

Workshop on Section 134 of Motor Vehicle Act, 1988 Jaipur, 22nd January, 2016

1. Background

With regard to right to life and safety on roads of a citizen, it would perhaps be impossible to save any life in an air crash, but a large number of the road accident victims can be saved, if only receive succour immediately. Many of them don't, due to fear of police harassment and/or legalities.

In the year 1985, Advocate Parmanand Katara brought a writ petition by way of public interest litigation before the Supreme Court of India.

The petition said that Article 21 of the Constitution of India guarantees the Right to Life to every citizen, but in the matter of road accident victims nearly 60% die while awaiting treatment, even after having been brought to the hospital. These deaths take place as the doctors would not attend the victims until a police case is registered, as these are medico-legal cases.

The Supreme Court in its division bench judgment delivered by Justice Ranganath Misra and Justice G L Ojha on 28th August, 89 ruled that every medical doctor is bound to save the life of an accident victim. "It is his supreme responsibility even if the victim is that of a criminal assault", said the order.

2. Context

Following a Supreme Court order in 1989, the Motor Vehicle Act was amended as Section 134 in 1994, to make it mandatory on both the driver/owner of the vehicle to take the accident victim to the nearest doctor, but also casts a duty on the doctor to treat the victim without waiting for any formalities.

A recent film "Munnabhai MBBS" depicted a hospital's response to a suicide victim, where a helpless mother tried to convince a doctor to attend to his son's serious injury, but was asked to complete the legal formalities by filling up a form first. Then, "Munnabhai" raised the question of importance of filling up form by an emergency patient before getting any immediate treatment with the Dean of the Medical College. Obviously, the Dean had no answer. Well, the difficulties faced by a suicide victim or any accident victim are similar, with road accident victim being no exception.



A number of films and serials in the past as well as in the present are showing the tragedy of a road accident victim in one way or the other. What is more unfortunate is the fact that it is the fact that it happens in reality also.

In our overcrowded cities, road accidents have taken the form of an epidemic. Every 04 minutes an Indian dies on the road and 10 times that number get injured. In such circumstances, the role of medical institutions becomes important, as the first few moments after the accident, termed as “Golden Hours,” are very precious and crucial. Many lives can be saved and providing immediate treatment to accident victims can prevent disabilities. But this happens rarely in reality, as “prompt” medical attention is available only to a “lucky” few.

One major reason for which hospitals/clinics/doctors refuse to treat accident cases is the potential medico-legal complications associated with such patients. In many cases, it has been observed that doctors wait for the arrival of police before attending accident victims. In such cases, the Supreme Court directives are very clear.

In the case of Pt. Parmanand Katara vs Union of India in 1989, the Supreme Court observed:

There are no provisions in the Indian Penal Code, Criminal Procedure Code, and Motor Vehicles Act, which prevents doctors from promptly attending to seriously injured persons and accident cases before arrival of the police.

The treatment of the patient should not wait for the arrival of the police or completing legal formalities. All government hospitals and medical institutions should be asked to provide immediate medical aid to all the cases, whether medico-legal or not.

3. Present Scenario and Objectives

In spite of the provision under law, accident victims have to wait till the completion of procedural formalities before getting any immediate medical treatment during the “Golden Hour.” Since people do not have information on the same, they are ready to suffer.

Here comes the role of some of the very important stakeholder, who are part of our society like the doctor’s fraternity, which includes medical associations; traffic police, entertainment industry, corporate houses and civil society organisation, which does play an important role in spreading any message. Unfortunately, these stakeholders continue to ignore the reality and continue to portray the unnecessary delay in providing immediate treatment to the accident victim because of legal formalities. It is high time, that all of us now start spreading the right message as said in the law and clears the confusion by creating awareness on the issue and making the concerned people more and more accountable, so that many valuable lives could be saved in case of an accident.

4. Workshop

Marking the commemoration of road safety week 2016, Department of Transport of Govt. of Rajasthan vide its work order no *pa11/pari/prapa/sasus/2015/278-283 dated 13.01.2016* approved an activity for CUTS, which was initially an activity of Nukkad Natak, but CUTS decided to conduct this workshop in place of sanctioned activity with prior approval and permission of official of department.

The workshop was organised on January 22, 2016 at Hotel Om Tower, Jaipur

5. Participants

Transport Department, Government of Rajasthan supported to conduct the workshop, which provided platform for around 35 representatives of NGOs, Media, Medical Practitioner, Advocates, Traffic Police, Health Department and Academician to actively take part in the workshop.

6. Proceedings

The welcome speech was given by Varidhi Singh and followed up by introduction speech about the workshop which given by Dharmendra Chaturvedi, he shared reasons why Section 134 is important and what are the main objectives of the workshop. As the Road-Safety week



was going on in India. The workshop emphasized on Section 134 of Motor Vehicles Act, 1988 and developments in law in this regard with following objectives:

- To raise and maintain public awareness on Section 134.
 - To promote the development of Section 134.
 - To change the attitude and behaviours of drivers.
- Promote a positive attitude towards enforcement of Section 134.
 - Encourage the safe use of public roads.

Deepak Saxena discussed Section 134 through a presentation. The key points of the presentation were:

- ❖ Importance of Section 134
- ❖ Supreme Court Judgment given in case of *Advocate Parmanand Katara Versus Union of India, AIR 1989 SC 2039*. The crux of the judgment: There can be no second opinion that preservation of human life is of paramount importance. The patient whether he be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished.



- ❖ Duty of driver/ in charge of vehicle.
- ❖ Duty of Medical Practitioner: In cases of non-compliance.
- ❖ Punishment: 3 months imprisonment or Rs.500 for the first offence or both or 6 months imprisonment or Rs. 1,000 for subsequent offence or both.
- ❖ New Developments in Road Transport Safety and Good Samaritans Bill, 2014.

Dr. Maya Tandon from Sahayta was the Chief Guest of the workshop. She has been working for the Road-Safety from very long-time. Tarachand Saharan Secretary of Sahayta further discussed the topic through presentation prepared by him. The bullet points in the presentation were:

- Introduction and working of Sahayta
- Post-Accident Care
- Measures to decrease the number in the victims of road accidents.



It was stated by him that one person in every four minutes dies in India due to road accident. And it is important to take measures in order to decrease the number to zero.

A movie was showed on what to do after the accident has occurred. In continuance with the movie Dr. Kiran Tandon from Sahayta stated that there are three important parts of the body:

- Head/Brain: At the time of accident it is necessary that oxygen is provided to brain within 3-4 minutes.
- Heart: Around 5 Litres of blood circulates in our body. She mentioned three situations in which if the mentioned amount of blood is lost it may result in following:

- 1) If around 1 ltr. is loss the person goes into sleeping state where he/she is half conscious and half-unconscious.
- 2) If 1.5 ltr. is loss the person faints.





3) If 2.5 ltr. is loss then the probability of death increases.

- Spinal

Cord: In cases where person's back is injured, he shall be lifted properly with due care.

The Golden Hour which is One Hour after the Accident which is very important for the injured person as the First Aid

should be provided and the person shall be taken to the Hospital. It is not only that the person is taken to the hospital within one hour but they should make sure that his treatment has been started too.

Practical Demonstration on giving CPR was also provided by the team of Sahayta. Members from various organisations were called asked to try giving CPR to the manikin. The important thing to note while giving CPR was to take care of the body posture and it should be given with the strength and around hundred times without any break.



Vote of Thanks

Varidhi Singh, Project Officer gave vote of thanks with an appeal to the entire stakeholder to impart the message wider.

Dharmendra Chaturvedi also mentioned about Grahak Suvidha Kendra (GSK). Leaflets of which were distributed at the time of registration only.

AGENDA

- 13:30-14:00 Registration
- 14:00-14:05 Welcome and Introduction
Dharmendra Chaturvedi, Project Officer, CUTS International
- 14:05-14:15 Presentation on Section 134 of MV Act
Deepak Saxena, Sr. Programme Coordinator, CUTS International
- 14:15-14:30 Movie on Post-Accident First Aid
- 14:30-16:00 Special Addresses by Subject Experts
Role of Civil Society Organisation (post-accident treatment)
- *Dr Maya Tandon, Chairperson, M N Tandon Charitable Trust, Jaipur*
 - *Mr Tara Chand Saharan and Mr Ashish Sharma
Former Member, Board of Revenue for Rajasthan and
Secretary, Sahayta*
- 16:00–16:30 Open Session *Questions & Clarifications*
- 16:30-16:35 Vote of Thanks
Varidhi Singh, Project Officer, CUTS

FAQ on Section 134 of Motor Vehicles Act, 1988

Research shows that half of the accident victims can be saved if they receive immediate medical attention. However, due to fear of harassment people do not always come forward to attend them. Following a Supreme Court order in 1989, the Motor Vehicles Act was amended in 1994, to make it mandatory on both the driver/owner of the vehicle to take the accident victim to the nearest doctor, but also casts a duty on the doctor to treat the victim without waiting for any formalities. This FAQ has been created to help people understand the situation and inform others, so that we can save unnecessary deaths on our roads.

What is the duty of the driver of the vehicle involved in an accident?

- The driver or the owner of a vehicle involved in any accident that has caused injury or damage to any person, is required to secure medical aid for the injured person, by taking him to the nearest doctor.
- He shall report the matter to the nearest police station within 24 hours, and

Also inform the insurance company about the occurrence of the accident, namely, insurance policy number and period of its validity; date, times and place of accident; particulars of the persons injured and/or killed in the accident; and name of the driver and particulars of his driving licence.

Is the duty of the driver mandated by any law?

Yes! Section 134 of the Motor Vehicles (MV) Act, 1988 states that the driver and/or the owner of the motor vehicle responsible for a road accident is required to take all reasonable steps to secure medical attention for the injured person by conveying him to the nearest medical practitioner or hospital, unless it is not practicable to do so on account of mob fury or any other reason beyond his control.

Is failure to comply with this act punishable?

Yes! Under Section 187 of MV Act 1988, whoever fails to comply with the provisions of the clauses of Section 134, shall be punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to Rs. 500, or with both. If it is the second time for the person concerned, then the penalty is harsher. The imprisonment may extend to 6 months, or with fine which may extend to Rs. 1000, or with both.

What is the duty of the doctor/hospital where a road accident victim is taken?

The doctor/hospital approached to treat a road accident victim should render immediate necessary medical aid without waiting for any procedural formalities.

Does refusal of medical care to injury and emergency cases constitute negligence?

Yes. Refusal of medical care to emergency cases constitutes negligence.

Can a doctor/hospital refuse medical care to emergency cases?

No. A doctor/hospital cannot refuse medical care to emergency cases.

Can treating a road accident victim lead to the doctor/hospitals getting into any trouble?

No. There are no provisions in the Indian Penal Code, Criminal Procedure Code, Motor Vehicles Act, etc., which prevent doctors from promptly attending to accident cases before the arrival of the police. As per the Supreme Court's 1989 judgement, the police and court should not harass such doctors, and should also not be taken to the police station for

investigations.

Should the doctors/hospitals wait for the police to arrive or any legal formalities before attending to a road accident victim?

No. The treatment of the patient should not wait for the arrival of the police or completion of legal formalities. All hospitals and doctors are required to provide immediate medical aid to all the cases, whether medico-legal or not. Failure in this regard is punishable under Section 187 of MV Act, 1988.



सत्यमेव जयते

राजस्थान सरकार
परिवहन विभाग



27वाँ सड़क सुरक्षा सप्ताह

(18-24 जनवरी, 2016)

प्रशस्ति-पत्र

सड़क सुरक्षा के क्षेत्र में

सराहनीय योगदान हेतु

कट्स

को यह प्रशस्ति-पत्र प्रदान किया जाता है।

हम इस संस्था के उज्ज्वल भविष्य की कामना करते हैं।

दिनांक: 24 जनवरी, 2016


यूनुस खान

माननीय मंत्री, परिवहन एवं सार्वजनिक निर्माण विभाग
राजस्थान सरकार


गायत्री राठौड़

परिवहन आयुक्त एवं शासन सचिव
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