

Road Accidents In India And Brasilia Declaration.

Meenakshi Gandhi
Ph.D Scholar
Law Department,
University of Jammu, Jammu, J&K, India.

Abstract: This article highlights the urgent need to upgrade our country vision on road safety. These crashes and accidents on roads cost 3% GDP of the country. In order to save people from fatalities and injuries and to bring down the cost involved in these incidents lot of brainstorming has been done by the Global Leaders in Moscow in 2009 and Brasilia in 2015 for the involved saving people from the road accident and financial implications involved in these crashes/ accidents. As 90% of the fatalities of the road accidents out of the 1.25 million deaths and 50 million road traffic accident injuries occurred in the developing countries. It is the major concern for our country also which has the second largest population in the world. It also brings into the notice of the esteemed readers that how the road safety is effecting public health and finances. It also deals with the ordeal the family of the victim has to suffer to get the claims in case of death/ permanent disablement. The paper also suggests the measures government should take for financing these accidents claims and health bills. Our country being signatory to Brasilia Declaration is leaving no stone unturned to reach and achieve the goals and objectives of Brasilia Declaration “halve the number of global deaths and injuries from road accidents” and the recent bill namely The Motor Vehicles (Amendment) Bill, 2016 is an effort by Indian government to achieve for which it has committed in Brasilia Declaration.

Index Terms - OD; Third party insurance; peak hours; RTA/ RTC; SDG.

INTRODUCTION

The World Health Organization considers the death of 1.25 million people and about 50 million injuries in a year due to these road accidents as **the major health problem**. The loss of human resources and unfruitful expenditure due to road accidents/ crashes have led the World leaders to come on the common platform to rethink and devise a strategy to minimize/ lessen the loss of human lives and secure the environment in which they are moving by means of transportation. The developed countries across the globe through their technical expertise and cooperation with the developing nations have contributed a lot to live in these countries with human dignity.

The dictionary meaning of accident is **a.** An unexpected and undesirable event, especially one resulting in damage or harm: an accident on the assembly line; car accidents on icy roads. **b.** An unforeseen event that is not the result of intention or has no apparent cause. The definition above clearly shows that an accident is purely an unexpected and undesirable event resulting in death or injuries besides damage to motor vehicles involved in an accident.

The statistics provided by the WHO Global Status Reports on Road Safety 2015 represents very dismal pictures of the road traffic and its implication and how it continues to be a major developmental issue and have an impact on public health and economy. As per the report, global crashes kill more than 1.25 million people and injure about more than 50 million a year and more surprisingly 90% of the fatalities are from the developing nations. The report further unfolds that out of the fatalities due to crashes more than two-third are males. More importantly, the reported outcome was that death in these crashes was mainly in the age group of 15-29 years.

The first Global Ministerial Conference on Road Safety in 2009 recalled the recommendations adopted (Moscow Declaration) and realized the necessity to “**stabilize and then reduce the forecast level of road traffic fatalities around the world.**” The figures collected thereafter were not encouraging as the human resource and finances were the main to be effected by the fatalities and injuries caused due to crashes/ road accidents. Concerned over the increasing fatalities in the developing countries the world leaders sharing their concern for the loss of lives in these accidents again met in Brazil. The Second Global High-level Conference on Road Safety was held on November 18-19, 2015 in Brasilia and the world leaders adopted road traffic fatalities as the target in Agenda for Sustainable Development and declared to “**halve the number of global deaths and injuries from road accidents.**”

As per the official statistics 148707 people were killed in road traffic crashes in India in 2015 (NCRB). The situation has worsened on account of increase in vehicular traffic on the road and lack comprehensive policy to regulate traffic on road. The official data as released by Transport wing under Ministry of Road Transport and Highways, Government of India the year 2016 accounted for more deaths on road as compared to 2015. The data further revealed that Uttar Pradesh and Tamil Nadu have accounted for maximum road traffic deaths in 2016. Moreover, the number of people killed per 100 accidents was 31.4 as compared to 29.1 in the year 2015 thereby deducing a fact that accident severity was more in the year 2016. In India, road accident claims 17 lives every hour.

Moreover, the data released by the Ministry of Road Transport and Highways, GoI, Ministry of Statistics and Programme Implementation out of total 501423 road traffic accidents in India 146133 resulted into fatalities and left 500279 people injured with varied number and percentage of disabilities. As per the data maintained by NCRB, Ministry of Home Affairs, Government of India, in 2015 total 464674 cases of road accidents were reported out of which fatalities were 148707 and injured accounted for 483389. There is an increase in accident severity in the year 2016 in comparison to 2015. Though the maximum number of the accidents occurred in Chennai, the largest number of deaths were in Delhi due to road accidents while accident severity was 69.9% in Ludhiana.

The number of accidents on road may also be attributed to the liberal credit facility of banks and pay capacity of people to purchase/ loan a vehicle for personal conveyance. It is quite evident that as compared to road length added to the network of roads more number of vehicles have been added per year thereby overburdening of roads by traffic and making the regulation even more difficult. The intensity of accident was more during 6:00-9:00 hours and 15:00- 18:00 hours as the traffic is at peak. The data further revealed that youth were the most effected from these road accidents as the maximum number of people involved in these accidents were in the age group of 18-34 years and two-wheelers were the leading vehicles in accidents as they are cheaper in cost, economical in mileage and popular among the young generation.

The major cause of accidents on roads i.e. 47.9% are due to the rash and negligent driving of the driver or drunken driver (over speeding). The drivers without the licence also added to the woes of traffic accidents as they contributed these crashes and their involvement was up to 9% of the total accidents in a year. The driving institute's were also contributor as they imparted learning/ instructions on busy roads thereby exposing people to more accidents as learners are in process of learning and their response to any accident like situation cannot be like an expert drivers and sometimes these learners after getting few hours of driving drive the vehicle without supervision thereby exposing others too much more chances of road accidents. Even driving on the wrong side, improper passing or turns, driving under the effect of medicine etc also increases the chances of road accidents. The other factors attributing or contributing to the road accidents are neglect of civic bodies, the fault of others, poor designing of the roads, talking on mobiles, speed bumps, and potholes and bad weather. Only 34.5% of accidents occurred on the National Highways while 27.9% accidents occurred on State Highways but the maximum percentage of death occurred on other roads (37.6%).

In these road accidents/ crashes about 11.4% of the total cases are Hit and Run cases and 19.6% are accidents which accounted for Head on collisions. The other aspect which came to fore was that in India more than 7 crores of the vehicles plying on roads are without third party insurance thereby exposing the owner/ driver as well as the others to more risks. Moreover going by the data of insurance companies the claim insurance made in the year 2012 was almost the double of claims in the year 2009 thereby indicating that the rates of accidents have increased many folds. The accidents victims are compensated through the motor vehicle insurance which may be classified broadly as a) Own Damages (OD) b) third party liability (TPL). The first category deals with vehicle and the physical damage while the second provides for the compensation which shall accrue if the insured vehicle is involved in an accident and caused injury or death of person (s) and in India the Claims Tribunal award compensation in road accidents which are calculated on the basis of age of the victim, and earning capability of the victim, number of dependents and then multiplier for the age group in which the victim falls. As the Tribunal can award the compensation in crores depending upon the number of victims and other factors discussed supra, the third party insurance has increased considerably.

The Motor Vehicle (Amendment) Act, 2016 has been presented in the Rajya Sabha on 8th February 2017 with 88 insertions, amendments. However the fixing of ceiling under third party liability under section 147(2) which is produced in verbatim:-

Notwithstanding anything contained under any other law for the time being in force, for the purposes of third-party insurance related to either death of a person or grievous hurt to a person, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy under sub section (1) in consultation with the Insurance Regulatory and Development Authority:

Provided that the payment to a person by an insurer, under the third party insurance policy, shall be a sum of not exceeding ten lakh rupees in case of death and not exceeding ten five lakh rupees in case of grievous hurt, as may be prescribed by the Central Government from time to time.

The above section in the plain reading suggests that despite so many hectic parleys the bill comes into existence and by capping the ceiling the insured have been exposed to greater risk and despite the motor vehicle being insured under third party liability the insurer leave the owner (insured) to the peril of contingency. For example the insured vehicle for the third party is involved in fatal accident of 4 government officials the amount of compensation involved may run into crores and the ceiling fixed by MV Act 2016 shall limit the insurer for paying compensation up to only 10 lakh and from where the rest of amount will come is again a point to rethink upon.

The Department Related Parliamentary Standing Committee on Transport, Tourism and Culture report no. 243 have also recommended the following major suggestion:-

(Para 186) The Committee was informed that under section 147(2) of the Bill it is proposed to cap the liability of general insurance companies to Rs.5 lakh to 10 lakh in compensating the third party claims in case of road accident. It was submitted to the

Committee that the proposal would expose millions of Third Party Vehicle insurance policy holders to unlimited risk. If a Tribunal or court awards compensation above 5 lakh in case of injury and Rs.10 lakhs in case of death, the owner of the vehicle has to bear the burden of paying over and above to the third party. The Committee is of the view that the basic aim of insurance is to defray individual risk collectively over a vast group of premium contributors especially when the risk apprehended is likely to be beyond all the means of the individual. If this main purpose to save the individual is defeated there seems to be no necessity for the insurance policy to mitigate the risk which an individual could not meet by himself. There is no *mens rea* in accidents and very purpose of insurance is to underwrite the cost of unforeseen contingencies. FDI was liberalized in insurance to strengthen the concept of insurance in a country in which life essentially is exposed to all sorts of unforeseen contingencies and calamities. Insurance Companies cannot run away from their basic responsibilities after collecting the hefty amount of no claim insurance premium.

(Para 190) The Committee, therefore, recommends that the capping of liability of the insurance companies under third party insurance policy is patently incorrect and against the interest of the millions of road users. The Committee, therefore, recommends that “**proviso to section 147 (2) as included in Clause 49 may be omitted.**”

CONCLUSION

Our country which is strongly developing among other developing countries can use these reports for immediate addressing the grave situation contributing to road accidents. Our country can reduce these deaths and injuries by half, the only way is by scaling up of investment in road safety at regional and national level, making more stringent laws on road safety by way of comprehensive legislations and enforcement on key risk factors such as medicines which affect safe driving, fatigue, use of narcotics and psychoactive substances, road environment, cell phones and other texting gadgets, by promoting integration among the traffic enforcement agencies in policing and inspection, by enforcing speed governors and Anti-lock Braking system (ABS) and Electronically Stability Control (ESC) on all the vehicles as a standard, policies promoting and protecting children among vulnerable road users pedestrian safety and walkways. The cumbersome process of claims is made more easy and comprehensive support to the victims of road traffic crashes and their families. In this way, we can save both our human resource as well as the loss to Indian economy due to fatalities and accident injuries which is approximately 3% of the GDP. India has amended its Motor Vehicle Act, 1988 three times earlier keeping in mind the necessity to amend the same and with signatory, to Brasilia Declaration 2015 the responsibility has increased many folds to keep its human resource safe from road safety and address this major health concern. Although much has been talked about and the same will be gauged on grounds when the above provisions of the bill are implemented and people from all walks of life ensures its compliance voluntarily or compliance is ensured by the implementing agencies by way of stringent financial or penal actions on the violators of the provisions of Motor Vehicles Act, 1988 after above amendments and how SDG are achieved as per the Brasilia Declaration to which India is signatory.

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