



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

HIT AND RUN LAW

-Vanshita Pandav

B.A LLB

Indore International College (DAVV affiliated), Indore

ABSTRACT

Humans are known for the humanity but from some decades we are failing in showing it. Laws are made to save humanity; they teach every individual their discipline and keep them in limits. Many laws are there which govern our country like- Indian penal code 1860, criminal procedural code 1973 and etc. One of the laws is HIT AND RUN LAW in which if any person who caused the accident drives away without helping the injured person he will be punished and liable to pay fine. Hit and run laws were among the earliest traffic laws to be enacted after the invention of motor vehicles. Hit and run is a purposeful act as it is made to deter rash and negligent driving and to punish those who flee from the scene without reporting or helping the victims. How this law runs in our country or all over the world we will talk about that in this article will learn about the object of making this law. We will understand the demerits of the law and will provide suggestion for improving that. Will discuss about the recent amendment and changes took place regarding this law. We will talk about the recent amendments and drivers strike.

-keywords: laws, motor vehicle act, accidents, truck drivers, hit and run law

INTRODUCTION

The time is just before sunrise. An elderly man is on the road for his morning walk. Suddenly, even before he could realize, a car comes dashing in high-speed and hits him hard from behind and then zooms away. The poor man is thrown on the side of the road, grievously injured. There are hardly any witnesses on the road at this early morning hour. Someone did see the accident from a distance, but he could not identify the make, model or registration no. of the vehicle. He rushes to the spot and arranges to take the injured man to a nearby hospital. The man dies before he could reach the hospital. Police are informed. Post mortem of the victim confirms death due to road traffic accident. During investigations, police find that there were no CCTV cameras installed in the area. Despite their best efforts, they are not able to trace the offending vehicle or its driver. Above narrated incident is a typical example of Hit and Run motor vehicle road accident. Such road accidents, where the vehicles causing grievous injuries / death to a person (s) cannot be identified or traced, are known as 'Hit and Run accident.' Following of traffic rules will prevent the risk of everyone's life. RED, GREEN AND YELLOW are the colours which decide your future. As referring to latest data, the road accidents in India 2022 report, states that total number of 4,61,312 road accidents have been reported by police departments of states and union territories in the country during the calendar of 2022, claiming 1,68,491 lives and causing injuries to 4,43,366 persons¹. This data clearly justifies the need of proper laws governing traffic in country. Does our country lack good traffic rules or people are not taking them seriously. The countries having the greatest number of hit and run accidents are united nations, Japan, China, India. Most people in India are illiterate and not aware of the rules and regulations. Is that the fault of our education system; that they didn't educate people about the laws of country. We can't blame anyone, rather than blaming we can make laws for people safety and let them aware of the laws. But rash driving and drink and drive are the main causes of these incidents. The victims whether they are alive or dead are left to suffer whereas the offenders roam free.

MEANING

Any individual accused of hit and run cases were tried under **section 304A** of Indian penal code, facing penalties of up to two years in jail upon identification, but it is amended by our parliament. The old colonial laws are replaced by new laws such as **-Section 161** of MOTOR VEHICLE ACT 1988 define as an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose, and **section 106(2)** of BHARTIYA NYAYA SANHITA 2023 define as "Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to 10 years and shall be liable to fine. Other sections are also there dealing with this law are mentioned below:

- Section 279 of Indian penal code 1860²

¹ Ministry of road transport and highway.

² Section 279 of Indian penal code 1860 states that: any individual who is driving or riding a vehicle in a negligent manner, thereby endangering human life, will be punished by law.

- Section 304A of Indian penal code 1860³
- Section 302 of Indian penal code 1860⁴
- Section 134 of motor vehicles act 1988⁵
- Section 338 of Indian penal code 1860⁶

FACTORS CONTRIBUTING TO HIT AND RUN CASES

The factors responsible for hit and run accidents are as following:

1. Intoxication
2. Rush and negligent driving
3. Speed limits
4. Traffic control device
5. Lighting condition
6. Functioning of traffic control device
7. Type of roadway section

WHAT SHOULD BE DONE AFTER HIT AND RUN ACCIDENT

1. We should not run from the accident place
2. We should immediately call the police
3. We should not block the traffic
4. We should stay there until police come
5. We should immediately call the ambulance for the injured person.

NEED FOR AMENDING SUCH LAWS

In 2022, in India registered the highest count of road accident exceeding 1.68 lakh deaths, and national criminal records bureau recorded 47,806 hit and run incidents which resulted in the death of 50,815 people in 2022⁷, which may due to the less punishment for rash and negligent drivers, leading to fatal accident every year. Therefore, to decreases the number of deaths and road accidents per year; the laws are amended. The law creates a positive obligation on part of the offender to report such an incident to the police or magistrate. There are some major points favoring amending the laws are as follows:

1. To curb hit and run accidents: as these cases annually claim around 50,000 lives.
2. To increase accountability: by imposing stricter penalties, it will increase the accountability and responsibility of drivers involved in such accidents.

³Section 304A of Indian penal code 1860 defines Causing death by negligence

⁴ Section 302 of Indian penal code 1860 define murder

⁵ Section 134 of motor vehicles act 1988 Duty of driver in case of accident and injury to a person

⁶Section 338 of Indian penal code 1860 states that: Anyone causes grievous hurt to anyone by doing any act so negligently as to endanger human life will be punishable under this section.

⁷ Frontline.the hindu.com

3. More rights for victims: victims have quick rights to get compensation, right to speak during trials.
4. To promote road safety: it would help promote road safety and discourage rush and negligent driving.

IMPACT OF AMENDING THE LAW

Before introduction of Bhartiya Nyaya Sanhita, the person accused in hit and run cases was tried under section 304A of Indian Penal Code 1860, the penalties were imprisonment up to 2 years only. But recently the central government has passed the hit and run bill by which transporters and commercial drivers from different-different state like Madhya Pradesh, west Bengal, Maharashtra, Punjab had protested against the amendment related to hit and run incidents, they were demanding the withdrawal of amendment of law and threaten of worldwide strike if their demands were not met, the all-India transporters have called on national-wide strike to register their protest against a provision contained in the Bhartiya Nyaya Sanhita. As earlier the punishment and fine was comparatively lesser than the current amended laws punishment and fine. They argued that the penalty was quite excessive and that they can't pay by considering the factors like- driving long hours and difficult roads, or sometime the accidents may be caused by some factors which is not in control of drivers like low vision, etc. so they found this as their right and fought for this amendment. Their strike led to shortage of fuel and at some states they block the roads and causing damage to vehicles. So sometimes the drivers are innocent but have to face harsh penalties.

DOES THE PROTEST OF DRIVERS REASONABLE?

So, we can't ignore the drivers at this point as they are necessary for Indian economy and provide our daily needs. Every day we hear cases of hit and run, and mostly trucks are involved in those cases, but we can't blame the drivers every time. In most cases the accidents are unintentional. They think these harsh penalties could have a negative impact on the transport industry. So, I think the Strick to be reasonable as drivers work for their daily income and for maintaining their family and it must be very tough job, they themselves choice this risky job and as per section 106(2) of BNS imprisonment up to 10 years and fine of 7 lakh rupees for fleeing from accidental spot. While the section discusses a maximum punishment of 10 years and fine is not mentioned. Therefore, government should re-think about this issue. In regard to this supreme court has directed the Centre to Consider whether the compensation amounts in case of death and grievous injuries in hit and run accidents can be enhanced annually.

DOES AMENDING THE LAW WILL CHANGE THE RATIO OF ACCIDENTAL DEATHS?

According to the government the law reflects the enforcing of moral responsibility on the offender towards the victim which an individual should perform. Which establish a clear and necessary protocol for emergencies in which reporting about the accident to police or any authorized person is necessary. But there are many drawback of the law- the biggest issue in hit and run cases is absence of any direct evidences, this make difficult for police to conduct investigation.

CASE LAWS

The knowledge of hit and run law case is mostly came to people by Salman khan hit and run case. In which he was accused of driving on the footpath into a group of homeless people

. Laxmi Devi Surana vs. Bajaj Allianz General Insurance on 11 December, 2019.

In this case, the appellants as claimants had filed the claim case before the motor claim tribunal claiming compensation for grievous injuries sustained in a motor vehicle accident. The appellants were in a Hyundai Eon going travelling from Guwahati to Shillong, on reaching the place of occurrence and in order to avoid a head-on collision with a truck coming at high speed from the opposite direction, the driver of the vehicle in which appellants were travelling suddenly took a sharp turn to the side, and dashed against a stationary truck. The appellants received grievous injuries and the vehicle was badly damaged

Court state that the accident is occurred due to contributory negligence on the part of the insured driver and driver of stationary truck and the insurance company is liable to pay the claim amount.

. Shilpa Mittal vs state of NCT Delhi

This case is generally known as the 2016 Mercedes hit and run case. In this case the accused was a teenager at the time of the accident who allegedly ran over 32 years old Siddharth Sharma with his father's Mercedes near the Ludlow castle school in north Delhi on 4 April 2016.

According to police the incident took place at around 8:55 when Siddharth's friend dropped him near civil lines area. While Mercedes hit him. In this case the juvenile court held that teenager is kept in custody for over 8hours and later he was released on bail.

. Janhavi Narendra Gikkwad vs the state of Maharashtra

This case is also known as reliance lawyer hit and run case. In this case Jahnvi Gadkar who was 35 years old at that time, was a vice president with a legal team at reliance industries limited. The incident took place when she was returning from a party in her Audi Q3. She rammed her car into a taxi in which Salim Saboonwala and his family had gone out for dinner to a Dhaba as his son had obtained over 90% in SSC exam. While Jahnvi saved herself as her Audi airbags got opened but thus incident caused two deaths in saboonwala's family and rest were injured.

Jahanvi was booked under "culpable homicide not amounting to murder" along with rash driving charges.

CONCLUSION

So, Hit and Run law is a preventive measure to control the death count, and amended law may reduce the numbers of hit and run accidents. As a citizen we should follow the traffic rules, should drive safely with respecting the other people and vehicles on the road and respect the laws made parliament. Drivers should always remain at the scene if any accident is caused and should perform their duty and it is very important to know that right person should not punished. The victim or any person over the accidental site should inform police. Hit and run behavior always puts victims at risk due to lack of timely assistance, and in how, it makes it very difficult for public security bodies to collect direct evidence. As usual reasons found behind hit and run cases are rash and negligent driving, drinking and driving. So effective effort from society and policymakers can contribute to preventing such accidents and fostering a safer environment for all road users.

REFERENCES

- <https://www.livelaw.in/know-the-law/statutorily-recognising-principles-on-computing-compensation-in-fatal-road-accident-cases-160459>
- <https://www.livelaw.in/supreme-court/police-must-inform-hit-run-accident-victims-about-compensation-scheme-centre-must-consider-increasing-amount-supreme-court-246589>
- <https://www.thehindu.com/news/national/debating-indias-new-hit-and-run-law-explained/article67720776.ece>
- <https://www.thehindu.com/news/national/debating-indias-new-hit-and-run-law-explained/article67720776.ece>
- <https://heinonline.org/HOL/LandingPage?handle=hein.journals/hoflr45&div=17&id=&page=>