addition to the permit system already in place and it is hoped that such schemes would rectify the lacunae in the system.
- **Electronic Monitoring:** The Bill under **Section 136A** states that the State Government must ensure electronic monitoring and enforcement of road safety on National Highways, State Highways and Urban Roads. The Central Government will make rules for such monitoring and enforcement of road safety including speed camera, closed-circuit television cameras, speed guns, body wearables cameras and such other technology.
- **National Registry for Licenses and Registration and National Register of Motor Vehicles:** Under Section 25A, the Bill proposes to create National Register for Vehicle registration and National Register for Driving Licenses. This will facilitate uniformity of the process across the country and bring harmony of the registration and licensing process. Under Section 62B, the Bill states that Central Government needs to maintain National Register of Motor Vehicles.
- **National Transportation Policy:** The Bill states that Central Government needs to develop a National Transportation Policy in consultation with States. The Policy will:
 - Establish a planning framework for road transport
 - Develop a framework for grant of permits and schemes, and
 - Identify and specify priorities for the road transport system.
- **Compensation and Insurance:** The Bill has widely modified the compensation and insurance in cases under motor vehicle accidents:
 - *Hit and Run:* Under the Motor Vehicles Act 1988, compensation for hit and run victims comes from a Solatium Fund. The compensation in the Motor Vehicles (Amendment) Bill 2016 has extended to **INR 50,000** for grievous injury and **INR 2 lakh** or more as instructed by the Central Government.
 - *Compulsory Third Party Insurance for all Motor Vehicles:* Under the Bill, insurance company will be liable for a payment of up to **INR 10 lakh** in case of death and up to **INR 5 lakh** in case of grievous injury. Further, it does not attach any cap on liability for the third party insurance.
 - *Interim Relief for Claimants through third party insurance:* The Bill allows the Central Government to make a scheme for providing interim relief to claimants seeking compensation under third party insurance for motor vehicle accidents.
 - *Motor Vehicle Accident Fund:* The Bill under **Section 164B**, the Bill emphasizes on constituting a Motor Vehicle Accident Fund by the Central Government. The Fund will

provide compulsory insurance cover to all road users in India. The Fund will be credited through payment of nature notified and approved by the Central Government, a grant or loan made by the Central Government or balance of Solatium Funds or any other source prescribed the Central Government. The Bill clearly specifies the utility of the fund covering:

- ❖ Treatment of persons injured in road accidents in accordance with the 'Golden Hour' schemes,
 - ❖ Compensation to representatives of a person who died in hit and run accident in accordance with schemes framed by Central Government.
 - ❖ Compensation to persons as prescribed by the Central Government, and
 - ❖ Compensation to a person grievously hurt in a hit and run accidents in accordance with schemes framed by central government.
- **The Higher Penalties for Road Traffic Violation:** The Bill increases penalties for several offences under the Act. The detail on proposed amendments in various penalties under Motor Vehicle Amendment Bill 2016 are attached in *Annexure 1*.

Limitations/Shortcomings of the Bill

While the Motor Vehicle (Amendment) Bill, 2016 had certain shortcomings with respect to liability of third part insurance, Motor Vehicle Accident Fund, guidelines for aggregators, which Motor Vehicles (Amendment) Bill 2017 rectified and was accordingly passed in Lok Sabha. There are still certain key issues, which could create further gaps in catering the main aim of the Bill

- The Bill though has introduced National Road Safety Board, the functioning of the Board is limited to just advising the Central and the State Government. This implies that the Central Government and State Government will be open to taking advise but would not necessarily be implementing or abiding by advise or measures suggested by the Board. Thus, refuting the purpose of its creation.
- Under Section 149 of the Bill, the compensation given to the victim by the Insurance company would be settled outside the court within thirty days from the date of accident. Under Section 164 of the Bill, compensation on a no fault basis would be provided and this compensation is stop-gap arrangement. The victim has the option to take the compensation and settle or take the compensation and continue his claim in the Motor Vehicle's Tribunal. But **under Section 166**, the Claims Tribunal would not consider the claims petition, if the person has availed compensation under Section 164. This curtails the opportunity for the victim/person to continue his/her case at court and it frustrate the intent of behind the Section 164.

- The Bill under **Section 9 (iii)** removes ‘minimum educational qualification’ for a person registering for licenses. This reduces the standard and quality of the drivers as it is important to understand and read the road safety instruction including the road signage, which is an important aspect of road safety.

Opinions from Experts

The Motor Vehicles (Amendment) Bill, 2017 has been well received by the Experts and the response criticizing the Bill has been minimal. The opinions of experts from the domain of Road Safety to National Insurance Company have been stated below

Expert Opinions on the Motor Vehicle (Amendment) Bill, 2017

Experts appreciating the MV (Amendment) Bill, 2017

Bloomberg Philanthropies: **Mr. Larson and Truong** on behalf of the International Road safety appreciate the first step taken towards the Road safety in India. They stated that Bill represents a significant accomplishment towards safer Indian roads across various aspects of road safety, while also highlighting specific policy gaps that still needed to be addressed to bring it in line with international best practices. They added that more progress is needed with respect to electronic stability control which is mandatory for new cars, buses and lorries by 2020

Founder and CEO of the SaveLIFE Foundation: **Mr. Piyush Tewari**, expressed optimism about the potential impact of the Motor Vehicles Bill. Provisions regarding the scientific investigation of road accidents and auditing of road designs and engineering increase accountability are some welcoming measures taken that would benefit people.

National Insurance Company: Co-Chairman of the National Insurance Company, **Mr. K. Sanath Kumar** believes that although third party insurance is mandatory, many owners are yet to avail motor vehicle insurance. Commenting on the clauses on increased compensation in the proposed Bill, he states that this may encourage owners to start insuring their vehicles, enabling progress in the field of road safety and financial protection.

Criticism of the MV (Amendment), Bill 2017

Chairman of the International Road Federation (IRF): Chairman of the International Road Federation (IRF), **Mr. K.K.Kapila** had a few criticisms of the new bill. With regards the provision that does away with the requirement of a minimum educational qualification for a person applying for a licence, Mr. Kapila felt that this lowered the standard excessively. His argument is that the ability to read was crucial for understand road signage, an important aspect of road safety.

Annexure 1: Proposed Amendments in various penalties under Motor Vehicle Amendment Bill (2017)

Section	Sections	Old Provision/Penalty	New Proposed Provision/Minimum Penalties
177	General Rules of Road	INR 100	INR 500
New 177 A	Regulation Violation	INR 100	INR 500
178	Travel without ticket	INR 200	INR 2000
179	Disobedience of orders of authorities	INR 500	INR 2000
180	Unauthorized use of vehicles without License	INR 1000	INR 5000
181	Driving without license	INR 500	INR 5000
182	Driving despite disqualification	INR 500	INR 10,000
182 B	Oversize vehicles	new	INR 5000 INR 1000 for LMV
183	Over speeding	INR 400	INR 2000 for Medium passenger vehicle
184	Dangerous Driving Penalty	INR 1000	Up to INR 5000
185	Drunken Driving	INR 2000	INR 10,000
189	Speeding/Racing	INR 500	INR 5,000
192A	Vehicle without permit up to	INR 5000	Up to INR 10,000
193	Aggregators (violations of licensing conditions)	New	INR 1,00,000
194	Overloading	-	INR 20000 and INR 2000 per extra tonne
194A	Overloading of passenger		INR 1000 per extra passenger
194B	Seat belt	INR 100	INR 1000
194C	Overloading of two wheelers	INR 100	INR 2000, Disqualification for 3 months for license
194D	Helmet	INR 100	INR 1000, Disqualification for 3
194E	Not providing way for emergency vehicles	New	INR 10,000
196	Driving Without Insurance	INR 1000	INR 2000
199	Offences by Juveniles	New	Guardian/owner shall be deemed to be guilty. INR 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 document		Suspension of driving licenses u/s 184, 185, 189, 190,194C,194D,194E
210	Offences committed by enforcing authorities		Twice the penalty under the relevant section

Source: Motor Vehicles (Amendment) Bill, 2017

Annexure 2: Comparative Analysis of Road Transport and Safety (RTS) Bill and Motor Vehicles (MV) Amendment Bill, 2017

INSTITUTIONAL FRAMEWORK		
	RTS Bill 2014	MV Amendment Bill 2017
LEAD AGENCY		
National and State Road Safety and Traffic Management Boards	Yes	Yes (advisory)
National Road Safety Fund	Yes	Yes
SAFER MOBILITY		
Provisions that encourage investment in public transport	Yes	Liberalized through schemes. States empowered
SAFER ROAD USERS		
Motorcycle helmet provisions applies to all drivers and passengers	Yes	Yes
Child restraints and adult accountability	Yes	Yes
Drink & Driving		

Zero tolerance principle for alcohol/ drugs while driving	Yes	Yes
BETTER ENFORCEMENT		
Use of technology in enforcement	Yes	Enabling Clause
Highway Police Stations	Yes	Yes
INSURANCE AND CRASH INVESTIGATION		
Insurance		
Comprehensive Reform	Yes	Limited to third-party insurance to protect employee-drivers
Crash Investigation		
Standard crash investigation procedure through schemes	Yes	Yes
SAFER AND MORE EFFICIENT VEHICLES		
Fitness tests for all cars and two wheelers	Automated testing	Automated testing
Certification of Conformity for vehicle spares	Yes	Yes
Provision for recall of vehicles	Yes	Yes
Unified vehicle registration system (IT Enabled)	Yes	Yes
Private sector participation in vehicle fitness testing	Yes	Yes
SAFER ROAD USERS		

Unified driver licensing system	Yes	Yes
SAFER & MORE EFFICIENT INFRASTRUCTURE		
Impetus for rural transportation & intra-city transport through schemes	Yes	Partially
National schemes for inter-state goods/ freight transport	Yes	Partially

STRINGENT PENALTIES

Penalties to be provided in a Schedule	No	Yes
Enhancement of penalties	Yes	Yes
Power to amend penalties to keep pace with economic growth and inflation	No	Yes
States have power to specify a multiplier (< 10X) to be applied to each base fine as has been specified by the Central Government in the Schedule of Penalties	No	Yes
Community Service for compounding of offences	No	Yes

Source: Road Transport and Safety Bill 2014 and Motor Vehicle (Amendment) Bill 2017

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