



INDIAN LEGAL REGIME TOWARDS MOTOR VEHICLES POLLUTION

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ABSTRACT

India is one of the few countries which have provided constitutional safeguards for protecting and conserving the environment. It has passed many environmental laws, but unfortunately, they are too often not effectively implemented. Due to the rapid growth in motor vehicle traffic, fuel consumption and resulting air pollution have also risen rapidly, and produced many adverse health effects. The transport sector is a major contributor to air pollution in India. There is an urgent need to address emissions from in-use vehicles through stricter inspection and maintenance programs in addition to having stricter norms and standards for newer vehicles. This Paper deals with the Motor Vehicles pollution as well as other pollution control laws. The paper highlights “Motor Vehicles Act, 1988 & Motor Vehicles (Amendment) Act, 2019, Environment Protection Act, 1986, Air (Prevention and control of Air pollution), 1981, Noise Pollution Rules, 2000” etc.

Keywords: Motor Vehicle, Pollution, Law, Air

INTRODUCTION

The emissions of motor vehicles have a major impact on the environment. Pollutants which are considered include not only exhaust emissions from motor vehicles, fuel evaporation and the resulting secondary

pollutants, but also pollution caused by the wear of tires and metals. The environmental impacts, including those of buildings, water bodies and ecosystems, will be addressed. The air quality in a significant number of the Indian urban communities has been declining. In fact, the air quality in a portion of the urban communities has arrived at a basic level. The purpose behind this has basically been the expansion in vehicular population. The Government, as well, on its part deliberately ignored this issue. As there are various chapters in “Motor Vehicles Act, 1988 which deals with the prevention and control of Motor vehicular emissions viz. Chapter VII of the Act deals with Construction, Equipment and Maintenance of Motor Vehicles, Chapter VIII of the Act deals with Control of traffic as per the rules and regulations prescribed by the central and state government, then Chapter XI deals with insurance of Motor Vehicles against the third party risks and it also includes power to issue Pollution under control (PUC) certificate, Lastly chapter XIII of the Act deals with Offences, Penalties and Procedure of trials for the commission of any act which contravenes the provisions of the said Act”.¹

The pollution laws and regulations in our country are based on policy of command and control. The Government of India formulated a comprehensive pollution control policy in 1991. In addition, the Government has enacted a number of legislations to control pollution. They include “Environment (Protection) Act, 1986, Motor Vehicles Act (as amended in 1988 and 1994), Air (Prevention and control of Pollution) Act, 1981(as amended in 1987 and 2019)”.

The large majority of the present “vehicles and trucks travel by utilizing internal

¹ The Motor Vehicles Act, 1988 (Act no. 59 of 1988)



combustion” motors that consume gas or other petroleum derivatives. The way toward consuming fuel to control “vehicles and trucks adds to air pollution by discharging a variety of emissions into the Environment”. Discharges that are discharged straightforwardly into the climate from the tailpipes of vehicles and trucks are the essential wellspring of vehicular pollution. Be that as it may, motor vehicles likewise pollute the air during the procedures of assembling, refueling, and from the outflows related with oil refining and dissemination of the fuel they consume.

“Primary pollution from engine vehicles is pollution that is radiated straightforwardly into the climate, though secondary pollution results from chemical reactions between toxins after they have been discharged into the air”. While new vehicles and light trucks transmit around 90 percent less pollutants than they completed three decades back, absolute yearly vehicle-miles driven have expanded by in excess of 140 percent since 1970 and are relied upon to build another 25 percent by 2015.² The emissions decreases from individual vehicles have not sufficiently stayed up with the expansion in miles driven and the market pattern toward additional polluting light trucks, a classification that incorporates sports utility vehicles (SUVs). Thus, vehicles and light trucks are as yet the biggest single wellspring of air pollution in most urban territories, representing one-quarter of emissions of brown haze framing toxins.³

Motor vehicles bring fast, solid, and helpful versatility on request to those fortunate

enough to approach them. What's more, progressively, even in some creating and transitional economies, the fortunate ones are not simply the elites. The car is really a mass transportation medium, in definitely a similar way radio or TV is a mass correspondence medium. In surveying strategies, we give specific consideration to how vehicles add to a wide scope of natural effects. On the off chance that after case, we see that approaches will in general be centered around just one pollutant or even a lot of pollutants, disregarding impacts in other ecological territories. “For instance, diesel-powered vehicles show signs of improvement mileage than gas fired vehicles, which improves them with respect to controlling ozone harming substance discharges”.

ENVIRONMENT PROTECTION ACT, 1986

NATURE AND SCOPE

The Act fixes responsibility on persons carrying on industrial operations or handling hazardous substances to comply with certain safeguards for prevention, control and abatement of environmental pollution and also enjoins upon them to furnish certain information to the authorities in certain cases. “The Central Government has been granted general powers under the Act for taking all necessary measures for protecting the quality of the environment, for laying down standards for emission or discharge of

² M.Z.M. Nomani, Natural Resources Law and Policy, Uppal Publishing House: New Delhi; 2003[ISBN 81-7658-024-4].

³ Motor vehicle pollution, <http://www.pollutionissues.com/Ve-Z/Vehicular-Pollution.html> (last visited on 10 June 2021).



environmental pollutants,⁴ for laying down safeguards for prevention of accidents and in respect of handling of hazardous substances, requiring persons to furnish certain information, issuing direction to persons, planning nationwide pollution control programmes and coordination of the actions of various agencies and authorities under the Act etc". The Central Government may also notify rules, orders, directions, guidelines etc. under the Act.⁵

The Environment (Protection) Act was passed with a foreign background and to fulfil constitutional obligation as provided under Article 48-A. In the wake of the Bhopal disaster, the Government of India instituted the Environment (Protection) Act of 1986 (EPA) under Article 253 of the Constitution. The reason for the Act is to execute the choices of the United Nations Conference on the Home Environment of 1972, to the extent that they identify with the assurance and improvement of the human condition and the counteraction of risks to people, animals, plants and property. The EPA is an umbrella enactment intended to give a system for Central Government coordination of the exercises of different focal what's more, state specialists set up under past laws, for example, the Water Act and Air Act. The scope of the EPA is wide, with condition characterized to incorporate water, air and land and the between connections which exist among water, air and land, and human creatures and other living animals, plants, small scale life forms and property.⁶

⁴ M.Z.M. Nomani, Environment Impact Assessment: Precept & Practice, Manakin Press, New Delhi 2019[ISBN: 9789-38667-7907] [Co-Edited]

⁵ Article 48-A: "The State shall endeavour to protect and improve the environment and safeguard forests and wildlife of the country."

STATUTORY FRAMEWORK

As there are certain relevant provisions which deals with the protection and improvement of the environment under the Environment (Protection) Act.⁷ Section 5 clarifies that the power to issue directions includes the power to close, prohibit or regulate an industry, operation or process as well as the power to stop supply of energy, water or other service. Read with the wide definition of "environment" in Section 2(a), Sections 3 and 5 suggests that the Central Government with all such powers as are 'necessary or expedient for the purpose of protecting and improving the quality of the environment'. The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose.

Section 23 of the Act empowers the Centre to delegate its powers and functions to any officer, state government or other authority.

Section 24 of the EPA ensures that the provisions of this Act and subordinate rules or orders override any other law. A broad rule-making power is conferred on the Central Government under sections 6 and 25. Section 7 of the EPA prohibits the discharge or emission of environmental pollutants in excess of the prescribed standards. To implement this mandate, the government has framed the Environment (Protection) Rules of 1986 (EPR). Schedule I lays down industry-specific standards for effluent discharge and emissions in respect of 89

⁶ Section 2(a) Of the Environment (Protection) Act, 1986

⁷ "Section 3(1), of the Act empowers the Centre 'to take all such measures as deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution."



designated industries. Every industrial unit must comply with the norms within one year of their publication⁸ or such shorter period that may be ordered by the pollution control board.⁹ In respect of any specific industry the Central Government may extend the lead time for compliance beyond one year". In cases where the standards were prescribed prior to 16 January 1991 the industry was required to achieve compliance by the year end.¹⁰ In cases where the polluter is not covered by Schedule 1, the unit must comply with the general standards for discharge of environmental pollutants prescribed in Schedule VI.¹¹

JUDICIAL RESPONSE

In M.P. Rambabu v. District Forest Officer¹², the court made it clear that use of agricultural land for prawn/shrimp culture and use of underground water saline affecting potable water and chemicals used for this culture had adversely other service for such purpose adversely affects the right of neighbours as water had turned affected the fertility of the land. Thus, the court declared that the Forest Officer had rightly interfered.

In the Bichhri Case,¹³ chemical industries in an industrial complex in Bichhri Rajasthan devastated the environment by discharging untreated toxic chemicals and sludge. All the regulatory agencies including the Central Government failed to perform their task, while considering whether a court in its writ jurisdiction was empowered to direct remedial measures and recover the clean-up costs from the polluter, the Supreme Court

examined the scope of sections 3 and 5 of the EPA.

In T.N. Godavarman Thirumulpad v. Union of India¹⁴, on the detection of 66 wagons containing timber, the Supreme Court appointed a high-powered committee 'to take such steps as it deems proper for necessary/appropriate investigation, storage, disposal, etc. of the detained timer and to carry out such action, in future' if time is found.

In Vellore Citizens' Welfare Forum v. Union of India,¹⁵ The Court observed that customary international laws which are not contrary to the municipal law are deemed to have been incorporated in the domestic law. Because of this fact, the statement of objects and reasons of the Environment (Protection) Act stated that, 'the deadline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chain, growing risk of environmental accident and threat to life-support system.

AIR (PREVENTION AND CONTROL OF AIR POLLUTION) ACT, 1981

NATURE AND SCOPE

The Air (Prevention and Control of Pollution) Act of 1981 was enacted by invoking the Central Government's power under Article 253 to make laws implementing decisions taken at international

⁸ Rule 3(3)

⁹ Rule 3(4)

¹⁰ Rule 3(5)

¹¹ Rule 3(3A)

¹² AIR 2002 AP 165

¹³ Indian Council for Enviro legal Action V. Union of India AIR 1996 SC 1446

¹⁴(2001) 10 SCC 645.

¹⁵ (1996) 5 SCC 647.



conferences.¹⁶ The preamble to the Air Act states that the Act represents an implementation of the decisions made at the United Nations Conference on the Human Environment held at Stockholm in 1972. Although a central statute, executive functions under the Air Act are carried out in the states by state pollution control boards. This delegation of executive functions is permitted by Article 258(2) of the Constitution. Article 258(3) requires the Central Government to compensate the states for the cost of carrying out these delegated functions.

Until the enactment of the Air (Prevention and Control of Pollution, Act, 1981) there was no concerted effort to legally control air pollution. No doubt, some of the States have had some enactments or the other to control the nuisance arising out of smoke and other emissions from factories but unfortunately the provisions of these enactments were not effectively enforced. Even the State Municipal Acts have not been effective in having sufficient control over air pollution. The Central and state pollution control boards created under the Water Act carry out the functions of the boards envisaged under the Air Act. As far as functions of the boards are concerned, the two laws make identical provisions with regard to criminal and administrative sanctions, powers of the government vis-a-vis the actions of the board

and the rule-making powers of the Central and state governments. In India the rate of air pollution is increasing so alarmingly that the level of air pollution in most metropolises is nearly approaching the level of air pollution of highly polluted cities in the developed and industrialised countries.¹⁷

STATUTORY FRAMEWORK

The term Air pollution refers to any kind of pollutant present in the atmosphere and air pollutant means any kind of substance whose presence is harmful to human beings as well as to other living creatures.¹⁸ The Air Act of 1981, as amended in 1987, contains several interesting features. First, the Act grants discretion to each state government to designate particular areas as 'air pollution control areas',¹⁹ the distinguishing characteristics of the Air Act can be seen in its provision providing for declaration of air pollution control zones, inclusion of noise within the definition of air pollution and control on pollution caused by motor vehicles. On consultation with boards, the state government can declare air pollution control areas within the state. neither the board nor the state government may exempt a polluter from the purview of the Act²⁰. Polluters located outside such air pollution control areas cannot be prosecuted by the state board, but every industrial operator within an air pollution control area must obtain a permit (consent order) from the state

¹⁶ "Article 253 -Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country of countries or any decision made at any international conference by an association or other body".

¹⁷ M.Z.M. Nomani, Environmental Law and Principles of Natural Justice *Vis-à-vis* Power of Central Government to Close an Industry', 32(1) *The Civil and Military Law Journal*, New Delhi, pp. 59-68; 1996.

¹⁸ Section 2(d) of the Air Act: 'air pollutant' means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.

¹⁹ S.19

²⁰ A Muniswamy Gowda v State of Karnataka 1998 (3) KAR.L.J. 594



board.²¹ Second, the Act enables a magistrate to restrain an air polluter from discharging emissions,²² and empowers both the Central and state boards to give directions to industries which, if not followed, can be enforced by the board closing down the industry or withdrawing its supply of power and water.²³ Third, citizens can not only sue to enforce the Act to gain compliance by the industries, but can also require the board to provide the emissions data needed to build a citizens' case.²⁴

In order to ensure that the standards of emission of air pollutants from automobiles are complied with the government will issue directions to authorities under the Air act.²⁵ The Air Act as a matter of practice, operates in tandem with the Environment (Protection) Act of 1986 (EPA). Being a self-contained statute, the Air Act empowers the state boards to independently notify standards under section 17(g).

JUDICIAL RESPONSE

The Ganga Pollution case²⁶ is a specific illustration wherein the Supreme Court noticed the utter indifference of the tanneries, and ordered to stop the discharge of trade effluents into the river Ganga. It rightly held that the immense adverse effect on the public at large by the discharge of trade effluents would outweigh any inconvenience caused to the polluting entities on account of the closure. Specific directions were issued to the tanneries either to set up primary treatment plants (PTP) or to stop their functioning. The

Central Government, state pollution control board and the district magistrate were asked to monitor the enforcement of its orders.

In M.C. Mehta v. Union of India²⁷ (Oleum gas leakage case) certain areas were also declared by the Central Government as pollution control areas in the exercise of the powers conferred under Section 19 of the Act and the plant of Shriram Fertilizers was in this area from which there was a leakage of oleum gas.

Murali Purushothama v. Union of India,²⁸ As per Section 20, one of the functions of the State Board under Section 17 is to lay down the standards for the emission of air pollutants from automobiles and ensure that the standards are complied with. In this regard, the State Government is empowered to give such instructions as may be deemed necessary to the authority in-charge of motor vehicles under the Motor Vehicles Act, 1988 and such authority shall be bound to comply with such instructions.

S.M. Dubash v V.M. Bhosale²⁹ the Bombay High Court quashed the prosecution of directors and officers of a company, since there was no specific sanction against them. In this case, the state board had approved the prosecution of the company alone. The court held: "The authority and power of the Board cannot be delegated to an officer to pick and choose the accused against whom the prosecution can be launched.

²¹ S.21

²² S.22A

²³ S.31A

²⁴ S.43

²⁵ S. 20 of the Air Act.

²⁶ MC Mehta v. Union of India AIR 1988 SC 1037

²⁷ (1986) 2 SCC 176: 1986 SCC (Cri) 122.

²⁸ AIR 1993 Ker 297; quoted in Santosh Kumar Gupta v. Secretary, Ministry of Environment, New Delhi, AIR 1998

²⁹ 1996 (2) MAH.L.J.312.



NOISE POLLUTION RULES, 2000

NATURE AND SCOPE

The terms air pollution, water pollution and soil pollution refer to the presence of undesirable foreign matter which are harmful to plants, animals and human being and deteriorate the quality of air, water and soil. Noise pollution has nothing to do with the purity or impurity and as a matter of fact it is the impairment of the quality of the environment by noise. Although there is no separate legislation to deal with the noise pollution, Section 6 of the Environment (Protection) Act, 1986 has mentioned "rules to regulate environmental pollution". This section has explained the maximum allowable limits of concentrations of various environmental pollutants (including noise) for different areas. Ecologically speaking, when unwanted sound is released into the atmosphere it is called as "Noise Pollution". It is one of the serious threats to the quality of our environment.

The Pollution (Regulation and Control) Rules 2000 ('Noise Pollution Rules' in short) framed under EPA demarcate the areas where noise is regulated and controlled. Even before this law came into being, courts were seized of the issue of impact of noise pollution on health. Undesirable noise was considered as nuisance³⁰ and as interference on one's right to freedom of speech, privacy and silence.³¹ There is a clash between freedom of speech and expression and the freedom of privacy and silence when the loudspeakers are

indiscriminately used in public places. In other words, such a use may invade the freedom of persons who are not willing to listen to the sound produced by the loudspeaker. The non-auditory effects include cardiac ailments, stress and fatigue, and sleep disturbances. Among the psychological effects documented by experts are a lack of concentration, loss of memory and an adverse impact on the education of children. Noise is also suspected of aggravating nausea, headache, insomnia and a loss of appetite. The direct psychological effects include a loss of hearing either temporary or permanent.³²

JUDICIAL RESPONSE

In Om Bhangana Religious Society v. the State,³³ the Calcutta High Court held that a citizen should not be coerced to hear anything which he does not like or which he does not require. The amplifier and microphone create tremendous noise and sound. They injure people's rights to leisure, to sleep and to enjoy their lives in the way they like, without violating any of the provision of the law. The people also have the right to read and speak with others, right not to hear, and right to remain silent. In a public meeting, microphones or amplifiers may be necessary but the sound has to be regulated in such a manner that it does not travel beyond the zone of the willing listeners. The Noise Rules lay down restrictions according to the time and decibel limits for noise in different places.

³⁰ *Madhavi v. Thilakan* (1989) 3 Cr LJ 499; *Krishna Gopal v. State of Madhya Pradesh* (1986) 1 Cr LJ 396; *Himmath Singh v. Bhagwana* (1988) Cr LJ 614.

³¹ *Rajni Kaur v. State* AIR 1958 All 36

³² Report of the Expert Committee on Noise Pollution, paras 4.1-4.2.4, (1986). The committee was constituted by the Bombay High Court in Writ Petition No. 1879 of 1985 (*Dr. Y.T. Oke v State of Maharashtra*).

³³ (1996) 100 CWN 617



In Moulana Mufti Syed Md Noorur Rehman Barkati v. State of West Bengal,³⁴ the Calcutta High Court followed its decision in Om Birangana and held that the restrictions on the use of loudspeakers for call of azan before 7 am as per the Rules for the time and a limits for noise in different places do not violate the right to equality and freedom religion. The use of loudspeakers and microphones before 7 am disturbs and takes a person's right to sleep.

In Sayeed Maqsood Ali v. State of Madhya Pradesh,³⁵ the MP High Court directed the respondent not to let out their premises without authorisation from competent authorities who grant permission to use loudspeakers. In this case the court laid emphasis upon the duties of different agencies with a warning Silence brings bliss, noise invites chaos.

Burra Bazaar Fire Works Dealers Association v. Commissioner of Police,³⁶ Case was related to firecrackers on diwali, such as the sound mustn't create noise pollution at a greater extent, the noise pollution rules can also be seen as a means of upholding Art.21 of the constitution, as the act of healthy sleep is a necessary constituent of the right to life.

MOTOR VEHICLES ACT, 1988

HISTORICAL BACKGROUND PRE-1988 POSITION

Before, the Motor Vehicle Act, 1988 came in to existence, the Motor Vehicles Act, 1939

was applicable for all type of Motor Accidents. The Motor Vehicles Act, 1939, consolidates and amends the law relating to motor vehicles. This has been amended a few times to stay up with the latest. The need was, nonetheless, felt that this Act should, presently inter alia, consider too changes in the road transport innovation, pattern of passenger and freight developments, advancements, of the road network in the nation and especially the improved methods in the engine vehicles management. Various Committees, like, National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two – Wheelers Committee, as also the Law Commission reports etc, as they all deals with the road transport.³⁷

A few Members of Parliament have additionally asked for extensive survey of the Motor Vehicles Act, 1939, to make it relevant to the modern – day necessities. A Working Group was, hence, established in January, 1984 to audit all the arrangements of the Motor Vehicles Act, 1939 and to submit draft proposition for a complete enactment to replace the existing Act.

THE MOTOR VEHICLES ACT, 1988

In M. K. Kunhimammed v. P. A. Ahmedkutty³⁸, the Supreme court has made certain proposals to raise the limit of compensation payable because of engine accidents in regard of death and permanent disablement in case of there being no verification of issue with respect to the

the loudspeakers causing disturbance to the petitioner and other residents in the area.

³⁴ AIR 1999 Cal 15

³⁵ AIR 2001 MP 220, pp. 225, 226. The petitioner was a cardiac patient who had undergone a coronary artery by-pass surgery. From the community hall in the locality highly pitched music used to come out from

³⁶ AIR 1998 Cal 121

³⁷ The Motor Vehicle Act, 1988, Statement of Objects and Reasons

³⁸ (1987) 4 S.C.C. 284



individual associated with the accident and furthermore in hit and run motor accidents and to expel certain disparities in the risk of the safety net provider to pay compensation on the class or sort of vehicles engaged with the accident. The above recommendations made by the Supreme Court have been incorporated in the Bill of the Motor Vehicles. “Some of the more important provisions of the Bill provide for the following matters, namely:

- a) Rationalization of specific definitions with additions of certain new meanings of new sorts of vehicles
- b) Stricter methods identifying with award of driving licenses and the time of validity thereof
- c) Laying down of standards for the segments and parts of engine vehicles
- d) Measures for anti-pollution control gadgets
- e) Provisions for giving of fitness certificate vehicles additionally by the approved testing stations
- f) Provision for enhanced compensation in cases of “no fault liability” and in hit and run motor accidents
- g) Provision for the payment of compensation by the safety net provider to the degree of genuine risk to the victims of engine accidents regardless of the class of vehicles.”

THE MOTOR VEHICLES (AMENDMENT) ACT, 1994

The Act was amended by the Motor Vehicles (Amendment) Act, 1994, which came in to existence from 14.11.1994. After the coming into existence of the Motor Vehicles Act, 1988, Government got various suggestions and recommendations from the State Government Transport Operators and

individuals from open with respect to the bother looked by them on account of the activity of a portion of the Provisions of the 1988 Act. A Review Committee was, along these lines, established by the Government in March, 1990 to analyze the 1988 Act.³⁹

THE MOTOR VEHICLES (AMENDMENT) ACT, 2000

The Act was again amended by the Motor Vehicles (Amendment) Act 2000. Further amendments in the previously mentioned Act have gotten fundamental in order to diminish the vehicular pollution and to guarantee the health of the road clients. It is, along these lines, proposed to forbid change of vehicles in any way including change of feels worn out on higher limit. Be that as it may, the modification of vehicles with a view to encouraging the utilization of eco-accommodating fuel including Liquefied Petroleum Gas (LPG) is being allowed. Further, it is proposed to present controls on the Central Government to permit the change of vehicles for certain predefined purposes. At present, the educational institutions are not required to obtain permits for the operation of buses owned by them. It is proposed to bring the transports run by these establishments inside the domain of the aforementioned Act by requiring them to obtain permits.

THE MOTOR VEHICLES (AMENDMENT) ACT, 2001

Third times amendments to this Act were brought by the Motor Vehicles (Amendment) Act, 2001. The Motor Vehicles Act, 1988 is a Central enactment through which the street transport is controlled in the nation. By the Motor Vehicles (Amendment) Act, 1994,

³⁹ The Motor Vehicle (Amendment) Act, 1994, Statement of Objects and Reasons



inter alia, amendments were made for make unique arrangements under sections 66 and 67 in order to give that vehicle working on eco-friendly fuels will be exempted from the necessities of licenses and furthermore the proprietors of such vehicles will have the caution to fix charges and cargo for carriage of travelers and goods. The expectation in bringing the said changes was to energize the activity of vehicles with such eco-friendly energizes. In any case, it has been seen that during the most recent quite a long while, not just the gracefully of eco-friendly fuels like CNG has expanded massively, countless vehicles have gone ahead the street which as far as sections 66 and 67, as altered by the Motor Vehicles (Amendment) Act, 1994, are working with no requirements of permits and are, accordingly, not dependent upon any control of the State Governments. The quantity of such vehicles is probably going to additionally increment substantially.

The previously mentioned circumstance is probably going to prompt indiscipline out and about and ensuing increment in the road accidents. It is, along these lines, considered fundamental to evacuate exclusion gave under sections 66 and 67 of the said Act to CNG worked vehicles so vehicles which work on eco-friendly powers are likewise secured by the terms and conditions appropriate to all other vehicles. The proposed alterations are basic in the general enthusiasm of making sure about road safety and keeping up a clean environment.

⁴⁰ “109. General provision regarding construction and maintenance of vehicles—

(1) Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

(2) Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped

STATUTORY FRAMEWORK OF MOTOR VEHICLES ACT, 1988 AND RULES:

“Chapter VII of the Act deals with the construction, equipment and maintenance of Motor Vehicles”. It simply refers that it is the duty of the owner to maintain his/ her vehicles on his behalf. Further, the central government is also empowered to order such person for the conformity or maintenance of his/her motor vehicle.⁴⁰ Section 110 (g) also provides that central government also empowered to make rules with regard to the smokes, sparks, ashes, oil etc. Similarly, section 110 (h) also empowered “central government to make rules regarding the reduction of noise emitted by the vehicles”. While section 110(m) deals with the standards for emissions of air pollutants.

Section 111 of the Act also “deals with the construction, equipment and maintenance of Motor Vehicles, but in this provision state government is empowered to make rules” for the vehicle’s owner.⁴¹

“Chapter VIII of the Act deals with Control of traffic as per the rules and regulations prescribed by the central and state government”. So, there are certain duties and obligations which has been levied by central as well as state governments upon the vehicle owner, such as he must properly follow his speed limit while riding or driving any vehicles, then he must obey all kinds of traffic signs and signals while driving, further

with a mechanical or electrical signalling device of a prescribed nature. ”

⁴¹ 111. “Power of State Government to make rules — (1) A State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all matters other than the matters specified in sub-section (1) of section 110.”



he must possess all kinds of documents like driving licence, certificate of registration, vehicle insurance, pollution under control certificate⁴²(PUC) etc. Lastly there are certain duties of drivers or owner of the vehicles which have to be followed by them as per the rules or guidelines which are provided by the central as well as state governments in this chapter.

Chapter XI deals with insurance of Motor Vehicles against the third-party risks and it also includes power to issue Pollution under control (PUC) certificate. Now this chapter deals with insurance of vehicles against the the third-party risks, such as according to this chapter a person would not be allowed to use any motor vehicle without following the terms and conditions of the policy of insurance.⁴³ But it also provides that if a vehicle is owned by central or state government and uses any vehicles unconnected with the commercial purposes then this rule shalln't apply. Then further this chapter deals with production of certain kinds of certificates and licence while driving any vehicles.⁴⁴ This chapter basically refers to the claim of insurance either first party or third party if any accident occurs or if death or any serious injury has been caused to the person

or damage has been caused to the vehicles. But it is the general rule that the certificate of insurance must not be expired while claiming compensation for the vehicles.

As we know that there is basic relation between Motor Vehicles and Environment, so for the protection of environment we have to make proper balance between the two. Cars and light trucks offer fast, reliable, and advantageous mobility on request to an ever-growing number of individuals in nations all through the world. Yet, for every one of their positives, automobiles carry with them numerous negatives. No one disputes that motor vehicles collectively contribute to a number of important and pressing social problems. Vehicles are a significant source of both air pollution and congested roads, especially in urban zones, where vehicle concentration is the greatest. They also contribute to global warming which accounts for a large and growing share of global greenhouse gas emissions. Furthermore, many consider the dramatic growth in car ownership and usage responsible for the decentralization of urban areas and the adverse consequences of the resulting economic development spread.⁴⁵

⁴² Amended by Motor Vehicles (Amendment) Act, 2019.

⁴³146. "Necessity for insurance against third party risk—(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter, (2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise."

⁴⁴ 158. "Production of certain certificates, licence and permit in certain cases—(1) Any person driving a

motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce— (a) the certificate of insurance; (b) the certificate of registration; (c) the driving licence; and (d) in the case of a transport vehicle, also the certificate of fitness referred to in section 56 and the permit, relating to the use of the vehicle."

⁴⁵ M.Z.M. Nomani, 'Enviro-Constitutional Ethos in Right-Duty Discourse: Towards Creation of Sustainable Socio- Legal Order', 42 (2/4) *Journal of Indian Law Institute: Special Volume on Constitutional Law*, 432-42 (2000) New Delhi.; <http://hdl.handle.net/123456789/17807> [UGC Approved Journal No.41126]



Chapter XIII of the Act deals with Offences, Penalties and Procedure of trials for the commission of any act which contravenes the provisions of the said Act. Section 177 simply lays down that if any person who contravenes any provision of this Act shall be held liable for the payment of fine.⁴⁶ In certain parts of our country there is fine of Rs. 50k for driving vehicle without having pollution under control certificate (PUC).

It also lays down that if any person drives any motor vehicles having any kind of defect and such defect can cause harm to any road side persons or passerby, such person shall be held responsible for such accident. So, it is the duty of every person that the vehicle must be in a safe condition before driving.⁴⁷ Where in a prosecution for rash and negligent driving defence of sudden mechanical defect is taken, burden of proving that accused could have discovered defect, is on prosecution. It further lays down that if any person drives vehicle in any public place which violates the norms of air and noise pollution, then such person shall also be liable for such kind of acts.

In Mandi Kulu Road Transport Corporation v. Janak Raj Singh,⁴⁸ When the accident is due to the breaking of the stub-axle, it cannot be said that the accident is due to negligence on the part of the owner of the bus in not maintaining the bus properly. The stub-axle cannot be seen and does not require any greasing or any particular maintenance. If it develops a crack, it is "latent" defect that is to say a defect which cannot be discovered by reasonable diligence on the part of the bus owner. Hence, the injured persons in the accident are not entitled to damages from the owner of the bus.

State of Maharashtra v. Kaluram Tukaram Shinde,⁴⁹ Section 190(2) is a mandate of the Legislature that he shall be punishable with a fine of Rs. 1,000 leaving absolutely no discretion to the Magistrate to reduce the fine to a sum lesser than Rs. 1,000. Legislature having not given any discretion to the Court, the Court must implement the law as it stands. The comparison as regards the type of vehicle was also uncalled for, because the pollution by emission from any vehicle is likely to cause the same effect on the health of the passer-by and the residents in the nearby locality. Price of the vehicle is totally an irrelevant factor and when

⁴⁶177. "General provision for punishment of offences—Whoever contravenes any provision of this Act or of any rule, regulation or notification made there under shall, if no penalty is provided for the offence be punishable for the first offence with fine which may extend to one hundred rupees, and for any second or subsequent offence with fine which may extend to three hundred rupees."

⁴⁷ 190. "Using vehicle in unsafe condition—(1) Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with

fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both (2) Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with a fine of one thousand rupees and for any second or subsequent offence with a fine of two thousand rupees."

⁴⁸ (1968) 70 Punj LR 367 (Del).

⁴⁹ (2000) 3 Mah LJ 863.



Legislature has not left any scope for discretion to reduce the amount of fine, the question of exercising such discretion by such comparison does not arise. In this view of the matter, Magistrate was totally wrong in passing sentence in less than Rs. 1,000 fine.

POSITION AFTER THE MOTOR VEHICLES (AMENDMENT) ACT, 2019

Motor Vehicles (Amendment) came into effect in order to curb air and noise pollution, such as this Act brings certain changes and creates deterrence in the mind of the persons who drives their vehicles negligently. This amendment increased the amount of fines levying for driving the vehicles negligently. Before the amendment of this Act, Section 158 requires three basic essential documents while driving any motor vehicle viz, certificate of registration, certificate of insurance and driving licence but after the amendment of this Act, section 158 includes one more document i.e pollution under control (PUC) certificate while driving any motor vehicle.

As before the amendment of this Act, Section 190(2) shows that any person guilty of the offence resulting in air pollution, road safety and control of noise shall be punishable for the first offence with a fine of one thousand rupees or for any second or subsequent offence with a fine of two thousand rupees. But after the amendment of this Act these fines has been increased upto fine of ten thousand rupees and imprisonment upto three months for the first offence and fine of twenty thousand rupees and imprisonment upto six months for the subsequent offence.

Earlier punishment for construction-related crimes and maintenance of vehicles provided for in Section 182A shall be one thousand

rupees for the first offence and five thousand rupees for any subsequent offence. Amendment to Section 182A improves the penalties for contravention of Chapter VII (Construction and maintenance of vehicles) of manufacturers, dealers, importers and owners of motor vehicles. It also provides for a penalty for registration and the issuance of a fitness certificate for oversized vehicles. The penalty for selling or offering to sell or alter in contravention of Chapter VII shall be a term of imprisonment of up to one year or a fine which may be extended to one lakh rupees. The penalty for failing to comply with the provisions of Chapter VII during manufacture shall be a term which may extend to one year or a fine which may extend to one hundred crore rupees. The punishment for attempting to sale or sale safety components not in compliance with Chapter VII shall be one year's imprisonment and a fine which may be increased to one lakh rupees. Enhancing the manufacturer's penalty for building and repair of "motor vehicles to a limit of one hundred crore rupees would ensure that suppliers are kept responsible for any fault in the vehicle".

CONCLUSION

After the amendment of the Motor Vehicles Act, there are some clauses which have been amended and which have often raised the penalties for driving any vehicle negligently. Every day there is a new issue with the decaying climate, the depredated world, the horrific subversion of the ecosystem, the pollution of soil, water and food, and the industrial plundering of the capital of nature. Environment is the sum of both "extrinsic physical and biotic influences". It influences the life and actions of all living beings. "It is also critical that the ecosystem in which land, water, air, human beings, plants and animals



are components should be preserved and protected from degradation in order to maintain an ecological balance”.

The MV Act is a social welfare law and has been enacted with the intent and purpose of making it easier for the claimant / victims to obtain early redress for the loss of a family member or injuries. It was therefore appropriate to apply a more realistic, pragmatic and liberal approach to these issues. The MV Act is a helpful statute meant to put the complainant in the same role as before the incident and to compensate the complainant for his injury. The provisions in this regard should therefore be interpreted in a liberal manner in order to achieve the maximum benefit. Noise is often known to be a pollutant and has major “adverse effects not only on humans, but also on cattle, insects, plants and non-living organisms”. The problems caused by noise are rising day by day, particularly in urban and industrial areas.

