

Rescue of Accident Victims

Reproduced below is a letter addressed to the States
GOVERNMENT OF INDIA
MINISTRY OF SHIPPING, ROAD TRANSPORT & HIGHWAYS
DEPARTMENT OF ROAD TRANSPORT & HIGHWAYS
(ROAD SAFETY CELL)

Transport Bhawan,
1, Parliament Street,
New Delhi - 110 001

No. RT-25028/2/2003-RSC

Dated the 9th September 2004

To

- (1) The Principal Secretary (Transport)/ Secretary (Transport) of all States / UTs.
- (2) Secretary, Home (Transport), Government of Tamil Nadu, Chennai and Gujarat, Gandhinagar.
- (3) Transport Commissioner of all States / UTs.

Subject: Need to build confidence in public for helping road accident victims.

Sir,

The World Report on Road Traffic Injury Prevention released by the World Health Organization on the World Health Day (7th April, 2004) has highlighted that nearly 12 lakh people are known to die each year in road accidents globally. Keeping in view the increasing global concerns about the growing impact of road traffic accidents, the United Nation General Assembly and World Health Organization have declared the year 2004 as the year of road safety.

2. The report highlighted the interventions required at various stages relating to post crash care. The Report points out that while in high-income countries, there is reasonably well-organized ambulance based rescue system, in middle and low-income countries, assistance by bystanders is most common. In our country, while organizing of trauma care is a part of intervention required, there is another factor namely, relative ignorance on part of public to come forward to help the road crash victims, for apparent fear that they might be involved in police cases. It is with this intention that we had sent a circular to Transport Secretaries / Commissioners with a copy to Director General of Police of all States / UTs regarding the need to build confidence in public for helping road accident victims. A copy of aforesaid circular issued on 19th February 2004 is enclosed for ready reference.

3. Research shows that a number of the accident victims can be saved if they receive immediate medical attention. The Hon'ble Supreme Court in the case of Pt. Parmanand Katara vs. Union of India has also stressed that the victims of road crashes need to be provided medical aid in the first instance and thereafter, the procedural laws could operate. However, due to fear of harassment people do not always come forward to attend them. A brief paper on the subject is annexed with a request that wide publicity may kindly be given thereto.

4. It is requested that wide publicity may be given to the above, duly endorsing copies to all the RTOs also.

Yours faithfully,
(ALOK RAWAT)
Joint Secretary to the Government of India
Tel. No. 23717294

Copy to:

Director General of Police of all States / UTs with a request that copies may be sent to all districts for dissemination of information at Police Station levels.

(ALOK RAWAT)
Joint Secretary to the Government of India
Tel. No. 23717294

Need to build confidence in public for helping road accident victims

In the case of Pt. Parmanand Katara vs Union of India in Criminal Writ Petition No. 270 of 1988, D/-28.8.1989, [AIR 1989 Supreme Court 2039]. The Hon'ble Supreme Court had observed:

- Every injured citizen brought for medical treatment should instantaneously be given medical aid to preserve life and thereafter the procedural criminal law should be allowed to operate in order to avoid negligent death. There is no legal impediment for a medical professional when he is called upon or requested to attend to an injured person needing his medical assistance immediately. The effort to save the person should be the top priority not only of the medical professional but even of the police or any other citizen who happens to be connected with that matter or who happens to notice such an incident or a situation".
- There are no provisions in the Indian Penal Code, Criminal Procedure Code, Motor Vehicles Act, which prevents doctors from promptly attending to serious injured persons and accident cases before arrival of the police and their taking into cognizance of such cases, preparation of F.I.R. and other formalities by Police.

[Para 6]

- There can be no second opinion that preservation of human life is of paramount importance. This is so on account of the fact that once life is lost, the status quo ante cannot be restored, as resurrection is beyond the capacity of man.

[Para 7]

2. Following the 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, and the doctor to treat the victim without waiting for any formalities.

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 action 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.

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

Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid / delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way".

[Para 8]

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".

[Para 3]