



## ROAD SAFETY AND ITS CURRENT SITUATION IN OUR SOCIETY

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### Abstract:

Road safety remains a critical public health and societal issue, affecting millions annually through injury and death. This article explores the multifaceted dimensions of road safety, examining the primary causes of accidents, the effectiveness of current safety measures, and emerging challenges. Despite advancements in vehicle technology and infrastructure, road accidents continue to be prevalent, driven by human error, impaired driving, speeding, and non-compliance with traffic regulations. Current safety measures include legislative actions, technological innovations, and educational campaigns aimed at reducing accidents and fatalities. Legislative efforts focus on stricter enforcement of traffic laws, while technological advancements such as autonomous vehicles, advanced driver-assistance systems (ADAS), and improved road infrastructure show promise. Educational initiatives aim to raise awareness of safe driving practices. However, challenges persist due to the rising number of vehicles, urbanization, and varying road safety standards across regions. In conclusion, while progress has been made, a concerted effort involving governments, industry stakeholders, and the public is essential to further reduce road accidents and fatalities. Future strategies should leverage technology, enhance global cooperation, and promote a culture of safety to address the evolving dynamics of road safety in our society.

### Introduction:

In our current society motor vehicles play a major role in our lives. They are used by us on a daily basis to travel from one place to another (it's the most preferred transport system). It's near become impossible to live without them. The traffic that we face every day, road accidents, the pollution and dust and many other such effects are also caused by these motor vehicles. It has both positive and negative impact on the society. Anything when used in the right way and amount will be a nectar if not it may become a poison too. In order to regulate and control the usage of motor vehicles and also to ensure safety and efficiency we have the motor vehicles act, 1989. These regulations range from speed limit to seat belt laws, which are designed to protect the drivers, passengers and pedestrians etc. through the enactment of these rules the authorities aim to reduce accidents and promote responsible driving behavior. motor

vehicles is defined under section 2(28) of the motor vehicles act, 1989 which says that they are vehicles used on roads which runs using power, transmitted to it through internal and external sources, but does not includes vehicles that run on tracks or those used in factories.

This article will give an overview of the evolution of motor vehicles act and rules, their importance in ensuring road safety and effects on driving behavior. Additionally it will examine the economic implications, other Factors affecting toad safety, a few suggestions for improving road safety and limitations of motor vehicles act along with few case studies regarding its successful implementation. Through this article we hope to gain a better and deeper understanding on how these rules shape our society and contribute to a safer and efficient transport system.

### Historical evolution of motor vehicle act and rules:

Evolution of moto vehicles act had started from before the time of independence. There have been several legislations and amendments made to it over all these years.

1. The first legislation was made in 1914, called the Indian motor vehicles act. 1914. It was passed by the central government under the British rule. It consists of 18 sections which made the local governments responsible for registering and licensing the vehicles and drivers and maintain roads safety.

2. This act was then amended by the imperial legislative council "( under act no. XXVII of 1920) and was named as the Indian motor vehicles (amendment) act. 1920. It received the governor general's assent on September 2 1920. Two clauses were added to two of the existing sections [ section 11(2)(dd) and section 18(1A)] regarding suspension or cancellation of license.

3. This act was again amended and passed by the Indian legislature. It was names as Indian motor vehicles (amendment) act 1924. It received the governor general's assent on 18<sup>th</sup> September 1924. There was inclusion of certain words in section 11 (2)(a).

4. It was replaced by the motor vehicles act 1939, which came into force from 1<sup>st</sup> July 1989. It talks about :

- Licensing of drivers of motor vehicles
- Licensing of conductors of stage carriages
- Registration of motor vehicles
- Control of transport vehicles
- Special provisions for state transport undertaking
- Construction, equipment and maintenance of motor vehicles
- Control of traffic

• Vehicles temporarily visiting or leaving India

• Liability

• Insurance against third party risks

• Claims

• Offences, penalties and procedure.

5. Road transport and safety bill (draft) 2014- the ministry of road transport and highways (MORTH) drafted this bill in order to enhance transport, reduce road accidents and increase safety of Indian roads. But it faced a lot of controversies from the Tamil Nadu and government and many other stakeholders stating that in encroaches upon the financial and administrative powers of the state governments.

6. Due to these controversies this bill was replaced by the Indian motor vehicles (amendment) bill, 2017. It had provisions ensuring road safety through increased penalties for violations. Due to lack of support the bill failed.

The bill was re-introduced in the parliament in 2019 as Indian motor vehicles (amendment) bill, 2019. Finally it was accepted and the 63 clauses of this bill were enacted from 1<sup>st</sup> September 2019. It gave stricter rules about road safety. Compensation up to 2 lakhs for victims of road accidents and huge fines for the offenders. A national road safety board was formed by the central government in order to advise them on traffic management and other road safety.

### Importance of motor vehicle rules in ensuring road safety:

In the current situation, Road safety has become very important and necessary, as the number of road accidents and death due to these accidents are increasing with a high pace.

According to the global status report on road safety 2023 by WHO the annual road traffic deaths has slightly fallen to 1.19 million. It means that the efforts to improve road safety are

having an impact and further reductions in traffic deaths can be made if the measures are properly implemented.

Tamil Nadu is said to have the highest number of road accidents on national highways in 2022 and the number of persons killed in road accident was highest in Uttar Pradesh according to the report of ministry of road transport and highways transport research wing new Delhi.

In order to deal with the offenders of road accident and punish them in India, we have the Indian penal code (IPC) and motor vehicles act 1988.

The motor vehicles act provides certain road safety measures:

- It provides for stricter penalties to offenders, including juvenile offenders for traffic violations (eg. Over speeding, drunk driving etc..)
- It promotes the use of technology for monitoring the traffic (eg. CCTV cameras, speed cameras etc..)
- Encourages people to help and assist the accident victims.
- Provides for insurance coverage to all road users in India and also provides compensation to victims of hit and run cases.
- Provides for vehicle safety standards (certification, installation of safety features etc..)
- Provides traffic regulations and road rules:
  - > Speed limits, overtaking regulations and lane discipline
  - > Traffic signal rules
  - > Rules for usage of seat belts, helmets and child restraints
  - > Prohibits drunk driving and usage of phone while driving

Generally the penalties for the offenses are based on the severity of the offence. But currently as per the motor vehicles

(amendment) act, 2019 the fines and penalties have been increased. This is done on the belief that people will start taking these laws more seriously and strictly.

### **Driving behaviour and its impact on road safety:**

Driving behaviour denotes the driver's behaviour while driving. Poor driver behaviour is one of the main reasons for road accidents. Drivers inefficiency to drive, his mental state while driving, his method of driving everything has an impact on the roads . it not only concerns him, but also the others who are driving on that road. A slight mistake on the part of one driver, will affect him and also others present in that place.

A drivers behaviour can be of two ways, good driving beviour and poor driving behaviour.

A good driving behaviour will ensure road safety and will reduce accidents due to human error. It will ensure safety for all who are concerned.

Whereas on the other hand, poor driving behaviour has a higher chance of resulting in road accidents, accident deaths, damaged vehicles, higher fuel consumption and many more.

According to a study by the national highway traffic safety administration (NHTSA) around 94% of the motor vehicle accidents are caused by driver error.

According to the WHO study on road accidents due to human error:

- Speeding: every 1% increase in speed, results in 4% increase in fatal crash and 3%increase in serious crash
- Drunk driving: the risk of a fatal crash by a person who is on drug is 5 times riskier than of someone who hasn't.
- Non-use of helmets, seat-belts, and child restraints : proper usage of healmets can reduce the risk of death in a crash by more than 6 times and risk of brain injury up to 74%, using seat-belts reduces the risk by 50%and using



child restraints reduces death among infants by 71%.

- Distracted driving: one of the major distractions nowadays is using mobile phones while driving (talking or texting while driving) they are 4 times more likely to result in a crash.

Some of the types of poor driving behaviour are listed below along with the penalties for them under the motor vehicle (amendment) act, 2019:

- Riding or driving when intoxicated: Rs. 10,000 fine and/or imprisonment of 6 months, in case second offence, Rs. 15,000 fine and/or imprisonment of 2 years.
- Racing or speeding: light motor vehicle- Rs. 2,000, medium or heavy motor vehicle- Rs. 2,000 to 4,000 along with DL seizure.
- Road regulation violation: Rs. 500 to 1,000
- Not wearing seat-belt: Rs.1,000 and possibility of community service
- Riding without helmet (rider and pillion): Rs. 1,000 and/or DL disqualification and/or 3 months of community service.
- Using mobile phone while riding or driving: Rs. 5,000
- Dangerous riding or driving: first offence- Rs. 1,000 to 5,000 and/or imprisonment of 6 months to 12 months and the possibility of DL seizure Second offence- Rs. 10,000 and/or 2 years imprisonment and possibility of DL seizure.

#### **Economic Effects of motor vehicles in India:**

- The sustained economic growth and increased per capita income have led to the rapid growth of motorized vehicles in India.
- As per the report of transportation research and injury prevention centre (IIT, delhi) the number of cars and motorized two wheelers registered in 2020 was 43.73 and 243.5 million respectively.. the actual number of personal vehicles on road is estimated to be 50%-60% of those mentioned in the registration records.

- In India, the transportation sector is third largest greenhouse gas (GHG) emission sector mainly due to road transport.

- The contribution of this sector to the national GDP has risen from 2.77% in 1992-93 to about 7.1% now and provides employment to over 19 million people.

- Export of automobiles shows a positive growth of 35.9%. there has been FDI inflow of \$33.77 billion in the industry from April 2000 – September 2022 which amounts to 5.48% of the total FDI inflows in India in that period.

- Over the past 10 years India has emerged as one of the most preferred locations for manufacturing high quality automobiles, due to cheap labour, availability of raw materials at low cost and the currency rate (This is also one of the main reasons for the increase in pollution).

- In order to reduce emissions and pollution caused by petrol and diesel vehicles the government is promoting the manufacturing and adoption of electric vehicles in India.

- As of 2022 India has around 13,34,385 electric vehicles in use and The government is taking many steps and also provides for many schemes.

- For eg. FAME (the faster adoption of hybrid and electric vehicles in India) in 2015 which aims to reduce the dependency on fossil fuel and also address issues regarding other vehicle emissions.

- They have also approved for the production of an advance chemistry cell in 2021 in order to bring down the cost of battery which will reduce the cost of EV.

- The GST on EV has also been reduced from 12% to 5%, and on charging stations and chargers from 18% to 5%.

**Other factors affecting road safety:**

The accidents that take place on roads are caused due various factors. An analysis conducted in 2010 states that some of the main causes are: drivers fault (78%), pedestrian fault (2.7%), defect in vehicle (1.7%), bad roads (1.2%) and some other factors (16.4%).

Apart from human error and mechanical deficit in vehicles the road environment also plays a vital role in safety of roads. (The curved roads, bridges, potholes' etc.).

Some of the other factors are:

- Ongoing construction works which worsens the structure of the road also the size of road which results in limited access space causing traffic problems.

Speed breakers also result in accidents, mainly due to its invisibility, incorrect location and construction.

- Weather conditions also cause road accidents as they have the ability to change the surface condition of the roads making in slippery and watery.

- Insufficient lighting imposes a lot of problems to the people mainly during nights, as potholes', speed brakes etc. are out of visibility due to poor lighting.

- Road signs are very necessary as they guide and warn people about any road conditions, sharp turns or ongoing work, it helps them to reduce the speed of vehicle accordingly.

The annual funding for maintaining and repairing national highways is only about 30-40% of the estimated requirement, and the situation is even worse for most state roads managed by state governments. In the U.S., the National Safety Council has recommended that people download a cell phone blocking app that prevents calls or texts while driving. Dash cameras enhance vehicle safety and security by monitoring everything happening in and around the vehicle, similar to CCTV cameras. Google Maps is widely used by drivers to find

optimal routes to their destinations, offering rerouting options in case of mistakes, accidents, or heavy traffic.

**Limitations in the current motor vehicles act :**

It imposes higher penalty for certain traffic violation, which discriminates and violates the right of lower income people. For eg. For driving without license Rs. 10,000 is levied. Which is pretty high for lower income people to afford.

This act also fails to recognize the non motorized vehicles like cycles and pedestrians. These are provisions relating to their safety and guidelines. There are no proper guidelines relating to the crossing of roads, or path usage for non motorized vehicles etc..

This act also does not properly address Air pollution caused by vehicles. Though it mandates that all vehicles must pass an immigration test, but still the Indian road vehicles do not properly follow the immigration norms which ultimately leads to Air Pollution.

**Case laws:**

There are several case laws which bring out the limitations and problems under the motor vehicles act

**Bismillah Vs. State of Rajasthan**

The court in this case stated that, higher penalties should not be levied for traffic violation and it affects the constitutional right to equality of lower income individuals. The penalty for such violation, should be levied, to the extent of violation caused and also based on the ability of such person to pay it.

**Rajesh Vs. State of haryana**

In this case the court stated that third party insurance can be very expensive for lower income individuals, so it should not be made as an obligation on individuals to buy third party insurance. The government should also consider providing subsidies or fiscal assistance.

### Suggestions:

- Road safety education should be integrated into the school curriculum and instilled in every citizen.
- Establish minimum education and qualification standards for drivers. Beyond driving skills, it's essential to test their knowledge of safety standards, road rules, signboards, and road markings before issuing a license.
- Use biometric data for licensing to prevent multiple licenses for one individual.
- Implement restrictions on the registration of new vehicles and limit the number of vehicles a person or family can own.
- Ban the use of footpaths and pavements by vehicles.
- Set and enforce limits on the number of passengers in public vehicles, checking for overcrowding, and cancel permits if necessary.
- Improve road engineering by having relevant departments inspect accident-prone areas.

While suggestions and changes to existing laws are valuable, they are insufficient alone. Ultimately, it is our collective responsibility to adhere to these rules and fulfill our duties correctly. Rules must not only be documented but also practiced in our daily lives.

### Conclusion :

Road safety is one of the greatest concerns right now in the society. Road is a method of travelling used by everyone from children to adults. It is a pathway used by people to go from one place to another. For work, school, classes, walking or running, shopping etc for all the purposes this is the only way. In today's world, we can see people on the roads almost all the time, regardless of the weather conditions or if it is early in the morning or late in the night. So lighting. Properly maintained

roads, traffic regulators etc are very important to ensure the safety of everyone. It is also important to note that every citizen has the duty to properly follow the traffic regulations in order to ensure safety on roads. Only when these regulations are broken, it leads to accidents and deaths.

This paper gives an outline on the importance of road safety and the acts and legislations that deal with it. It talks about the different behaviors of drivers that causes major accidents in roads along with provisions under the motor vehicles act that punish such offenses. It also gives a brief on economic impact of motor vehicles, its contribution towards GDP etc and also its effect on environment.

It also talks about the other factors that contribute to the road accidents one of which is road maintenance which also plays a very crucial role in ensuring the drivers and pedestrians safety.

Finally it gives a list of suggestions in improving road safety and ensuring a safe journey for all.

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## VISUAL AND PHONETIC SIMILARITY OF TRADEMARKS: STUDY OF JUDICIAL TRENDS IN INDIA

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### Abstract

Brand value and Goodwill are crucial for every company or business as it acts as its identity. Trademark provides identity and a sense of standard to any business by building its reputation and in order to boost any business, the importance of trademark should be understood as equal to a good quality product. Trademark creates value, brand name and helps in generating revenue for any business. Keeping in mind its importance in recognition of any enterprise or product, trademark is susceptible to misuse and infringement. The law relating to trademark is governed by the Trade Marks Act, 1999, which has set standards for determination of the distinctiveness of marks under Section 9 and Section 11. Even though the standards are set by the act, the issue requires judicial vision from time to time. Section 29(9) of the said Act incorporates the provisions relating to infringement of a registered mark due to phonetic similarity. It states that infringement of mark can be caused by virtue of being visually or phonetically similar. The Apex Court of India has on several instances observed that both eyes and ears should be used to compare trademarks. This paper aims to study the judicial trends in relation to visual and phonetic similarity of trademarks in India.

**Keywords:** Trademark, Similarity, Visual, Phonetic, Deceptive, Infringement, Protection, Judiciary, Precedents

### Introduction

The scope of Intellectual Property Rights covers Trademarks, Patents, Copyright, Designs, Trade Secrets and Geographical indications. If understood in simple terms, what will you call it is Trademark, how it works is Patent, artistic or literally expression is Copyright, etc.<sup>1257</sup> Protection to novel ideas and creativity of people is provided by the Intellectual Property Rights.

Trademark has been defined under Section 2(zb) of the Trade Marks Act, 1999 as “a mark capable of being represented graphically which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging

and combination of colours.”<sup>1258</sup> Trademark comes into play when brand value of any product or company has to be created for attracting consumers towards it. Similar kind of products are differentiated by the label, combination of colours, picture, etc. attached with any product, known as trademark.<sup>1259</sup> The quality of product is instilled in the minds of consumers by looking at its trademark.

Trademarks can either be registered or unregistered under the Trade Marks Act, 1999. Certain rights are provided to the registered trademarks in case of infringement under the said act, whereas, rights are enforced under the common law tort of passing off for the

<sup>1257</sup> Neetu B. Shambharkar, *Notion of Deceptive Similarity under Trademark with Reference to Landmark Cases in India: A Legal Insight*, 3 IJLMH 457, 459 (2020).

<sup>1258</sup> The Trade Marks Act, 1999, § 2(zb), No. 47, Acts of Parliament, 1999 (India).

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