

Motor Vehicle (Amendment) Act, 2019 - Critical Analysis

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The **Motor Vehicles Act** was enacted by the Parliament in the year 1988 and it came into force on 1st July, 1989. This law was brought into force to regulate various aspects of road transportation and vehicle's rules and regulations. The Act extensively covered registrations rules, licensing rules, traffic rules, offences, insurance, penalties, liabilities etc relating to motor vehicles and road transportation. In the year 2019 major amendments have been brought to this Act, prior to 2019 amendment similar changes were proposed by Indian Motor Vehicle (Amendment) Bill, 2017 also but the bill lapsed during 16th Lok Sabha's last session.¹

In the year 2019 the bill was introduced with name similar to that of 2017 Bill because more or less same changes were proposed to be made.² On 15th July, 2019 the Bill was introduced in the Lower House of Parliament by Shri. Nitin Gadkari³. The primary objective of the Bill was to provide stringent rules for road safety keeping in mind the increasing number of road accidents and in order to address the same. The Bill was passed by Lower house on 23rd July, 2019 and by Upper house on 31st July, 2019. The main areas addressed in vide this amendment relates to grant of license and permits to various motor vehicles, the requisite standard required to be met by these vehicles in order to get the license or permits and penalties for violation of above mentioned provisions. In this paper researcher has critically analyzed the provisions of 2019 Amendment Act and has made a comparison with law existing prior to 2019 Amendment. The methodology adopted in this paper is descriptive and analytical.

As its going to be one year since the 2019 amendment came into force, it becomes relevant to point out the highlights of abovementioned Amendment Act and through this paper researcher has also done a comparative critical analysis of the 2019 Amendment Act considering the fact that how far this Act has been successful in addressing the lacunas which were there prior to this amendment. When this amending Act came into force there were dissenting voices coming from the entire nation. The primary reason for dissent was exorbitant fines being imposed on the defaulting

¹ <https://prsindia.org/billtrack/motor-vehicles-amendment-Act-2019>

² Indian Motor Vehicle (Amendment) Bill, 2019 hereafter referred as 'the Bil'

³ Hon'ble Minister for Road Transport and Highways

person. The objective of this amendment was to ensure road safety .in this light lets first discuss the salient features of the 2019 Amendment made to Motor Vehicle Act:

1. It has imposed heavy penalties for traffic violations; this will ensure not only road safety but will act as a deterrent also for traffic violators. It has brought stricter provisions to deal with cases such as drunken driving, driving without helmets, overloading of trucks, over- speeding of vehicles, rash and negligent driving etc.
2. Another important feature included by this amendment is that of vehicle fitness this will ensure removal of unfit vehicles from the roads, this is also brought keeping in mind the idea of improving road safety. It covers areas such as heavy penalty for deliberate violation of environmental laws and will neglect of road safety. In order to ensure vehicle fitness legislature has come up with periodic testing and grant of fitness certificate to vehicles according to set standards.
3. The Act also provides for setting up of National Road Safety Board.⁴ The most interesting factor about this board is that it will be set up by the central government however, it will have power to advice central as well as state governments on matters pertaining to road safety, fitness standard required to be maintained by the vehicles, preference of new technology for vehicles, licensing and registration criteria for vehicles etc.
4. The Act has made recall of unfit or defective vehicles mandatory if it poses potential threat to road safety, environment and drivers of such vehicle. Further, it mandates manufacturers of such vehicle to reimburse full cost of defective vehicle to the concerned owner or to replace the same with similar or better vehicle than the one in question.
5. It also provides for compulsory insurance protection to all road users in India irrespective of their nationality through Motor Vehicle Accident Fund.
6. It has come up with new concept of ‘Good Samartian’, it means a person who provides medical or non-medical assistance to road accident victims in an emergency situation. Under the amended Act immunity is provided to good Samratian from any civil or criminal action in case the victim brought by him suffers severe injury or in case he dies due to negligence in handling him while providing the assistance. This ensures that people come up for help and should not hesitate due to unnecessary harassment by the authorities.

⁴ Hereafter referred as NRSB

7. Golden-Hour rule has been incorporated which provides cashless treatment of road accident victim who has suffered severe injuries in the initial one hour since the incident took place in any hospital. The objective behind this scheme is to reduce the death rate which occurs due to lack of financial aid when prompt medical aid is needed.
8. Provision of Taxi Aggregators is also incorporated in the new Act. Under the amended Act Taxi Aggregators have been defined as a market platform of digital intermediaries which can be used by the passengers in order to connect with taxi service providers or drivers for the purpose of conveyance from one place to another. The state will be granting license to these digital taxi aggregators and they are required to act keeping in mind the provisions of Information Technology Act, 2000.

The major challenges which were prose by this amendment while its enforcement are follows:

1. With the creation of NRSB at center, which will advise centre as well as states in matters relating to road safety, states felt that their powers have been curtailed.
2. Implementation challenges were felt nationwide as some states were reluctant to increase the penalty for default under Motor Vehicle Act.
3. The amendment provided for compulsory insurance cover for victims of road accident, by way of creating Motor Vehicle Accident Fund, however there already exist fund to give compensation to victims of hit and run cases therefore, the objective of creating new fund is not clear.
4. Road transportation falls under the head of concurrent list and therefore states also have right to make their own laws and regulations relating to road transport but vide this amendment more powers have been given to the center due to which states feel that their legislative powers have been curtailed.
5. For effective monitoring of accidents and traffic violators so that they don't go unnoticed better surveillance is necessary and in order to do so installation of CCTV Cameras and other equipments is required which will involve heavy investments but the Act fails to make it clear that who will bear these expenses.

Certain other changes brought by way of 2019 amendment which has made rules stringent increased the limit of compensation in comparison to what existed in the original Motor Vehicle Act, 1988 are as follows:

- Firstly, it make requirement of having Aadhaar Card compulsory if a person wants to get a driving license or wants to get his vehicle registered under this Act.
- Secondly, fine for person caught for drunken driving have been significantly raised from Rs.2, 000 to Rs. 10,000.
- Thirdly, the amount of compensation to be provided by the government to victim's family in case of deaths in hit-and-run case has been increased from Rs. 25, 000 to Rs 2 Lakhs.
- Fourthly, provision for automated fitness testing has been incorporated which was not mandatory prior to 2019 Amendment.⁵
- Fifthly, provision for cashless treatment of road accident victims in golden hour and good samartian are very relevant from the point of view to reduce casualty and ensure road safety.
- Sixthly, guardians or owners of vehicle have been made vicariously liable for traffic violations by minors (juveniles) which is another very relevant problem addressed by this amendment. However, the guardian or owner of such vehicle will be exempted if they are able to prove the violation which is in question was committed without their knowledge or that they tried to prevent the same.
- Seventhly, constitution of National Road Safety Board is another relevant provision included in the amendment to ensure road safety.
- Lastly, provision allowing central government to order recall of defective vehicles is also an important factor which ensures environmental protection and safety of road users and drivers.

Conclusion:

Even though with this amendment the legislature intended to ensure the enhancement of road safety, punish errant drivers and to reduce the road accidents but even after almost one year of its coming into force it has not been able to achieve the desired results. Further, dissenting views of

⁵ <https://www.cars24.com/blog/new-motor-vehicle-act/>

different states with regard to its implementation initially also one of the important factor which defeated the actual purpose this amendment Act intended to achieve. This decision of states has proved to be dangerous for lives of many and it had been done with a view to build up their vote banks. The question which remains unanswered is that whether government is working for public interest or they are focusing on how to gain their vote bank even if it is going to have deleterious effects. Further, we as a responsible citizen of our society need to ask ourselves to what extent stringent laws and increased penalties with regard to motor vehicles and road safety is going to be sufficient in putting an end to road accidents? Can it alone be sufficient to address and ensure road safety? These stringent motor vehicle laws and increased amount of penalties are no doubt deterrent in nature and may instill fear among the traffic rule violators but they alone are not going to be sufficient in addressing the problem of road accidents and road safety. There is more to be done than this if we as a nation want to address the issue of increasing number of road accidents in an efficient manner.

Moreover, this amendment is more relevant from the point of view of metro cities particularly. As per the official data “There are 50 one-million plus cities in India which have the requisite set up to enforce the Act with the help of traffic police, municipality and the Public Works Department (PWD)⁶.” According to 2018 report of Ministry of Transport in the year 2017, there were approximately 82, 000 cases of road accidents of which nearly 16,000 cases resulting to be fatal in these metro cities. Therefore, it requires an overall holistic approach to address this problem. The problem does not end here! If we look at population of these cities vis-à-vis traffic policeman ratio then it’s very marginal further, there is lack of resources and technical knowhow with municipalities of these cities to implement the changes efficiently. Above all there is huge shortage of funds with Public Works Department to get the roads repaired which is one of the most important reasons behind road accidents. Further, there is lack of infrastructural upgradation without which there is no better scope for traffic laws in our country. Thus, merely by imposing heavy penalties on persons violating the traffic rule without taking steps to remove shops from sideways of roads, removing encroachments from roads etc which is necessary for a conducive outcome to ensure road safety, increased penalty has been able to achieve very less than what was desired from the 2019 amendment Act. Not only this user of roads has also been negligent and

⁶ <https://www.thehindubusinessline.com/opinion/columns/slate/all-you-wanted-to-know-about-the-new-motor-vehicles-act/article29376425.ece>

stubborn in their behavior and wants to hold on to their old practices crossing roads which are inherently risky and many times cost their lives. Subways and foot over bridges are hardly utilized to cross the roads thus civic amenities have not been brought into proper use leading to unsafe roads.⁷

Further provisions for more investments in greater number of traffic interceptors on highways such as Yamuna Expressway to keep an eye on rash and negligent drivers, drunken driving, over- speeding which are common causes for accidents on highways should be addressed by National Highway Authority of India (NHAI) rather than investing on plantation of trees on highways which even though is beneficial from environment point of view but it results in reduction of width of roads as a result of which smooth flow of traffic movement gets hampered.

It's already going to be a year since the latest 2019 amendment came into force but this Act has not been successful in making visible change in rural India traffic norms. In order to see the change in rural India legislature should have incorporated schemes like imparting technical knowhow, traffic awareness by imparting education to rural population, conducting awareness camps and providing helpline line so that rural people could have been aided with means to gain insight about traffic regulations. Because due to lack to knowledge about traffic rules these people are very careless and negligent on roads as a result of which they risk their lives as well as that of other and lack of traffic police in these areas add more to the alarming condition of rural India. As per data of Ministry of Transport, more than 58% of total accidents are of rural India of which approximately 65% are fatal.

To address this issue at ground root level the legislature need to rope in village panchayats and zila parishads because it is only with their help that they will be able to achieve desired results from this 2019 amendment. At present the awareness drive, campaigns relating to traffic regulations are limited to metro cities only and have not reached in rural areas. But as we discussed earlier deadly road accidents are rampant on national highways which passes through villages.

Last but not the least in order to attain the desired objective from a particular legislation, the public at large should be made aware of its objectives, reasons for bringing such legislation and the benefits it will reap in times to come. Similarly, in order to make Motor Vehicles (Amendment) Act, 2019, complete success consistent efforts should be made to improve and enhance it working in an efficient manner. After one year of its implementation legislature should go for evaluation of efficiency of this Act and steps should be taken to bring awareness in the people about issues concerning road safety by providing them a comparative analysis which was in existence prior to implementation of 2019 Amendment Act and what are the improvements brought in force (not only on papers) in reality after this major amendment to Motor Vehicle Act, 1988. Imparting road safety education to mass section of the society is definitely going add to the intended benefits of this amendment. Another thing required to be done is to spend on manpower as there is lack of traffic police across the nation in comparison to number of registered vehicles. There is lack of coordination and implementation between traffic police authorities, Public Works Department (PWD), Municipality, and Gram Panchayat with respect to parking, road construction, designing etc because of which full-fledged road safety is a distant dream in our country, we must not forget that police personnel are the actual law enforcer.

Lastly, what is need of the hour is uniform implementation of Act across the country, the only we will be able to reap desired results on a broader perspective. By saying uniform it means that there should not be any exemptions given to VIPs, or strict action should be taken against police personnel who let the defaulter go without paying hefty fines in return of some pecuniary gains which he gets. Because in such circumstances the whole purpose of this Amendment will go in vain without making any positive contribution towards road safety measures. Also, it should be practices uniformly by all the states and Union Territories even though it's a matter falling under concurrent list of the seventh schedule. We cannot afford to lose lives of our countrymen for negligence on part of execution and lack of political will to address this life taking issue for a toss in order to gain political vote bank.
