



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

LAW IMPLEMENTATION ON HIT AND RUN CASES BEING PRESCRIBED UNDER BHARATIYA NYAY SANHITA

(Truck Driver's Protest Nationwide)

¹EKVEERA ASHUTOSH CHITNIS, ²PRIYANKA DASHRATH DOKE,

¹RESEARCH ASSISTANT, ²ASISTANT PROFESSOR,

¹Dr. D.Y.Patil college of law, Mumbai University Affiliated,
, Nerul Navi Mumbai, Maharashtra, India

ABSTRACT:

The paper reports the appraisal and analyzing issues of truck drivers and overview on the new law implementation on Hit and Run Cases being prescribed under Bharatiya Nyay Sanhita in Indian scenarios. The study is the first study on the study of Issues faced by Truck Drivers due to new hit-and-run law in India, under the Bharatiya Nyay Sanhita, imposes stricter penalties for drivers who flee accident spots. According to the law, a driver who flees the scene after a hit-and-run accident will face up to 10 years in jail and a fine of ₹7 lakh. This law also applies to private vehicle owners. The new law aims to minimize the number of hit-and-run cases, which cause around 50,000 deaths in India each year. The study analyzes the impact of new laws of Hit-Run Case on Truck Drivers who earn very less income monthly while the most of the wrongdoers for Hit and Run Negligence Act are Truck Drivers Transporting goods through national Highways. Finally, the study recommends some Safety Measures which can curb some accident incidents and also curb the issues of truck drivers by use of suggestive measures for improving the condition of Truck Drivers across India. These paper aims on analyzing the new Hit and Run Case Law and also takes a view of readers towards the Truck Driver's Nationwide

INTRODUCTION

This law also applies to private vehicle owners. The new law aims to minimize the number of hit-and-run cases, which cause around 50,000 deaths in India each year. The study analyzes the impact of new laws of Hit-Run Case on Truck Drivers who earn very less income monthly while the most of the wrongdoers for Hit and Run Negligence Act are Truck Drivers Transporting goods through national Highways. Finally, the study recommends some Safety Measures which can curb some accident incidents and also curb the issues of truck drivers by use of suggestive measures for improving the condition of Truck Drivers across India. These paper aims on analyzing the new Hit and Run Case Law and also takes a view of readers towards the Truck Driver's Nationwide Protest.

Truck Drivers' Nationwide Protest:

Truck drivers across India have initiated nationwide protests against a recent penal provision in hit-and-run cases, causing panic buying of fuel and essential goods in multiple states. To address the concerns of protesting truck drivers' strike, the Centre, assured that any decision on enforcing the stringent provisions would only be made after consultation with the All-India Motor Transport Congress (AIMTC).

The truckers' protests have led to panic buying and disruptions in fuel and essential supplies across several states. Cities such as Delhi, Mumbai, Kolkata, and Hyderabad reported long queues at fuel stations and depleted supplies at markets.

The new law imposes stricter penalties for hit-and-run cases, with up to 10 years of imprisonment and a fine of Rs 7 lakh. The law also applies to private vehicle owners. The protesting truck drivers believe that the new law is draconian and that the penalties are too strict.

Hit and Run New Law:

The new hit-and-run law in India, under the Bharatiya Nyay Sanhita, imposes stricter penalties for drivers who flee accident spots. According to the law, a driver who flees the scene after a hit-and-run accident will face up to 10 years in jail and a fine of ₹7 lakh.

This law also applies to private vehicle owners. The new law aims to minimize the number of hit-and-run cases, which cause around 50,000 deaths in India each year.

What does the new law say on hit-and-run cases?

- Section 106 (2) of BNS stipulates that “Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine”.
- This means, if a death is caused to a person through the negligent driving of a vehicle, then the person causing the death shall inform about the incident to the police officer or a magistrate, failing which it may attract imprisonment for up to 10 years and fine. It is important to mention that a driver informing the officials about the accident would attract a lesser punishment - imprisonment for a term up to 5 years and fine as per Section 106(1).
- Hence, the intention of the Parliament is to impose a harsher punishment on the driver who escapes from the accident site after causing death to a person while driving negligently and a lesser punishment for informing police or magistrate about the incident.
- Drivers apprehend that staying in the place of the accident might subject them to mob violence. It is the fear of mob violence which forces many truck drivers to flee, they claim.
- The BNS has a provision to deal with mob violence in Section 103 (2) which says, “When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine.” However, it is important to mention that the plain reading of the clause penalizes the act done by five or more persons in concert, strictly on the grounds mentioned in the clause but otherwise. Because, Section 103 (2) of BNS punishes the act by a concert causing death exclusively on the communal, religious and linguistic grounds.
- If a driver causes death of a person deliberately, then such act of the driver attracts the provisions of murder, because there is a clear intention to kill a particular person. Moreover, if a driver drives a vehicle rashly and negligently without an intention to cause death of a person, then it would attract the punishment up to the term of 5 years and fine as mentioned under Section 106 (1) of BNS.
- In nutshell, the basic difference between the sub-sections to Section 106 is that sub-section (2) contains an aggravated form of punishment up to a period of 10 years as the intention of the law is to deprecate the practice of drivers fleeing from the place of incident.
- In the wake of the protests, the Government clarified that the provision will be invoked only after consultations. A press release [issued](#) by the Ministry of Home Affairs states that the decision to invoke Section 106 (2) of the Bharatiya Nyay Sanhita will be taken only after consultation with the All India Motor Transport Congress. The excerpts of the press release read as follows:
- “The Government of India has taken cognizance of the concerns of truckers regarding the provision of 10 years imprisonment and fine, under Section 106 (2) of the Bharatiya Nyay Sanhita and held detailed discussion with the representatives of the All India Motor Transport Congress today.
- The government wants to point out that these new laws and provisions have not yet come into force. We would also like to point out that the decision to invoke Section 106 (2) of the Bharatiya Nyay Sanhita will be taken only after consultation with the All India Motor Transport Congress.
- We appeal to All India Motor Transport Congress and all the drivers to return to their respective jobs.”

- It is also interesting to note that Section 106 of the BNS prescribes lesser punishment to doctors in cases of death caused due to medical negligence.
- The new provision says, if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Why is the new Hit and Run law introduced?

The new hit-and-run law in India, under the Bharatiya Nyaya Sanhita, was introduced to address the significant issue of hit-and-run accidents and their consequences. The main reasons for introducing the new law are:

Minimize the number of hit-and-run cases: The new law aims to reduce the number of hit-and-run accidents, which result in around 50,000 deaths in India each year.

Increase accountability: The law imposes stricter penalties for hit-and-run cases, with up to 10 years of imprisonment and a fine of ₹7 lakh, to increase the accountability of drivers involved in such accidents.

Update the legal framework: The new law replaces the British-era Indian Penal Code (IPC) and makes overhauling changes to the criminal justice system, including changes to the Criminal Procedure Code (CrPC) and the Evidence Act.

Grant victims more rights: The new law grants victims the right to speak during trials, which can help ensure a fairer legal process for those affected by hit-and-run accidents.

Promote road safety: By imposing harsher penalties for hit-and-run cases, the new law aims to promote road safety and discourage dangerous driving behavior.

What's the reaction of the drivers?

Truck drivers across India are protesting against the new hit-and-run law under the Bhartiya Nyaya Sanhita, which replaces the Indian Penal Code.

Widespread Opposition:

Truck drivers across India are protesting against the new hit-and-run law due to its strict penalties.

The All India Motor Transport Congress is calling for the law to be recalled, fearing harassment.

Concerns of Drivers:

Drivers believe the law is draconian and the fines are too high, leading to financial hardship.

They fear it will discourage current drivers and deter new entrants to the profession.

False accusations and accidents beyond their control could lead to unfair 10-year sentences.

Impact of Protests:

Significant disruption to transportation and supply chains.

Over 70% of the estimated 1.20 lakh trucks, tempos, and containers in Mumbai are off the roads, potentially affecting fuel and essential goods distribution.

The three-day strike is likely to impact the distribution of fuel and essential commodities.

Similar protests are happening in other parts of the country.

Truck drivers' livelihoods and future of the industry are at stake due to the new law.

Protests highlight concerns about fairness and unintended consequences of the legislation.

Will the government withdraw the new hit-and-run law?

The government has not indicated any intention to withdraw the new hit-and-run law in India. The law, which was introduced under the Bharatiya Nyaya Sanhita, aims to address the significant issue of hit-and-run accidents and their consequences.

It imposes stricter penalties for drivers who flee accident spots, with up to 10 years of imprisonment and a fine of ₹7 lakhs.

The government has emphasized that the new law is intended to minimize the number of hit-and-run cases, which cause around 50,000 deaths in India each year. Despite the protests and opposition from truck drivers, the government has not made any official statements about withdrawing the law.

The All India Motor Transport Congress has expressed concern about the new provisions and has called for their recall, but the government has not responded with any indication of a potential withdrawal.

In summary, as of the latest available information, there are no indications that the government will withdraw the new hit-and-run law in India. The law remains in effect, despite the opposition and protests from truck drivers.

New Hit and Run Law Criticisms and Concerns

Stricter Penalties: The new hit-and-run law in India under Bharatiya Nyay Sanhita imposes harsher penalties, including up to 10 years in jail and a 7 lakh rupees fine, as opposed to the previous punishment of two years in jail and a smaller fine.

Driver Discouragement: Some private transport operators express concerns that the stringent law may discourage drivers, potentially leading to unjust punishments and impacting the willingness of individuals to take up driving roles.

Low Salary of Drivers: Drivers are paid with a income which is less then 1 lac per Anum therefore in the case of wrongdoing under Hit and Run Cases these drivers are not financially capable for paying fine which exceeds 5 lac rupees.

Risk of Mob Violence: Operators worry about the potential for mob violence when drivers attempt to transport injured individuals to hospitals, fearing a hostile reaction from bystanders or communities.

Blaming Big Vehicles Without Investigation: Truck drivers, in particular, are concerned that law enforcement may hastily blame larger vehicles without thorough investigation, potentially leading to unjust accusations and penalties.

No Separate Track for Two wheeler Vehicle: In Nation like India, there are no separate tracks for Two wheelers on National Highways and State Highways due to which Lane Maintaining are not possible at that extent in order to curb accident incidents.

Harassment and Extortion: The industry raises concerns about potential harassment, extortion, unnecessary detention, and legal consequences for drivers, adding to the challenges faced by those in the transportation sector. Many a times a drivers are killed by villagers for the incident of Hit and Run Cases.

Major hit-and-run cases in India:

Shilpa Mittal vs State of NCT of Delhi– This case is generally known as the 2016 Mercedes hit-and-run case. In this case the accused was a tennager at the time of the accident who allegedly ran over 32 years old Siddharth Sharma with his father’s Mercedes near the Ludlow Castle School in North Delhi on 4 April 2016. According to the police the incident took place at around 8:55pm that day when Siddharth’s friend dropped him near Civil Lines area. While he was about to cross the road a speeding Mercedes hit him. In this case the juvenile was kept in custody for over 8 hours and later he was released on bail.

Sanjeev Nanda vs The State– In the year 1999, Sanjeev Nanda who is a son of Indian arms dealer ran his car over six people, including three police officers. Nanda and several others were acquitted initially but later in 2008 Mr. Nanda was found guilty and sentenced to two years in prison which was reduced to time served, a heavy fine and two years of community service by the Supreme Court of India in 2012. However, this judgment of the court catches great media attention and is viewed by India Today as “a test of the judicial system’s ability to take on the powerful”.

Janhavi Narendra Gikkwad vs The State Of Maharashtra– This case is also known as Reliance lawyer hit-and-run case. In this case Janhavi Gadkar who was 35 years old at that time, was a vice president with a legal team at Reliance Industries Limited. The incident took place when she was returning from a party in her Audi Q3. She rammed her car into a taxi in which Salim Saboonwala and his family had gone out for dinner to a dhaba as his son had obtained over 90% in his SSC exam. While Janhavi saved herself as her Audi airbags got opened but this incident caused two deaths in Saboonwala’s family and rest were injured.

Jahanvi was booked under “culpable homicide not amounting to murder” along with rash driving charges.

Tousif Sohrab Tausiff Sohrab Sambia v. The State Of West Bengal– In this case an over speeding car hit IAF Corporal Abhimanyu Gaud during a Republic Day parade rehearsal in the early hours in January, 2016. The car which hit IAF Abhimanyu was driven by an Ex-MLA’s younger son Sambia Sohrab. After hitting the officer, he crashed into a guard rail and then fled from the spot. Later charge sheet was filed and after 2 months he mowed down an IAF officer.

Alistar Anthony Pareira vs State Of Maharashtra– In this case Alistar Anthony who was 21 years old lost control over his sedan car which ended into a group of construction workers sleeping on Carter road. This led to the death of seven people. The incident took place when Pareira was returning back to his home along with his friends after a Saturday night party at a five-star hotel. Pareira got convicted and sentenced to six months jail but later in 2007 Pareira got bail from the Supreme Court.

What to be done after an accident:

After an accident, the victim has to go through a lot of stress but it is always advisable to stay calm. You should gather the information of the driver at fault because if you have proper information then chances to catch the person who is at fault will be higher. If you see any witnesses ask them for their name and contact details. Besides this, you should also note the following-

Note down the time and location of the accident

Get the picture of the scene of the accident

Get pictures of your vehicle

The above-mentioned points will also help you to take a claim from your insurance company and this will also help you to prove that it is not a false claim.

Filing a First Information Report(FIR):

It is necessary for the victim of a hit-and-run accident to report this incident to the nearest police station. After informing, the victim will get an FIR filed and this will help the victim to get his car insurance claim.

Conclusion:

The knowledge of the hit-and-run case mostly came to the people after the Salman Khan hit-and-run which took place in 2002. In this [case](#) he was accused of driving his car onto the footpath into a group of homeless people. There are many high-profile cases in India which took place but only some of them get attention. The usual reason found behind hit-and-run cases are rash driving, drink and drive etc. Compensation given to victims is very low. However, a bill is pending in the parliament to increase the same from 25 thousand to 2 lakhs.

References:

<https://www.livelaw.in/know-the-law/statutorily-recognising-principles-on-computing-compensation-in-fatal-road-accident-cases-160459>

<https://www.royalsundaram.in/hit-and-run-case-fine-now-and-then>

<https://www.indiatimes.com/culture/who-we-are/shocking-5-high-profile-hit-and-run-cases-where-the-accused-got-away-285922.html>

<https://www.sundayguardianlive.com/news/hit-run-case-exposes-legal-loopholes>