

# PUTTING ACCIDENT VICTIMS AT THE CENTRE OF VEHICLES LAW

Relevant for: Indian Economy | Topic: Infrastructure: Roads

The yellow mark portrays a fatal accident spot on Podanur Road in Coimbatore. | Photo Credit: [Photo: S. Siva Saravanan](#)

It is well known that India is one of the most accident-prone countries in the world, accounting for nearly 1,50,000 deaths — 10% of all motor vehicles-related fatalities worldwide. However, the debate often revolves around how to minimise road accidents by incorporating deterrents into laws and ignores the interests of the victims. The discourse concerning the Motor Vehicles (Amendment) Act 2019 has only followed this trend, as is evidenced by the disproportionate press coverage given to the enhanced penalties to be levied on offenders.

This lack of victim-centricity in the discourse, though deplorable, is unsurprising. The fact that the National Crime Records Bureau does not collate data pertaining to the socio-economic and demographic profile of victims of traffic accidents is a testament to the relative apathy shown by the state machinery.

The amended Act gives the victims some respite as it provides for an enhanced insurance compensation of 5 lakh in case of death of a person in a traffic accident and 2.5 lakh where there is “grievous hurt”. The compensation to be awarded following hit-and-run accidents has also been raised to 2 lakh when a victim dies and 50,000 when he/she suffers a grievous injury.

Additionally, the Act now requires insurance companies and the government to notify schemes relating to cashless treatment during the ‘Golden Hour’ — the period of first 60 minutes from the occurrence of an accident when the risk of fatality can be minimised to the greatest extent. Further, it mandates compulsory insurance of all road users, including pedestrians, who will be covered through a ‘Motor Vehicle Accident Fund’. Lastly, it also provides for interim relief to be provided to the claimants.

These provisions, well-intentioned, are no doubt steps in the right direction. However, much more needs to be done if the accident victims are to be provided complete justice.

First, closer attention needs to be paid to the formula used to calculate the quantum of compensation. In the case of *Arun Kumar Agarwal & Anr v. National Insurance Co. Ltd & Ors* (2010), the deceased was a homemaker. The Accident Claim Tribunal reduced the amount of compensation from the calculated sum of 6 lakh to a sum of 2,60,000, stating that she was unemployed. In light of the same, on appeal, the Supreme Court commented that: “The time has come for the Parliament to have a rethink on properly assessing homemakers’ and householders’ work and suitably amending the provisions of the Motor Vehicles Act... for giving compensation when the victims are women and homemakers.” The amended Act, however, does not account for such nuances.

Second, many of the problems with the Motor Vehicles Act highlighted by the apex court in the case of *Jai Prakash v. M/S. National Insurance Co. & Ors* (2009) either remain unaddressed or are inadequately addressed by the amended version. For instance, though vehicle users who don’t give passage to emergency ambulance vehicle are liable to be punished with fines, such punitive measures are likely to remain ineffective in the absence of an effective implementation mechanism. Further, other factors that lead to a poor response time, including lack of road

infrastructure, also need to be taken into account.

Another problem highlighted by the apex court for which the new Act does not provided any remedy is that of procedural delays on the part of tribunals in claims settlement. The provision for interim compensation is bound to bring some respite to the victims but another unaddressed concern makes this stipulation susceptible to criticism.

An absence of in-built safeguards in the compensation mechanism allows for the money to be frittered away by unscrupulous relatives, touts and agents, especially in cases where the victim or his nearest kin are poor and illiterate. It is to address this concern that the Supreme Court in *Jai Prakash* suggested payment in the form of monthly disbursements of smaller amounts over a longer period of time to victims or their kin, as against a lump-sum award. This has been overlooked by the new Act.

Understandably, many of the points raised above cannot be specified statutorily. Hence, the government needs to notify an institutional framework which encourages advocacy for victims and facilitates access to the various services.

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