



# ALL INDIA MOTOR TRANSPORT CONGRESS

THE APEX ORGANISATION OF MOTOR TRANSPORT OPERATORS AFFILIATING STATE/REGIONAL ASSOCIATIONS

Official Journal "motor transport"

By/RT&H/50/2017-18  
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**The Chairman  
Select Committee on Transport  
Rajya Sabha  
Parliament House Annexe  
New Delhi - 110001**

**Sub: Comments/suggestions on the the Motor Vehicle Amendment Bill 2017.**

**Sir,**

We take this opportunity to introduce your goodself All India Motor Transport Congress (AIMTC), as an apex body of Transporters - (both Cargo and Passenger segments) serving the industry since 1936 (81 years), representing the interest of approx. 1.94 crores Truckers, Buses, Tourist Taxi and Maxi Cab Operators. It is an umbrella body of covering over 3500 Taluka, Distt., State level Federations & Transport Associations on pan India basis. More than 20 crore people are directly and indirectly associated with this sector.

With reference to the subject we submit herewith suggestion / comments on the the Motor Vehicle Amendment Bill 2017.

## **1.0) Exorbitant Penalties:**

We understand the gravity of the situation arising out of high accident rates in the country but making laws as proposed and increasing of penalties multiple times will only have the marginal impact as the real issue of creating awareness, education, regulation of traffic, road design and emergency care is almost missing.

- Increasing of penalties five to ten times and with option of multiplier to States for various acts of omission and commission will lead to spurt in Harassment, Corruption and Extortion on Roads and its affect is already been borne by our transport fraternity.
- The penalties must be reasonable and the main objective must be for correction and responsible road behaviour.
- There must be scientific or photographic recording of fault and only on that basis penalty should be levied.
- Higher penalties will also lead to high insurance premium charges.
- No penalization in absence of this Electronically Verifiable Evidence
- Fines should be minimum or 25% of defined in the act.

## 2.0) Capping of Third Party Premium for Insurance Companies:

The amendment proposed by Ministry of Road Transport & Highways vide Section 147 (2) of the Motor Vehicle Amendment Bill 2016 has triggered shockwaves across the road transport community.

The Ministry succumbing to the manoeuvres and pressure from the Insurance companies has suggested the capping of the third party liability of insurance companies to a maximum of Rs 10 Lacs in case of fatal accidents and Rs 5 lacs in case of 'grievous hurt' and beyond this have to be footed by the owner of the vehicle.

The capping of liability up to Rs 10 Lacs and balance amount to be footed by vehicle owner will bring very unjustified and impossible situation for non-capable and poor truck owners in case an amount more of compensation than the capping is awarded by MACT because the fault of the accident is always blamed on bigger vehicle. As a thumb rule the trucker is always pronounced guilty of any accident even if the victim himself is at fault. The single truck owner/driver who find it hard to meet its two ends meet under current economic environment, then how he is going to foot the claim liability above Rs. 10 lacs, what-so-ever.

The moot question is in case of an unfortunate accident, where is his risk insured, which is the premise of taking insurance and ultimately the business model of the Insurance companies.

Accidents are not wilful or deliberate acts, but happen unfortunately due to various factors apart from drivers, who are also at fault some of the times. **By whom and of whom, irrespective of his/her stature and financial background, accident may happen, is highly uncertain.** Accident may happen by the vehicle of a Bureaucrat, salaried person on two-wheeler or even by a e-rickshaw driver. In case the victim is High Networth Individual (HNI) then will they be able to pay the claim difference beyond the cap.

**The victim on the other hand is equally cheated and marginalised as he cannot get his due claim either from the insurance company or the poor vehicle owner.**

If the law of natural justice prevails, then how the act of a negligent driver / trucker (if proved) makes the transporter/owner of the vehicle, liable to foot the balance claim. In many cases even though the victim is at fault, the courts have awarded 40-50% of the claimed amount as compensation (which may be more than what is the limit prescribed by the Government).

**For example:-** If your vehicle caused an accident and a person is dead due to the said accident and his legal heirs claim for compensation before Motor Accident Tribunal / Court and the court adjudicate the claim for 30 lakhs then in that event the Insurance Company will only pay Rs. 10 lakhs and the rest of Rs. 20 lakhs will be recovered from the owner of the Motor vehicle, in short the Insurance will not pay a single penny above its limit of Rs. 10 lakhs.

The insurance companies run their third party business model of covering the risk of movement of vehicles on the roads. With the premium so amassed they earn huge profits and at times do not settle claims on frivolous grounds and minor lacunae. The balance sheet of not a single insurance company is in red and they are reaping huge profits at the cost of the people of India.

If the proposed amendment to Motor Vehicle Amendment Bill 2016 is passed through then it will create havoc in the road transport sector of India which sustains more than 20 crore people of the country. With this one amendment, the road transport sector of India will get throttled. Even our present Union Minister of Road Transport & Highways, Sh Nitin Gadkari had opposed this provision when he was in opposition. *His letter dated 5th October, 2012 written to Ms Sushma Swaraj, then Leader of Opposition (Lok Sabha) opposing the capping of Third Party liability is enclosed herewith for your kind perusal.*

**Therefore Third Party unlimited liability cover must continue as it is.** This is also upheld by the Standing Committee on Transport, which has recommended annulment of this provision.

**3.0)** The ACT also proposes to levy **Cess in the name of Motor Vehicle Accident Fund** will only put financial burden on the operators who are already trampled under heavy taxation, rampant corruption, extortion and harassment.

There is also proposal to delegate power of enforcement to private agency. It will create a menace and panic for truck operators as the private agency with the help of anti social elements, gundas will loot truck operators openly as can be observed on Toll and Chungi nakas.

- 1) **SECTION 215 A** – In this section no power should be delegated by central or state government to any person or groups of persons for enforcement of act and rules or for checking vehicles. This power should entrust with transport and traffic department only.
- 2) The issuance of Fitness and Testing to private players will increase corruption and harassment. This must be avoided.
- 3) Only for **SECTION-114** power can be delegated to any agency at the condition that weighing procedure should be full proof and transparent and should be accessible online by transport department, other departments and public. Weighing process should be video recorded and fine should be collected online electronically.

The weighbridges must be tampered proof and there must be third party audits every three months so that commercial vehicles operators are saved from corrupt practices of Toll operators.

If any agency during process of weighing vehicle manipulates vehicle weight in such manner that an UNDERLOAD vehicle becomes OVERLOAD than for this conduct there should be

harsh punishment with fine which should not be less than 25 lakh and imprisonment not less than 3 years.

**4.0) Checking of Overloading:** The Ministry of Road Transport & Highways is very much alive to the issue of increasing road fatalities and is doing its utmost to contain this menace. Checking of overloading is paramount to this benign objective.

We are with the Government on the issue of the checking overloading and for this we had time and again professed that **all-in-the-chain (trucker, transporter, consignor, consignee, law enforcers, Toll concessionaires, PDs, PIUs) who allow overloaded vehicles to pass through their jurisdiction must be held accountable and penalized.** Further, it is to be emphasized that the **excess load must be overloaded** at the risk of trucks and consignor / consignee and this must be implemented without any excuses.

## **5.0) MECHANICAL TAX, ENTRY TAX, SPECIAL FEES, PROFESSIONAL TAX:**

- a) There is acute corruption and harassment on the RTOs & DTOs on the National Highways is charging a hefty Entry Tax / MECHANICAL TAX / Special Fees / Professional Tax from vehicles registered in other states without any valid reason on a regular basis, which is unjustified. The Entry Tax is nowhere provisioned in the MV ACT.
- b) The vehicles registered outside the state are charged entry tax and the drivers and crew members are harassed to no end on non-payment of such illegal tax.
- c) One of the basic premises of National Permit has been seamless transportation and saving of precious fuel and time at the checkpost that dearly costs foreign exchange.
- d) We have been highlighting the menace of Entry tax that is illegal and fraudulently levied by various States under the garb of vague provisions of law.
- e) We have raised the issue of entry tax at various forums and written in this regard but the Govt. Machinery seems to play bureaucratic manoeuvres and place the onus on the Association to prove it just to delay and dodge issues.
- f) **Power to authorities to stop a vehicle be repealed and any stoppage en route, if warranted, must be on "Reason to Believe or Specific Intelligence Input". There must be minimal human interface on the roads/highways and RTO / CTOs /MVIs offices through Technological interventions.**
- g) **The vague provisions in the law which give discretionary powers to ITOs, RTOs, CTOs, MVIs & Police must be repealed so that corruption element is minimized on the roads.**

- h) We suggest Seamless Peoples' and Freight mobility to make our country "BARRIER FREE" "CORRUPTION FREE" and "ONE NATION in True Sense as envisaged by our revered Sardar Vallabh Bhai Patel".

**6.0) Bringing Aggregators under the ambit of Law:** Aggregators don't have any control or share the responsibility of passenger, driver, and vehicle. The Traditional Taxi operators are responsible, duty bound to Passenger, Driver and their vehicles.

The Safety of the Passengers using the web based services is of paramount concern for quite some time and is hogging the print line. Yet there have been little efforts by the Government or the administration to tame these aggregators who in turn are enjoying free run oblivious of the law of the land and putting the safety and security of the vulnerable passengers in jeopardy.

Aggregators are squarely UNSAFE and only dent safety and well - being of the passengers. We suggest bringing them under stringent laws.

The 2016 Bill defines aggregators as digital intermediaries or market places which can be used by passengers to connect with a driver for transportation purposes (taxi services). State governments will issue licenses to aggregators in conformity with guidelines issued by the central government.

**But the 2017 Bill makes it optional for states to follow central government guidelines on aggregators. There could be cases where such state guidelines are at variance with the central guidelines. It must be centrally governed in spirit of Uniform Law across the country.**

**7.0)** The amendments are always seen in the context of positive reforms to create facilitating and enabling environment for the growth of that sector, but it seems this particular bill's major focus is on enhancing revenue collection and providing opportunities to its enforcement agencies to fill their pockets.

The road accidents issue is not new, but inspite of efforts made by various governments this problem is not checked. It is because that the root cause is not addressed. There are hardly any efforts for creating awareness, education and involving stakeholders for maximum reach.

The streamlining of the procedures, processes and doing proper road safety audits is almost missing. The road designs are passed out of convenience to the concessionaires. There is utter lack of basic amenities, rest areas, secured parking zones etc on the highways and utter harassment by law enforcers and the toll officials add to the stress and fatigue leading to more accidents.

**8.0)** The 2017 Bill provides for a National Road Safety Board, to be created by the central government through a notification. The Board will comprise of a Chairman, representatives of the state governments, and other members as specified by the central government. We



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propose that as a major stakeholder, **AIMTC representatives should be on National Road Safety Board** through a statutory note.

The basic tenets of Bill must be viz Seamless Movement, Transparency, Optimal e-governance and Eradication of Corruption & Harassment to engender Efficiency through creation of Facilitating and Enabling environment in the road transport Ecosystem.

**Thanking you**  
**Yours faithfully**

**Naveen Kumar Gupta**  
**Secretary General**  
**#9711498337**