



EMERGENCY MEDICAL CARE TO VICTIMS OF ROAD ACCIDENTS IN INDIA: LEGAL AND POLICY RESPONSE

Saima Ghani¹, Sonam Prasher²

^{1,2}Research Scholar, Department of Law, University of Jammu-180006

¹Saimaghani786@gmail.com, ²Sonamparashar14@gmail.com

Abstract-- Preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. This observation holds special importance in case of accidents where emergency medical care is prerequisite to stabilize and save the life of patients. Accidents where victims require emergency medical care are not confined to motor accidents. Emergencies may arise due to motor accidents, fire, floods, cyclone, earthquakes etc. or even sudden collapse of victims or emergent deliveries in pregnancy. Among these, road accidents, however, contribute the largest number of deaths or injuries. These accidents are increasing at an alarming rate of 3% annually. The situation got compounded when these victims are not entertained in hospitals on the ground that the case is a medico-legal case or the injured person is not able to pay immediately or on the ground that there is no close relative of the victim available who can give consent for medical treatment. Medical evidences suggest that at least 50 percent of the fatality can be averted if the victims are admitted to a hospital within the first hour. Further in the absence of established emergency medical services, bystanders can play a major role in saving lives of injured victims. They can call for help, provide first aid to the injured and even rush them to the nearest hospital. Despite the guidelines affording legal protection to good Samaritans who come to the aid and rescue of victims of road accidents, yet, in our country, bystanders have been hesitant to help the injured for legal repercussions and procedural hassles. The current paper is an attempt to understand the various protections available to road accident victims while claiming medical care both explicitly as well as implicitly. Thus the main thrust of the study revolves around the evolution of right to medical care as a corollary of right to life under the Indian Constitution as well as the protection accorded to medical practitioners from the cannons of criminal laws in order to deliver their emergency medical care promptly.

Key words: Emergency Medical Care, Road Accident Victims, Right to Life, Right to Health, Medical Practitioners, Good Samaritans.

INTRODUCTION

The emergency medical care to road accident victims requires recognition of emergency, provision of pre-hospital care through definitive hospital care¹. Road accidents contribute the largest number of deaths or injuries, in which majority of road accident victims are pedestrians, two wheeler riders and bicyclists.² When we talk of road accidents we are not only talking about the accidents that happen with the private vehicles, rather it includes those accidents as well that happen with the public transports. Therefore, if this issue is not taken seriously then it could also become one of the major causes of deaths and injuries with the advancement of time and technology. According to a report³ around eighty thousand people are killed every year in road accidents in India. More than half an hour of time elapses between the time of a crash and arrival at hospital. Most of the institutions in the trauma-care-sector have no access to ambulance. About half of the available ambulance services don't possess the acute-care facilities needed to keep an accident victim alive during transportation. And only few Personal staffing these services have certified formal training.

Despite of various researches done and various guidelines issued, the number of road accidents is increasing haphazardly every year. Even with the tremendous medical advancements and introduction of new technologies, it is becoming more and more difficult to control the deaths that are majorly caused by the road

1. MK Joshipura, HS Shah, R Rehmani, Emergency Care in South Asia: Challenges and Opportunities, *Journal of the College of Physicians and Surgeons-Pakistan*, Pakistan (2004)14, p. 731-735
2. Shraddh Deshmukh, Emergency Medical Aid to Victims, *Indian Law School*, (2006), as quoted in the report of Law Commission of India, 2006.
3. The Road Accident Statistics in India, available at: sites.ndtv/roadsafety/importanfeature-to-you-in-your-car-5/ (Last visited on 11th June 2019).



accidents. The problem not only belongs to India, according to a report⁴ about 1.25 million people die each year on the world's roads and between twenty and fifty million sustain non-fatal injuries. Young adults aged between fifteen and forty four years account for fifty nine percent of global road traffic deaths. Hence, if immediate actions are not taken then, road traffic crashes are predicted to rise to become the seventh leading cause of death by 2030.

According to another report⁵, worldwide the total number of road traffic deaths has increased at 1.25 million per year, with the highest road traffic fatality rates in low-income countries. In the last three years, seventeen countries have aligned at least one of their laws with best practice on seat-belts, drink-driving, speed, motorcycle helmets or child restraints. While there has been progress towards improving road safety legislation and in making vehicles safer, the report shows that the pace of change is too slow. Urgent action is needed to achieve the ambitious target for road safety reflected in the newly adopted 2030 Agenda for Sustainable Development: halving the global number of deaths and injuries from road traffic crashes by 2020.

A specific target was included in the Health Goal⁶ to reduce road traffic fatalities by fifty percent by 2020. On top of this landmark achievement for the global road safety community, a target on sustainable urban transport in the Cities Goal has also been approved. The final wording of the targets is as follows:

By 2020, halve the number of global deaths and injuries from road traffic accidents. The road safety target figures alongside other major priorities including maternal mortality, AIDS and universal health coverage in the Health Goal.⁷

By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women and children, persons with disabilities and older persons.⁸

The various factors responsible for road accidents⁹ -

To understand why road accidents are becoming too uncontrollable, we need to first of all understand the factors that are responsible to contribute in road accidents. These factors are broadly classified under following main headings:

- i. *Human factor*: The human factor contributes significantly to the increasing number of road accidents in India. Reckless driving, over speeding, decline to follow traffic rules, chocking of roads, overloading are the main reasons for road accidents.
- ii. *Drunken Driving*: Drunken driving is one of the major causes of road accidents. The statistics also show that most of the road accidents in the highways are due to drunken driving only.
- iii. *Driver Fatigue*: Driver fatigue is a very dangerous condition created when a person is suffering symptoms of fatigue while driving, often resulting from the hypnotic effect especially during nighttime driving either falling asleep at the wheel or so exhausted to make serious- and fatal-driving errors.

CONCEPT OF EMERGENCY MEDICAL CARE

Though all these factors contribute to a road accident, but what after an accident has taken place. Even after an accident has taken place there are still chances that the life of victims could be saved, if immediate medical care

4. The World Report on Road Traffic Injury Prevention published by The World Health Organization (WHO), available at: www.who.int/violence_injury_prevention/publications/road_traffic/world_report/en/ (last visited on 11th June 2019).

5. The Global status report on Road Safety, 2015, published by The World Health Organization (WHO).

6. The Sustainable Development Goals.

7. Goal 3, The agenda for Sustainable Development Goals, 2020.

8. Goal 11, The agenda for Sustainable Development Goals, 2030.

9. S. Gopalakrishnan, "A Public Health Perspective of Road Traffic Accidents", *Journal of Family Medicine and Primary Care*, (2012), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3893966/> (Last visited on June 12, 2019).



is provided to them. But to provide immediate medical care we need to understand all the components of which medical care comprises of the following:

- i. *First Aid*¹⁰: First aid is the initial assistance given to causality for any injury before arrival of the ambulance, doctor or other qualified personnel. It can become the initial stage of medical care in emergencies, especially in road accident. The three priorities when dealing with a casualty are commonly referred to as ABC, which stands:
 - a. Airway
 - b. Breathing
 - c. Circulation
- ii. *Critical 4 min*: One of the most common causes of a road accident death is due to loss of oxygen supply. This is mostly caused by a blocked airway. Normally it takes less than 4 min for a blocked airway to cause death. So if proper airway is provided to the victim, rather than forming a crowd around the victim his life could be saved.
- iii. *CPR (Cardiopulmonary Respiration)*¹¹: commonly known as CPR, is an emergency procedure that combines chest compression often with artificial ventilation in an effort to manually preserve intact brain function until further measures are taken to restore spontaneous blood circulation and breathing in a person who is in cardiac arrest. It is indicated in those who are unresponsive with no breathing or abnormal breathing.

The term “golden hour”¹²: Its Concept:

A new term has been originated i.e. the golden hour which refers to a time period lasting for one hour, or less, following traumatic injury being sustained by a casualty or medical emergency, during which there is the highest likelihood that prompt medical treatment will prevent death. First hour after the trauma is called the “golden hour.” If proper first aid is given, road accident victims have a greater chance of survival and a reduction in the severity of their injuries. The victim’s chance of survival increases if they receive treatment within one hour of the injury.

A. INTERNATIONAL AND NATIONAL PERSPECTIVE TOWARDS HUMAN RIGHT TO HEALTH

The legal structure of right to health and medical care under national and international perspective can be discussed as per following areas:

I. Protection concerning rights of patients and accidental victims in emergency under International laws

The right to health and medical care for patients and accident victims in emergency cases finds its evolution under various international laws like, The international covenant on economic and cultural rights (ICESCR), Universal declaration of human rights (UDHR), convention on elimination of all forms of discrimination against women (CEDAW) and world medical association’s (WMA’s) principal rights for patients makes right to health and medical care for such victims and patients necessary, not directly but indirectly through various articles which could be further elaborated under the following headings:

i. The International Covenant on Economic, Social and Cultural Rights, 1966:

The international covenant on economic and cultural rights makes right to health mandatory. It enumerates that the states parties to the present covenant, should recognize everyone’s right to social security, including social insurance¹³, enjoyment of highest attainable standard of physical and mental health.¹⁴

10. First aid after an accident, NHS, *available at*:
<http://www.nhs.uk/Conditions/Accidents-and-first-aid/Pages/What-to-do-after-an-accident.aspx>(Last Visited on June 12, 2019).

11. *Supra* note 10.

12. Advanced Trauma Life Support Program for Doctors, American College of Surgeons, 2008, *available at*:
<https://www.facs.org/quality%20programs/trauma/atls> (Last Visited on June 12, 2019).

13. Article 9; The International Covenant on Economic and Cultural Rights, 1966.

14. *Ibid*, Article 10.



ii. The Universal Declaration of Human Rights, 1948:

The Universal declaration of human rights also contains provisions regarding health and medical care. It ensures health and well-being by stating that the parties provide access to specific educational information to women, including information and advice on family planning. The discrimination against women in health care should be eliminated to ensure, access to health care services, including those related to family planning on a basis of equality of men and women. It asks for ensuring appropriate services in connection with pregnancy. The women in rural areas must have access to adequate health care facilities, including information counseling and services in family planning.¹⁵The Universal Declaration of Human Rights has recognized the inherent dignity and the equal and inalienable rights of all members of the human family. The rights of the patients have developed on the concept of fundamental dignity and equality of all human beings. Everyone has a right to a standard of living adequate for health and wellbeing of himself and his family including food, clothing and medical care¹⁶.

iii. World Medical Association's principle rights of patients¹⁷:

The World Medical Association (WMA) declaration on the right of the patient represents the principle rights of patients that should be recognized and respected by physicians and health care institutions. It includes rights of the patients ensuring them medical care and health.

II. RIGHT TO HEALTH AND TIMELY MEDICAL AID UNDER INDIAN CONSTITUTIONAL LAW

Till 1970s the courts, by and large, had interpreted 'life' literally i.e. right to exist- right not to be killed. But thereafter, the Supreme Court began to give an expanded meaning to the term 'life' appearing in the article¹⁸. Over the years it has come to be accepted that life does not only mean animal existence but the life of a dignified human being. This now include a healthy environment and effective health care facilities. The fundamental right to Life is now seen in a broad context. The right to health was not included as a fundamental right while framing the Indian constitution but by way of judicial activism and while interpreting right to life as provided under the constitution, it was stated that right to health and timely medical aid also constitutes a part of right to life and is thus a fundamental right, though not directly provided under the constitution. The provisions within the Indian constitution itself give the people of India right to healthcare and timely medical aid. It indicates a positive duty on the part of state to provide the basic conditions necessary to lead a life which is more than a mere animal existence. The right to life also includes within its ambit the right to health and medical care.

The apex court while giving judgment stated that the life to life not only contains the mere animal existence but also right to health and timely medical aid¹⁹. It includes the right to lead a healthy life so as to enjoy all facilities of the human body. In cases after cases taking an expansive approach the Apex Court has made it clear that 'right to life' is not taken as an exclusive or limited right, but an inclusive one. The Supreme Court has stated that the right to life must draw its meaning from evolving standards of decency and dignity that marks the progress of a mature society²⁰. It is this inclusionary approach that leads to the inclusion of certain human interest such as better standard of life, livelihood, clean environment and hygienic conditions in the work place in assigning meaning to right to life. In order to include in its ambit the right to healthcare and medical aid in certain situations, the apex court in some of its judgments has expanded the meaning assigned to right to life. In

15. Article 25; The Universal Declaration of Human Rights, 1948.

16. *Ibid.*

17. The World Medical Association declaration on the right of the patient (amended by 47th World Medical Association General Assembly Bali, Indonesia Sept. 1995).

18. Article 21; The Constitution of India.

19. *State of Punjab v. M.S. Chawla*, AIR 1997 SC 1225.

20. *Mr. 'X' v. Hospital 'z'*, AIR 1996, SC, 2426.



*CESS Limited v. Subhash Chandra Bose*²¹, the court considered the gamut of operational efficacy of human rights and the constitutional rights and held that the right to medical-aid, right to health and the right to social justice are fundamental rights. In *Khatri (II) v. State of Bihar*²², right to free legal aid to the poor and indigent worker was held to be a fundamental right by the Supreme Court.

The directive principles enshrined in articles²³ of the Constitution provide the basis to evolve right to health and healthcare stating that the state should make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want, within the limits of its economic capacity and development. Also another article²⁴ directs the state to make provision for securing just and humane conditions of work and for maternity relief. It also adds that the state raising the level of nutrition and the standard of living of its people and the improvement of public health should be the primary duties of the state and in particular bringing about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health²⁵. State should secure a social order for the promotion of welfare of people. It shall strive to promote the welfare of people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. In particular, state should try to minimize the inequalities in income, and should endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

In other words, no person will be deprived of a healthy life because he cannot afford it. The State must provide facilities that an economically better off person can afford out of his own pocket²⁶. The State shall, in particular, direct its policy towards securing the health and strength of workers, men and women, and must ensure that the children of tender age are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Children must be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment²⁷. These healthcare laws in India should be followed by the State as the guiding principles while enacting laws and policies. But traditionally, it has been believed that directive principles are not to be enforceable in courts of law. A citizen cannot go to court for enforcing a claim which is purely based on Directive Principles. The importance of these principles however lies in the fact that in interpreting fundamental rights the courts can use the directive principles so as to interpret these rights as much in consonance with the directive principles as is possible.

LEGAL FRAME WORK AND LIABILITIES UNDER DIFFERENT ACTS AND CODES

I. Liabilities of Medical Practitioners

In *Poonam Sharma v. Union of India*²⁸, It was held by the Supreme Court that a citizen of India is entitled to preservation of life not only at the hands of the police authorities but also at the hands of the public authorities which would include hospital authorities. If a medical practitioner do not pay reasonable attention while handling a patient especially in need of emergency medical care, then he can be made liable under different Indian acts and laws. Those could be discussed as follows:

21. (1992) 1 SCC 411.

22. AIR 1981, SC, 928.

23. Article 41; The Constitution of India.

24. *Ibid*, Article 42.

25. *Ibid*, Article 47.

26. *Ibid*, Article 38.

27. Article 39; The Constitution of India.

28. AIR 2003, Del., 50.



i. The Liability under the consumer protection act, 1986:

The consumer protection act was formulated to provide protection to the interests of consumers and for that purpose to make provisions for the establishment of consumer councils and other authorities for settlement of consumer disputes. In case of an emergency doctor is treated as a service provider and dying person is treated as a consumer. Initially, it was a question of discussion as to whether medical services were included under the act. In *Indian Medical Association v. V.P. Shantha and others*²⁹, it was held by the Supreme Court that service rendered to a patient by a medical practitioner would fall within the ambit of 'service' as defined in section³⁰ of the Act and a patient is a 'consumer'.

ii. Criminal liability

The criminal liability of medical practitioners arises when they have specifically violated a Criminal Law in question. They must have made gross negligence while rendering their services, paid inattention or must lack the competency of providing the services. To be held guilty of a crime, the physician must be shown to have specifically and clearly violated the particular criminal law in question and every element of the particular crime must be shown to exist.

a. Liability under Indian Penal Code:

A criminal prosecution could be filed against a doctor or a medical practitioner if the death or bodily injury to the patient is alleged to have resulted from the negligence of that doctor or medical practitioner under sections³¹ of the code. In *Gulam Hyder Punjabi v. Emperor*³², The doctor was held guilty under section³³ of the code after he caused hurt to the patient by rash and negligent act. The criminal law puts liability on doctors if they act negligently while treating a patient. A case could be brought against the doctor under the criminal law if it is possible for doctor to treat the patient and he acts negligently. For causing death by a rash or negligent act, a doctor can be punished under section³⁴. The lack of necessary care does not cover the liability of doctors under the code. The negligence required to be proved under the code is not merely lack of necessary care but, it should be so high that it can be described as 'gross negligence' or 'recklessness'.

*b. The responsibility of medical practitioners in accident cases*³⁵:

Hundreds of unnecessary deaths have been caused because of the fear of police harassment in cases among those who help accident victims. Doctors feel apprehensive that they may be caught in a legal maze if they start treating a critically injured patient without first registering the accident with the police. Most of the doctors refuse to touch an accident victim in need of immediate medical care and because of this reason the precious lives are lost or are harmed irreparably which could have otherwise been saved or treated at appropriate time.

iii. The liability under the law of torts:

Negligence is a tort which involves a person's breach of duty that is imposed upon him to take care, resulting in damage to the complainant³⁶. The essential components of the modern tort of negligence propounded by Percy and Charlesworth³⁷ are as follows:

- a. The existence of a duty to take care which is owed by the defendant to the complainant.
- b. The failure to attain the standards of care, prescribed by the law, thereby committing a breach of such a duty.

29. AIR 1996, SC, 550.

30. Section 2 (1); The Consumer protection Act, 1986.

31. Section 304-A and Sections 337, 338; The Indian Penal Code, 1860.

32. AIR 1915, SC, 101.

33. Section 337; The Indian Penal Code, 1860.

34. *Ibid*, Section 304A.

35. *Parmanand Katara v. Union of India*, AIR 1989, SCC, 2039.

36. "Charlesworth & Percy on Negligence", (19th edn.2004) p.16.

37. *Supra* n. 36.



- c. Damage, which is both casually connected with such breach and recognized by the law, has been suffered by the complainant.

This definition of the tortious liability enables us to distinguish tortious liability from other liabilities of the professionals. Negligence has two meanings in the Law of torts³⁸:

- a. Negligence as a mode of committing certain torts, e.g., negligently or carelessly committing trespass, nuisance or defamation. In this context it denotes the mental element.
- b. Negligence is considered as a separate tort. It means a conduct which creates a risk of causing damage, rather than a state of mind.

The plaintiff has to prove the following essentials in an action for negligence:

- a. That the plaintiff owned duty of care to the plaintiff.
- b. The defendant made a breach of that duty.
- c. The plaintiff suffered damage as a consequence thereof.

a. Negligence by a medical practitioner as crime under law of torts:

The extent of liability in tort depends on the amount of damages done, but the extent of liability in criminal law depends on the amount and degree of negligence. A person engaged in some particular profession is supposed to have the requisite knowledge and skill for the purpose and he has a duty to exercise reasonable degree of care in the conduct of his duties. Duties owed by a medical practitioner when consulted by a patient were explained in *Dr. L.B. Joshi v. Dr. T.B. Godbole*³⁹:

1. A duty of care in deciding whether to undertake the case
2. A duty of care in deciding what treatment to give
3. A duty of care in the administration of the treatment

b. Duty of care in medical profession:

A medical practitioner is supposed to have the requisite knowledge and skill. Also, he has a duty to exercise reasonable degree of care in the conduct of his duties. In *Dr. L.B. Joshi v. Dr. T. B. Godbole*⁴⁰, certain duties were laid down by the Apex Court that a medical practitioner owes to a patient. The following are the various duties as such laid down in the case:

1. A duty of care in deciding whether to undertake the case
2. A duty of care in deciding what treatment to give
3. A duty of care in the administration of the treatment.

Any breach in such duties may bring a suit against the medical practitioner by the patient. In India the section⁴¹ empowers the criminal courts to pay compensation to the victim while passing judgment of conviction. In *Hari Krishan and State of Haryana v. Sukhbir Singh*⁴², by the way of interpretation of the section⁴³, the Supreme Court has observed that the criminal court may order the accused to pay some amount by way of compensation to victim who has suffered by action of accused.

II. DRIVER'S LIABILITY

Whenever a road accident happens, the person with whose vehicle the accident has taken place, if he himself has not suffered the injuries, is liable to take the victim to nearest hospital, so that first aid could be provided to him. But, generally this doesn't happen. Many times the person tries to escape from the spot, so that he could save himself from the enquiry of police. Because of which most of the times, a precious life is lost and all this

38. R.K. Bangia, *Law of Torts* (21st Ed., 2010), p. 248.

39. AIR 1969 SC 128.

40. *Supra* note.39.

41. Section 357; The Criminal Procedure Code, 1973.

42. AIR 1988, SC, 2127.

43. *Supra* note 41.



happens because of lack of awareness. The following are the various ways under which a driver is liable after an accident:

i. Liability under Motor Vehicles Act, 1989:

Under the Motor Vehicles Act⁴⁴, various duties of driver have been mentioned whenever an accident or injury to a person happens. It states that whenever any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall take all reasonable steps to secure medical attention for the injured person, by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on the duty in the hospital immediately to attend to the injured person and render medical aid or treatment without waiting for any procedural formalities, unless the injured person or his guardian, in case he is a minor, desires otherwise⁴⁵. Also, on demand by a police officer, it is his duty to give any information required by him, or, if no police officer is present, report the circumstances of the occurrence, including the circumstances for not taking reasonable steps to secure medical attention as required, at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence⁴⁶. He is under obligation to provide the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely⁴⁷:—

- a. Insurance policy number and period of its validity;
- b. Date, time and place of accident;
- c. Particulars of the persons injured or killed in the accident;
- d. Name of the driver and the particulars of his driving license.

CONCLUSION

Ours is a welfare State, and the people have a right to get proper medical treatment. In this connection, it may be mentioned that in U.S.A. and Canada there is a law that no hospital can refuse medical treatment of a person on the ground of his poverty. The “Fundamental right to life” is the most precious human right and thus forms the arc of all other rights. The preservation of human life is, therefore, of paramount importance, because life, if once lost, cannot be restored, as resurrection is beyond the capacity of man. Unfortunately the number of deaths and injuries on account of road accidents is as alarming as any other dreaded disease and need to be controlled by every possible effort on the part of those who owe a sacred duty towards the preservation of human lives. The road accidents have touched a new height and are increasing day by day. It is a matter of common experience that most of the road accidents occur because of the driver’s own negligence. So many road accidents could have been avoided and so many lives could have been saved if every person had abided the laws enacted. Carelessness seems to be the bigger cause of road accidents. While talking to different doctors it was found out that it is possible to save the lives of the road accident victims if the medical care is provided to them at proper time. Moreover it is necessary to note that lives of the victims can also be saved, if first hour of the treatment given to them is made free. This would help the victims to get emergency medical care even though they have no money to pay or no person to take the responsibility of the medical treatment.

Again, it was found out that the persons who witness such kind of accidents in front of their eyes do not make adequate efforts so that the life of the victim could be saved. They stand there without making a single effort and waiting for the arrival of the police and they again take ages to reach. Also, there is not adequate number of ambulances that could be sent on spot of the accident. So many times ambulances are busy elsewhere and because of which the precious time is wasted and till the time ambulance reach irreversible damages had already happened to the victims. It was also found out that if the ambulance is accompanied by a medical

43. Section 134; The Motor Vehicles Act, 1989.

44. *Ibid*, Section 134(a).

45. *Ibid*, Section 134(b).

46. *Ibid*, Section 134(c).



practitioner or a physician or a medical expert the chances of saving the lives of the victim increases. Additionally there is a kind of fear amongst the people, as if they would put their own life in danger if they help any accident. The fear was largely because of the interrogation of the police and of the relatives of the victims who might misunderstand them as the culprit. Those who even come up to help the victims have to face the consequences at the hands of police and the relatives even after the guidelines given by the Supreme Court. Guidelines though are very recent and most of the people are not aware of the guidelines and thus do not come forward to help the victims because of the fear of the police. Where the role of police should be very cooperative, it seems that the kind of role police is playing is only creating fear amongst the people.

One of the main causes of the accidents seems to be the poor condition of roads in our cities. Almost everywhere, the roads are deteriorated which leads to imbalance of the vehicle and in turn accidents. State needs to improve the condition of the roads. In so many cases it was noted that speed breakers themselves became the cause of accidents of the over speeding vehicles especially on the highways. Another thing which is common is the overloading of the public buses and mini buses which put lives of various passengers in danger at the same time. Here comes the duty of state to make strict laws and also review the existing laws to find out the lacunas which are allowing such kind of violations of laws.

Motor vehicle accidents affect the people of all walks of life. The Motor Vehicle Act has been amended several times to keep it up to date. The need was felt that the Act should now inter alia take into consideration also the changes in the road transport technology, pattern of passengers and freight movement, development of the road net work in the country particularly the improved technology of the motor vehicle management. Every year the legislature comes up with amendments and judiciary with enlightened judgments. The government should come up with a law wherein anyone who helps any road accident or any destitute patient would be rewarded by the government and must make provision wherein the government can punish those who will ignore the dying patients on the roads without rendering any help to them.

India has become one of the states with the highest number of road accidents and the longest response time in securing first aid and medical treatment. The terrible figures of road accidents yield a cart-load of case law, which, of course, is not an elegy on the dead but real tribute on this threatening piece of legislation. Each case however, bears its own imprint which cannot be universalized. There is no proper legal framework to encourage citizens to report and come out to give help to the accident victims without fear of harassment, to mandate all doctors and hospitals to attend accident victims and provide all medical facilities for stabilizing patients in emergency, establish trained paramedics for pre hospital care during transport and to aid and implement trauma care system regardless of jurisdictional boundaries. Those who witness an accident should come forward and should not be under the likelihood of facing legal formalities. The current situation thus requires multi sectoral and multi disciplinary approach to mitigate the sufferings and loss of lives by road accidents.