

# **Motor Vehicles Act, 1988**

Act No. 59 of 1988

## **Objects & Reasons**

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## **Object and Scope.**

An Act to consolidate and amend the law relating to motor vehicles. Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows: *Nirgamma v. United India Insurance Co. Ltd.*, (2009) 13 SCC 710 : (2010) 1 SCC (Cri) 1213. In the above case, the Court observed that Motor Vehicles Act, 1988 is a beneficial and welfare legislation. The Motor Vehicles Act was enacted to consolidate and amend the law relating to motor vehicles. When a law is enacted to consolidate and amend the law, the legislature not only takes into consideration the law as it had then been existing but also the law which was prevailing prior thereto. *Machindranath Kernath Kasar v. D.Š. Mylarappa*, (2000) 13 SCC 198 : (2009) 3 SCC (Cn) 519. In the above case, the Court observed that a suit for damages arises out of a tortious action. For the purpose of such an action, although, there is no statutory definition of negligence, ordinarily, it would mean omission of duty caused either by omission to do something which a reasonable man guided upon those considerations, ordinarily by reason of conduct of human affairs would do or be obligated to, or by doing something which a reasonable or prudent man would not do.

## **Legislative Intent.**

*Avishek Goenka v. Union of India*. (2012)5 SCC 321 : (2012) 2 SCC (Cr) 712. The legislative intent attaching due significance to the public safe evident from the object and reasons of the Act, the provisions of the Act and more particular rules framed thereunder. Even if it is assumed, for the sake of argument, that Rule 100 is a any interpretation, then the Supreme Court should give it an interpretation which would legislative intent and the object of framing such rules, in preference to one which would frustrate the very purpose of enacting the rules as well as

ndermining the public safety and interest.

## **Objects & Reasons**

Act Details : Brought into force on 1st July, 1989. Act ID 198859 Act Number 59 Act Year 1988.

Short Title The Motor Vehicles Act, 1988. Long Title An Act to consolidate and amend the law relating to motor vehicles. Ministry Ministry of Road Transport and Highways. Enforcement Date 01/07/1989 Notification 1st July. 1989 - vide notification No. - S.O 368(E), dated 22nd May, 1989 - see Gazette of India, Extra ordinary, Part II, sec.3 (ii). Amendments : Motor Vehicles (Amendment) Act, 1994 (54 of 1994) Motor Vehicles (Amendment) Act, 2000 (27 of 2000) Motor Vehicles (Amendment) Act, 2001 (39 of 2001) Motor Vehicles (Amendment) Act, 2015 (3 of 2015) Notification No. S.O. No. 2022(E), dated 22.5.2018 Motor Vehicles History & Development : With the development of civilization, act of negligence have become actionable wrong. In the English Law, any person or the legal representative of deceased person who expired on account of negligent act of other can besides instituting criminal proceeding, recover damages under the Law of Torts. Accountable negligence consist in the neglect of use of ordinary care or skill towards a person to whom the defendant owes duty of observing ordinary care and skill by which neglect the plaintiff have suffered injury to his person or property. Thus, negligence accompanied with losses to the other party give rise to an action. In order to give effective rights to the person injured or expired in an accident, Fatal Accidents Act, 1885 was enacted in India. This Act provided only a procedure and a right of named legal heirs to claim compensation from the person committing negligence. This enactment has worked in India for a comfortable long period. Because of increase in automation and consequential losses of life and property in accident, it was considered that to give relief to the victims of accident claims, an effective law should be brought in. To facilitate this, provisions have been inserted for compulsory third party insurance and to provide a machinery of adjudication of claim in Motor Vehicle Act by amending Act No.110 of 1956, by which Section 93 to 109 with reference to third party insurance and Section 110(A) to 110(F) with reference to creation of Motor Accident Claims Tribunal and

procedure for adjudication of claim has been provided. Initially the liability was restricted to a particular sum but after 1982 the liability of the Insurance Company has been made unlimited and even the defences of the Insurance Companies have been restricted so as to ensure payment of compensation to third parties. In the year 1982, a new concept of providing interim compensation on 'No Fault' basis have been introduced by addition of Section 92(A) to 92(E). By the same amendment, relief has also been given to those persons who expire by hit and run accidents, where the offending vehicles are not identified. In 1988, a new Motor Vehicle Act has been introduced. Chapter 10 of the new Act, provides for interim award. Chapter 11 provides for insurance of motor vehicle against third party risk and Chapter 12 provides for the constitution of Claims Tribunal and adjudication of claim and related matters. This law is still in an era of serious changes. The Supreme Court has held number of times that this is a welfare legislation and the interpretation of provision of this law is required to be made so as to help the victim. In this process, the Supreme Court has passed various judgments in the recent past, which have restricted the statutory defences to the Insurance Company to a greater extent as law relating to burden of proof have been totally changed. Limited defences as to not holding valid driving license, use of vehicle for hire and reward, use of transport vehicle for the purpose not allowed by permit are required to be proved in so stringent manner that insurer are not getting advantage of these defences. Prior to 1988 : 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 several times to keep it up to date. The need was, however, felt that this Act should, now inter alia, take into account also changes in the road transport technology, pattern of passenger and freight movements, developments, of the road network in the country and particularly the improved techniques in the motor 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 have gone into different

aspects of road transport. They have recommended updating, simplification and rationalization of this law. Several Members of Parliament have also urged for comprehensive review of the Motor Vehicles Act, 1939, to make it relevant to the modern – day requirements. A Working Group was, therefore, constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport (CIRT), Automotive Research Association of India (ARAI), and other transport organizations including, the manufacturers and the general public, Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Ministers of all States and Union territories. Some of the more important modifications so suggested related for taking care of - The fast increasing number of both commercial vehicles and personal vehicles in the country. The need for encouraging adoption of higher technology in automotive sector; The greater flow of passenger and freight with the least impediments so that islands of isolation are not created leading to regional or local imbalances; Concern for road safety standards, and pollution-control measures, standards for transportation of hazardous and explosive materials; Simplification of procedure and policy liberalization's for private sector operations in the road transport field; and Need for effective ways of tracking down traffic offenders. Statement of Objects and Reasons of The Motor Vehicles Act, 1988 ( Act No. 59 of 1988) : The Supreme Court in M. K. Kunhimohammed v. P. A. Ahmedkutty, has made certain suggestions to raise the limit of compensation payable as a result of motor accidents in respect of death and permanent disablement in the event of there being no proof of fault on the part of the person involved in the accident and also in hit and run motor accidents and to remove certain disparities in the liability of the insurer to pay compensation depending upon the class or type of vehicles involved in the accident. The above suggestions made by the Supreme Court have been incorporated in the Bill of the Motor Vehicles. M. K. Kunhimohammed v. P. A.

Ahmedkuty (1987) 4 SCC 284 The proposed legislation has been prepared in the light of the above background. Some of the more important provisions of the Bill provide for the following matters, namely :- Rationalization of certain definitions with additions of certain new definitions of new types of vehicles. Stricter procedures relating to grant of driving licences and the period of validity thereof. Laying down of standards for the components and parts of motor vehicles. Standards for anti-pollution control devices. Provision for issuing fitness certificates of vehicles also by the authorized testing stations. Enabling provision for updating the system of registration marks. Liberalized schemes for grant of stage carriage permit on non nationalized routes, all-India Tourist permits and also national permits for goods carriages. Administration of the Solatium Scheme by the General Insurance Corporation. Provision for enhanced compensation in cases of "no fault liability" and in hit and run motor accidents. Provision for payment of compensation by the insurer to the extent of actual liability to the victims of motor accidents irrespective of the class of vehicles. Maintenance of State registers for driving licences and vehicle registration. Constitution of Road Safety Councils. The Bill also seeks to provide for more deterrent punishment in the cases of certain offences. The above suggestions which were incorporated in the Motor Vehicles Bill received the assent of the President on 14th October, 1988 and came on the Statute Book as Motor Vehicles Act, 1988. The Act came into force with effect from 1st July, 1989 replacing the Motor Vehicles Act, 1939. The erstwhile Motor Vehicles Act, 1939 was repealed by section 217 of the Motor Vehicles Act, 1988. Said section 217 also repealed all laws corresponding to the Motor Vehicles Act, 1939, then being in force in any State immediately before the commencement of the Act of 1988 in the respective states. Statement of Objects and Reasons of Motor Vehicles (Amendment) Act, 1994 (Act 54 of 1994) : The Act was amended by the Motor Vehicles (Amendment) Act, 1994, which came in to effect from 14.11.1994. After the coming into force of the Motor Vehicles Act, 1988, Government received a number of representations and suggestions from the State Government Transport Operators and members of public regarding the inconvenience faced by them because of the operation of some

of the Provisions of the 1988 Act. A Review Committee was, therefore, constituted by the Government in March, 1990 to examine and review the 1988 Act. The recommendations of the Review Committee were forwarded to the State Governments for comments and they generally agree with these recommendations. The Government also considered a large number of representations received, after finalization of the Report of the Review Committee, from the transport operators and public for making amendments in the Act. The draft of the proposals based on the recommendation of the Review Committee and representations from the public were placed before the Transport Development Council for seeking their views in the matter. The important suggestions made by the Transport Development Council relate to, or are on account of, - The introduction of newer type of vehicles and fast increasing number of both commercial and personal vehicles in the country. Providing adequate compensation to victims of road accidents without going into long drawn procedure. Protecting consumers' interest in Transport Sector. Concern for road safety standards, transport of hazardous chemicals and pollution control. Delegation of greater powers to State Transport Authorities and rationalizing the role of public authorities in certain matters. The simplification of procedures and policy liberalization in the field of Road Transport. Enhancing penalties for traffic offenders. Law Commission's 119th Report The Law Commission in its 119th Report had recommended that every application for a claim be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, at the option of the claimant. The bill also makes necessary provision to give effect to the said recommendation. Therefore, the proposed legislation has been prepared in the light of the above background. The Bill inter alia provides for – Modification and amplification of certain definitions of new type of vehicles. Simplification of procedure for grant of driving licences. Putting restrictions on the alteration of vehicles. Certain exemptions for vehicles running on non-polluting fuels. Ceilings on individuals or company holdings removed to "benami" holdings.

tates authorized to appoint one or more State Transport Appellate Tribunals. Punitive checks on the use of such components that do not conform to the prescribed standards by manufactures, and also stocking / sale by the traders. Increase in the amount of compensation of the victims of hit and run cases. Removal of time limit for filling of application by road accident victims for compensation. Punishment in case of certain offences is made stringent. A new pre-determined formula for payment of compensation to road accident victims on the basis of age / income, which is more liberal and rational. Statement of Objects and Reasons of Motor Vehicles

(Amendment) Act, 2000 (Act 27 of 2000) : The Act was again amended by the Motor Vehicles

(Amendment) Act 2000 – Further amendments in the aforesaid Act have become necessary so

as to reduce the vehicular pollution and to ensure the safety of the road users. It is, therefore,

proposed to prohibit alteration of vehicles in any manner including change of tyres of higher

capacity. However, the alteration of vehicles with a view to facilitating the use of eco-friendly fuel

including Liquefied Petroleum Gas (LPG) is being permitted. Further, it is proposed to confer

powers on the Central Government to allow the alteration of vehicles for certain specified

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 buses run by these institutions

within the purview of the aforesaid Act by requiring them to obtain permits. It is also proposed to

allow renewal of permits, driving licences and registration certificates granted under the Motor

Vehicles Act, 1939 to be renewed under the Motor Vehicles Act, 1988, by inserting new section

217 – A. The proposed amendments are essential in the overall interest of securing road safety

and maintaining a clean environment.

Statement of Objects

Vehicles (Amendment) Act, 2001 (Act 39 of 2001) : Third times amendments to this act were

brought by the Motor Vehicles (Amendment) Act, 2001. The Motor Vehicles Act, 1988 is a

Central legislation through which the road transport is regulated in the country. By the Motor

Vehicles (Amendment) Act, 1994, inter alia, amendments were made for make special provisions

under sections 66 & 67 so as to provide that vehicles operating on eco-friendly fuels shall be

exempted from the requirements of permits and also the owners of such vehicles shall have the discretion to fix fares and freights for carriage of passengers and goods. The intention in bringing the said amendments was to encourage the operation of vehicles with such eco-friendly fuels. However, it has been observed that during the last several years, not only the supply of eco-friendly fuels like CNG has increased tremendously, a large number of vehicles have come on the road which in terms of sections 66 and 67, as amended by the Motor Vehicles (Amendment) Act, 1994, are operating without any requirement of permits and are, therefore, not subject to any control of the State Governments. The number of such vehicles is likely to further increase substantially. The aforesaid situation is likely to lead to indiscipline on the road and consequent increase in the road accidents. It is, therefore, considered essential to remove exemption provided under sections 66 and 67 of the said Act to CNG operated vehicles so that vehicles which operate on eco-friendly fuels are also covered by the terms and conditions applicable to all other vehicles. The proposed amendments are essential in the overall interest of securing road safety and maintaining a clean environment.

Statement of Objects and Reasons of Motor Vehicles (Amendment) Act, 2015 (Act 3 of 2015) : The Act seeks to replace the Ordinance, 2015. According to the Report titled "Road Accidents in India, 2013" of the Union Ministry of Road Transport and Highways, the total number of reported road accidents in the year 2012 and 2013 were 4,90,383 and 4,86,476, respectively, and the number of persons killed were 1,38,258 and 1,37,572, respectively. Further, the Severity of accidents (number of persons killed per 100 accidents) for the years 2012 and 2013 was 28.2 and 28.3, respectively. The data indicates that despite the reduction in the number of persons killed during 2013, the accident severity had increased as compared to the previous year. It has also been noticed that for the year 2013, about 78 per cent. of the road accidents were caused due to human errors i.e. due to fault of drivers. These statistics clearly indicate that many drivers who have been given the licence to drive are not properly trained. Thus, today the country needs an institutional mechanism which can impart holistic training to the licence seekers as well as to the drivers.



These institutions shall educate these persons the correct method of driving, get them acquainted with different driving environment and make them educated about road safety rules and regulations. Further, such institutions shall also conduct research and surveys for developing a better road safety guidelines and techniques. A scheme for setting up a model driving training institute was formulated by the Government and during the 11th Five Year Plan, eight Institutes of Driving Training and research were sanctioned. However, as on date, only three are functional. Hence, there is a need that such institutions in large number with at least one institute per district in the country be established. The Bill, therefore, seeks to amend the Motor Vehicles Act, 1988 with a view to establish at least one institute of Driving Training and Research in each district of the country so that the number of road accidents and consequently the number of deaths in road accidents can be brought down in the country.

**Statement of Objects and Reasons of Motor Vehicles (Amendment) Act, 2019 (Act 32 of 2019) :** The Bill seeks to amend the Motor Vehicles Act, 1988 to provide for road safety. The Act provides for grant of licenses and permits related to motor vehicles, standards for motor vehicles, and penalties for violation of these provisions.

**Compensation for road accident victims:** The central government will develop a scheme for cashless treatment of road accident victims during golden hour. The Bill defines golden hour as the time period of up to one hour following a traumatic injury, during which the likelihood of preventing death through prompt medical care is the highest. The central government may also make a scheme for providing interim relief to claimants seeking compensation under third party insurance. The Bill increases the minimum compensation for hit and run cases as follows: (i) in case of death, from Rs 25,000 to two lakh rupees, and (ii) in case of grievous injury, from Rs12,500 to Rs 50,000.

**Compulsory insurance:** The Bill requires the central government to constitute a Motor Vehicle Accident Fund, to provide compulsory insurance cover to all road users in India. It will be utilised for: (i) treatment of persons injured in road accidents as per the golden hour scheme, (ii) compensation to representatives of a person who died in a hit and run accident, (iii) compensation to a person

grievously hurt in a hit and run accident, and (iv) compensation to any other persons as prescribed by the central government. This Fund will be credited through: (i) payment of a nature notified by the central government, (ii) a grant or loan made by the central government, (iii) balance of the Solatium Fund (existing fund under the Act to provide compensation for hit and run accidents), or (iv) any other source as prescribed the central government.

**Good samaritans:** The Bill defines a good samaritan as a person who renders emergency medical or non-medical assistance to a victim at the scene of an accident. The assistance must have been (i) in good faith, (ii) voluntary, and (iii) without the expectation of any reward. Such a person will not be liable for any civil or criminal action for any injury to or death of an accident victim, caused due to their negligence in providing assistance to the victim.

**Recall of vehicles:** The Bill allows the central government to order for recall of motor vehicles if a defect in the vehicle may cause damage to the environment, or the driver, or other road users. The manufacturer of the recalled vehicle will be required to: (i) reimburse the buyers for the full cost of the vehicle, or (ii) replace the defective vehicle with another vehicle with similar or better specifications.

**National Transportation Policy:** The central government may develop a National Transportation Policy, in consultation with state governments. The Policy will: (i) establish a planning framework for road transport, (ii) develop a framework for grant of permits, and (iii) specify priorities for the transport system, among other things.

**Road Safety Board:** The Bill provides for a National Road Safety Board, to be created by the central government through a notification. The Board will advise the central and state governments on all aspects of road safety and traffic management including: (i) standards of motor vehicles, (ii) registration and licensing of vehicles, (iii) standards for road safety, and (iv) promotion of new vehicle technology.

**Offences and penalties:** The Bill increases penalties for several offences under the Act. For example, the maximum penalty for driving under the influence of alcohol or drugs has been increased from Rs 2,000 to Rs 10,000. If a vehicle manufacturer fails to comply with motor vehicle standards, the penalty will be a fine of up to Rs 100 crore, or imprisonment of up to one year, or both. If a contractor fails to comply with

road design standards, the penalty will be a fine of up to one lakh rupees. The central government may increase fines mentioned under the Act every year by up to 10%. Taxi aggregators: The Bill defines aggregators as digital intermediaries or market places which can be used by passengers to connect with a driver for transportation purposes (taxi services). These aggregators will be issued licenses by state Further, they must comply with the Information Technology Act, 2000.

## **Chapter I**

### **PRELIMINARY**

Title and Definitions

#### **Section 1**

##### **Short title extent and commencement.**

(1) This Act may be called The Motor Vehicles Act, 1988. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State. Corresponding Law :S.1 of Act IV of 1939. 1. Short title, extent and commencement. - (1) This Act may be called the Motor Vehicles Act, 1939. [(2) It extends to the whole of India [x x x x] Provided that Chapter VIII shall take effect in the State of Kerala only from such date as the Central Government may, by [notification] in the Official Gazette, appoint; and until that Chapter so takes effect in that State, Chapter VII of the Travancore-Cochin Motor Vehicles Act, 1125, shall have effect in that State as if enacted in this Act.]

#### **Section 2**

##### **Definitions.**

In this Act, unless the context otherwise requires,

## **Section 2(1)**

### **Adapted vehicle.**

~@[Adapted Vehicle]~@[Substituted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ means a motor vehicle either specially designed and constructed, or to which alterations have been made under sub-section (2) of section 52, for the use of a person suffering from any physical defect or disability, and used solely by or for such person. Case Law: Invalid Carriage. Chattisgarh High Court Chitrasen Sahu v. Union of India and Others, 2019 KHC 4441 : AIR 2019 Chh. 167. Petitioner, a differently abled person modifying Maruti Dzire Car to make it suitable for him to drive -- He installed hand brake instead of foot brake and hand accelerator instead of foot accelerator through authorised centre -- No change made in basic feature of vehicle -- The restriction of S.52 of the Act, 1988 which speaks about the alteration of the motor vehicles, will not come into play as necessarily it would mean to change the entire basic feature of the motor and in a given case the engine and further parts of the vehicle were same but certain alteration was carried out -- Direction issued to authorities to register said vehicle under category of ' invalid carriage after necessary inspection.

## **Section 2(1A)**

### **Aggregator.**

Aggregator means a digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation;

## **Section 2(1B)**

### **Area.**

Area in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette; Corresponding Law :S. 2(1) of Act IV of 1939. S.2 (1) "area", in relation to any provision of this Act, means such area as the State Government may, having regard.

## **Section 2(2)**

### **Articulated vehicle.**

Articulated vehicle means a motor vehicle to which a semi-trailer is attached; Corresponding Law :S. 2(1-A) of Act IV of 1939. (1A) "articulated vehicle" means a tractor to which a trailer is attached in such a manner that a part of the trailer is super-imposed on, and a part of the weight of the trailer is borne by, the tractor;]

## **Section 2(3)**

### **Axle weight.**

Axle weight means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface on which the vehicle rests; Corresponding Law :S. 2(1-B) of Act IV of 1939. [(1B)] "axle weight" means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests ;

## **Section 2(4)**

### **Certificate of registration.**

Certificate of registration means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV; Corresponding Law :S. 2(2) of Act IV of 1939. (2) "certificate of registration " means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter III ;

## **Section 2(4A)**

### **Community service.**

~@[Community service]~ @Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ means an unpaid work which a person is required to perform as a punishment for an offence committed under this Act;

## **Section 2(5)**

### **Conductor.**

Conductor in relation to a stage carriage, means a person engaged in collecting fares from passengers, regulating their entrance into, or exit from, the stage carriage and performing such other functions as may be prescribed; Corresponding Law :S. 2(2-B) of Act IV of 1939. (2B) "conductor", in relation to a stage carriage, means a person engaged in collecting fares from passengers, regulating their entrance into, or exit from, the stage carriage and performing such other functions as may be prescribed ;

## **Section 2(6)**

### **Conductors licence.**

Conductor's licence means the licence issued by a competent authority under Chapter III authorising the person specified therein to act as a conductor; Corresponding Law :S.2(2-C) of Act IV of 1939. (2C) " conductors licence " means the document issued by a competent authority under Chapter IIA authorising the person specified therein to act as a conductor;]

## **Section 2(7)**

### **Contract carriage.**

Contract carriage means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum- on a time basis, whether or not with reference to any route or distance; or from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes a maxicab; and a motorcab notwithstanding that separate fares are charged for its passengers; Case Law 1: Interpretation. Supreme Court State of Andhra Pradesh v. B. Noorulla

Khan, (2004) 6 SCC 194. In this case Hon'ble Supreme Court interpreted the word "under a contract" refer to a single contract and not more than one contract. Also the words "for the carriage of passengers mentioned therein" clearly shows that there must be a prior contract and the passengers shall also be settled in advance. Case Law 2: Interpretation of Contract.

Supreme Court Brijendra Kumar Chaudhari v. STA UP, AIR 1991 All. 300. In this case Hon'ble Court decided that there must be a prior contract, which should have a list of passengers, who are being carried under the contract have to be settled prior to undertaking the journey and there should not have stops for picking or drop down a passenger like stage carriage. Case Law 3: Distinction between 'Contract carriage' & Stage carriage'. Kerala High Court Santhosh P. K. and Others v. State of Kerala and Others 2019 KHC 759 : 2019 (5) KHC SN 6. A 'contract carriage' is meant for those who want to hire the vehicle collectively or individually for a group or a party having the same purpose, for their transport from one place to another and cannot be used for carrying one set of commuters for the onward journey and another set of commuters for the return journey. The vehicle has to be hired as a whole for the carriage of passengers mentioned in the contract, i.e., the whole vehicle will be at their disposal. On the other hand, a 'stage carriage' is intended to meet the requirements of the general public travelling from one place to another having different purposes. Therefore, an agent or a group of persons / individuals cannot hire a 'contract carriage' for going from one place to another with passengers having different purposes. If individual passengers having different purposes are picked up in a 'contract carriage', at the starting point of the journey or en route, even if such passengers are included in the contract, it is virtually a 'stage carriage' with corridor restriction. Case Law 4: Breach of Contract carriage permit condition - Not a compoundable offence. Gujarat High Court Bhavesh Nandlal Kabra v. State of Gujarat. 2019 KHC 5139 : AIR 2019 Guj. 180. Driver failed to produce passengers list and found with passengers which didnot belong to one group. The Hon'ble Gujarat High Court observed that prima facia vehicle used as Stage Carriage and breach of permit condition. The action can be taken under only S.192-A of the Act and it's not an offence

which is compoundable. The department was not within its authority to compound such offence under S.200 of the Act. Corresponding Law :S. 2(3) of Act IV of 1939. (3) "contract carriage " means a motor vehicle which carries a passenger or passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a [fixed or agreed rate or sum- (i) on a time basis whether or not with reference to any route or distance, or (ii) from one point to another, and in either case without stopping to pick up] or set down along the line of route passengers not included in the contract; and includes a motor cab notwithstanding that the passengers may pay separate fares;

## **Section 2(8)**

### **Dealer.**

Dealer includes a person who is engaged [x x x x] in building bodies for attachment to chassis; or in the repair of motor vehicles; or in the business of hypothecation, leasing or hire-purchase of motor vehicle; Case Law 1: Repairer of motor vehicles can be a Dealer. Kerala High Court Kunhani. M v. RTO and Others 2003 KHC 333. In this case the Hon'ble Court found that a Trade certificate can be obtained by an approved repairer of vehicles -- Not necessary that he should be a manufacturer of Motor Vehicles. So a person could be a dealer if he is engaged in the building bodies for attachment of the chassis, in the repair of motor vehicles or in the absence of hypothecation or hire purchase of motor vehicles. Case Law 2: Bonafide Dealer. Kerala High Court Yamaha Sub Dealers Association of Kerala v. State Of Kerala (2016) HC 17165 5 May, 2016. In this case the Court interpreted the word "bonafide dealer". As per Rule 35 of CMVR, 1989, Trade Certificate can be issued only to a 'bonafide dealer'. As the term 'bonafide dealer' is not defined, it has to be the dealer authorized and appointed directly by the manufacturer for sale of vehicles manufactured by them. Corresponding Law :S. 2(4) of Act IV of 1939. [(4) "dealer" includes a person who is engaged in the manufacture of motor vehicles or in building bodies for attachment to chassis;]



## **Section 2(9)**

### **Driver.**

Driver includes in relation to a motor vehicle which is drawn by another motor vehicle, the person who acts as a steersman of the drawn vehicle; Corresponding Law :S. 2(5) of Act IV of 1939. (5) "driver" includes, where a separate person acts as steersman of a motor vehicle, that person as well as any other person engaged in the driving of the vehicle ;

## **Section 2(9A)**

### **Driver refresher training course.**

~@[ "Driver refresher training course" ]~@Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E) [Download SO 3110(E)]~@ means the course referred to in sub-section (2A) of section 19;

## **Section 2(10)**

### **Driving licence.**

Driving licence means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description; Case Law 1: Driving Licence & Learners Licence. Supreme Court Alka Ojha v. Rajasthan Public Service Commission, (2011) 9 SCC 438 : (2011) 2 SCC. (L&S) 485 : (2011) 3 SCC (Cri) 701. In this case the Hon'ble Apex Court observes "Driving licence" authorizes a person to drive a motor vehicle or a motor vehicle for any specified class or description otherwise than as a learner and "learner's licence" authorizes a person specified therein to drive as a learner a motor vehicle or a motor vehicle of any specified class or description. Though there is some similarity in the language of Section 8 which regulates the grant of "learner's licence" and Section 9 which regulates the grant of "driving licence", very fact that legislature had made separate provisions for grant of two types of licences leads to an irresistible conclusion that a person holding "learner licence" cannot be treated on a par with a

person having "driving licence". Moreover, Section 3 which is mandatory in character also lays down that a person shall not drive a motor vehicle in any public place unless he holds an effective driving licence. Learner's licence cannot entitle a person to claim that he holds an effective driving licence. Case Law 2: Class of Licence. Supreme Court Oriental Insurance Co. Ltd. v. Zaharulnisha, (2008) 12 SCC 385 : (2009) 1 SCC (Cri) 431. In this case Hon'ble Court decided that vehicles of a totally different class from that specified in the driving licence is not covered in effective "driving licence". Corresponding Law :S.2(5A) of Act IV of 1939: [(5A) "driving licence" means the document issued by a competent authority under Chapter II authorising the person specified therein to drive a motor vehicle or a motor vehicle of any specified class or description;]

## **Section 2(11)**

### **Educational institution bus.**

Educational institution bus means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities; Case Law 1: School Bus - Need for compliance with provisions of MV Act & Rules. Kerala High Court Ma'din Public School (M/s. ) v. Regional Transport Officer, Malappuram and Another 2019 (3) KHC 712. Affiliated CBSE Schools shall not own or hire any transport service, which does not have valid permit or do not fulfill requisite permit conditions prescribed by State Transport Departments; periodical fitness certificates regarding roadworthiness of school bus shall be obtained as per the Motor Vehicles Act 1988; any school authority and/or the driver of the school bus found to have violated the provisions of the Motor Vehicles Act, 1988 and the rules framed thereunder, as well as the directions of CBSE, State Government and the Courts, must be penalised. Case Law 2: Can EIB of a Trust or Society avail Tax Benefit? Madras High Court Lakshmi Vidhya Sangam v. Regional Transport Officer, Madurai and Another 2008 KHC 7937. Merely because trust or Society has started educational institution it cannot be called as 'Educational institution' -- Vehicles owned by

the Trust or Society cannot be brought within the definition of "Educational Institution Vehicle" and consequently, the Trust or the Society is not entitled to claim the concessional rate of tax -- Since the vehicles used by the Trust cannot be brought under the definition as "educational institution", consequently they have to apply for permits under S.66 of the Motor Vehicles Act.

Case Law 3: Educational Institution Bus. Kerala High Court Kalagruham Music School (M/s. ) v. Joint Regional Transport Officer and Others 2018 (4) KHC 33. Claim for exemption from contribution to Workers Welfare Fund and also for reduction of tax -- Whether sustainable -- Held, MV Act does not define an 'educational institution' -- Hence applicant is obliged to prove that the institution is an educational institution -- When the applicant has failed to prove that the buses are plying solely for the purpose of students who are studying in the institution, it cannot be said that petitioner is entitled to claim exemption.

## **Section 2(12)**

### **Fares.**

Fares includes sums payable for a season ticket or in respect of the hire of a contract carriage; Corresponding Law :S.2(6) of Act IV of 1939. (6) "fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;

## **Section 2(12A)**

### **Golden hour.**

Golden hour means the time period lasting one hour following a traumatic injury during which there is highest likelihood of preventing death by providing prompt medical care;

## **Section 2(13)**

### **Goods.**

Goods includes livestock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of

passengers travelling in the vehicle; Corresponding Law :S.2(7) of Act IV of 1939. (7) "goods" includes live-stock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;

## **Section 2(14)**

### **Goods carriage.**

Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods; Case Law 1: Tractor trailer is a Goods Carriage. Supreme Court Natwar Parikh & Co. Ltd. v. State of Kamataka, (2005) 7 SCC 364. In this case Hon'ble Court seems a "Motor vehicle" includes any mechanically propelled vehicle apt for use upon roads irrespective of the source of power and it includes a trailer. Hence, even though a trailer is drawn by a motor vehicle, it by itself being a motor vehicle, tractor-trailer would constitute a "goods carriage" under Section 2(14) and consequently a "transport vehicle" under Section 2(47). Test to be applied in such cases is whether the vehicle is proposed to be used for transporting goods. When a vehicle is so altered or prepared that it becomes apt for transporting goods, it can be said to be adopted for carriage of goods. Applying the aforesaid test, held, tractor-trailer is a "goods carriage" and consequently a "transport vehicle". Case Law 2: Vehicles classified as Goods Carriage remains same. Kerala High Court Hassan Koya v. The Transport Commissioner, Tvm and Another 2015 (1) KHC 741: AIR 2016 NOC 252. A vehicle classified as goods carriage or goods vehicle by the manufacturer remains as a goods carriage for the purpose of registration -- However, vehicles which are not classified as goods carriage in the certification of the manufacturer, can be treated as goods carriage, if it is used by the owner as a goods carriage and not vice versa. Case Law 3: Goods Carriage - No provision for private use. Kerala High Court Shamnad S.M v. Regional Transport Officer, Cherthala. 2015 KHC 223. Tata Xenon Crew Cab -- The manufacturer brings

out two models; one a "LMV Goods Carriage" which comes under N1 category and yet another a "LMV" covered under M1 category. The petitioner purchased a "LMV Goods Carriage" with an open carriage for goods, none can contend that they do not intend to carry goods". The purchasers intend to use it for their personal / private use. There is no such categorization available for registration under the MV Act. No such distinction is available to determine taxation too. Corresponding Law :S. 2(8) of Act IV of 1939. (8) "goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers.

## **Section 2(15)**

### **Gross vehicle weight.**

Gross vehicle weight means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle; Case Law 1: Gross Vehicle Weight endorsed in R.C Book. Kerala High Court Jaleel v. State of Kerala. 2002 KHC 514. GVW endorsed in R.C Book issued by the Motor Vehicle Authorities of Nagaland will not bind the motor vehicle Authorities in other States so far as the same is not consistent with R.95(2). Registration not in accordance with the provisions of the Act and Rules to the extent of such inconsistent endorsement shall not bind other State motor vehicle authorities. All that S.46 says is that a registration certificate issued in accordance with the provisions of the Act and Rules only shall be binding on other State authorities and any violation to that extent in the RC book will not bind the other State authorities, and it will be open to them to take action. Case Law 2: Fixation of Maximum GVW & Maximum Safe Axle Weight. Guahati High Court Shiv Kr. Pandit and Others v. State of Assam and Others 1999 KHC 3162 : AIR 1999 Gau. 68. Under the provisions of the Act, the power to specify the maximum gross vehicle weight of a vehicle is vested with the Central Government and such power is to be exercised by the Central Government through a notification issued under S.58(1) -- Since the impugned notification specifying the maximum gross vehicle weight has been issued by the Central Government in

exercise of such statutory powers under S.58(1), it cannot be said that the said notification is ultra vires R.95 of the Rules, 1989 -- Plea that notification cannot be given retrospective effect is not tenable in view of S.58(5) -- Vehicle owners not entitled to raise plea of estoppel on ground of payment of higher road tax/surcharge for period earlier to notifications. Case Law 3: GVW of Tractor trailer. Kerala High Court Laxmi Cranes & Trailers (P) Ltd. (M/s. ) v. Joint RTO and Others; 2012 (2) KHC 913 Attaching new tractor to old trailer -- Held, in the absence of any prohibition in the Motor Vehicles Rules, owner of goods carriage is entitled to retain the gross vehicle weight at the same level permitted in the RC book issued for the old tractor-trailer-combination.

## **Section 2(16)**

### **Heavy goods vehicle.**

Heavy Goods Vehicle means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilo grams; Case Law 1: HGV cannot be used as Construction Equipment Vehicle. Kerala High Court Raju Chacko v. State of Kerala and Others. 2019 KHC 636. Mahindra Blazo 25 6x4 6C BSIV 5000 BOGIE Tipper Chassis Day Cab -- A vehicle, which is a 'Heavy Goods Vehicle' under 'Category N3', which is suitable for fitting tipping body of the specified size, cannot be used or registered as a 'construction equipment vehicle', after mounting a Boom Concrete Pump, and classifying the vehicle as 'Non Transport Vehicle' thereby altering the said vehicle at variance with the specifications of the manufacturer, as contained in the Prototype Test Certification. The said vehicle can only be used as 'Transport Vehicle (HGV - Goods Carriage - Tipper)' after fitting tipping body of the specified size. The said vehicle cannot be mounted with Boom Concrete Pump or any other construction equipment. Corresponding Law :S. 2(9) of Act IV of 1939. [(9) "heavy goods vehicle" means any goods vehicle the registered laden weight of which, or a tractor the unladen weight of-which, exceeds 11,000 kilogrammes;

## **Section 2(17)**

### **Heavy passenger motor vehicle.**

Heavy passenger motor vehicle means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilo grams; Corresponding Law :S. 2(9A) of Act IV of 1939. (9A) "heavy passenger motor vehicle" means any public service vehicle or omnibus the registered laden weight of either of which, or a motor car the unladen weight of which, exceeds 11,000 kilogrammes,]

## **Section 2(18)**

### **[x x x x] Omitted.**

~@[x x x x]~@[Omitted by Act No. 32 of 2019, dated 09-08-2019]~@ OLD LAW : Prior to omission Section 2(18) read as "Invalid Carriage" means a motor vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person; Corresponding Law :S. 2(10) of Act IV of 1939. (10) invalid carriage" means a motor vehicle the unladen weight of which does not exceed [300 kilogrammes], specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;

## **Section 2(19)**

### **Learners licence.**

Learners licence means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive as a learner, a motor vehicle or a motor vehicle of any specified class or description;

## **Section 2(20)**

### **Licensing authority.**

Licensing authority means an authority empowered to issue licences under Chapter II or, as the case may be, Chapter III; Corresponding Law :S. 2(12) of Act IV of 1939. (12) "licensing authority" means an authority empowered to grant licences, appointed by the State Government by rule made under section 21 [or section 21J];

## **Section 2(21)**

### **Light motor vehicle.**

Light motor vehicle means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed [7500] kilo grams; Case Law 1: LMV - No need to obtain seperate endorsement in licence if used for private purpose or for hire or reward or for carrying goods. Supreme Court Mukund Dewangan v. Oriental Insurance Co. Ltd., 2017(4) KHC 648. Light Motor Vehicle -- Used for private purpose or for purpose of hire or reward or for carrying the goods -- Held, when a Driver is authorised to drive a vehicle, he can drive it irrespective of the fact whether it is used for a private purpose or for purpose of hire or reward or for carrying the goods in the said vehicle -- No separate endorsement to that effect is necessary. Corresponding Law :S. 2(13) of Act IV of 1939. [(13) "light motor vehicle" means a transport vehicle or omnibus the registered laden weight of which, or a motor car or tractor the unladen weight of which, does not exceed [4,000] kilogrammes];

## **Section 2(21A)**

### **Manufacturer.**

Manufacturer means a person who is engaged in the manufacture of motor vehicles;

## **Section 2(22)**

### **Maxicab.**

Maxicab means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward;



## **Section 2(23)**

### **Medium goods vehicle.**

Medium goods vehicle means any goods carriage other than a light motor vehicle or a heavy goods vehicle; Corresponding Law :S. 2(14) of Act IV of 1939. [(14) "medium goods vehicle" means any goods vehicle, other than a light motor vehicle, heavy goods vehicle or road-roller;

## **Section 2(24)**

### **Medium passenger motor vehicle.**

Medium passenger motor vehicle means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, [adapted vehicle], light motor vehicle or heavy passenger motor vehicle; Corresponding Law :S. 2(14-A) of Act IV of 1939. (14A) "medium passenger motor vehicle" means any public service vehicle, other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;]

## **Section 2(25)**

### **Motorcab.**

Motorcab means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward; Corresponding Law :S. 2(15) of Act IV of 1939. (15) "motor cab" means any motor vehicle constructed, adapted or used to carry not more than six passengers excluding the driver, for hire or reward ;

## **Section 2(26)**

### **Motor car.**

Motor car means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or [adapted vehicle]; Corresponding Law :S. 2(16) of Act IV of 1939. (16) "motor car" means any motor vehicle other than a transport vehicle, [omnibus], road-roller, tractor, motor cycle or invalid carriage;

## **Section 2(27)**

### **Motor cycle.**

Motor cycle means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle; Corresponding Law :S. 2(17) of Act IV of 1939. [(17) "motor cycle" means a two-wheeled motor vehicle, the unladen weight of which, inclusive of the unladen weight of any detachable side car, having an extra wheel, attached to motor vehicle, does not exceed 600 kilogrammes;]

## **Section 2(28)**

### **Motor vehicle or Vehicle.**

Motor vehicle or Vehicle means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding [twenty-five cubic centimetres]; Corresponding Law :S. 2(18) of Act IV of 1939. (18) "motor vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or [a vehicle of a special type adapted for use only in a factory or in any other enclosed premises];

## **Section 2(29)**

### **Omnibus.**

Omnibus means any motor vehicle constructed or adapted to carry more than six persons excluding the driver; Corresponding Law :S. 2(18-A) of Act IV of 1939. [(18A) "omnibus" means any motor vehicle constructed or adapted to carry more than six persons excluding the driver;]

## **Section 2(30)**

### **Owner.**

Owner means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement; Case Law 1: Who is an Owner?. Supreme Court Naveen Kumar v. Vijay Kumar, (2018) 3 SCC 1. In this case Hon'ble Court interpreted Who is "Owner" of a vehicle. Having regard to definition of "owner" under Section 2(30) of MV Act, 1988, held, the person in whose name motor vehicle stands registered (i.e whose name is reflected in records of Registering Authority) would be treated as "owner" of vehicle for purposes of MV Act. Only where a person is a minor, the guardian of that minor would be treated as owner, and where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation or is under requisition, the person in possession of vehicle under that agreement or under requisition is treated as owner. In this regard, departure made by Parliament from definition of "owner" contained in Section 2(19) of old MV Act of 1939, noticed. Considering the principle underlying the provisions of Section 2(30) of new MV Act, held, where a registered owner of vehicle despite transferring/selling his vehicle to another person continues to be reflected in records of Registering Authority as owner of that vehicle, he would be treated as owner of the vehicle for purposes of MV Act and would not stand absolved of his liability as owner under the said Act — To hold otherwise would be to defeat the salutary object and purpose of MV Act, 1988. Case Law 2: Owner - Meaning & Scope. Supreme Court Karnataka SRTC v. New India Assurance Co. Ltd., (2016), 2 SCC 382 : (2016) 1 SCC (Cri) 493 : (2016) 2 SCC (Civ) 85. In this case Hon'ble Court said that, A person in possession of vehicle under a hire-purchase agreement, an agreement for lease or an agreement for hypothecation is treated as owner of a vehicle under Section 2(30) of MV Act, 1988. Case Law 3: Financier not the absolute owner. Karnataka High Court Shriram Transport Finance Co. Ltd. v. R. Khaishiulla Khan

and Others 1993 KHC 2155. Where the vehicle is seized by a financier on the hirer committing default in payment of instalments stipulated under the Hire Purchase agreement, the financier is entitled to an interim custody of the vehicle in an application under S.451 of CrPC -- Simply because there is registration certificate in the name of hirer who is in possession of the vehicle in pursuance of such an agreement, it does not follow that he has become the absolute owner having all the proprietary rights therein, by invoking S.2(30) of the Motor Vehicles Act, 1988 Corresponding Law :S. 2(19) of Act IV of 1939. (19) "owner" means, where the person, in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement;

## **Section 2(31)**

### **Permit.**

Permit means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorising the use of a motor vehicle as a transport vehicle; Case Law 1: Permit. Supreme Court M. Duraiswamy v. Sri Murugan Bus Service, 1986 Supp SCC 1, 15. In this case Hon'ble Court clarified the word "Permit" —A permit is a document issued by a certain Regional Transport Authority authorising the use of a transport vehicle in a particular way. Corresponding Law :S. 2(20) of Act IV of 1939. (20) "permit " means the document issued by [the Commission or] a State or Regional Transport Authority authorising the use of a transport vehicle as a contract carriage, or stage carriage, or authorising the owner as a private carrier or public carrier to use such vehicle;

## **Section 2(32)**

### **Prescribed.**

Prescribed means prescribed by rules made under this Act; Case Law 1: Term 'Prescribed'. Bombay High Court Shivpujan Kumar Gopikisan Singh v. State of Maharashtra and Others 2017

KHC 5080 : AIR 2017 Bom. 198. In this case the Hon'ble Bombay High Court interpreted the term "prescribed" which is defined under Sub S.(32) of S.2 -- The term prescribed means prescribed by Rules made under the said Act. Corresponding Law :S. 2(21) of Act IV of 1939. (21) "prescribed" means prescribed by rules made under this Act ;

## **Section 2(33)**

### **Private service vehicle.**

Private service vehicle means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes; Corresponding Law :S. 2(22) of Act IV of 1939. (22) "private carrier" means an owner of a transport vehicle other than a public carrier who uses that vehicle solely for the carriage of goods which are his property or the carriage of which is necessary for the purposes of his business not being a business of providing transport, or who uses the vehicle for any of the purposes specified in sub-section (2) of section 42 ;

## **Section 2(34)**

### **Public place.**

Public place means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage; Case Law 1: Public place - Interpretation. Bombay High Court Pandrang Chimaji Agale v. New India Life Ins. Co. Ltd. 1988 ACJ 674 (Bombay). The Full Bench of Bombay High Court while referring to the expression public place in Motor Vehicles Act observed as follows: The term public place, is a term of the Act, the same having been defined specifically by Sub-clause (24) of Section 2 of the Act. The first thing to remember with regard to the definition is that it is an inclusive one. Secondly, it in terms makes it clear that any

road, street, way or other place, whether a thoroughfare or not, is a public place for the purposes of the Act, the only condition being that the public should have a right of access to it. Thirdly, the expression used in the definition is a right of access and not access as of right. Lastly, when it states that any place or stand at which passengers are picked up or set down by a stage carriage, is a public place, it shows that it is not so much concerned with the ownership of the place as with its user. The definition of public place under the Act is, therefore, wide enough to include any place which members of public use and to which they have a right of access. The right of access may be permissive, limited, restricted or regulated by oral or written permission, by tickets, passes or badges or on the payment of fee. The use may be restricted generally or to particular purpose or purposes. What is necessary is that the place must be accessible to the members of public and be available for their use, enjoyment, avocation or other purpose. Hence, all places where the members of public have an access, for whatever reasons, whether as of right or controlled in any manner whatsoever, would be covered by the definition of public place in Section 2(24) of the Act. Case Law 2: Public place - Interpretation. Kerala High Court Taxi Drivers Union v. Kerala State Road Transport Corporation and Others, AIR 1983 Ker. 69. In this case the learned single Judge while referring to public place under Motor Vehicles Act held that where access to particular road or place is permissive, it cannot be said that public have right of access to such road or place. Hence, such road cannot be recorded as a public place.

Corresponding Law :S. 2(24) of Act IV of 1939. (24) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;

## **Section 2(35)**

### **Public service vehicle.**

Public service vehicle means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage; Corresponding Law :S. 2(25) of Act IV of 1939. (25) "public service, vehicle" means

any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a motor cab, contract carriage, and stage carriage;

## **Section 2(36)**

### **Registered axle weight.**

Registered axle weight means in respect of the axle of any vehicle, the axle weight certified and registered by the registering authority as permissible for that axle; Corresponding Law :S. 2(26) of Act IV of 1939. [(26) "registered axle weight" means, in respect of the axle of any vehicle, the axle weight certified and registered by the registering authority as permissible for that axle;]

## **Section 2(37)**

### **Registering authority.**

Registering authority means an authority empowered to register motor vehicles under Chapter IV; Corresponding Law :S. 2(28) of Act IV of 1939. (28) "registering authority" means an authority empowered to register motor vehicles under Chapter III;

## **Section 2(38)**

### **Route.**

Route means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another; Corresponding Law :S. 2(28-A) of Act IV of 1939. [(28A) "route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another;]

## **Section 2(38A)**

### **Scheme.**

Scheme means a scheme framed under this Act;

## **Section 2(39)**

### **Semi-trailer.**

Semi-trailer means a vehicle not mechanically propelled (other than a trailer), which is intended to be connected to a motor vehicle and which is so constructed that a portion of it is super-imposed on, and a part of whose weight is borne by, that motor vehicle;

## **Section 2(40)**

### **Stage carriage.**

Stage carriage means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey; Corresponding Law :S. 2(29) of Act IV of 1939. (29) "stage carriage" means a motor vehicle carrying or adapted to carry more than six persons excluding the driver which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey ;

## **Section 2(41)**

### **State Government.**

State Government in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

## **Section 2(42)**

### **State transport undertaking.**

State transport undertaking means any undertaking providing road transport service, where such undertaking is carried on by, the Central Government or a State Government; any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950; any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments; Zilla Parishad or any other similar local authority. Explanation : For the purposes of this clause, road transport service means a service of motor vehicles carrying passengers or goods or both by road for hire or reward;



## **Section 2(42A)**

### **Testing agency.**

Testing agency means any entity designated as a testing agency under section 110B;

## **Section 2(43)**

### **Tourist vehicle.**

Tourist vehicle means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf; Case Law 1: Tourist Vehicle. Supreme Court Karnataka State Tourism Development Corp. Ltd. v. S.T.A.T (1986) 4 SCC 421. In this case Hon'ble Court clarified the expression "tourist cars" cannot be said to mean "tourist vehicle" having regard to Section 2(26) and 2(43), while a tourist vehicle may include a motor car, by definition, excludes an omnibus. Case Law 2: Carriage of Luggage. Supreme Court Sharma Transports v. State of Maharashtra and Others, 2011 (8) SCC 647 : AIR 2011 SC 3279. In this case Hon'ble Court clarified the carriage of luggage on roof of tourist vehicle is not permitted. The transporter can provide luggage space at the rear or at the sides of a tourist vehicle, but not permitted to use roof for the carriage of luggage. Corresponding Law :S. 2(29-A) of Act IV of 1939. (29-A) "tourist vehicle" means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as the State Government may, by notification in the Official Gazette, specify in this behalf;]

## **Section 2(44)**

### **Tractor.**

Tractor means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion); but excludes a road-roller; Corresponding Law :S. 2(30) of Act IV of 1939. (30) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for [\* \* \*]); but excludes a road-roller;

## **Section 2(45)**

## **Traffic signs.**

Traffic signs includes all signals, warning sign posts, direction posts, markings on the road or other devices for the information, guidance or direction of drivers of motor vehicles;

Corresponding Law :S. 2(31) of Act IV of 1939. (31) "traffic signs" includes all signals, warning sign posts, direction posts, or other devices for the information, guidance or direction of drivers of motor vehicles ;

## **Section 2(46)**

### **Trailer.**

Trailer means any vehicle, other than a semi-trailer and a side-car, drawn or intended to be drawn by a motor vehicle; Case Law 1: Tractor trailer is a Goods Carriage. Supreme Court Natwar Parikh & Co. Ltd. v. State of Kamataka, (2005) 7 SCC 364. In this case Hon'ble Supreme Court seems a "Motor vehicle" includes any mechanically propelled vehicle apt for use upon roads irrespective of the source of power and it includes a trailer. Hence, even though a trailer is drawn by a motor vehicle, it by itself being a motor vehicle, tractor-trailer would constitute a "goods carriage" under Section 2(14) and consequently a "transport vehicle" under Section 2(47). Test to be applied in such cases is whether the vehicle is proposed to be used for transporting goods. When a vehicle is so altered or prepared that it becomes apt for transporting goods, it can be said to be adopted for carriage of goods. Applying the aforesaid test, held, tractor-trailer is a "goods carriage" and consequently a "transport vehicle". Case Law 2: GVW of Tractor trailer. Kerala High Court Laxmi Cranes & Trailers (P) Ltd. (M/s. ) v. Joint RTO and Others; 2012 (2) KHC 913 Attaching new tractor to old trailer -- Held, in the absence of any prohibition in the Motor Vehicles Rules, owner of goods carriage is entitled to retain the gross vehicle weight at the same level permitted in the RC book issued for the old tractor-trailor-combination. Corresponding Law :S. 2(32) of Act IV of 1939. (32) "trailer" means any vehicle other than a side-car drawn or intended to be drawn by a motor vehicle;

## **Section 2(47)**

### **Transport vehicle.**

Transport vehicle means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle; Case Law 1: Transport vehicle - Meaning & Scope. Supreme Court *Natwar Parikh & Co. Ltd. v. State of Kamataka*, (2005) 7 SCC 364. In this case Hon'ble Supreme Court seems a "Motor vehicle" includes any mechanically propelled vehicle apt for use upon roads irrespective of the source of power and it includes a trailer. Hence, even though a trailer is drawn by a motor vehicle, it by itself being a motor vehicle, tractor-trailer would constitute a "goods carriage" under Section 2(14) and consequently a "transport vehicle" under Section 2(47). Test to be applied in such cases is whether the vehicle is proposed to be used for transporting goods. When a vehicle is so altered or prepared that it becomes apt for transporting goods, it can be said to be adopted for carriage of goods. Applying the aforesaid test, held, tractor-trailer is a "goods carriage" and consequently a "transport vehicle". Case Law 2: No need to obtain separate endorsement in licence for LMV. Supreme Court *Mukund Dewangan v. Oriental Insurance Co. Ltd.*, 2017(4) KHC 648. Transport vehicle has been defined in S.2(47) of the Act, to mean a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle. Public service vehicle has been defined in S.2(35) to mean any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward and includes a maxicab, a motor cab, contract carriage, and stage carriage. Goods carriage which is also a transport vehicle is defined in S.2(14) to mean a motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods. It was rightly submitted that a person holding licence to drive light motor vehicle registered for private use, who is driving a similar vehicle which is registered or insured, for the purpose of carrying passengers for hire or reward, would not require an endorsement as to drive a transport vehicle, as the same is not contemplated by the provisions of the Act. It was also rightly contended that there are several vehicles which can be used for

private use as well as for carrying passengers for hire or reward. When a driver is authorised to drive a vehicle, he can drive it irrespective of the fact whether it is used for a private purpose or for purpose of hire or reward or for carrying the goods in the said vehicle. It is what is intended by the provision of the Act, and the Amendment Act 54/1994. So if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect. Case Law 3: Transport Vehicle. Supreme Court New India Assurance Co. Ltd. v. Prabhu Lal, (2008) 1 SCC 696 : (2008) 1 SCC (Cri) 308. In this case Hon'ble Apex Court said that a vehicle registered as "good carrier" will be treated as a "transport vehicle" under Section 2(47) of MV Act, 1988. Case Law 4: Transport Vehicle - Meaning & Scope. Oriental Insurance Co. Ltd. v. Angad Kol, (2009) 11 SCC 356 : (2009) 3 SCC (Cri) 1371 : (2009) 4 SCC (Civ) 535. In this case Hon'ble Court clarified the definition of the "light motor vehicle" brings within its umbrage both "transport vehicle" or "omnibus", indisputably, a distinction between an effective licence granted for transport vehicle and passenger motor vehicle exists. The distinction between a "light motor vehicle" and a "transport vehicle" is evident. A transport vehicle may be a light motor vehicle but for the purpose of driving the same, a distinct licence is required to be obtained. Corresponding Law :S. 2(33) of Act IV of 1939. [(33) "transport vehicle" means a public service vehicle or a goods vehicle;]

## **Section 2(48)**

### **Unladen weight.**

Unladen weight means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body; Corresponding Law :S. 2(34) of Act IV of 1939. (34) "unladen weight" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle

means the weight of the vehicle with the heaviest such alternative part or body ;

## **Section 2(49)**

### **Weight.**

Weight means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests [or moves]. Corresponding Law :S. 2(35) of Act IV of 1939.

(35) "weight" means the total weight transmitted for the time being by the wheels of a vehicle to the, surface on which the vehicle rests.

## **Section 2A**

### **E-Cart and E-Rickshaw.**

(1) Save as otherwise provided in the proviso to sub-section (1) of section 7 and sub-section (10) of section 9, the provisions of this Act shall apply to e-cart and e-rickshaw. (2) For the purposes of this section, "e-cart or e-rickshaw" means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.

## **Section 2B**

### **Promotion of innovation.**

Notwithstanding anything contained in this Act and subject to such conditions as may be prescribed by the Central Government, in order to promote innovation, research and development in the fields of vehicular engineering, mechanically propelled vehicles and transportation in general, the Central Government may exempt certain types of mechanically propelled vehicles from the application of the provisions of this Act.

## Chapter II

### LICENSING OF DRIVERS OF MOTOR VEHICLES

Section 3 to 28

#### Section 3

##### **Necessity for driving licence.**

(1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; and no person shall so drive a transport vehicle~@[other than a motorcab or motor cycle]~@Substituted for "a motor cab" by Act No. 54 of 1994, w.e.f 14-11-1994.~@ hired for his own use or rented under any scheme made under sub-section (2) of section 75 unless his driving licence specifically entitles him so to do. (2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed by the Central Government. Case Law 1: No need to obtain separate endorsement in licence for LMV. Supreme Court Mukund Dewangan v. Oriental Insurance Co. Ltd., 2017(4) KHC 648. Light Motor Vehicle -- Used for private purpose or for purpose of hire or reward or for carrying the goods -- Held, when a Driver is authorised to drive a vehicle, he can drive it irrespective of the fact whether it is used for a private purpose or for purpose of hire or reward or for carrying the goods in the said vehicle -- No separate endorsement to that effect is necessary. Case Law 2: Difference between Learners & Driving Licence. Supreme Court Alka Ojha v. Rajasthan Public Service Commission, (2011) 9 SCC 438 : (2011) 2 SCC. (L&S) 485 : (2011) 3 SCC (Cri) 701. In this case Court observes "Driving licence" authorizes a person to drive a motor vehicle or a motor vehicle for any specified class or description otherwise than as a learner and "learner's licence" authorizes a person specified therein to drive as a learner a motor vehicle or a motor vehicle of any specified class or description. Though there is some similarity in the language of Section 8 which regulates the grant of "learner's licence" and Section 9 which regulates the grant of "driving licence", very fact that legislature had made separate provisions for grant of two types

of licences leads to an irresistible conclusion that a person holding "learner licence" cannot be treated on a par with a person having "driving licence". Moreover, Section 3 which is mandatory in character also lays down that a person shall not drive a motor vehicle in any public place unless he holds an effective driving licence. Learner's licence cannot entitle a person to claim that he holds an effective driving licence. Case Law 3: Class of Vehicle. Supreme Court Oriental Insurance Co. Ltd. v. Zaharulnisha, (2008) 12 SCC 385 : (2009) 1 SCC (Cri) 431. In this case Hon'ble Court decided that vehicles of a totally different class from that specified in the driving licence is not covered in effective "driving licence". Case Law 4: Effectiveness of driving licence. Delhi High Court New India Assurance Co. Ltd. v. Santoshi Devi and Others; 2019 KHC 4606 : 2019 ACJ 2273 While the deceased was helping the truck driver to reverse the truck, unfortunately he got crushed between the truck and the a pole and suffered fatal injuries -- Tribunal awarded compensation of Rs 21, 53000/- The compensation amount was directed to be given by Appellant No.1 to the claimants and further granted recovery rights to Appellant No.1 qua Appellant No.2 and 3 -- This was challenged by filing an appeal on the ground of holding invalid licence by the driver -- Driver of offending vehicle fulfilled all requisites for holding a valid license on the date of issuance i.e. 30.11.2011 and he also fulfilled all the requirements on the date of renewing of the license i.e. 11.04.2016 after the accident, what was lacking was only the formality of renewal, which does not go to the roots of invalidation of the driving license on the date of the accident i.e. 07.04.2016. The same driving licence was renewed on 11.04.2016 which indicates that he held good in all respect to hold a valid license even on the date of the accident as the same has been renewed on 11.04.2016 -- S.15 of Motor Vehicles Act, 1988 gives an option to any person who's validity has expired to renew his license after paying the requisite penalty which ipso facto shows that once a driver holds a valid licence, his driving license continues to be so till it is explicitly invalidated on certain specific grounds -- Therefore, Appellant was not suffering from any disqualification and S.15(4) of Motor Vehicles Act, 1988 recognises renewal of license after the period of 30 days by paying requisite fine. Hence the

Tribunal went wrong on point of liability. Case Law 5: Accident occurs while vehicle driven by learners licence holder. Kerala High Court Abdul Gafoor K. P. v. New India Assurance Company Ltd 2017 (1) KHC 942. The purpose of granting a 'driving licence' is to authorise the person concerned to drive the class of vehicle concerned in public place in contradistinction to the purpose of authorising a holder of learner's licence to drive the motor vehicle as a learner. Vehicle driven by holder of learner's licence without complying with statutory prescription can be said to have violated the provisions and the conditions of the policy, so the insured owner is liable for compensation Case Law 6: Learners licence held by motorcyclist is a valid licence. Karnataka High Court Senior Divisional Manager, National Insurance Co. Ltd. v. Jyotiba. 2020 KHC 2537 : 2020 ACJ 1 Pillion rider on motor cycle holding driving licence sustained fatal injuries & cause death due to accident. Driver holds only learners licence. Insurance rejected. The Karnataka High Court observed that Central Motor Vehicles Rules strictly contemplate accompanying of an instructor in a motor vehicle, but exclude motor cycle, the rider or the learner need not be accompanied by any instructor for motor cycle, as required in case of four - wheeler motor vehicle, which requires instructor. Therefore, a learner's licence should be considered as a valid licence & insurance company liable to pay compensation. Case Law 7: No authorisation to drive TV at the time of Accident. Kerala High Court Joseph M. M. v. Yoonus and Others 2019 (5) KHC 132 : 2019 (4) KLT 954 Driver not holding authorisation to drive transport vehicle at the time of accident -- Whether, such infraction is sufficient for Insurer to claim reimbursement of compensation paid to claimant -- The Court observed that it is clear that the purpose of the authorisation to drive transport vehicle is only to ensure that a person driving a transport vehicle is conversant with the duties and responsibilities of a driver of the transport vehicle. As it is found that the authorisation to drive the transport vehicle has nothing to do with the driving proficiency of the person concerned, which may have a nexus to the accident giving rise to the claim for compensation, infraction of the statutory requirement to have an authorisation would not amount to breach of the condition in the policy excluding driving by a



person not duly licensed, falling within the scope of S.149(2)(a)(ii) of Act. Insurer cannot claim reimbursement of compensation paid Corresponding Law : S.3 of Act IV of 1939: 3. Necessity for driving licence. - (1) No person shall drive a motor vehicle in any public place unless he holds an effective [driving licence] issued to himself authorising him to drive the Vehicle; and no person shall so drive a motor vehicle as a paid employee or shall so drive a [transport vehicle] unless his [driving licence] specifically entitles him so to do. (2) A [State Government] may prescribe the conditions subject to which sub-section (1) shall not apply to a person receiving instruction in driving a motor vehicle. [(3) Notwithstanding anything contained in sub,-section (1), a person who holds an effective driving licence authorising him to drive a motor car may drive any motor cab hired by him for his own use.]

## **Section 4**

### **Age limit in connection with driving of motor vehicles.**

(1) No person under the age of eighteen years shall drive a motor vehicle in any public place: Provided that ~@[a motor cycle with engine capacity not exceeding 50cc]~@Substituted for "a motor cycle w/o gear" by Act No. 54 of 1994, w.e.f 14-11-1994.~@ may be driven in a public place by a person after attaining the age of sixteen years. (2) Subject to the provisions of section 18, no person under the age of twenty years shall drive a transport vehicle in any public place. (3) No learners licence or driving licence shall be issued to any person to drive a vehicle of the class to which he has made an application unless he is eligible to drive that class of vehicle under this section. Case Law 1: Wheather negligence can be attributed if vehicle driven by minor. Kerala High Court National Insurance Company Ltd. v. Anusha A. Nair (Minor) and Another; 2017 (2) KHC 327 : 2017 (2) KLT 147 : 2017 (2) KLJ 521 Collision between bike and car -- Bike driven by a boy aged 16 years -- Whether negligence can be attributed to the rider of bike for the reason that he is aged 16 years -- Held, when it comes to the question of negligence, fact that he rode the motor cycle despite being found 'not eligible' under S.4 of the MV Act owing to age bar and thereby not entitled to possess a driving licence, by themselves,

could not be a reason to hold him negligent and consequently, to have contributed negligence, causing the accident -- Mere fact of violation of S.4 would only make him liable to face penal consequences. Corresponding Law :S. 4 of Act IV of 1939: 4. Age limit in connection with driving of motor vehicles. - (1) No person under the age of eighteen years shall drive a motor vehicle in any public place. (2) Subject to the provisions of section 14, no person under the age of twenty years shall drive a transport vehicle in any public place.

## **Section 5**

### **Responsibility of owners of motor vehicles for contravention of sections 3 and 4.**

No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle. Case Law 1: Owner has liability if vehicle taken without his knowledge. Supreme Court *Jawahar Singh v. Balajain and Others*; 2011 (6) SCC 425 : AIR 2011 SC 2436 :2011 KHC 4476 Driver of vehicle did not have a licence at all -- It is difficult to accept the defence of the Petitioner that the keys of the motorcycle were taken by J without his knowledge. Not inclined to accept the case of contributory negligence on the part of the deceased, attempted to be made out on behalf of the Petitioner . Liability to make payment of compensation fell on owner since it was his obligation to take adequate care to see that driver had an appropriate licence to drive the vehicle. Tribunal rightly directed Insurance Company to pay compensation and, thereafter, to recover the same from petitioner owner. Case Law 2: Liability of owner of a vehicle. Kerala High Court *Ahammedkutty Haji M. v. Amina and Others* ;2017 (2) KHC 342 : 2017 (2) KLJ 368 : 2017 (2) KLT 600 Absence of driving licence -- Liability of owner of vehicle -- Insured owner or a person in charge of a motor vehicle is under a statutory responsibility, which is their statutory liability, to take adequate care to see whether the driver got an appropriate licence to drive the class of vehicle to which his vehicle belongs under S.5 of the Act. Case Law 3: Liability extends to owner of a vehicle. Rajasthan High Court *New India Assurance Co. Ltd. v. Hemanth and Others*; 2017 KHC 7161 : 2017 ACJ 418 Car hit a scooter driven by a minor boy aged 14 and pillion rider on scooter

sustained head injuries -- Negligence of father of rider who is also the owner of scooter in entrusting the scooter to his minor son -- Insurance company of car directed to pay 70 per cent of the compensation awarded -- Claimants are entitled to implead father of rider in the proceedings and recover balance 30 per cent from the rider and owner of scooter -- Owner of scooter is not entitled to seek indemnification of liability from its insurance company for breach of policy. Corresponding Law :S. 5 of Act IV of 1939: 5. Responsibility of owners of motor vehicles for contravention of sections 3 and 4. - No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.

## **Section 6**

### **Restrictions on the holding of driving licences.**

(1) No person shall, while he holds any driving licence for the time being in force, hold any other driving licence except a learners licence or a driving licence issued in accordance with the provisions of section 18 or a document authorising, in accordance with the rules made under section 139, the person specified therein to drive a motor vehicle. (2) No holder of a driving licence or a learners licence shall permit it to be used by any other person. (3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 9 from adding to the classes of vehicles which the driving licence authorises the holder to drive. Case Law 1: Holding of 2 driving licence - Legality. Delhi High Court Arvinder Walia v. ICICI Lombard General Insurance Co Ltd and Another; 2019 KHC 3864 : 2019 ACJ 1883 Tribunal exonerated the insurance company on the ground that driver of offending vehicle was holding two driving licences. Whether this can exclude insurance company from liability -- Held, insurance company cannot escape from liability to pay compensation, even though possessing two driving licences is violation of S.6 of the Motor Vehicles Act for which driver can be prosecuted. Case Law 2: Two driving licence - Liability of insurance company. Punjab and Haryana High Court Madan Lal v. Savita and Others; 2019 KHC 4984 : 2019 ACJ 2617 Finding

by the Tribunal that driver was holding a fake licence and granted recovery rights to the insurance company -- As per S.6 a person can possess only one driving licence at one point of time -- Driver, resident of Himachal Pradesh had tried to produce two driving licences, one issued by Licensing Authority, Mathura and another by Licensing Authority, Nagaland -- Suspicion arises as to why he obtained driving licences from far away places -- Owner never appeared in the witness box to depose that he had taken driver's driving test and employed him under bona fide belief that his driving licence was genuine -- Even driver also did not enter the witness box -- Hence an adverse inference can be drawn against him that he was not holding a valid licence -- Whether Tribunal was justified in granting recovery rights to insurance company -- Held, Tribunal was justified in granting recovery rights to insurance company. Case Law 3: Holding of fake driving licence - Liability of insurance company. Punjab and Haryana High Court National Insurance Co. Ltd. v. Arfoon Nisa and Others; 2016 KHC 7487 : 2016 ACJ 1426 As per S.6(1) a person can have only one driving licence -- Evidence that driving licence which the driver was possessing at the time of accident was a forged document -- Merely because the owner / driver later on came up with another driving licence in his name does not mean that at the time of accident he was holding an effective driving licence -- Held the licence of the driver was forged -- Insurance company is entitled to recover the amount of compensation from the owner / driver of the offending vehicle. Corresponding Law :S. 6 of Act IV of 1939: 6.

Restrictions on the holding of driving licences. - (1) No person shall, while he holds any [driving licence] for the time being in force, hold any other [driving licence] except a [driving licence] issued in accordance with the provisions of section 14, or a document authorising, in accordance with the rules made under section 92, the person specified therein to drive a motor vehicle. (2) No holder of a [driving licence] shall permit it to be used by any other person. (3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 7 from adding to the classes of vehicle which the [driving licence] authorises the holder to drive.

## Section 7

### Restrictions on the granting of learners licences for certain vehicles.

(1) ~@[No person shall be granted a learners licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.]~@Sub-Section (1)

substituted by Act No. 54 of 1994, w.e.f 14-11-1994.~@ ~@[Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.]~@Inserted by Act No. 3 of 2015.~@ (2)

No person under the age of eighteen years shall be granted a learners licence to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learners licence . OLD LAW : Sub-Section (1) substituted by Act 54 of 1994, w.e.f

14/11/1994. Prior to its substitution, sub-Section (1) read as under:- (1) No person shall be granted a learner's licence- (a) to drive a heavy goods vehicle unless he has held a driving licence for at least two years to drive a light motor vehicle or for at least one year to drive a medium goods vehicle; (b) to drive a heavy passenger motor vehicle unless he has held a driving licence for at least two years to drive a light motor vehicle or for at least one year to drive a medium passenger motor vehicle; (c) to drive a medium goods vehicle or a medium passenger motor vehicle unless he has held a driving licence for at least one year to drive a light motor vehicle. Case Law 1: To obtain Learners licence for TV. Orissa High Court New India Assurance Co. Ltd. v. M. Sureshappa and Another; 2013 KHC 5218 : 2013 ACJ 1306 Autorickshaw caused accident on 09/07/2004 -- Driver stated that he possessed a learner's licence to drive the autorickshaw -- Photocopy of learner's licence for the period from 24/03/2004 to 23/09/2004 is found on record but it has not been marked in accordance with law -- Driver did not possess driving licence to drive non transport vehicle at least for a period of one year as contemplated under S.7 to obtain learner's licence for transport vehicle -- Owner of vehicle or driver had neither produced original learner's licence nor examined anyone from RTO -- Tribunal was not justified in concluding that driver had learner's licence and directing insurance company to satisfy the award.

## Section 8

### Grant of learners licence.

(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may, subject to the provisions of section 7, apply to ~@[any of the licensing authority in the State]~@Substituted "the licensing authority having jurisdiction in the area" by Act No. 32 of 2019, dtd. 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ in which he ordinarily resides or carries on business, or in which the school or establishment referred to in section 12 from where he intends to receive instruction in driving a motor vehicle is situate, for the issue to him of a learners licence . (2) Every application under sub-section (1) shall be in such form and shall be accompanied by such documents ~@[with such fee and submit in such manner, including electronic means]~@[Substituted "and with such fee" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ as may be prescribed by the Central Government. (3) Every application ~@[to drive a transport vehicle made]~@Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ under sub-section (1) shall be accompanied by a medical certificate in such form as may be prescribed by the Central Government and signed by such registered medical practitioner, as the State Government or any person authorised in this behalf by the State Government may, by notification in the Official Gazette, appoint for this purpose: ~@[x x x x]~@[Proviso omitted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (4) If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorised by the learners licence applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the learners licence : Provided that a learners licence limited to driving an ~@[adapted vehicle]~@[Substituted "invalid carriage" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f.

01/09/2019 by SO 3110(E)]~@ may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage. (5) No learners licence shall be issued to any applicant unless he ~@[satisfies such conditions]~@[Substituted "passes to the satisfaction of the licensing authority such test" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]~@ as may be prescribed by the Central Government. (6) When an application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his physical fitness under sub-section (3) and has passed to the satisfaction of the licensing authority the test referred to in sub-section (5), the licensing authority shall, subject to the provisions of section 7, issue the applicant a learners licence unless the applicant is disqualified under section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a licence to drive a motor vehicle: Provided that a licensing authority may issue a learners licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if such authority is satisfied that there is good reason for the applicants inability to apply to the appropriate licensing authority. ~@[Provided further that a licensing authority may issue a learner's licence in electronic form and such manner as may be prescribed by the Central Government.:~@[2nd & 3rd Proviso inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)] ]~@ Provided also that the licensing authority may, before issuing the license, verify the identity of the applicant in such manner as may be prescribed by the Central Government.] (7) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by rules made in this behalf, exempt generally, either absolutely or subject to such conditions as may be specified in the rules, any class of persons from the provisions of sub-section (3), or sub-section (5), or both. (8) Any learners licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear. Case Law 1: Granting of Learners & Driving Licence. Supreme Court Alka Ojha v. Rajasthan Public Service Commission, (2011) 9 SCC 438 : (2011) 2 SCC. (L&S) 485 : (2011) 3

SCC (Cri) 701. In this case Court observes "Driving licence" authorizes a person to drive a motor vehicle or a motor vehicle for any specified class or description otherwise than as a learner and "learner's licence" authorizes a person specified therein to drive as a learner a motor vehicle or a motor vehicle of any specified class or description. Though there is some similarity in the language of Section 8 which regulates the grant of "learner's licence" and Section 9 which regulates the grant of "driving licence", very fact that legislature had made separate provisions for grant of two types of licences leads to an irresistible conclusion that a person holding "learner licence" cannot be treated on a par with a person having "driving licence". Moreover, Section 3 which is mandatory in character also lays down that a person shall not drive a motor vehicle in any public place unless he holds an effective driving licence. Learner's licence cannot entitle a person to claim that he holds an effective driving licence. Case Law 2: Grant of Learners Licence. Kerala High Court Jayapraksh K. v. State of Kerala and Others 2016 (4) KHC 587. Students of a Driving School are entitled to apply for learner's licence and also secure driving licence from RTO office having jurisdiction in area where Driving School is situated -- Stand of the Department in not accepting application from students with temporary address within Driving School's jurisdiction, cannot be justified -- Constitution of India, Art.226. Case Law 3: Medical certificate - Licensing Authority can confine. Kerala High Court Gajendran v. R. T. O. , Wayanad; 2006 KHC 1110 : 2006 (3) KLT 1006 It is well within the licensing authority's power to consider each case, if necessary, by assessing whether the applicant will be able to drive the motor vehicle of the class in question, without being a source of danger to the public or to the passengers. It has to be left to the wisdom of the licensing authority to decide as to whether a person is disqualified from having a learner's licence -- Medical Certificate not to be treated as the sole material on which the licensing authority should confine to, for the purpose of discharging his duties and responsibilities referable to sub-s.4 of S.8. but has to be considered and appropriate decision taken.

## **Section 9**



## **Grant of driving licence.**

(1) Any person who is not for the time being disqualified for holding or obtaining a driving licence may apply to ~@[any licensing authority in the State]~@Substituted "the licensing authority having jurisdiction in the area" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ in which he ordinarily resides or carries on business, or in which the school or establishment referred to in section 12 from where he is receiving or has received instruction in driving a motor vehicle is situated, for the issue to him of a driving licence. (2) Every application under sub-section (1) shall be in such form and shall be accompanied by such fee and such documents as may be prescribed by the Central Government. (3) ~@If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving licence Provided that no such test shall be necessary where the applicant produces proof to show that~@[Sub-Section (3) substituted by Act No. 54 of 1994, w.e.f 14-11-1994]~@ (a) the applicant has previously held a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8, (b) the applicant is not suffering from any disability which is likely to cause driving by him to be a source of danger to the public; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8: ~@[Provided further that a driving licence for driving an adapted vehicle may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such motor vehicle]~@[Substituted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (4) Where the application is for a licence to drive a transport vehicle, no such authorisation shall be granted to any applicant unless he possesses ~@[x x x]~@[Omitted "such

minimum educational qualification as may be prescribed by the Central Government and" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ a driving certificate issued by a school or establishment referred to in section 12. (5) Where the applicant does not pass the test, he may be permitted to re-appear for the test after a period of seven days: Provided that where the applicant does not pass the test even after three appearances, he shall not be qualified to re-appear for such test before the expiry of a period of sixty days from the date of last such test ~@[and such applicant shall be required to complete a remedial driver training course from any school or establishment under section 12.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)] ]~@ (6) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers: Provided that a person who passed a test in driving a motor cycle with gear shall be deemed also to have passed a test in driving a motor cycle without gear. (7) When any application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his competence to drive, the licensing authority shall issue the applicant a driving licence unless the applicant is for the time being disqualified for holding or obtaining a driving licence : Provided that a licensing authority may issue a driving licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good and sufficient reason for the applicants inability to apply to the appropriate licensing authority: Provided further that the licensing authority shall not issue a new driving licence to the applicant, if he had previously held a driving licence, unless it is satisfied that there is good and sufficient reason for his inability to obtain a duplicate copy of his former licence . (8) If the licensing authority is satisfied, after giving the applicant an opportunity of being heard, that he is a habitual criminal or a habitual drunkard; or is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or is a person whose licence to drive any motor vehicle has, at any time earlier, been revoked, it may, for reasons to be recorded in writing, make an order

refusing to issue a driving licence to such person and any person aggrieved by an order made by a licensing authority under this sub-section may, within thirty days of the receipt of the order, appeal to the prescribed authority. (9) Any driving licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear. (10) ~@[Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions, as may be prescribed.~@[Inserted by Act No. 3 of 2015.]~@ OLD LAW : Prior to its substitution, sub-Section (3) & (5) read as under:- (3) No driving licence shall be issued to any to any applicant unless he passes to the satisfaction of the licensing authority such test of competence to drive as may be prescribed by the Central Government: Provided that, where the application is for a driving licence to drive a motor cycle or a light motor vehicle, the licensing authority shall exempt the applicant from the test of competence prescribed under his sub-section, if the licensing authority is satisfied: (a) (i) that the applicant has previously held a driving licence and that the period between the date of expiry of that licence and the date of such application does not exceed five years; or (ii) that the applicant holds or has previously held a driving licence issued under section 18; or (iii) that the applicant holds a driving licence issued by a competent authority of any country outside India; and (b) that the applicant is not suffering from any disease or disability which is likely to cause the driving by him of a motor cycle or, as the case may be, a light motor vehicle to be a source of danger to the public; and as the licensing authority may for that purpose require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8: Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive prescribed under this sub-section, if the applicant possesses a driving certificate issued by an automobile association recognised in this behalf by the State Government." (5) Where the applicant does not pass to the satisfaction of the licensing authority

the test of competence to drive under sub-Section (3), he shall not be qualified to re-appear for such test,- (a) in the case of first three such test, before a period of one month from the date of last such test. (b) in case of such test after the first three tests, before period of one year from the date of last such test. Case Law 1: Granting of Learners & Driving Licence. Supreme Court *Alka Ojha v. Rajasthan Public Service Commission*, (2011) 9 SCC 438 : (2011) 2 SCC. (L&S) 485 : (2011) 3 SCC (Cri) 701. In this case Court observes "Driving licence" authorizes a person to drive a motor vehicle or a motor vehicle for any specified class or description otherwise than as a learner and "learner's licence" authorizes a person specified therein to drive as a learner a motor vehicle or a motor vehicle of any specified class or description. Though there is some similarity in the language of Section 8 which regulates the grant of "learner's licence" and Section 9 which regulates the grant of "driving licence", very fact that legislature had made separate provisions for grant of two types of licences leads to an irresistible conclusion that a person holding "learner licence" cannot be treated on a par with a person having "driving licence". Moreover, Section 3 which is mandatory in character also lays down that a person shall not drive a motor vehicle in any public place unless he holds an effective driving licence.

Learner's licence cannot entitle a person to claim that he holds an effective driving licence. Case Law 2: Where to apply for granting driving Licence. Punjab and Haryana High Court *United India Insurance Company Limited v. Kesar Devi and Others*; 2019 KHC 2525 : 2019 ACJ 783

Applicant desirous of having driving licence can apply either to the authority where applicant ordinarily resides or carries on business or the place where school or establishment is situated from which he has learnt driving. Corresponding Law :S.7 of Act IV of 1939 : 7. Grant of driving Licence. - [(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area- (i) in which he ordinarily resides or carries on business, or (ii) in which the school or establishment where he is receiving or has received instruction in driving a motor vehicle is situate, or (iii) if the application is for a driving licence to

drive as a paid employee, in which the employer resides or carries on business, for the issue to him of a driving licence.] (2) Every application under sub-section (1) shall be in Form A as set forth in the First Schedule, shall be signed by, or bear the thumb impression of, the applicant in two places [shall contain the information required by the form and shall be accompanied by there clear copies of a recent photograph of the applicant] (3) Where the application is for a [driving licence] to drive as a paid employee or to drive a transport vehicle, or where in any other case the licensing authority for reasons to be stated in writing so requires, the application shall be accompanied by a medical certificate in Form C, as set forth in the First Schedule, signed by a registered medical practitioner. [(7) The test of competence to drive shall be carried out in a vehicle of the type' to which the application refers, and, for the purposes of Part I of the test,-] [(a) a person who passes the test in driving a heavy goods vehicle shall be deemed also to have passed the test in driving any medium goods vehicle or light motor vehicle; (b) a person who passes the test in driving a heavy passenger motor vehicle shall be deemed also to have passed the test in driving any medium passenger motor vehicle or light motor vehicle;. (c) a person who passes the test in driving a medium goods vehicle or a medium passenger motor vehicle shall be deemed also to have passed the test in driving any light motor vehicle.] (8) When an application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his physical fitness and of his competence to drive and has paid to the authority [such fee as the Central Government Rules made under this Act, specify] the licensing authority shall grant the applicant a [driving licence] unless the applicant is disqualified under section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a [driving licence] : Provided that,- [\* \* \*] a licensing authority may issue a [driving licence] to drive a motor cycle or a [light motor vehicle] notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good reason for the applicant's inability to apply to the appropriate licensing authority; [Provided further that the licensing authority shall not issue a new driving licence to the applicant, if he had previously held a driving licence issued

under this Act, unless it is satisfied that there is good reason for his inability to obtain a duplicate copy of his former licence.]

## **Section 10**

### **Form and contents of licences to drive.**

(1) Every learners licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government. (2) A learners licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely: (a) Motor cycle without gear; (b) Motor cycle with gear; (c) ~@[Adapted vehicle;]~@Substituted "invalid carriage" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ (d) Light motor vehicle; (e) ~@[Transport vehicle;]~@Substituted for sub-clause (e) to (h) by Act No. 54 of 1994, w.e.f 14-11-1994.~@ (i) Road-roller; (j) Motor vehicle of a specified description. OLD LAW : Prior to the substitution, sub-Cls. (e) to (h) read as under:- (e) medium goods vehicle; (f) medium passenger motor vehicle; (g) heavy goods vehicle; (h) heavy passenger motor vehicle;" Case Law 1: No need to obtain separate endorsement in licence for LMV. Supreme Court Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017) 14 SCC 663. In this case the Hon'ble Court decided the Licence to drive light motor vehicle. "Light motor vehicle" would include a transport vehicle as per the weight prescribed in Section 2(21) r/w Sections 2(15) and 2(48). A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg would be a light motor vehicle and also motor car or tractor or a roadroller, "unladen weight" of which does not exceed 7500 kg. Further, holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg or a motor car or tractor or roadroller, the "unladenweight" of which does not exceed 7500 kg. Note: Amendment Act 54 of 1994 to Motor Vehicles Act, 1988. Effect of, on licences issued prior to amendment.—Mukund Dewangan v. Oriental Insurance Co. Ltd., (2017)

14 SCC 663. Effect of amendment made by virtue of Act 54 of 1994 w.e.f. 14-11-1994 while substituting clauses (e) to (h) of Section 10(2) with expression "transport vehicle" as substituted in Section 10(2) (e) relates only to the substituted classes i.e. "medium goods vehicle", "medium passenger motor vehicle", "heavy goods vehicle" and "heavy passenger motor vehicle". It does not exclude transport vehicle, from the purview of Sections 10(2)(d) and 2(41) of the Act. Case Law 2: No authorisation to drive TV at the time of Accident. Kerala High Court Joseph M. M. v. Yoonus and Others 2019 (5) KHC 132 : 2019 (4) KLT 954 : 2019 (4) KLJ 826 Driver not holding authorisation to drive transport vehicle at the time of accident -- Whether, such infraction is sufficient for Insurer to claim reimbursement of compensation paid to claimant -- The Court observed that it is clear that the purpose of the authorisation to drive transport vehicle is only to ensure that a person driving a transport vehicle is conversant with the duties and responsibilities of a driver of the transport vehicle. As it is found that the authorisation to drive the transport vehicle has nothing to do with the driving proficiency of the person concerned, which may have a nexus to the accident giving rise to the claim for compensation, infraction of the statutory requirement to have an authorisation would not amount to breach of the condition in the policy excluding driving by a person not duly licensed, falling within the scope of S.149(2)(a)(ii) of Act. Insurer cannot claim reimbursement of compensation paid Case Law 3: Licence required to drive power triller. Kerala High Court Gopalakrishnan A. and Another v. Rumugham and Another; 2013 (2) KHC 99 : 2013 (2) KLT 175 For driving a power tiller, driving licence under S.3 is mandatory and driving licence should be issued in form prescribed under S.10 specifically authorising the holder of the licence to drive a power tiller as required under S.10(2)(j). Corresponding Law :S. 7(8) of Act IV of 1939: 8. Form and contents of driving licence. - (1) Every [driving licence], except a [driving licence] issued under section 14, shall be in Form D as set forth in the First Schedule and shall have affixed thereto one of the signatures or thumb impressions given on the form of application for the [driving licence] [and one of the photographs referred to in sub-section (2) of section 7] (2) A [driving licence] shall specify whether the holder

is entitled to drive as a paid employee and whether he is entitled to drive a [transport vehicle] and shall further be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely: - (a) a motor cycle, [(b) invalid carriage, (c) light motor vehicle, [(d) medium goods vehicle, (e) medium passenger motor vehicle, (ei) heavy goods vehicle, (eii) heavy passenger motor vehicle,] (f) road roller, (g) motor vehicle of a specified description.]

## **Section 11**

### **Additions to driving licence.**

(1) Any person holding a driving licence to drive any class or description of motor vehicles, who is not for the time being disqualified for holding or obtaining a driving licence to drive any other class or description of motor vehicles, may apply to ~@[any licensing authority in the State]~@[Substituted "the licensing authority having jurisdiction in the area" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ in which he resides or carries on his business in such form and accompanied by such documents and with such fees as may be prescribed by the Central Government for the addition of such other class or description of motor vehicles to the licence . (2) Subject to such rules as may be prescribed by the Central Government, the provisions of section 9 shall apply to an application under this section as if the said application were for the grant of a licence under that section to drive the class or description of motor vehicles which the applicant desires to be added to his licence . ~@[Provided that the licensing authority may, before issuing the license verify the identity of the applicant in such manner as may be prescribed by the Central Government.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ Corresponding Law :S. 8-A of Act IV of 1939: [8A. Additions to driving licence. - (1) Any person holding a driving licence issued under this Chapter who is not for the time being disqualified for holding or obtaining a driving licence may apply in Form AA as set forth in the First Schedule, to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business or, if the application relates to a licence to drive as a paid employee, in which the employer resides or carries on



business, for the addition of another class of motor vehicle to the licence. (2) The [provisions of section 7 (except the provision requiring the application thereunder to be accompanied by three clear copies of a recent photograph of the applicant)] shall apply to an application under this section as if the application were for the grant of a licence under that section to drive the class of motor vehicle which the applicant desires to be added to his licence:

## **Section 12**

### **Licensing and regulation of schools or establishments for imparting instruction in driving of motor vehicles.**

(1) The Central Government may make rules for the purpose of licensing and regulating, by the State Governments, schools or establishments (by whatever name called) for imparting instruction in driving of motor vehicles and matters connected therewith. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: licensing of such schools or establishments including grant, renewal and revocation of such licences; supervision of such schools or establishments; the form of application and the form of licence and the particulars to be contained therein; fee to be paid with the application for such licences; conditions subject to which such licences may be granted; appeals against the orders of refusal to grant or renew such licences and appeals against the orders revoking such licences; conditions subject to which a person may establish and maintain any such school or establishment for imparting instruction in driving of motor vehicles; nature, syllabus and duration of course or courses for efficient instruction in driving any motor vehicle; apparatus and equipments (including motor vehicles fitted with dual control) required for the purpose of imparting such instruction; suitability of the premises at which such schools or establishments may be established or maintained and facilities to be provided therein; qualifications, both educational and professional (including experience), which a person imparting instruction in driving a motor vehicle shall possess; inspection of such schools and establishments (including the services rendered by them and the apparatus, equipments and

motor vehicles maintained by them for imparting such instruction); maintenance of records by such schools or establishments; financial stability of such schools or establishments; the driving certificates, if any, to be issued by such schools or establishments and the form in which such driving certificates shall be issued and the requirements to be complied with for the purposes of issuing such certificates; such other matters as may be necessary to carry out the purposes of this section. (3) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by rules made in this behalf, exempt generally, either absolutely or subject to such conditions as may be specified in the rules, any class of schools or establishments imparting instruction in driving of motor vehicles or matters connected therewith from the provisions of this section. (4) A school or establishment imparting instruction in driving of motor vehicles or matters connected therewith immediately before the commencement of this Act, whether under a licence or not, may continue to impart such instruction without a licence issued under this Act for a period of one month from such commencement, and if it has made an application for such licence under this Act within the said period of one month and such application is in the prescribed form, contains the prescribed particulars and is accompanied by the prescribed fee, till the disposal of such application by the licensing authority. (5) ~@[Notwithstanding anything contained in any other provision, where any school or establishment has been accredited by a body notified by the Central Government under any other law for the time being in force, any person who has successfully completed a training module at such school or establishment covering a particular type of motor vehicle shall be eligible to obtain a driving licence for such type of motor vehicle.~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/07/2021 by SO 2177 (E)]]~@ (6) ~@The curriculum of the training module referred to in sub-section (5) and the remedial driver training course referred to in sub-section (5) of section 9 shall be such as may be prescribed by the Central Government and that Government may make rules for the regulation of such schools or establishments.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/07/2021 by SO 2177 (E)]]~@ Case Law 1: Cancellation of driving school

licence. Punjab and Haryana High Court. Bahadur Singh Bhogal v. State of Punjab and Others; 2008 KHC 8111 : AIR 2008 P&H 157 Petitioner is involved in issuance of fake driving licence to four persons -- It has further been found that such an act on the part of the petitioner is against the terms and conditions on the basis of which the petitioner was Issued driving school licence -- One of the conditions in the licence was that the petitioner would comply with all the conditions contemplated by R.27 of the Central Motor Vehicles Rules, 1989 -- A perusal of the aforementioned rule makes it amply clear that the petitioner has connived with other person in the issuance of driving licence which was prohibited by the terms and conditions laid down when the licence for establishment of driving school was issued to the petitioner, so cancellation is proper.

## **Section 13**

### **Extent of effectiveness of licences to drive motor vehicles.**

A learners licence or a driving licence issued under this Act shall be effective throughout India. Case Law 1: Effective driving licence. Supreme Court Oriental Insurance Co. Ltd. v. Zaharulnisha, (2008) 12 SCC 385 : (2009) 1 SCC (Cri) 431. In this case Hon'ble Court decided that vehicles of a totally different class from that specified in the driving licence is not covered in effective "driving licence". Case Law 2: Effectiveness of driving licence. Delhi High Court New India Assurance Co. Ltd. v. Santoshi Devi and Others; 2019 KHC 4606 : 2019 ACJ 2273 While the deceased was helping the truck driver to reverse the truck, unfortunately he got crushed between the truck and the a pole and suffered fatal injuries -- Tribunal awarded compensation of Rs 21, 53000/- The compensation amount was directed to be given by Appellant No.1 to the claimants and further granted recovery rights to Appellant No.1 qua Appellant No.2 and 3 -- This was challenged by filing an appeal on the ground of holding invalid licence by the driver -- Driver of offending vehicle fulfilled all requisites for holding a valid license on the date of issuance i.e. 30.11.2011 and he also fulfilled all the requirements on the date of renewing of the license i.e. 11.04.2016 after the accident, what was lacking was only the formality of renewal, which does

not go to the roots of invalidation of the driving license on the date of the accident i.e.

07.04.2016. The same driving licence was renewed on 11.04.2016 which indicates that he held good in all respect to hold a valid license even on the date of the accident as the same has been renewed on 11.04.2016 -- S.15 of Motor Vehicles Act, 1988 gives an option to any person who's validity has expired to renew his license after paying the requisite penalty which ipso facto shows that once a driver holds a valid licence, his driving license continues to be so till it is explicitly invalidated on certain specific grounds -- Therefore, Appellant was not suffering from any disqualification and S.15(4) of Motor Vehicles Act, 1988 recognises renewal of license after the period of 30 days by paying requisite fine. Hence the Tribunal went wrong on point of liability. Corresponding Law :S. 9 of Act IV of 1939: 9. Extent of validity of driving licence. - (1) Subject to any rules made by a [State Government] under sub-section (3), a [driving licence] issued under the foregoing sections shall be effective throughout [India]. (3) A [State Government] may, by rules made under section 21

## **Section 14**

### **Currency of licences to drive motor vehicles.**

(1) A learners licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence. ~@[x x x]~@[The word "and" omitted by Act No. 54 of 1994, w.e.f 14-11-1994.]~@ (2) A driving licence issued or renewed under this Act shall, (a) in the case of a licence to drive a transport vehicle, be effective for a period of ~@[five years]~@[Substituted "three years" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ Provided that in the case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of ~@[three years and renewal thereof shall be subject to such conditions as the Central Government may prescribe; and]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (b) ~@[in the case of any other licence, subject to such conditions as the Central Government may prescribe, if the person obtaining the licence, either

originally or on renewal thereof, ]~@[Substituted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ has not attained the age of thirty years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of forty years; or has attained the age of thirty years but has not attained the age of fifty years on the date of issue or, renewal thereof, be effective for a period of ten years from the date of such issue or renewal; or has attained the age of fifty years but has not attained the age of fifty-five years on the date of issue or, renewal thereof, be effective until the date on which such person attains the age of sixty years; or has attained the age of fifty-five years on the date of issue or as the case may be, renewal thereof, be effective for a period of five years from the date of such issue or renewal. ~@[x x x x]~@[Proviso omitted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ OLD LAW : Prior to its substitution, sub-Clause (ii) read as under:- " (ii) if the person referred to in sub-clause (i), has attained the age of forty years on the date of issue or, as the case may be, renewal thereof. be effective, for a period of five years from the date of such issue or renewal." Case Law 1: Validity of driving licence. Supreme Court Compaq International and Another v. Bajaj Allianz General Insurance; 2018 KHC 6225 : 2018 (6) SCC 342 As per S.14(2)(b) licence issued should be for a period of 20 yrs. or up to age of 50 yrs. whichever is earlier -- Date of issuance of original licence was 27/02/1998 -- Date of birth of driver recorded in licence was 30/04/1961 -- Licence held, would be valid till 29/04/2011 as per statutory mandate licencing authority erroneously issued DL for a period of 5 yrs. when driver concerned was only 37 yrs. -- Accident took place on 12/11/2005 -- Direction of High Court to recover amounts paid by insurance company to third party injured from appellant (owner of vehicle) set aside -- Appeals allowed leaving parties to bear their own costs. Corresponding Law :S.10 of Act IV of 1939: [10. Currency of driving licence. - A driving licence issued or renewed under this Act [after the commencement of the Motor Vehicle (Amendment) Act, 1978] shall, subject to the provision contained in this Act as to the cancellation of driving licences and the disqualification of holders of driving licences for holding or obtaining driving licences, be effective

without renewal for a period of [five years] only from the date of the issue of the licence or, as the case may be, from the date with effect from which the licence is renewed under section 11; and the driving licence shall be deemed to continue to be effective for a period of thirty days after the date of its expiry:] [Provided that a driving licence issued or renewed to drive as a paid employee or to drive a transport vehicle shall be effective without renewal for a period of three years only.]

## **Section 15**

### **Renewal of driving licences.**

(1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry: Provided that in any case where the application for the renewal of a licence is made ~@[either one year prior to date of its expiry or within one year]~@[Substituted "more than thirty days" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal: Provided further that where the application is for the renewal of a licence to drive a transport vehicle or where in any other case the applicant has attained the age of forty years, the same shall be accompanied by a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8, and the provisions of sub-section (4) of section 8 shall, so far as may be, apply in relation to every such case as they apply in relation to a learners licence . (2) An application for the renewal of a driving licence shall be made in such form and accompanied by such documents as may be prescribed by the Central Government. (3) Where an application for the renewal of a driving licence is made previous to, or not more than ~@[one year]~@[Substituted "thirty days" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf. (4) Where an application for the renewal of a driving licence is made more than ~@[one year]~@[Substituted "more than thirty days" by Act No. 32 of

2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ after the date of its expiry, the fee payable for such renewal shall be such amount as may be prescribed by the Central Government: Provided that the fee referred to in sub-section (3) may be accepted by the licensing authority in respect of an application for the renewal of a driving licence made under this sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from applying within the time specified in sub-section (3): Provided further that if the application is made more than ~@[one year after the driving licence has ceased to be effective, the licensing authority shall]~@[Substituted "five years after the driving licence has ceased to be effective, the licensing authority may" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ refuse to renew the driving licence, unless the applicant undergoes and passes to its satisfaction the test of competence to drive referred to in sub-section (3) of section 9. (5) Where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed by the Central Government. (6) Where the authority renewing the driving licence is not the authority which issued the driving licence it shall intimate the fact of renewal to the authority which issued the driving licence . Case Law 1: Fake driving licence. Supreme Court New India Assurance Co. v. Kamla, (2001) 4 SCC 342 : 2001 SCC (Cri) 701. In this case Hon'ble Court observed about Fake Driving Licence. Fake driving licence unwittingly renewed by Licensing Authority, does not acquire legal validity thereby; it remains a counterfeit document. Therefore, the Insurance Company would be entitled to recover compensation paid to third-party accident victims or their heirs from insured whose driver had at time of accident a fake licence, renewed under Section 15. Case Law 2: Renewal of driving licence. Himachal Pradesh High Court Oriental Insurance Company Ltd. v. Mathu Ram and Others; 2019 KHC 2226 : 2019 ACJ 65 Accident occurred after the expiry of licence but before its renewal date -- Licence of driver expired on 07/04/2009 and was renewed w.e.f. 10/06/2009 and accident occurred on 06/06/2009 -- Liability of the Insurance company is disputed on the ground that at the time of accident the driver was not in possession

of valid licence and he had only applied for its renewal -- As per the contention of the Insurance company mere filing of application for renewal was not enough as the same was required to be accompanied by requisite fees as per S.15(1) -- Contrary to Form 9 prescribed in Central Motor Vehicles Rules, the form supplied to the driver contained no column with regard to payment of fees -- Held that the Insurance company cannot be exempted from liability on the ground that driver had no valid and effective licence on the date of accident and delay in renewing the licence is solely attributable to licensing authority and not to driver. Case Law 3: Validity of driving licence. Bombay High Court Kamal v. Archana Raju and Others; 2020 KHC 2563 : 2020 ACJ 204 Driver of offending tanker used for transportation of hazardous goods had no valid and effective licence on the date of accident -- Tanker was returning after unloading petrol when accident occurred -- Assuming that tanker was empty even then it falls in the category of transport vehicle for transporting hazardous goods -- Licence of driver was renewed from 21/01/2006 to 05/12/2006 and subsequently from 07/01/2009 to 06/01/2010 and accident occurred on 12/01/2007 -- Held insurance company is not liable but directing it to pay and recover. Case Law 4: Effectiveness of driving licence. Delhi High Court New India Assurance Co. Ltd. v. Santoshi Devi and Others; 2019 KHC 4606 : 2019 ACJ 2273 While the deceased was helping the truck driver to reverse the truck, unfortunately he got crushed between the truck and the a pole and suffered fatal injuries -- Tribunal awarded compensation of Rs 21, 53000/- The compensation amount was directed to be given by Appellant No.1 to the claimants and further granted recovery rights to Appellant No.1 qua Appellant No.2 and 3 -- This was challenged by filing an appeal on the ground of holding invalid licence by the driver -- Driver of offending vehicle fulfilled all requisites for holding a valid license on the date of issuance i.e. 30.11.2011 and he also fulfilled all the requirements on the date of renewing of the license i.e. 11.04.2016 after the accident, what was lacking was only the formality of renewal, which does not go to the roots of invalidation of the driving license on the date of the accident i.e. 07.04.2016. The same driving licence was renewed on 11.04.2016 which indicates that he held good in all respect to



hold a valid license even on the date of the accident as the same has been renewed on 11.04.2016 -- S.15 of Motor Vehicles Act, 1988 gives an option to any person whose validity has expired to renew his license after paying the requisite penalty which ipso facto shows that once a driver holds a valid licence, his driving license continues to be so till it is explicitly invalidated on certain specific grounds -- Therefore, Appellant was not suffering from any disqualification and S.15(4) of Motor Vehicles Act, 1988 recognises renewal of license after the period of 30 days by paying requisite fine. Hence the Tribunal went wrong on point of liability. Case Law 5: Renewal of badges. Kerala High Court Maheen M. v. State of Kerala and Others; 2013 (3) KHC 209 : 2013 (3) KLT 639. Driver's badge expiry and renewal of -- Held, proviso in S.15(1) that where the application for renewal of licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal, does not apply for renewal of badges -- For issuance and renewal of badges, provisions of Motor Vehicles Rules apply -- Motor Vehicles Rules, 1989 (Kerala), R.11, R.12 Corresponding Law :S. 11 of Act IV of 1939: 11. Renewal of driving licences. - [(1) Any licensing authority may, on application made to it, renew a licence issued under the provisions of this Act with effect from the date of its expiry: Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal: ] [Provided further that where the application is for the renewal of a licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of section 7 shall apply to every such case.] (2) An application for the, renewal of a [driving licence] shall be made in Form B as set forth in the First Schedule and shall contain the declaration required by that form; provided that where the applicant does not or is unable to subscribe to the said declaration the provisions of sub-section (5) of section 7 shall apply. [(3) Where an application for the renewal of

a driving licence is made previous to, or not more than thirty days after, the date of its expiry, the fee payable for such renewal shall be [the amount specified in the rules made by the Central Government in this behalf"] (3A) Where an application for the renewal of a driving licence is made more than thirty days after the date of its expiry, the fee payable for such renewal shall be [the amount specified in the rules made by the Central Government in this behalf] Provided that the fee referred to in sub-section (3) may be accepted by the licensing authority, if it is satisfied that the applicant was prevented by good cause from applying within the time specified in that subsection: Provided further that if the application is made more than five years after the driving licence has ceased to be effective, the licensing authority may refuse to renew the driving licence, unless the applicant undergoes and passes to its satisfaction the test of competence to drive specified in the Third Schedule.] [(3B) When the authority to whom an application for the renewal of a licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding six months in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and (i) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed, (ii) where the application for renewal has not been rejected within the said period, the licence shall be renewed.] (4) When the authority renewing the [driving licence] is not the authority which issued the [driving licence], it shall intimate the fact of renewal to the authority which issued the (2) An application for the, renewal of a [driving licence] shall be made in Form B as set 'forth in the First Schedule and shall contain the declaration required by that form; provided that where the applicant does not or is unable to subscribe to the said declaration the provisions of sub-section (5) of section 7 shall

apply.

## **Section 16**

### **Revocation of driving licence on grounds of disease or disability.**

Notwithstanding anything contained in the foregoing sections, any licensing authority may at any time revoke a driving licence or may require, as a condition of continuing to hold such driving licence, the holder thereof to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8, if the licensing authority has reasonable grounds to believe that the holder of the driving licence is, by virtue of any disease or disability, unfit to drive a motor vehicle and where the authority revoking a driving licence is not the authority which issued the same, it shall intimate the fact of revocation to the authority which issued that licence . Corresponding Law :S. 12 of Act IV of 1939: 12. Revocation of driving licence on grounds of disease or disability. - Notwithstanding anything contained in the foregoing sections, [any licensing authority] may at any time revoke a [driving licence] [\* \* \*], or may require, as a condition of continuing to hold such [driving licence], the holder thereof to furnish a fresh medical certificate in Form' C as set forth in the First Schedule signed as required by sub-section (3) of section 7, if the licensing authority has reasonable grounds to believe that the holder of the [driving licence] is, by virtue of any disease or disability, unfit. to drive a motor vehicle [and where the authority revoking a driving licence is not the authority which issued the same, it shall intimate the fact of revocation to the authority which issued that licence.]

## **Section 17**

### **Orders refusing or revoking driving licences and appeals therefrom.**

(1) Where a licensing authority refuses to issue any learners licence or to issue or renew, or revokes, any driving licence, or refuses to add a class or description of motor vehicle to any driving licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation. (2) Any person

aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order. Corresponding Law :S. 13 of Act IV of 1939: 13. Orders refusing or revoking driving licences and appeals therefrom. - (1) Where [a licensing authority refuses to issue or renew, or revokes, any driving licence, or refuses to add a class of motor vehicle to any driving licence], it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation. [(2) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority making the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority making the order.]

## **Section 18**

### **Driving licences to drive motor vehicles, belonging to the Central Government.**

(1) Such authority as may be prescribed by the Central Government may issue driving licence valid throughout India to persons who have completed their eighteenth year to drive motor vehicles which are the property or for the time being under the exclusive control of the Central Government and are used for Government purposes relating to the defence of the country and unconnected with any commercial enterprise. (2) A driving licence issued under this section shall specify the class or description of vehicle which the holder is entitled to drive and the period for which he is so entitled. (3) A driving licence issued under this section shall not entitle the holder to drive any motor vehicle except a motor vehicle referred to in sub-section (1). (4) The authority issuing any driving licence under this section shall, at the request of any State Government, furnish such information respecting any person to whom a driving licence is issued as that Government may at any time require. Corresponding Law :S. 14 of Act IV of 1939: 14. Licences

to drive motor vehicles, the property of the Central Government. - (1) The authority specified in Part A of the Fourth Schedule may grant [driving licences], valid throughout [India], to persons who have completed their eighteenth year to drive motor vehicles which are the property [or for the time being under the exclusive control] of the Central Government [and are used for Government purposes unconnected with any commercial enterprise]. (2) A [driving licences] issued under this section shall specify the class or classes of vehicle which the holder is entitled to drive and the period for which he is so entitled. (3) A [driving licences] issued under this section shall not entitle the holder to drive any motor vehicle except a motor vehicle which is the property [or for the time being under the exclusive control] of the Central Government. (4) The authority issuing any [driving licences] under this section shall at the request of any State Government furnish such information respecting any person to whom a [driving licences] is issued as that Government may at any time require.

## **Section 19**

### **Power of licensing authority to disqualify from holding a driving licence or revoke such licence.**

(1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that he is a habitual criminal or a habitual drunkard; or is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985; or is using or has used a motor vehicle in the commission of a cognizable offence; or has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation; or has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22; or being a person under the age of eighteen years who has been

granted a learners licence or a driving licence with the consent in writing of the person having the care of the holder of the licence and has ceased to be in such care, it may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or revoke any such licence . (1A) ~@Where a licence has been forwarded to the licensing authority under sub-section (4) of section 206, the licensing authority, if satisfied after giving the holder of the driving licence an opportunity of being heard, may either discharge the holder of a driving licence or, it may for detailed reasons recorded in writing, make an order disqualifying such person from holding or obtaining any licence to drive all or any class or description of vehicles specified in the licence --@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ for a first offence, for a period of three months; for a second or subsequent offence, with revocation of the driving licence of such person: ~@[Provided that where a driving licence is revoked under this section, the name of the holder of such driving licence may be placed in the public domain in such manner as may be prescribed by the Central Government.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (2) Where an order under sub-section (1)~@[or sub-section (1A)]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019.]~@ is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall, if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed; or if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued; or in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence : ~@[Provided that the driving licence shall be returned to the holder at the end of the period of disqualification only if he successfully completes the driver refresher training

course. (2A) The licence holder whose licence has been suspended shall undergo the driver refresher training course from a school or establishment licenced and regulated under section 12 or such other agency, as may be notified by the Central Government. (2B) The nature, syllabus and duration of the driver refresher training course shall be such as may be prescribed by the Central Government.]~@[Substituted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (3) Any person aggrieved by an order made by a licensing authority under sub-section (1) ~@[or sub-section (1A)]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass such order as it thinks fit and an order passed by any such appellate authority shall be final. Case Law 1: Power of Licencing Authority to suspend driving licence. Kerala High Court Anoop K. A. and Another v. State of Kerala and Others; 2019 (5) KHC 414 : KLT 615 : 2020 (1) Carrying overload in goods carriages shall constitute an act, which is likely to cause nuisance or danger to the public -- Hence, Licensing Authority can either proceed to suspend or revoke driving licence -- Fact that offence is compounded does not denude the power of Licensing Authority to proceed with suspension or revocation of licence. Case Law 2: Wheather licence suspension with criminal proceeding constitute double jeopardy. Kerala High Court Peethambaran T. R. v. Additional Licensing Authority and Another; 2012 (3) KHC 917 : 2012 (3) KLT 622 : 2012 (3) KLJ 547 : AIR 2013 Ker. 46 The petitioner is a person who has used his motor vehicle in the commission of a cognizable offence, namely, to cause the death of a human being. Therefore, wherever the licensing authority is satisfied that the petitioner has used a motor vehicle in the commission of a cognizable offence, he is entitled to proceed against the petitioner under S.19 of the Act. During the pendency of a criminal case, initiation of action under S.19 would not constitute double jeopardy as the Licensing Authority and Court operates in diffrent spheres. Case Law 3: Suspension not proper, if principle of natural justice violated. Madras High Court

Sundararasu K. v. State of Tamil Nadu and Others; 2019 KHC 2451 : AIR 2019 Mad. 54

Reasons not recorded before suspending licence. It is mandatory on the part of the licensing authority to issue show cause notice to the holder of a driving license and the licensee should also be given an opportunity of being heard and after due enquiry, if the licensing authority is satisfied himself with any of the provisions mention in clauses (a) to (h) of sub section (1) of S.19, the driving license is liable to be suspended. Order suspending licence passed in printed form without assigning any valid reason for arriving at satisfaction. Mandatory procedures while invoking power under S.19(1) not complied with; Order suspending licence liable to be set aside instead of remitting matter back to authorities. Case Law 4: Wheather finding of guilt by a Court is necessary to revoke driving licence. Kerala High Court Sijo Joseph v. Transport Commissioner and Others; 2020 (1) KHC 321 The words 'is using or has used a motor vehicle in the commission of a cognizable offence' in clause (c) of sub-section (1) of S.19 of the Motor Vehicles Act and the words 'has committed any such act, which is likely to cause nuisance or danger to the public' in clause (f) of sub-section (1) of S.19, only mean the involvement of the holder of a driving licence in the commission of a cognizable offence using a motor vehicle or any act which is likely to cause nuisance or danger to the public. A finding of the competent Court that the holder of a driving licence is guilty of an offence is not necessary for the Licensing Authority to pass an order disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or revoke any such licence, invoking its powers under sub-section (1) of S.19 of the Motor Vehicles Act. Case Law 5: Ensure the proper application of mind, while DL suspend/revoke. Kerala High Court Saji K. M. v. Deputy Transport Commissioner, Thrissur and Others; 2019 (3) KHC 836 : 2019 (3) KLT 163 : 2019 (3) KLJ 440 Revoking of driving licence; Court directs Transport Commissioner to ensure that there is proper application of mind, while a driving licence is revoked Take necessary steps to ensure that the satisfaction of the licensing authority of the existence of any of the circumstances made mention in clauses (a) to (h) of sub-section (1) of S.19 of the MV Act,



which is a pre - requisite to disqualify a person from holding a driving licence or to revoke such driving licence, is reflected in the orders passed by the licensing authorities in the State in exercise of their powers under sub-section (1) of S.19 of the MV Act. Case Law 6: DL suspension on the ground of overspeeding. Kerala High Court Ajith v. State of Kerala and Others; 2017 (1) KHC 328 : 2017 (1) KLT 362 : 2017 (1) KLJ 555 The licence of the petitioner has been revoked as it was found that the accident occurred due to the over speed of the petitioner. While S.19(1)(f) of the Act brings acts which are likely to cause danger to the public within the scope of that section, R.21 of the Central Motor Vehicles Rules does not specify over speed as an act within the scope of S.19(1)(f) of the Act. R.21 of the Rules can only be illustrative and not exhaustive, for, all acts which would cause nuisance or danger to the public cannot be contemplated and enumerated. In other words, the power under S.19(1) of the Act can be invoked even in a case where the act does not fall under any of the clauses in R.21 of the Rules, if the act committed by the person concerned would fall under S.19(1)(f) of the Act.

Corresponding Law :S. 15 of Act IV of 1939: 15. Power of licensing authority to disqualify, for holding a driving licence. - (1) If a licensing authority is satisfied after giving him an opportunity of being heard that any person- (a) is a habitual criminal or a habitual drunkard, or (b) is using or has used a motor vehicle in the commission of cognisable offence, or (c) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public, it may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period for holding or obtaining [any driving licence or a licence to drive a particular class or description of vehicle]. (2) Upon the issue of any such order a person affected, if he is the holder of a [driving licences], shall forthwith surrender his [driving licences] to the licensing authority making the order, if the [driving licence] has not already been surrendered, and the licensing authority shall- (a) if the [driving licence] is a licence issued under this Act, keep it until the disqualification has expired or has been removed, or (b) if it is not a [driving licence] issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which

it was issued: [Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under sub-section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.] (3) Any person aggrieved by an order made by a licensing authority under this section may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may make such inquiry into the matter as it thinks fit. An order made by any such appellate authority shall be final.

## **Section 20**

### **Power of Court to disqualify.**

(1) Where a person is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, the Court by which such person is convicted may, subject to the provisions of this Act, in addition to imposing any other punishment authorised by law, declare the persons so convicted to be disqualified, for such period as the Court may specify, from holding any driving licence to drive all classes or description of vehicles, or any particular class or description of such vehicles, as are specified in such licence : Provided that in respect of an offence punishable under section 183 no such order shall be made for the first or second offence. (2) Where a person is convicted of an offence under clause (c) of sub-section (1) of section 132, section 134 or section 185, the Court convicting any person of any such offence shall order the disqualification under sub-section (1), and if the offence is relatable to clause (c) of sub-section (1) of section 132 or section 134, such disqualification shall be for a period of not less than one month, and if the offence is relatable to section 185, such disqualification shall be for a period of not less than six months. (3) A Court shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise, order the disqualification of a person who having been convicted of an offence punishable under section 184 is again convicted of an

offence punishable under that section, who is convicted of an offence punishable under section 189, or who is convicted of an offence punishable under section 192: Provided that the period of disqualification shall not exceed, in the case referred to in clause (a), five years, or, in the case referred to in clause (b), two years or, in the case referred to in clause (c), one year. (4) A Court ordering the disqualification of a person convicted of an offence punishable under section 184 may direct that such person shall, whether he has previously passed the test of competence to drive as referred to in sub-section (3) of section 9 or not, remain disqualified until he has subsequent to the making of the order of disqualification passed that test to the satisfaction of the licensing authority. (5) The Court to which an appeal would ordinarily lie from any conviction of an offence of the nature specified in sub-section (1) may set aside or vary any order of disqualification made under that sub-section notwithstanding that no appeal would lie against the conviction as a result of which such order of disqualification was made. Case Law 1: DL suspension on the ground of speeding. Kerala High Court Divakaran v. State of Kerala; 1991 KHC 197 : 1991 (1) KLT 772 : 1991 (1) KLJ 671 Rules framed under the Act are also part of the Act itself. Breach of the rule, therefore, would ordinarily come within the purview of S.20. But, S.20 and related provisions cast a duty on the court to take into account the seriousness of the offence committed before ordering suspension of the driving licence. It should not be ordered in a capricious or arbitrary manner. The legislative intention that seriousness of the offence must weigh with the court is clear from the provisions. Suspension should not be resorted to invariably as a matter of course upon conviction of an offence under the Motor Vehicles Act Certain guidelines have been given in sub-sections 2 to 5 of S.20 and S.21 and 22 of the Act In a case like this where the accused had committed breach of R.41 and CR. 119 read with S.177 of the Act, the action under S.20 was unjustified. Corresponding Law :S. 17(1,4,5,6,7) of Act IV of 1939: 17. Power of Court to disqualify. - (1) Where a person is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used the Court by which such person is convicted may, subject to the provisions of this section, In addition to imposing

any other punishment authorised by law, declare the person so convicted to be disqualified, for such period as the Court may specify, for holding any [driving licence] or for holding a [driving licence] to drive a particular class or description of vehicle. (2) A Court shall not order the disqualification of an offender convicted for the first or second time of an offence punishable under section 115. (3) A Court shall order the disqualification of an offender convicted of an offence punishable under section 117, and such disqualification shall be for a period of not less than six months. (4) A Court shall order the disqualification of an offender convicted of an offence against the provisions of clause (c) of subsection (1) of section 87 or of section 89, and such disqualification shall be for a period of not less than one month. (5) A Court shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise,, order the disqualification of an offender- (a) who having been convicted of an offence punishable under section 116 is again convicted of an offence punishable under that section, (b) who is convicted of an offence punishable under section 120; or (c) who is convicted of an offence punishable under section 123: Provided that the period of disqualification shall not exceed [in the case referred to in clause (a), five years, or,in the case referred to in clause (b), two years] or in the case referred to in clause (c), one year. (6) A Court ordering the disqualification of an offender convicted of an offence punishable under section 116 may direct that the offender shall, whether he has previously passed the test of competence to drive specified in the Third Schedule or not, remain disqualified until he has subsequent to the making of the order of disqualification passed that test to the satisfaction of the licensing authority. (7) The Court to which an appeal lies from any conviction of an offence of the nature specified In sub-section (1) may set aside, or vary any, order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from any Court may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

## **Section 21**

### **Suspension of driving licence in certain cases.**

(1) Where, in relation to a person who had been previously convicted of an offence punishable under section 184, a case is registered by a police officer on the allegation that such person has, by such dangerous driving as is referred to in the said section 184, of any class or description of motor vehicle caused the death of, or grievous hurt to, one or more persons, the driving licence held by such person shall in relation to such class or description of motor vehicle become suspended for a period of six months from the date on which the person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be. (2) Where, by virtue of the provisions of sub-section (1), the driving licence held by a person becomes suspended, the police officer, by whom the case referred to in sub-section (1) is registered, shall bring such suspension to the notice of the Court competent to take cognizance of such offence, and thereupon, such Court shall take possession of the driving licence, endorse the suspension thereon and intimate the fact of such endorsement to the licensing authority by which the licence was granted or last renewed. (3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court shall cancel the endorsement on such driving licence with regard to the suspension thereof. (4) If a driving licence in relation to a particular class or description of motor vehicles is suspended under sub-section (1), the person holding such licence shall be debarred from holding or obtaining any licence to drive such particular class or description of motor vehicles so long as the suspension of the driving licence remains in force.

Case Law 1: Return of seized driving licence. Madras High Court Mayilsamy N. v. Inspector of Police and Another, 2018 KHC 4480 It is seen that the petitioner's driving license was seized pursuant to the accident that had taken place on 02/03/2018 followed by the registration of the criminal case -- It is further seen that the license of the petitioner has not been suspended so far -- Authorities are not entitled to suspend the license merely because the criminal case is registered against the petitioner -- Therefore, the petitioner is entitled to get back the license, however, with liberty to the respondents to proceed

against the petitioner in accordance with law. Corresponding Law :S. 17-A of Act IV of 1939:

[17A. Suspension of driving licence in certain cases. - Where, in relation to a person who had been previously convicted of an offence punishable under section 116, a case is registered by a police officer on the allegation that such person has by such reckless or dangerous driving as is referred to in the said section 116, caused the death of, or grievous hurt to, one or more persons, the driving licence held by such person shall become, and shall remain, suspended- (a) for a period of six months from the date on which the case is registered, or (b) if such person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be. (2) Where by virtue of the provisions of sub-section (1), the driving licence held by a person becomes suspended, the police officer, by whom the case referred to in sub-section (1) is registered, shall bring such suspension to the notice of the Court competent to take cognizance of such offence, and, thereupon, such Court shall, take possession of the driving licence endorse the suspension thereon and forward it to the licensing authority by which it was granted or last renewed and that authority shall, on receipt of the driving licence, keep it in its safe custody until the expiry of the period of suspension, or, as the case may be, until the holder of the licence is discharged or acquitted by the Court trying the offence. and shall, on such expiry or discharge or acquittal, as the case may be, return the licence to the holder thereof on an application made by him for such return: Provided that no such licence shall be returned unless the holder thereof has, after such expiry, discharge or acquittal, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in the Third Schedule. (3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court competent to take cognizance of the offence referred to in sub-section (1) shall, on the application of the holder of the driving licence, cancel the endorsement thereon with regard to the suspension of such driving licence. (4) If a licence to drive a particular class or description of motor vehicles is suspended under sub-section (1), the person hold such licence shall be

debarred from holding or obtaining any licence to drive such particular class or description of motor vehicles so long as the suspension of the driving licence remains in force.

## **Section 22**

### **Suspension or cancellation of driving licence on conviction.**

(1) Without prejudice to the provisions of sub-section (3) of section 20 where a person, referred to in sub-section (1) of section 21 is convicted of an offence of causing, by such dangerous driving as is referred to in section 184 of any class or description of motor vehicle the death of, or grievous hurt to, one or more persons, the Court by which such person is convicted may cancel, or suspend for such period as it may think fit, the driving licence held by such person insofar as it relates to that class or description of motor vehicle. (2) Without prejudice to the provisions of sub-section (2) of section 20, if a person, having been previously convicted of an offence punishable under section 185 is again convicted of an offence punishable under that section, the Court, making such subsequent conviction, shall, by order, cancel the driving licence held by such person. (3) If a driving licence is cancelled or suspended under this section, the Court shall take the driving licence in its custody, endorse the cancellation or, as the case may be, suspension, thereon and send the driving licence so endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its safe custody, and in the case of a suspended licence, return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return: Provided that no such licence shall be returned unless the holder thereof has, after the expiry of the period of suspension, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive referred to in sub-section (3) of section 9 and produced a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8. (4) If a licence to drive a particular class or description of motor vehicles is cancelled or suspended under this section, the person holding such a licence shall be debarred from holding, or obtaining, any licence to drive

such particular class or description of motor vehicles so long as the cancellation or suspension of the driving licence remains in force. Corresponding Law :S. 17-B of Act IV of 1939: 17B.

Suspension or cancellation of driving licence on conviction. - (1) Without prejudice to the provisions of sub-section (5) of section 17, where a person, referred to in sub-section (1) of section 17A, is convicted of an offence of causing, by such reckless or dangerous driving as is referred to in section 116, the death of, or grievous hurt to, one or more persons, the Court, trying such person on such charge, may cancel, or suspend for such period as it may think fit, the driving licence held by such person. (2) Without prejudice to the provisions of sub-section (3) of section 17, if a person, having been previously convicted of an offence punishable under section 117, is again convicted of an offence punishable under that section, the court making such subsequent conviction, shall, by order, cancel the driving licence held by such person. (3) section, the Court 'shall take the driving licence in its custody, endorse the cancellation or, the case may be, suspension, thereon and send the driving licence so cancelled or endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its custody, and in the case of a suspended licence, return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return: Provided that no such licence shall be returned unless the holder thereof has after the expiry of the period of suspension, undergone and passed to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive specified in the Third Schedule. (4) If a licence to drive a particular class or description of motor vehicles is suspended or cancelled under this section, the person holding such a licence shall be debarred from holding, or obtaining, any licence to drive such particular class or description of motor vehicles so long as the suspension or cancellation of the driving licence remains in force. Explanation. - For the purposes of this section, "Court making the conviction" means the Court by which the final order of conviction is made.]

## **Section 23**



### **Effect of disqualification order.**

(1) A person in respect of whom any disqualification order is made under section 19 or section 20 shall be debarred to the extent and for the period specified in such order from holding or obtaining a driving licence and the driving licence, if any, held by such person at the date of the order shall cease to be effective to such extent and during such period. (2) The operation of a disqualification order made under section 20 shall not be suspended or postponed while an appeal is pending against such order or against the conviction as a result of which such order is made, unless the appellate Court so directs. (3) Any person in respect of whom any disqualification order has been made may at any time after the expiry of six months from the date of the order, apply to the Court or other authority by which the order was made, to remove the disqualification; and the Court or authority, as the case may be, may, having regard to all the circumstances, either cancel or vary the disqualification order: Provided that where the Court or other authority refuses to cancel or vary any disqualification order under this section, a second application thereunder shall not be entertained before the expiry of a period of three months from the date of such refusal.

Corresponding Law :S. 18 of Act IV of 1939: 18. Effect of disqualification order. - (1) A person in respect of whom any disqualification order is made shall be debarred to the extent and for the period specified in such order from holding or obtaining a [driving licence] and the [driving licence], if any, held by such person at the date of the order shall cease to be effective [to such extent and] during such period. (2) The operation of a disqualification order made under section 17 shall not be suspended or postponed while an appeal is pending against such order or against the conviction as a result of which such made, unless the appellate Court so directs. (3) Any person in respect of whom any disqualification order has been made may at any time after the expiry of six months from the date of the order apply to the Court or other authority by which the order was made, to remove the disqualification and the Court or authority, as the case may be, may, having regard to all the circumstances, either remove or vary the order of disqualification: Provided that where an application has been

made under this section a second application thereunder shall not be entertained before the expiry of a further period of three months.

## **Section 24**

### **Endorsement.**

(1) The Court or authority making an order of disqualification shall endorse or cause to be endorsed upon the driving licence, if any, held by the person disqualified, particulars of the order of disqualification and of any conviction of an offence in respect of which an order of disqualification is made; and particulars of any cancellation or variation of an order of disqualification made under sub-section (3) of section 23 shall be similarly so endorsed. (2) A Court by which any person is convicted of an offence under this Act as may be prescribed by the Central Government, having regard to the objects of this Act, shall, whether or not a disqualification order is made in respect of such conviction, endorse or cause to be endorsed particulars of such conviction on any driving licence held by the person convicted. (3) Any person accused of an offence prescribed under sub-section (2) shall when attending the Court bring with him his driving licence if it is in his possession. (4) Where any person is convicted of any offence under this Act and sentenced to imprisonment for a period exceeding three months, the Court awarding the sentence shall endorse the fact of such sentence upon the driving licence of the person concerned and the prosecuting authority shall intimate the fact of such endorsement to the authority by which the driving licence was granted or last renewed. (5) When the driving licence is endorsed or caused to be endorsed by any Court, such Court shall send the particulars of the endorsement to the licensing authority by which the driving licence was granted or last renewed. (6) Where on an appeal against any conviction or order of a Court, which has been endorsed on a driving licence, the appellate Court varies or sets aside the conviction or order, the appellate Court shall inform the licensing authority by which the driving licence was granted or last renewed and such authority shall amend or cause to be amended the endorsement.

Corresponding Law :S. 19 of Act IV of 1939: 19. Endorsement. - (1) The Court

or authority making an order of disqualification shall endorse or cause to be endorsed upon the [driving licence], if any, held by the person disqualified particulars of the order of disqualification and of any conviction of an offence in respect of which an order of disqualification is made; and particulars of any removal or variation of an order of disqualification made under subsection (3) of section 18 shall be similarly so endorsed. (2) A Court by which any person is convicted of an offence specified in the Fifth Schedule shall, whether or not an order of disqualification is made in respect of such conviction, endorse or cause to be endorsed particulars of such conviction on any [driving licence] held by the person convicted. (3) Any person accused of an offence specified in the Fifth Schedule shall when attending the Court bring with him his [driving licence] if it is in his possession.

## **Section 25**

### **Transfer of endorsement and issue of driving licence free from endorsement.**

(1) An endorsement on any driving licence shall be transferred to any new or duplicate driving licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a driving licence issued to him free from endorsement. (2) Where a driving licence is required to be endorsed and the driving licence is not in the possession of the Court or authority by which the endorsement is to be made, then if the person in respect of whom the endorsement is to be made is at the time the holder of a driving licence, he shall produce the driving licence to the Court or authority within five days, or such longer time as the Court or authority may fix; or if, not being then the holder of a driving licence, he subsequently obtains a driving licence, he shall within five days after obtaining the driving licence produce it to the Court or authority; and if the driving licence is not produced within the time specified, it shall, on the expiration of such time, be of no effect until it is produced for the purpose of endorsement. (3) A person whose driving licence has been endorsed shall, if during a continuous period of three years after such endorsement no further endorsement has been made against him, be entitled on surrendering his driving licence and on payment of a fee of five rupees, to receive a new

driving licence free from all endorsements: Provided that if the endorsement is only in respect of an offence contravening the speed limits referred to in section 112, such person shall be entitled to receive a new driving licence free from such endorsements on the expiration of one year of the date of the endorsement: Provided further that in reckoning the said period of three years and one year, respectively, and period during which the said person was disqualified for holding or obtaining a driving licence shall be excluded. Corresponding Law :S. 20(1,2,3) of Act IV of 1939: 20. Transfer of endorsement and issue of driving licence free from endorsement. - (1) An endorsement on any [driving licence] shall be transferred to any new or duplicate [driving licence] obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a [driving licence] issued to him free from endorsement. (2) Where a [driving licence] is required to be endorsed and the [driving licence] is at the time not in the possession of the Court or authority by which the endorsement is to be made then- (a) if the person in respect of whom the endorsement is to be made is at the time the holder of a [driving licence], he shall produce the [driving licence] to the Court or authority within five days, or such longer time as the Court or authority may fix, or (b) if, not being then the holder of a [driving licence], he subsequently obtains a [driving licence], he shall within five days after, obtaining the [driving licence] produce it to the Court or authority; and if the [driving licence] is not produced within the time specified it shall on the expiration of such time be of no effect until it is produced for the purpose of endorsement. (3) A person whose [driving licence] has been endorsed shall, if during a continuous period of three years since the last endorsement was made no further order of endorsement has been made against him, be entitled, on surrendering his [driving licence] and on payment of a fee of five rupees, to receive a new [driving licence] free from all endorsements. If the endorsement was only in respect of exceeding a speed limit, he shall be entitled to have a clean [driving licence] issued on the expiration of one year from the date of the order: Provided that in reckoning the said period of three years and one year, respectively, any period during which the said person was disqualified for holding or obtaining a [driving licence] shall be

excluded. (4) When a [driving licence] is endorsed by or an order of endorsement is made by any Court, the Court shall send particulars of the endorsement or order, as the case may be, to the licensing authority by which the [driving licence] was last renewed and to the licensing authority which granted the [driving licence]. (5) Where the holder of a [driving licence] is disqualified by the order of any Court for holding or obtaining a [driving licence], the Court shall take possession of the [driving licence] and forward it to the licensing authority by which it was granted or last renewed and that authority shall keep the [driving licence] until the disqualification has expired or has been removed and the person entitled to the [driving licence] has made a demand in writing for its return to him: Provided that, if the disqualification is limited to the driving of a motor vehicle of a particular class or description, the Court shall endorse the [driving licence] to this effect and shall send a copy of the order of disqualification to the licensing authority by which the [driving licence] was granted and shall return the [driving licence] to the holder. (6) Where on an appeal against any conviction or order of a Court which has been endorsed on a driving licence, the appellate Court varied, or sets aside the conviction or order, the appellate Court shall inform the licensing authority by which the [driving licence] was last renewed and the licensing authority which granted the [driving licence], and shall amend or cause to be amended the endorsement of such conviction or order.

## **Section 25A**

### **National Register of Driving Licences.**

(1) ~@[The Central Government shall maintain a National Register of Driving Licences in such form and manner as may be prescribed.~@[Section 25A inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (2) All State Registers of Driving Licences shall be subsumed under the National Register of Driving Licences by a date to be notified by the Central Government. (3) No driving licence issued, or renewed, under this Act shall be valid unless it has been issued a unique driving licence number under the National Register of Driving Licences. (4) All State Governments and licensing authorities under this Act shall transmit all

information including contained data in the State Register of Driving Licences in such form and manner as may be prescribed by the Central Government. (5) The State Governments shall be entitled to access the National Register and update their records in such manner as may be prescribed by the Central Government.]

## **Section 26**

### **Maintenance of State Registers of Driving Licences.**

(1) ~@Each State Government shall maintain, in such form as may be prescribed by the Central Government, a register to be known as the State Register of Driving Licences, in respect of driving licences issued and renewed by the licensing authorities of the State Government, containing particulars, including --@[Section 26 inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ names and addresses of holders of driving licences; licence numbers; dates of issue or renewal of licences; dates of expiry of licences; classes and types of vehicles authorised to be driven; and such other particulars as the Central Government may prescribe.

## **Section 27**

### **Power of Central Government to make rules.**

The Central Government may make rules (a) ~@[specifications relating to e-cart and e-rickshaw under sub-section (10) of section 9;]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (aa) regarding conditions referred to in sub-section (2) of section 3; (b) providing for the form in which the application for learners licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 8; (c) providing for the form of medical certificate referred to in sub-section (3) of section 8; (d) providing for the particulars for the test referred to in sub-section (5) of section 8; (da) ~@[the form and manner in which a licensing authority may issue a learner's licence under sub-section (6) of section 8;]~@[Inserted by Act No. 32 of 2019, dated

09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ (db) the manner in which a licensing authority may verify the identity of the applicant under the third proviso to sub-section (6) of section 8;] (e) providing for the form in which the application for driving licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 9; (f) providing for the particulars regarding test of competence to drive, referred to in sub-section (3) of section 9; (ff) ~@[the manner and the conditions subject to which the driving licence may be issued under sub-section (10) of section 9;]~@[Inserted by Act No. 3 of 2015.]~@ (g) specifying the minimum educational qualifications of persons to whom licences to drive transport vehicles may be issued under this Act and the time within which such qualifications are to be acquired by such persons; (h) providing for the form and contents of the licences referred to in sub-section (1) of section 10; (i) providing for the form and contents of the application referred to in sub-section (1) of section 11 and documents to be submitted with the application and the fee to be charged; (j) providing for the conditions subject to which section 9 shall apply to an application made under section 11; (ja)~@ [the curriculum of training modules and the regulation of schools and establishments under sub-section (6) of section 12;]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (jb) the conditions for the renewal of licence to drive transport vehicles carrying goods of dangerous or hazardous nature and other motor vehicles under clause (a) and clause (b) of sub-section (2) of section 14; (jc) the manner in which a licensing authority may verify the identity of the applicant under the third proviso to sub-section (2) of section 11;] (k) providing for the form and contents of the application referred to in sub-section (1) of section 15 and the documents to accompany such application under sub-section (2) of section 15; (l) providing for the authority to grant licences under sub-section (1) of section 18; (m) specifying the fees payable under sub-section (2) of section 8, sub-section (2) of section 9 and sub-sections (3) and (4) of section 15 for the grant of learners licences, and for the grant and renewal of driving licences and licences for the purpose of regulating the schools or establishments for imparting

instructions in driving motor vehicles; (n) specifying the acts for the purposes of clause (f) of sub-section (1) of section 19; (na) ~@[the manner of placing in the public domain of the name of the licence holder as referred to in sub-section (1A) of section 19;]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (nb) providing for the nature, syllabus and duration of the driver refresher training course as referred to in sub-section (2B) of section 19;] (o) specifying the offences under this Act for the purposes of sub-section (2) of section 24; (oa) ~@[all or any of the matters referred to in section 25A;]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ (p) to provide for all or any of the matters referred to in ~@[x x x]~@[Omitted sub-section (1) by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ section 26; (q) any other matter which is, or has to be, prescribed by the Central Government. Corresponding Law :S. 20-A of Act IV of 1939: [20A. Power of Central Government to make rules. - The Central Government may, by notification in the Official Gazette, make rules specifying the fees payable tinder subsection (8) of section 7 and sub-sections (3) and (3A) of section 11 for the grant or renewal of driving licences.]

## **Section 28**

### **Power of State Government to make rules.**

(1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 27. (2) Without prejudice to the generality of the foregoing power, such rules may provide for (a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities; (b) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees: Provided that no fee so fixed shall exceed twenty-five rupees; (c) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor; (d) the badges and uniform to be worn by drivers of transport vehicles and the fees to be paid in respect of



badges; (e) the fee payable for the issue of a medical certificate under sub-section (3) of section 8; (f) the exemption of prescribed persons, or prescribed classes of persons, from payment of all or any portion of the fees payable under this Chapter; (g) the communication of particulars of licences granted by one licensing authority to other licensing authorities; (h) the duties, functions and conduct of such persons to whom licences to drive transport vehicles are issued; (i) the exemption of drivers of road-rollers from all or any of the provisions of this Chapter or of the rules made thereunder; (j) ~@[x x x x]~@[Omitted clause (j) "the manner in which the State Register of Driving Licences shall be maintained under section 26" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (k) any other matter which is to be, or may be, prescribed. Corresponding Law :S. 21 of Act IV of 1939: 21. Power to make rules. - (1) A [State Government] may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities: [(aa) the minimum qualifications of persons to whom licences to drive transport vehicles are issued, the time within which such qualification are to be acquired by persons holding immediately before the commencement of the licensing authorities and other prescribed authorities. Motor Vehicles (Amendment) Act, 1969, licences to drive transport vehicles, and the duties, functions and conduct of such persons;] [(aaa) the minimum educational qualifications of persons to whom licences to drive transport vehicles are issued after the commencement of the Motor Vehicles (Amendment) Act, 1978 and the time within which such qualifications are to be acquired by such persons;] [(b) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees: Provided that no fee so fixed shall exceed two rupees;] (c) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete, and the issue of temporary, licences to persons receiving instruction in driving [or to persons whose driving licences have been surrendered],

and the fees to be charged therefore; (d) the conditions subject to which a Regional Transport Authority may disqualify a person for holding a [driving licence] to drive a [transport vehicle]; [(dd) the badges and uniform to be worn by drivers of [transport vehicles] the fees to be paid in respect of badges;] (e) the medical examination and testing of applicants for licences and of drivers and the fees to be charged therefor ; [(f) the exemption of prescribed persons, or prescribed classes of persons from payment of all or any portion of the fees payable under this Chapter;] (g) the granting by registered medical practitioners of the certificates referred to in sub-section (3) of section 7 ; (h) the communication of particulars of licences granted by one licensing authority to other licensing authorities ; (i) the control of schools or establishments for the instruction of drivers of motor vehicles, [(including the registration of such schools or establishments)] and the acceptance of driving certificates issued by such schools or establishments as qualifying the holder for exemption from Part I of the test specified in the Third Schedule; (j) the exemptions of drivers of road-rollers from all or any of the provisions of this Chapter or of the rules made thereunder; and (k) any other matter which is to be or may be prescribed.

## **Chapter III**

### **LICENSING OF CONDUCTORS OF STAGE CARRIAGES**

Section 29 to 38

#### **Section 29**

##### **Necessity of conductors licence.**

(1) No person shall act as a conductor of a stage carriage unless he holds an effective conductors licence issued to him authorising him to act as such conductor, and no person shall employ or permit any person who is not so licensed to act as a conductor of a stage carriage. (2) A State Government may prescribe the conditions subject to which sub-section (1) shall not apply to a driver of a stage carriage performing the functions of a conductor or to a person

employed to act as a conductor for a period not exceeding one month. Corresponding Law :S. 21-A of Act IV of 1939: 21A. Necessity for conductor's licence. - (1) No person shall act as a conductor of a stage carriage unless he holds an effective conductor's licence issued to him authorising him to act as such conductor; and no person shall employ or permit any person who is not so licensed to act as a conductor of a stage carriage. (2) A State Government may prescribe the conditions subject to which sub-section (1) shall not apply to a driver of a stage carriage performing the functions of a conductor or to a person employed to act as a conductor for a period not exceeding one month.

## **Section 30**

### **Grant of conductors licence.**

(1) Any person who possesses such minimum educational qualification as may be prescribed by the State Government and is not disqualified under sub-section (1) of section 31 and who is not for the time being disqualified for holding or obtaining a conductors licence may apply to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business for the issue to him of a conductors licence . (2) Every application under sub-section (1) shall be in such form and shall contain such information as may be prescribed. (3) Every application for a conductors licence shall be accompanied by a medical certificate in such form as may be prescribed, signed by a registered medical practitioner and shall also be accompanied by two clear copies of a recent photograph of the applicant. (4) A conductors licence issued under this Chapter shall be in such form and contain such particulars as may be prescribed and shall be effective throughout the State in which it is issued. (5) The fee for a conductors licence and for each renewal thereof shall be one-half of that for a driving licence .

Corresponding Law :S. 21-B of Act IV of 1939: 21B. Grant of conductor's licence. - (1) Any person who is not disqualified under sub-section (1) of section 21C and who is not for the time being disqualified for holding or obtaining a conductor's licence may apply to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business for

the issue to him of a conductor's licence. (2) Every application under sub-section (1) shall be in such form as may be prescribed and shall be signed by, or bear the thumb impression of, the applicant in two places, and shall contain the information required by the form. (3) Every application for a conductor's licence shall be accompanied by a medical certificate in such form as may be prescribed, signed by a registered medical practitioner and shall also be accompanied by two clear copies of a recent photograph of the applicant. (4) A conductor's licence issued under this Chapter shall be in such form and contain such particulars as may be prescribed. (5) The fee for a conductor's licence and for each renewal thereof shall be one-half of that for a driving licence.

## **Section 31**

### **Disqualifications for the grant of conductors licence.**

(1) No person under the age of eighteen years shall hold, or be granted, a conductors licence .

(2) The licensing authority may refuse to issue a conductors licence if the applicant does not possess the minimum educational qualification; if the medical certificate produced by the applicant discloses that he is physically unfit to act as a conductor; and if any previous conductors licence held by the applicant was revoked. Corresponding Law :S. 21-C of Act IV of 1939: 21C. Disqualifications for the grant of conductor's licence. - (1) No person under the age of eighteen years shall hold, or be granted, a conductor's licence. (2) The licensing authority may refuse to grant a conductor's licence- (a) if the applicant does not possess the prescribed qualifications; (b) if the medical certificate produced by the applicant discloses that he is physically unfit to act as a conductor; and (c) if any previous conductor's licence held by the applicant was revoked.

## **Section 32**

### **Revocation of a conductors licence on grounds of disease or disability.**

A conductors licence may at any time be revoked by any licensing authority if that authority has

reasonable grounds to believe that the holder of the licence is suffering from any disease or disability which is likely to render him permanently unfit to hold such a licence and where the authority revoking a conductor's licence is not the authority which issued the same, it shall intimate the fact of such revocation to the authority which issued that licence : Provided that before revoking any licence, the licensing authority shall give the person holding such licence a reasonable opportunity of being heard. Corresponding Law :S.21-D of Act IV of 1939: 21D.

Revocation of a conductor's licence grounds of disease or disability. - A conductor's licence may at any time be revoked by any licensing authority or any Regional Transport Authority constituted under Chapter IV, if the authority has reasonable grounds to believe that the holder of the licence is suffering from any disease or 44 disability which is likely to render him permanently unfit to hold such a licence and where the authority revoking a conductor's licence is not the authority which issued the same, it shall intimate the fact of revocation to the authority which issued that licence.

## **Section 33**

### **Orders refusing, etc., conductor's licences and appeals therefrom.**

(1) Where a licensing authority refuses to issue or renew, or revokes any conductor's licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation. (2) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order. Corresponding Law :S. 21-E of Act IV of 1939: 21E. Orders refusing, etc., conductor's licences and appeals therefrom. - (1) Where a licensing authority refuses to issue or renew or revokes any conductor's licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation. (2) Any person aggrieved by an order made under

sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority making the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority making the order.

## **Section 34**

### **Power of licensing authority to disqualify.**

(1) If any licensing authority is of opinion that it is necessary to disqualify the holder of a conductors licence for holding or obtaining such a licence on account of his previous conduct as a conductor, it may, for reasons to be recorded, make an order disqualifying that person for a specified period, not exceeding one year, for holding or obtaining a conductors licence :

Provided that before disqualifying the holder of a licence, the licensing authority shall give the person holding such licence a reasonable opportunity of being heard. (2) Upon the issue of any such order, the holder of the conductors licence shall forthwith surrender the licence to the authority making the order, if the licence has not already been surrendered, and the authority shall keep the licence until the disqualification has expired or has been removed. (3) Where the authority disqualifying the holder of a conductors licence under this section is not the authority which issued the licence, it shall intimate the fact of such disqualification to the authority which issued the same. (4) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order. Corresponding Law :S. 21-F of Act IV of 1939: 21F. Powers of licensing authority and Regional Transport Authority to disqualify. - (1) If any licensing authority or any Regional Transport Authority constituted under Chapter IV is of opinion that it is necessary to disqualify the holder of a conductor's licence for holding or obtaining such a licence on account of his previous conduct as a conductor, it may, for reasons to be recorded, make an

order disqualifying that person for a specified period, not exceeding one year, for holding or obtaining a conductor's licence. (2) Upon the issue of any such order, the holder of the conductor's licence shall forthwith surrender the licence to the authority making the order, if the licence has not already been surrendered, and the authority shall keep the licence until the disqualification has expired or has been removed. (3) Where the authority disqualifying the holder of a conductor's licence under this section is not the authority which issued the licence, it shall intimate the fact of such disqualification to the authority which issued the same. (4) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority making the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority making the order.

## **Section 35**

### **Power of Court to disqualify.**

(1) Where any person holding a conductor's licence is convicted of an offence under this Act, the Court by which such person is convicted may, in addition to imposing any other punishment authorised by law, declare the person so convicted to be disqualified for such period as the Court may specify for holding a conductor's licence. (2) The Court to which an appeal lies from any conviction of an offence under this Act may set aside or vary any order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from such Court, may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

Corresponding Law :S. 21-G of Act IV of 1939: 21G. Power of Court to disqualify. - (1) Where any person holding a conductor's licence is convicted of an offence under this Act, the Court by which such person is convicted may, in addition to imposing any other punishment 45 authorised by law, declare the person so convicted to be disqualified for such period as the Court may specify for holding a conductor's licence. (2) The Court to which an appeal lies from any conviction of an offence of

the nature specified in sub-section (1) may set aside or vary any order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from the Court below, may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

## **Section 36**

### **Certain provisions of Chapter II to apply to conductors licence.**

The provisions of sub-section (2) of section 6, sections 14, 15 and 23, sub-section (1) of section 24 and section 25 shall, so far as may be, apply in relation to a conductors licence, as they apply in relation to a driving licence . Corresponding Law :S. 21-H of Act IV of 1939: 21H. Certain provisions of Chapter II to apply to conductor's licence. - The provisions of sub-section (2) of section 6, sub-section (1) of section 9, sections 10, 11 and 18, sub-section (1) of section 19 and section 20 shall, so far as may be, apply in relation to a conductor's licence, as they apply in relation to a driving licence.

## **Section 37**

### **Savings.**

If any licence to act as a conductor of a stage carriage (by whatever name called) has been issued in any State and is effective immediately before the commencement of this Act, it shall continue to be effective, notwithstanding such commencement, for the period for which it would have been effective, if this Act had not been passed, and every such licence shall be deemed to be a licence issued under this Chapter as if this Chapter had been in force on the date on which that licence was granted. Corresponding Law :S. 21-I of Act IV of 1939: 21I. Savings. - If any licence to act as a conductor of a stage carriage (by whatever name called) has been issued by any State Government and is effective immediately before the commencement of this Chapter in that State, it shall continue to be effective, notwithstanding such commencement, for the period for which it would have been effective, if the Motor Vehicles (Amendment) Act, 1956, had not



been passed, and every such licence shall be deemed to be a licence issued under this Chapter as if this Chapter had been in force on the date on which that licence was granted.

## **Section 38**

### **Power of State Government to make rules.**

(1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for (a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities under this Chapter; (b) the conditions subject to which drivers of stage carriages performing the functions of a conductor and persons temporarily employed to act as conductors may be exempted from the provisions of sub-section (1) of section 29; (c) the minimum educational qualifications of conductors; their duties and functions and the conduct of persons to whom conductors licences are issued; (d) the form of application for conductors licences or for renewal of such licences and the particulars it may contain; (e) the form in which conductors licences may be issued or renewed and the particulars it may contain; (f) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor; (g) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees: Provided that no fee so fixed shall exceed twenty-five rupees; (h) the badges and uniform to be worn by conductors of stage carriages and the fees to be paid in respect of such badges; (i) the grant of the certificates referred to in sub-section (3) of section 30 by registered medical practitioners and the form of such certificates; (j) the conditions subject to which, and the extent to which, a conductors licence issued in another State shall be effective in the State; (k) the communication of particulars of conductors licences from one authority to other authorities; and (l) any other matter which is to be, or may be, prescribed. Corresponding Law :S. 21-J of Act IV of 1939: 21J. Power to make rules. - (1) A State Government may make rules for the purpose of carrying into effect the

provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the appointment, jurisdiction, control and functions of, licensing authorities and other prescribed authorities under this Chapter; (b) the conditions subject to which drivers of stage carriages and persons temporarily employed may be exempted from the provisions of this Chapter; (c) the form of application for conductor's licences or for renewal of such licences and the particulars it may contain ; (d) the form in which conductor's licences may be issued or renewed and the Particulars it may contain; (e) the minimum qualifications of conductors; their duties and functions and the conduct of persons to whom conductor's licences are issued; (f) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor; (g) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees: Provided that no fee so fixed shall exceed two rupees; (h) the badges and uniform to be worn by conductors of stage carriages and the fees to be paid in respect of such badges; (i) the granting by registered medical practitioners of the certificates referred to in sub-section (3) of section 21B and the form of such certificates; (j) the communication of particulars of conductor's licences from one authority to other authorities; and (k) any other matter which is to be, or may be, prescribed.

## **Chapter IV**

### **REGISTRATION OF MOTOR VEHICLES**

Section 39 to 65

#### **Section 39**

##### **Necessity for registration.**

No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been

suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner: Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government. Case Law 1: Obligation to register a motor vehicle. Supreme Court Commissioner of Commercial Taxes, Tvm. v. M/s. K. T. C. Automobiles; 2016 (4) SCC 82 : 2016 KHC 6084 : AIR 2016 SC 805 Held, a motor vehicle remains in the category of unascertained or future goods till its appropriation to the contract of sale by the seller is occasioned by handing over its possession at or near the office of Registration Authority in a deliverable and registrable state. Only after getting certificate of registration, owner becomes entitled to enjoy benefits of possession and can obtain required certificate of insurance in his name and meet other requirements of law to use the motor vehicle at any public place. Case Law 2: Registration of motor vehicle. Supreme Court Commissioner of Commercial Taxes, Tvm. v. M/s. K. T. C. Automobiles; 2016 (4) SCC 82 : 2016 KHC 6084 : AIR 2016 SC 805 Seller or manufacturer / dealer is bound to transport motor vehicle to office of Registering Authority and only when it reaches there safe and sound, in accordance with the statutory provisions, it can be said to be in a deliverable state and only then property in such a motor vehicle can pass to buyer once he has been given notice that motor vehicle is fit and ready for his lawful possession and registration. Case Law 3: Registration a mandatory act. Supreme Court Narinder Singh v. New India Assurance Company Ltd; 2014 (9) SCC 324 : 2014 KHC 4559 : 2014 (3) KLT 1074 : AIR 2014 SC 3761 Using a vehicle on public road without any registration is an offence punishable. Temporary registration is valid only for a period of one month that can be extended only where chassis of a vehicle with temporary registration is detained in workshop beyond one month for being fitted with a body or for unforeseen circumstances beyond control of owner. Case Law 4: Wheather demo vehicle to be registered. Kerala High Court Kerala Automobile Dealers Association and Another v. State of Kerala and Others; 2019 KHC 607 : 2019 (3) KLT 853 A manufacturer after manufacturing motor vehicle would be in possession of the said vehicle till it is delivered to a dealer -- As per the mandate of

S.39 of the M.V. Act, no motor vehicle can be driven in any public place or in any other place unless it is registered in accordance with Chapter IV of the said Act -- A 'demo vehicle' purchased by automobile dealers, at a special cash discount or otherwise, which are intended to be used for demonstration purpose, for a specified period of two years or three years in terms of the respective dealership agreements, are not vehicles intended for sale to the customer -- Therefore, a 'demo vehicle' cannot be termed as a vehicle in possession of that dealer in the course of his business as a dealer, which can be driven in any public place or any other place under the authorisation of trade certificate granted under the C.M.V. Rules. Therefor it's required to register as per the mandate of S.40 of MV Act, by submitiing an application for registration under S.41 of the said Act. Case Law 5: Vehicle w/o registration- Liability of insurance company. Bombay High Court Pawan v. Laxmibai and Others; 2019 KHC 5499 : 2019 ACJ 3091 Death of a passenger travelling in autorickshaw when it met with accident due to rash and negligent driving by owner cum driver. Owner admitted in his cross examination that on the date of accident autorickshaw was plied without registration and permit Held plying of vehicle without registration and permit amounts to violation of mandatory provisions of S.39 and S.66 and insurance companies are not liable Case Law 6: Conditions for satisfying registration. Kerala High Court Sreenivasan B. v. Insurance Ombudsman, Ernakulam and Another; 2015 (4) KHC 54 : 2015 (3) KLJ 539 : 2015 (3) KLT 1009 Huge rock falling on lorry and vehicle totally damaged. Vehicle covered under comprehensive insurance policy and insured claiming value of vehicle. Held, for an insurance claim to succeed, it is necessary that vehicle should have a valid goods carriage permit, it should be duly registered under provisions of Act, and that it should have a valid Fitness Certificate. Since vehicle in question had no valid Fitness Certificate, claim rightly rejected by insurer. Case Law 7: Insurance policy is insignificant w/o registration. Punjab and Haryana High Court Taranjit Kaur v. Subhash Chand and Others; 2015 KHC 5829 : 2015 ACJ 550 S.39 prohibits driving of a motor vehicle in any public place or in any other place without registering it under the provisions of the Act. Vehicle cannot be driven unless it is registered and

carries the registration mark displayed in the prescribed manner. Insurance policy is subject to the law of the land and is insignificant without valid registration number

Case Law 8: Transport vehicle mandatory conditions for satisfying registration. Kerala High Court Usha Nanthini M. v. Secretary, Regional Transport Authority cum RTO, Palakkad and Another; 2018 (2) KHC 89 : 2018 (1) KLT 725 A transport vehicle which is registered under S.39 can be driven or plied on road only if it possesses a valid fitness certificate. If it is not having a valid fitness certificate, it shall be deemed to be an unregistered motor vehicle.

Case Law 9: Theft of vehicle before registration. Punjab and Haryana High Court New India Assurance Co. Ltd. and Another v. Ashok Kumar Sachdeva and Another; 2018 KHC 7539 : 2018 ACJ 2208 Owner purchased a pickup van with temporary registration number valid up to 20/03/2015. Owner got the vehicle insured for the period from 19/02/2015 to 18/02/2016. Motor Vehicle Inspector approved the vehicle for registration on 22/04/2015 but the vehicle could not be registered due to instructions from State of Haryana -- Vehicle stolen on intervening night of 7/8/05/2015. S.39 makes registration of vehicle mandatory for plying on the road -- In the present case it was parked outside the house of owner when it was stolen. Owner had made all efforts to get the vehicle registered after the temporary registration had expired. Held insurance company is not exempted from liability.

Case Law 10: Weather registration mandatory to accept Tax. Kerala High Court Immanuel Aviation & Cargo Services Pvt. Ltd. v. State of Kerala and Another; 2018 (3) KHC 948 : 2018 (3) KLT 594 Registration of vehicle is not a precondition for the authorities to accept tax. S. 4(3)(b) of the MV Taxation Act permits the authorities to accept tax for the non - registered vehicle, and there is no legal impediment for the authorities to accept the tax.

Case Law 11: Impermissible to use trailer & attach to a tractor w/o registration. Punjab and Haryana High Court New India Assurance Co. Ltd. v. Sohan Lal and Others; 2014 KHC 5635 : 2014 ACJ 1583 The assumption that is made in many cases is that since S.39 talks about registration of only a motor vehicle, a trailer which is not mechanically propelled by itself does not require registration. This is not correct, as it will be evident through S.61 itself that separate registration

mark is assigned to a trailer and to the extent to which S.61 itself reads that the provisions of the Chapter are applicable to trailer also, it shall also be impermissible for any person to use a trailer and attach it to a tractor without registration. Case Law 12: Wheather registration can be made w/o prototype approval. Gujarat High Court Shakti Auto Garage and Others v. Assistant Regional Transport Officer and Others; 1996 KHC 2128 : AIR 1996 Guj. 54 Petitioners assemblers / manufacturers of autorickshaws. Designs approved and registered under old Act. Manufacturer who manufactures after coming into operation of provisions of the Central R.126, is bound to comply with the provisions. Manufacturer has to submit prototype model of motor vehicle for required test and certificate as required under R.126 before vehicle is register. Case Law - Trade certificate can be obtained by an approved repairer of vehicles.- Kunhani. M v. RTO and Others 2003 KHC 333. A Trade certificate can be obtained by an approved repairer of vehicles -- Not necessary that he should be a manufacturer of Motor Vehicles. The Hon'ble Court observed that it cannot be said that a trade certificate can be held only by a person after getting authorisation from the manufacturer. Corresponding Law :S. 22 of Act IV of 1939: 22. Necessity for registration. - (1) No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

## **Section 40**

### **Registration, where to be made.**

Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by ~@[any registering authority in the State]~ @[Substituted for "a registering authority" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@ in whose jurisdiction he has the residence or place of business where the vehicle is normally kept. Case Law 1: Applicant a resident of other State,

have any disability for registration. Kerala High Court Nagaraj G. v. Registering Authority/Regional Transport Officer, Palakkad; 2016 (3) KHC 312 : 2016 (2) KLT 946 Merely because applicant is a resident of other State and he has only the identity proof as per R.4, issued by the Authorities of that State, he cannot be prohibited from getting a vehicle registered in his name without properly considering the documents produced by him. Authorities are at liberty to make due enquiries with regard to the identity and bona fide residence of the applicant.

Case Law 2: Application for registration, where to made. Calcutta High Court Jugal Mondal v. State of W. B. and Others; 2006 KHC 3310 : AIR 2006 Cal. 189 Provisions in S. 40 of the Motor Vehicles Act, 1988 have not created any right of the owner of a motor vehicle, they have rather created an obligation to be discharged by him, if he wants to use the motor vehicle. They require him to register it. They only give him a choice to register it either with the registering authority in whose jurisdiction he is a resident, or with the registering authority in whose jurisdiction he has place of business where the vehicle is normally kept. Hence it cannot be said that by imposing the condition regarding registration the authority has acted illegally or arbitrarily or unfairly or unreasonably.

Case Law 3: Registration : Proof of Age & address. Kerala High Court Nagaraj G. v. Registering Authority/Regional Transport Officer, Palakkad; 2016 (3) KHC 312 : 2016 (2) KLT 946 Held, several identity proofs are provided in the Statute and applicants are at liberty to produce any of the same in order to establish the address proof as well as the age proof -- Authorities cannot insist that proof provided under R.4, sub-R.2 to 10 alone will be considered for the purpose of identifying the age and address proof. Corresponding Law :S. 21-I of Act IV of 1939: 23. Registration, where to be made. - [\* \* \*] Subject to the provisions of [section 24A,] section 25 and section 39, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in the [State] in which he has the residence or place of business where the vehicle is normally kept.

## **Section 41**

**Registration, how to be made.**

(1) An application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be made within such period as may be prescribed by the Central Government: Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act. ~@[Provided further that in the case of a new motor vehicle, the application for registration in the State shall be made by the dealer of such motor vehicle, if the new motor vehicle is being registered in the same State in which the dealer is situated.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (2) An application referred to in sub-section (1) shall be accompanied by such fee as may be prescribed by the Central Government. (3) The registering authority shall issue ~@[a certificate of registration in the name of the owner]~@Substituted &quot;to the owner of a motor vehicle registered by it a certificate of registration&quot; by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]~@ in such form and containing such particulars and information and in such manner as may be prescribed by the Central Government. (4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as the Central Government may, having regard to the design, construction and use of the motor vehicle, by notification in the Official Gazette, specify. (5) The registering authority shall enter the particulars of the certificate referred to in sub-section (3) in a register to be maintained in such form and manner as may be prescribed by the Central Government. (6) The registering authority shall assign to the vehicle, for display thereon, a distinguishing mark (in this Act referred to as the registration mark) consisting of one of the groups of such of those letters and followed by such letters and figures as are allotted to the State by the Central Government from time to time by notification in the Official Gazette, and displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government. ~@[Provided that in case of a new motor



vehicle, the application for the registration of which is made under the second proviso to sub-section (1), such motor vehicle shall not be delivered to the owner until such registration mark is displayed on the motor vehicle in such form and manner as may prescribed by the Central Government.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (7) A certificate of registration issued under sub-section (3), whether before or after the commencement of this Act, in respect of a motor vehicle, ~@[x x x],~@[Omitted "other than a transport vehicle" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@[ shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate ]~@[or for such period as may be prescribed by the Central Government]~@[Substituted "for a period of five years" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ and shall be renewable. (8) An application by or on behalf of the owner of a motor vehicle, ~@[x x x],~@[Omitted "other than a transport vehicle" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ for the renewal of a certificate of registration shall be made within such period and in such form, containing such particulars and information as may be prescribed by the Central Government. (9) An application referred to in sub-section (8) shall be accompanied by such fee as may be prescribed by the Central Government. (10) Subject to the provisions of section 56, the registering authority may, on receipt of an application under sub-section (8), renew the certificate of registration ~@[for such period, as may be prescribed by the Central Government]~@[Substituted "for a period of five years" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ and intimate the fact to the original registering authority, if it is not the original registering authority. ~@[Provided that the Central Government may prescribe different period of renewal for different types of motor vehicles.]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/04/2021 by SO 1433(E)]]~@ (11) ~@[x x x x]~@[Omitted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/07/2021 by SO 2177 (E)]]~@ (12) ~@[x x x x]~@[Omitted by Act No. 32 of 2019, dated

09-08-2019 [w.e.f. 01/07/2021 by SO 2177 (E)]~@ (13) ~@[x x x x]~@[Omitted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/07/2021 by SO 2177 (E)]~@ (14) An application for the issue of a duplicate certificate of registration shall be made to the [last registering authority] in such form, containing such particulars and information along with such fee as may be prescribed by the Central Government. OLD LAW : (11) If the owner fails to make an application under sub-section (1), or, as the case may be, under sub-section (8) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (13): Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount. (12) Where the owner has paid the amount under sub-section (11), no action shall be taken against him under section 177. (13) For the purposes of sub-section (11), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub-section (1) or sub-section (8). STATE AMENDMENTS: Rajasthan. In its application to the State of Rajasthan, in Section 41, (a) in sub-Ss. (7) and (8), the expression, other than a transport vehicle, shall be deleted; (b) after sub-S. (7) so amended, insert the following proviso, namely: Provided that in the case of transport vehicles, State Government may require the transport vehicles to be re-registered in the manner prescribed, subject to the age limit, if any, prescribed under section 59 of the Act.; and (c) in sub-S. (10), after the words for a period of five years and before the words and intimate, the expression on payment of all taxes, penalties and interest, if any, levied by the State Government shall be inserted. Rajasthan Act 1 of 2002, Section 2 (w.e.f. 4-3-2002). Case Law 1: Allotment of registration mark- Power of State Government. Supreme Court State of M. P. and Others v. Rakesh Sethi and Another; 2020 KHC 6505 : AIR 2020 SC 4156 The existence of specific provisions empowering the State (such as S.41(13), S.47(7), S.49(4) and S.50(5)), means that the power of the State to claim or charge amounts is specifically recognized by

express provisions -- R.55A is not therefore, in excess of the powers conferred upon the State, by the Act or the Central Rules -- Assignment of 'distinctive marks' i.e. registration numbers to motor vehicles (which includes the power to reserve and allocate them, for a specific fee) is a distinct service for which States or their authorities (such as the registering authorities, in this case) are entitled to charge a prescribed fee -- R.55A of the M. P. Rules is not therefore, in excess of the powers conferred upon the State, by the Act or the Central Rules -- Thus, the impugned rule was within the ambit of the powers delegated to the State, and directly related to performance of its functions under S.41(6), for which it could legitimately claim a fee. Case Law 2: Taking vehicle for registration. Supreme Court Commissioner of Commercial Taxes, Tvm. v. M/s. K. T. C. Automobiles 2016 KHC 6084 : 2016 (1) KLT 710 : AIR 2016 SC 805 : 2016 (4) SCC 82 Neither the manufacturer nor the dealer of a motor vehicle can permit the intended purchaser having an agreement of sale to use the motor vehicle even for taking it to the Registration Office. Case Law 3: High Security Registration Plate. Supreme Court Maninderjit Singh Bitta v. Union of India, (2011) 11 SCC 315. In this case the Hon'ble Court observed the requirement of High Security Registration Plates (HSRP).—There is essential requirement of regulation of manufacture, supply, fixation of new high security registration plates (HSRP) pursuant to new scheme introduced by Central Government in public safety and interest. Case Law 4: Class of vehicle - An important particular for registration. Kerala High Court Raju Chacko v. State of Kerala and Others; 2019 KHC 636 : 2019 (3) KLT 1095 Class of vehicle is one of the specific particulars to be mentioned in the application for registration, manufacturer's certificate, as well as registration certificate. Case Law 5: Registration - Classification of vehicle. Kerala High Court Hassan Koya v. The Transport Commissioner, Tvm and Another; 2015 (1) KHC 741 : 2015 (1) KLT 916 : AIR 2016 NOC 252 Held, when a particular model vehicle is categorised as goods vehicle by manufacturer, same entry has to come in registration certificate. Such classification cannot be changed. Thus, classification depends purely upon certificate issued by the manufacturer and, if any, issued under S.41(4) of the Act or Motor Vehicles Rules, 1939, R.47,

R.126. Corresponding Law :S. 24 of Act IV of 1939: 24. Registration, how to be made. - (1) An application by or on behalf of the owner of a motor vehicle for registration shall be in Form E as set forth in the First Schedule, shall contain the information required by that form, and shall be accompanied by the prescribed fee: [Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act.] (2) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in Form G as set forth in the First Schedule and shall enter in a record to be kept by it particulars of such certificate. (3) The registering authority shall assign to the vehicle, for display thereon in the prescribed manner, a distinguishing mark (in this Act referred to as the registration mark) consisting of [one of the groups of such of these letters as are allotted to the State by the Central Government from time to time by notification in the Official Gazette,] followed by a number containing not more than four figures: [Provided that [the figures aforesaid shall be shown in Arabic numerals and the letters and figures aforesaid shall be shown]. (a) in the case of transport vehicles, in black on a white ground; (b) in the case of motor vehicles temporarily registered, in red on a yellow ground; (c) in the case of motor vehicles in the possession of dealers, in white on a red ground; (d) in other cases, in white on a black ground.] [(4) A certificate of registration issued under sub-section (2), whether before or after the commencement of the Motor Vehicles (Amendment) Act, 1978, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable. (5) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period as may be prescribed, in Form F as set forth in the First Schedule, shall contain the information required by that Form and shall be accompanied by the prescribed fee. (6) Where in the case of a certificate of registration issued under this Act before the commencement of the Motor Vehicles

(Amendment) Act, 1978, in respect of a motor vehicle, other than a transport vehicle, the period of fifteen years referred to in sub-section (4) has expired at such commencement, the holder of such certificate shall apply for the renewal of the said certificate in Form F as set forth in the First Schedule to the registering authority within six months from such commencement or within such extended period not exceeding six months as the authority may, on sufficient cause being shown, allow, and such application shall contain the information required by that Form and shall be accompanied by the prescribed fee. (7) The registering authority may, on receipt of an application under sub-section (5) or sub-section (6), renew the certificate of registration for the prescribed period-:]

## **Section 42**

### **Special provision for registration of motor vehicles of diplomatic officers, etc.**

(1) Where an application for registration of a motor vehicle is made under sub-section (1) of section 41 by or on behalf of any diplomatic officer or consular officer, then notwithstanding anything contained in sub-section (3) or sub-section (6) of that section, the registering authority shall register the vehicle in such manner and in accordance with such procedure as may be provided by rules made in this behalf by the Central Government under sub-section (3) and shall assign to the vehicle for display thereon a special registration mark in accordance with the provisions contained in those rules and shall issue a certificate (hereafter in this section referred to as the certificate of registration) that the vehicle has been registered under this section; and any vehicle so registered shall not, so long as it remains the property of any diplomatic officer or consular officer, require to be registered otherwise under this Act. (2) If any vehicle registered under this section ceases to be the property of any diplomatic officer or consular officer, the certificate of registration issued under this section shall also cease to be effective, and the provisions of sections 39 and 40 shall thereupon apply. (3) The Central Government may make rules for the registration of motor vehicles belonging to diplomatic officers and consular officers regarding the procedure to be followed by the registering authority for registering such vehicles,

the form in which the certificates of registration of such vehicles are to be issued, the manner in which such certificates of registration are to be sent to the owners of the vehicles and the special registration marks to be assigned to such vehicles. (4) For the purposes of this section, diplomatic officer or consular officer means any person who is recognised as such by the Central Government and if any question arises as to whether a person is or is not such an officer, the decision of the Central Government thereon shall be final. Corresponding Law :S. 24-A of Act IV of 1939: [24A. Special provision for registration of motor vehicles of diplomatic officers, etc. - (1) Where an application for registration of a motor vehicle is made under sub-section (1) of section 24 by or on behalf of any diplomatic officer consular officer, then, notwithstanding anything contained in sub-section (2) or sub-section (3) of that section, the registering authority shall register the vehicle in such manner and in accordance with such procedure as may be provided by rules made in this behalf by the Central Government under sub section (3) and shall assign to the vehicle for display thereon special registration mark in accordance with the provisions contained in those rules and shall issue a certificate that the vehicle has been registered under this section; and any vehicle so registered shall not so long as it remains the property of any diplomatic office or consular officer, require to be registered otherwise under this Act. (2) If any vehicle registered under this section ceases to be the property of any diplomatic officer or consular officer, the certificate of registration issued under this section shall also cease to be effective, and the provisions of section 23 shall thereupon apply. (3) The Central Government may make [rules] for the registration of motor vehicles belonging to diplomatic officers and consular officers regarding the procedure to be followed by the registering authority for registering such vehicles, the form in which certificates of registration of such vehicles are to be issued, the manner in which certificates of registration are to be sent to the owners of the vehicles and the special registration marks to be assigned to such vehicles. (4) For the purposes of this section, "diplomatic officer" or "consular officer" means any person who is recognised as such by the Central Government and if any question arises as to whether a person is or is not

such an officer, the decision of the Central Government thereon shall be final.]

## **Section 43**

### **Temporary registration.**

[Notwithstanding anything contained in section 40, the owner of a motor vehicle may apply to any registering authority or other authority as may be prescribed by the State Government to have the motor vehicle temporarily registered and such authority shall issue a temporary certificate of registration and temporary registration mark in accordance with such rules as may be made by the Central Government: Provided that the State Government may register a motor vehicle that plies, temporarily, within the State and issue a certificate of registration and registration mark for a period of one month in such manner as may be prescribed by the State Government.] Corresponding Law :S. 25 of Act IV of 1939: 25. Temporary registration. - (1) Notwithstanding anything contained in section 23, the owner of a motor vehicle may apply to any registering authority [or other prescribed authority] to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark. (2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable: [Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods so, however, that the total period of such temporary registration may not exceed, in any case, three months.]

## **Section 44**

### **Production of vehicle at the time of registration.**

(1) Subject to such terms and conditions as may be prescribed by the Central Government in this behalf, a motor vehicle sold by an authorised dealer shall not require production before a

registering authority for the purposes of registration for the first time. (2) Subject to such terms and conditions as may be prescribed by the State Government, a person in whose name a certificate of registration has been issued shall not be required to produce the vehicle registered or transferred before a registering authority. Corresponding Law :S. 26 of Act IV of 1939: 26.

Production of vehicle at time of registration. - [(1)] The registering [authority shall] [before proceeding to register a motor vehicle or renew the certificate of registration in respect of a motor vehicle, other than a transport vehicle, require the person applying for registration of the vehicle or, as the case may be, for renewing the certificate of registration] to produce the vehicle either before itself or such authority as the State Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of Chapter V and of the rules made thereunder.

## **Section 45**

### **Refusal of registration or renewal of the certificate of registration.**

The registering authority may, by order, refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle), if in either case, the registering authority has reason to believe that it is a stolen motor vehicle or the vehicle is mechanically defective or fails to comply with the requirements of this Act or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous registration of the vehicle or furnishes inaccurate particulars in the application for registration of the vehicle or, as the case may be, for renewal of the certificate of registration thereof and the registering authority shall furnish the applicant whose vehicle is refused registration, or whose application for renewal of the certificate of registration is refused, a copy of such order, together with the reasons for such refusal. Case Law 1: Non renewal of registration is not an illegality. Karnataka High Court New India Assurance Co. Ltd. v. Shiva Prasad and Another; 2014 KHC 5778 : 2014 ACJ 2399 Motor cycle hit a minor boy and he sustained injuries. Non renewal of registration



certificate is not illegality but an irregularity which can be cured by collection of fine depending upon the period of delay. After the expiry of registration certificate, vehicle was transferred twice by RTA which would itself indicate that registration certificate was in force. Neither fine was levied under S.41(7) nor proceedings were initiated under S.177 against original owner or subsequent purchasers by the authorities. Tribunal was justified in concluding that registration certificate was not cancelled, it was in force as on the date of accident. Insurance company cannot be absolved from liability. Case Law 2: Renewal of registration to be made by prescribed authority, not by testing station. Jharkhand High Court Shekhar Bhushan Nag v. State of Jharkhand and Others; 2015 KHC 1625 : AIR 2015 Jha. 26 For grant of fresh certificate of registration in terms of S.56 of Motor Vehicles Act, 1988 for a transport vehicle, the certificate of fitness can be granted by the prescribed authority or by an authorized testing station -- But, in case of renewal of certificate of registration, as envisaged under R.52 of Central Motor Vehicles Rules, 1989, the same can be granted on the basis of 'Certificate of fitness' issued by the prescribed authority mentioned in Cl.(1) of S.56 of the Motor Vehicles Act and not on the basis of the 'Certificate of fitness' issued by an authorized testing station. Corresponding Law :S. 27 of Act IV of 1939: [27. Refusal of registration or renewal of the certificate of registration. - The registering authority may, by order,. refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle), if in either case the vehicle is mechanically defective or fails to comply with the requirements of Chapter V or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous registration of the vehicle or furnish inaccurate particulars in the application for registration of the vehicle or, as the case may be, for renewal of the certificate of registration thereof and the registering authority shall furnish the applicant whose vehicle is refused registration, or whose application for renewal of the certificate of registration is refused, a copy of such order, together with the reasons for such refusal.]

## **Section 46**

## **Effectiveness in India of registration.**

Subject to the provisions of section 47, a motor vehicle registered in accordance with this Chapter in any State shall not require to be registered elsewhere in India and a certificate of registration issued or in force under this Act in respect of such vehicle shall be effective throughout India. Corresponding Law :S. 28 of Act IV of 1939: 28. Effectiveness in India of registration. - (1) Subject to the provisions of section 29, a motor vehicle registered in accordance with this Chapter in any [State]. [\* \* \*] shall not require to be registered [elsewhere in India] and a certificate of registration issued or in force under this Act in respect of such vehicle shall be effective throughout [India].

## **Section 47**

### **Assignment of new registration mark on removal to another State.**

(1) When a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority: Provided that an application under this sub-section shall be accompanied (i) by the no objection certificate obtained under section 48, or (ii) in a case where no such certificate has been obtained, by the receipt obtained under sub-section (2) of section 48; or the postal acknowledgement received by the owner of the vehicle if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted: Provided further that, in a case where a motor vehicle is held under a hire-purchase, lease or hypothecation agreement, an application under this sub-section shall be accompanied by a no objection certificate from the person with whom such agreement

has been entered into, and the provisions of section 51, so far as may be, regarding obtaining of such certificate from the person with whom such agreement has been entered into, shall apply.

(2) The registering authority, to which application is made under sub-section (1), shall after making such verification, as it thinks fit, of the returns, if any, received under section 62, assign the vehicle a registration mark as specified in sub-section (6) of section 41 to be displayed and shown thereafter on the vehicle and shall enter the mark upon the certificate of registration before returning it to the applicant and shall, in communication with registering authority by whom the vehicle was previously registered, arrange for the transfer of the registration of the vehicle from the records of that registering authority to its own records. (3) Where a motor vehicle is held under a hire-purchase or lease or hypothecation agreement, the registering authority shall, after assigning the vehicle a registration mark under sub-section (2), inform the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the hire-purchase or lease or hypothecation agreement (by sending to such person a notice by registered post acknowledgement due at the address of such person entered in the certificate of registration the fact of assignment of the said registration mark). (4) A State Government may make rules under section 65 requiring the owner of a motor vehicle not registered within the State, which is brought into or is for the time being in the State, to furnish to the prescribed authority in the State such information with respect to the motor vehicle and its registration as may be prescribed. (5) If the owner fails to make an application under sub-section (1) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (7): Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount. (6) Where the owner has paid the amount under sub-section (5), no action shall be taken against him under section 177. (7) For the purposes of sub-section (5), the State Government may prescribe different

amounts having regard to the period of delay on the part of the owner in making an application under sub-section (1). Case Law 1: Assignment of new registration mark. Rajasthan High Court Regional Transport Officer and Another v. Pradeep Kumar Jain; 1995 KHC 2400 : AIR 1995 Raj. 145 Vehicle had been kept by the respondent for more than 12 months in the State of Rajasthan i.e. Jaipur. The respondent was also residing at B 34 Vijay Path, Tilak Nagar, Jaipur, which is within the territorial jurisdiction of District Transport Officer (Registering Authority), Jaipur -- Application cannot be rejected on ground that applicant was not permanently residing within his jurisdiction. Case Law 2: Vehicles registered in other States. Kerala High Court Sabu Johny and Others v. State of Kerala and Others; 2019 (4) KHC 311 : 2019 (4) KLJ 16 The contention of the petitioners, that the Puducherry registered vehicles can ply in State of Kerala, is untenable in law and unavailable in the statutory scheme of Act 1988 and Act 1976. The twelve month period referred in S.47 of the Act or thirty days' period referred in S.49, has nothing to do with the vehicle tax payable under Act 1976. Registration of a non transport vehicle and payment of registration fee under MV Act or payment of motor vehicle tax under a State Legislation continues to be valid so long as vehicle is kept and used in the State in which it is registered. These vehicles if enter State of Kerala and stay beyond the period stipulated by State enactment, vehicle is required to pay vehicle tax as per S.3(6). Case Law 3: Stage carriage w/o emergency door - RMA. Kerala High Court Gangadharan v. Registering Transport Office, Kannur; 2003 KHC 467 : 2003 (2) KLT 651 The stage carriage which was registered outside Kerala without emergency door prior to 1-8-2002 and brought to Kerala is entitled to change of registration under S.47 of the Act without the necessity of fitting emergency door. The provision for emergency door does not apply to the stage carriage registered outside Kerala prior to 1.8.2002 and brought to Kerala and registration sought under S.47 of the Act. However, such of the vehicles registered outside Kerala on or after 1.8.2002 without emergency door fitted and brought to Kerala are not entitled to assignment of new registration under S.47. Corresponding Law :S. 29 of Act IV of 1939: 29. Assignment of fresh registration mark on removal to another

State. - (1) [When a motor vehicle- (a) registered in one State has been kept in another State, [\* \*]for a period exceeding twelve months,] the owner of the vehicle shall apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority: [Provided that an application under this subsection shall be accompanied- (i) by a no objection certificate obtained under section 29A, or (ii) in a case where no such certificate has been obtained, by- (a) a receipt obtained under sub-section (2) of section 29A; or (b) a postal acknowledgement received by the owner of the vehicle if he has sent an application in this behalf by 'registered post acknowledgement due to the registering authority referred to in section 29A, together with. a declaration that he has not received any communication from. such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted.] (2) The registering authority, to which application is made under sub-section (1), shall assign the vehicle a registration mark [as specified in sub-section (3) of section 24] to be carried thenceforth on the vehicle and shall enter the mark upon the certificate of registration before returning it to the applicant and shall, in communication with the registering authority by whom the vehicle was previously registered, arrange for the transfer of the registration of the vehicle from the records of that registering authority to its own records. [(2A) Where a motor vehicle is held tinder a hire-purchase agreement or is subject to hypothecation, the registering authority shall, after assigning the vehicle a registration mark under sub-section (2), inform the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the hire-purchase agreement or, as the case may be, the person in whose favour the vehicle is subject to hypothecation (by sending to such person a notice by registered post acknowledgement due at the address of such person entered in the certificate of registration) the fact of assignment of the said registration mark.] (3) A State Government may make rules under section 41 requiring the owner of a motor vehicle not registered within the State, which is brought into or is for the time being in the State, to furnish to

a prescribed authority in the State such information with respect to the motor vehicle and its registration as may be prescribed.

## **Section 48**

### **No objection certificate.**

(1) The owner of a motor vehicle when applying for the assignment of a new registration mark under sub-section (1) of section 47, or where the transfer of a motor vehicle is to be effected in a State other than the State of its registration, the transferor of such vehicle when reporting the transfer under sub-section (1) of section 50, shall make an application in such form and in such manner as may be prescribed by the Central Government to the registering authority by which the vehicle was registered for the issue of a certificate (hereafter in this section referred to as the no objection certificate), to the effect that the registering authority has no objection for assigning a new registration mark to the vehicle or, as the case may be, for entering the particulars of the transfer of ownership in the certificate of registration. (2) The registering authority shall, on receipt of an application under sub-section (1), issue a receipt in such form as may be prescribed by the Central Government. (3) On receipt of an application under sub-section (1), the registering authority may, after making such inquiry and requiring the applicant to comply with such directions as it deems fit and within thirty days of the receipt thereof, by order in writing, communicate to the applicant that it has granted or refused to grant the no objection certificate: Provided that a registering authority shall not refuse to grant the no objection certificate unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant. (4) Where within a period of thirty days referred to in sub-section (3), the registering authority does not refuse to grant the no objection certificate or does not communicate the refusal to the applicant, the registering authority shall be deemed to have granted the no objection certificate. (5) Before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify

whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as may be prescribed by the Central Government. (6) The owner of the vehicle shall also inform at the earliest, in writing, the registering authority about the theft of his vehicle together with the name of the police station where the theft report was lodged, and the registering authority shall take into account such report while disposing of any application for no objection certification, registration, transfer of ownership or issue of duplicate registration certificate. Case Law 1: NOC for assignment of new registration mark. Rajasthan High Court Regional Transport Officer and Another v. Pradeep Kumar Jain; 1995 KHC 2400 : AIR 1995 Raj. 145 Owner complying with all procedural formalities. No certificate issued to him though six months passed nor any objection for non issuance of same communicated to him. Certificate is deemed to have been issued. Application for assignment of new registration mark rejected on ground that application of NOC was made by transferee and not transferor. No opportunity given to transferee to ask transferor to obtain NOC. Not justified being in violation of principles of natural justice. Corresponding Law :S. 29-A of Act IV of 1939: [29A. No objection Certificate. - (1) The owner of a motor vehicle when applying for the assignment of a new registration mark under sub-section (1) of section 29 to the registering authority within whose jurisdiction the vehicle is, or the transferor of any motor vehicle when reporting the transfer under sub-section (1) of section 31 to the registering authority within whose jurisdiction the transfer is to be effected, shall make an application in such form and in such manner as may be prescribed to the registering authority by which the vehicle was previously registered for the issue of a certificate (hereafter in this ,section referred to as the no objection certificate), to the effect that the registering authority has no objection for entering a new registration mark in the certificate of registration or, as the case may be, for entering the particulars of the transfer of ownership in the certificate of registration. (2) The registering authority shall, on receipt of an application under sub-section (1), issue a receipt in such form as may be prescribed. (3) On receipt of an application under sub-section (1), the registering

authority may, after making such inquiry as it deems fit and within thirty days of the receipt thereof, by order in writing, communicate to the applicant that it has granted or refused to grant the no objection certificate: Provided that a registering authority shall not refuse to grant the no objection certificate unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant. (4) Where within a period of thirty days referred to in sub-section (3), the registering authority does not refuse to grant the no objection certificate or does not communicate the refusal to the applicant, the registering authority shall be deemed to have granted the no objection certificate. (5) Before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as the Central Government may by rules prescribe.]

## **Section 49**

### **Change of residence or place of business.**

(1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate in such form accompanied by such documents as may be prescribed by the Central Government, his new address, to the registering authority by which the certificate of registration was issued, or, if the new address is within the jurisdiction of another [State, to any registering authority in that State], and shall at the same time forward the certificate of registration to the registering authority or, as the case may be, to the other registering authority in order that the new address may be entered therein. (1A) The intimation under sub-section (1) may be sent to the appropriate registering authority in electronic form along with the electronic form of such documents, including proof of authentication in such manner as may be prescribed by the Central Government. (2) If the owner of a motor vehicle



fails to intimate his new address to the concerned registering authority within the period specified in sub-section (1), the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding [five hundred rupees] as may be prescribed under sub-section (4): Provided that action under section 177 shall be taken against the owner where he fails to pay the said amount. (3) Where a person has paid the amount under sub-section (2), no action shall be taken against him under section 177. (4) For the purposes of sub-section (2), a State Government may prescribe different amounts having regard to the period of delay in intimating his new address. (5) On receipt of intimation under sub-section (1), the registering authority may, after making such verification as it may think fit, cause the new address to be entered in the certificate of registration. (6) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority. (7) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration. Case Law 1: Change in Address. Karnataka High Court N. Vasantha Kumar v. Regional Transport Officer, Kolar, AIR 1988 Kant. In this case the Hon'ble Court observed the jurisdictional registering authority is under a statutory obligation to effect the entry of the changed address of the owner of a vehicle when required to do so by the latter, without insisting upon him to comply with the requirement of Rule 216 of the Karnataka Rules as a condition precedent. Corresponding Law :S. 30 of Act IV of 1939: 30. Change of residence or place of business. - (1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration 'of the vehicle, he shall, within thirty days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued, or, if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time

forward the certificate of registration to the registering authority in order that the new address may be entered therein. [(1A) If the owner of a motor vehicle fails to intimate, his new address to the concerned registering authority within the period specified in sub-section (1), the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 112, such amount not exceeding one hundred rupees as may be prescribed under subsection (1C): Provided that action under section 112 shall be initiated against the Owner where he fails to pay the said amount. (1B) Where a person has paid the amount under sub-section (1A), no action shall be taken against him under section 112. (1C) For the purposes of sub-section (1A), a State Government may Prescribe different amounts having regard to the period of delay in intimating the change in the place of residence, or place of business, or both, as recorded in the certificate of registration.] (2) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority. (3) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

## **Section 50**

### **Transfer of ownership.**

(1) Where the ownership of any motor vehicle registered under this Chapter is transferred, (a) the transferor shall, (i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; and (ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i) the no objection certificate obtained under section 48; or in a case where no such certificate has

been obtained, (i) the receipt obtained under sub-section (2) of section 48; or (ii) the postal acknowledgement received by the transferor if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted; (b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration. (2) Where the person in whose name a motor vehicle stands registered dies, or a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of, Government, the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his name, to the registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government. (3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2) (hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that may be taken against him under section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5): Provided that action under section 177 shall be taken

against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount. (4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 177. (5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2). (6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of ownership to be entered in the certificate of registration. (7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority, if it is not the original registering authority.

Case Law 1: Transfer of hypothecated vehicle- Condition. Supreme Court Surendra Kumar Bhilawe v. New India Assurance Company Limited; 2020 KHC 6340 The contract in this case, could not possibly have been an unconditional contract of transfer of movable property in deliverable state, but a contract to transfer, contingent upon 'No Objection' from ICICI Bank, and compliance with the statutory provisions of the Motor Vehicles Act, 1988 and the Rules framed thereunder. Case Law 2: Transfer of ownership - Registered owner liability of. Punjab & Haryana High Court Naresh Kumar v. Ishwar Singh and Others; 2018 KHC 7581 : 2018 ACJ 2481

Transfer of vehicle -- Registered owner -- Liability of -- Held, if registered owner sold the offending vehicle prior to the accident but ownership was not got transferred in the record of the RTO, the registered owner is liable for third party liability -- Transfer of ownership of the vehicle by itself would not absolve the person in whose name the vehicle stands registered in RTO records from liability towards third party -- Hence the liability to pay the compensation would remain on the registered owner and he has an independent right under the civil law to recover the same from the person to whom it is allegedly sold. Case Law 3: Renewing policy in the name of old owner-- whether insurer liable. Kerala High Court Unnikrishnan K. A. v. Vijayakumar K. S. Biju and Others '3rd party claim' -- Transfer of vehicle -- Change in ownership -- New owner

renewing policy in the name of old owner -- Accident happening after renewal -- Whether insurer liable -- Held, after expiry of the term of policy existing on the date of transfer, transferee can take a policy still in the name of the previous owner and claim insurance coverage on the strength of such policy, in respect of liability towards a 'third party'. It is for the insurer to verify the factual particulars with reference to the RC before issuing policy -- If there is any such lapse on the part of insurer, they alone can be held liable for the consequence of such lapse. Case Law 4: Sale cum delivery receipt is valid. Madras High Court S. R. Ramakrishnan v. Deputy Transport Commissioner, Coimbatore and Another; 2013 KHC 2852 : AIR 2013 Mad. 100

Transfer of ownership of motor vehicle -- On date when registration certificate was endorsed with regard to transfer of ownership of vehicle, petitioner was owner -- Authorities when had clearly accepted that sale-cum-delivery receipt was effected during lifetime of erstwhile owner it was clear case of transfer of ownership in terms of S.50(1) of Act -- Even as per the authorities the allegations of suppression and forgery are to be concluded in the criminal proceedings-- Sale cum delivery receipt had to be taken as valid till it was proved otherwise -- Cancellation of endorsement made in registration certificate recording transfer of ownership in favour of petitioner improper. Case Law 5: Person in possession of vehicle not liable. Kerala High Court Baby Varghese v. Anitha Roy and Others; 2015 (3) KHC 281 : 2015 (3) KLT 78

Owner -- Meaning and scope of -- Held, a person who is in possession of a vehicle under a sale agreement can be termed as an owner, only if the registered owner has transferred the ownership in favour of that person in terms of S.50 of the Act -- Thus, when accident occurs subsequent to transfer of ownership of the vehicle but before effecting steps for any alteration in records of Registering Authority, it cannot be said that transferee would be liable -- Liability, in such cases would be on the registered owner. Case Law 6: Disposal of seized property. Bombay High Court Prakash Tarachand Sakhre v. Ashok Pundloikrao Wajge and Another; 2001 KHC 2453 : 2001 CriLJ 3024

Disposal of seized property -- Evidence showing that truck was sold by applicant to respondent as also possession of truck was given to respondent -- Change of

registration under S.31 of the Motor Vehicles Act, 1939 is not a condition precedent for transfer of ownership of the vehicle, but that section imposes a condition on both the transferor and transferee to notify transfer -- It does not invalidate transfer as such for non compliance of that section as transfer of ownership is governed by the Sales of Goods Act and takes place from the date of sale and not from the date on which transferee's name is recorded -- Respondent held entitled to custody and possession of truck in question even though registration continued in name of applicant. Case Law 7: Transfer of ownership. Kerala High Court Titus Benny v. Joint R. T. O. ; 2000 KHC 304 : 2000 (2) KLJ 995 No prior enquiry by the Authority is contemplated under Section 50 of Motor Vehicles Act or Rule 55 of Central Motor Vehicles Rule for effecting transfer of ownership of the vehicle. Case Law 8: Liability to pay tax. Kerala High Court Kunji Mohammed v. RTO, Malappuram; 2000 KHC 243 : 2000 (1) KLT SN 78 : AIR 2000 Ker. 231 Registered owners of vehicles have to pay tax and this liability is not avoided by transfer of ownership -- Registration certificate is the primary document to denote who is the owner of the vehicle. The primary liability to pay tax on the vehicle is on such owner. Of course, if the vehicle is in the possession of anybody else and if the owner does not pay it, the department or the tax recovery officer can proceed against that person as well. But the liability of the registered owner who had so transferred the ownership or possession of the vehicle to pay the tax does not cease at all by reason of such transfer of ownership or possession. Liability ceases if transfer has been intimated to registering authority and change effected. Corresponding Law :S. 31 of Act IV of 1939: 31.

Transfer of ownership. - [(1) Where the ownership of any motor vehicle registered under this Chapter is transferred:- [(a) the transferor shall- (i) within fourteen days of the transfer, report the fact of transfer to the registering authority within whose jurisdiction the transfer is to be effected and shall simultaneously send a copy of the said report to the transferee; (ii) within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i)- (A) a no objection certificate obtained under section 29A; or (B) in a case where no such certificate has been obtained (I) a receipt obtained under sub-section (2) of section 29A; or (II) a postal

acknowledgement received by the transferor if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 29A, together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted; (b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he resides, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration]. [(1A) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), the registering authority may, having regard to the circumstances of the case, require the transferor or, as the case may be, the transferee, to pay, in lieu of any action that may be taken against the transferor or the transferee under section 112, such amount not exceeding one hundred rupees as may be prescribed under sub-section (1C): Provided that action under section 112 shall be initiated against the transferor or the transferee, where the transferor or, as the case may be, the transferee fails to pay the said amount. (1B) Where a person has paid the amount under subsection (1A), no action shall be taken against him under section 112. (1C) For the purposes of sub-section (1A), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle]. (2) A registering authority other than the original registering authority making any such entry shall communicate the transfer of ownership to the original registering authority.]

## **Section 51**

### **Special provisions regarding motor vehicle subject to hire-purchase agreement, etc.**

(1) Where an application for registration of a motor vehicle which is held under a hire-purchase, lease or hypothecation agreement (hereafter in this section referred to as the said agreement) is

made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement. (2) Where the ownership of any motor vehicle registered under this Chapter is transferred and the transferee enters into the said agreement with any person, the [last registering authority] shall, on receipt of an application in such form as the Central Government may prescribe from the parties to the said agreement, make an entry as to the existence of the said agreement in the certificate of registration [and an intimation in this regard shall be sent to the original registering authority if the last registering authority is not the original registering authority.] (3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the [last registering authority] on proof of the termination of the said agreement by the parties concerned on an application being made in such form as the Central Government may prescribe [and an intimation in this behalf shall be sent to the original registering authority if the last registering authority is not the original registering authority.] (4) No entry regarding the transfer of ownership of any motor vehicle which is held under the said agreement shall be made in the certificate of registration except with the written consent of the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement. (5) Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement, satisfies the registering authority that he has taken possession of the vehicle [from the registered owner] owing to the default of the registered owner under the provisions of the said agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a fresh certificate of registration in the name of the person with whom the registered owner has entered into the said agreement: Provided that a fresh certificate of registration shall



not be issued in respect of a motor vehicle, unless such person pays the prescribed fee:

Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force. (6) The registered owner shall, before applying to the appropriate authority, for the renewal of a permit under section 81 or for the issue of duplicate certificate of registration under sub-section (14) of section 41, or for the assignment of a new registration mark [under section 47, or removal of the vehicle to another State, or at the time of conversion of the vehicle from one class to another, or for issue of no objection certificate under section 48, or for change of residence or place of business under section 49, or for the alteration of the vehicle under section 52, make an application] to the person with whom the registered owner has entered into the said agreement (such person being hereafter in this section referred to as the financier) for the issue of a no objection certificate (hereafter in this section referred to as the certificate). Explanation: For the purposes of this sub-section and sub-sections (8) and (9), appropriate authority, in relation to any permit, means the authority which is authorised by this Act to renew such permit and, in relation to registration means the authority which is authorised by this Act to issue, duplicate certificate of registration or to assign a new registration mark. (7) Within seven days of the receipt of an application under sub-section (6), the financier may issue, or refuse, for reasons which shall be recorded in writing and communicated to the applicant, to issue, the certificate applied for, and where the financier fails to issue the certificate and also fails to communicate the reasons for refusal to issue the certificate to the applicant within the said period of seven days, the certificate applied for shall be deemed to have been issued by the financier. (8) The registered owner shall, while applying to the appropriate authority for the renewal of any permit under section 81, or for the issue of a duplicate certificate of registration under sub-section (14) of section 41, or while applying for assignment of a new registration mark under section 47, submit with such application the certificate, if any, obtained under sub-section (7) or, where no such certificate has been

obtained, the communication received from the financier under that sub-section, or, as the case may be, a declaration that he has not received any communication from the financier within the period of seven days specified in that sub-section. (9) On receipt of an application for the renewal of any permit or for the issue of duplicate certificate of registration or for assignment of a new registration mark in respect of a vehicle which is held under the said agreement, the appropriate authority may, subject to the other provisions of this Act, (a) in a case where the financier has refused to issue the certificate applied for, after giving the applicant an opportunity of being heard, either renew or refuse to renew the permit, or issue or refuse to issue the duplicate certificate of registration, or assign or refuse to assign a new registration mark; (b) in any other case, renew the permit, or issue duplicate certificate of registration, or assign a new registration mark. (10) A registering authority making an entry in the certificate of registration regarding hire-purchase, lease or hypothecation agreement of a motor vehicle, or the cancellation under sub-section (3) of an entry, or recording transfer of ownership of motor vehicle, or any alteration in a motor vehicle, or suspension or cancellation of registration of a motor vehicle, or change of address, shall communicate [by registered post acknowledgement due] to the financier that such entry has been made. (11) A registering authority registering the new vehicle, or issuing the duplicate certificate of registration or a no objection certificate or a temporary certificate of registration, or issuing or renewing, a fitness certificate or substituting entries relating to another motor vehicle in the permit, shall intimate the financier of such transaction. (12) The registering authority where it is not the original registering authority, when making entry under sub-section (1) or sub-section (2), or cancelling the said entry under sub-section (3) or issuing the fresh certificate of registration under sub-section (5) shall communicate the same to the original registering authority. Case Law 1: No clearance certificate required. Kerala High Court Secretary, Regional Transport Authority v. Abdul Salam T. K. & Others; 2016 KHC 429 : 2016 (3) KLT 87 : AIR 2016 Ker. 124 S.51 contains a special provision regarding motor vehicles subject to hire purchase agreement wherein S.51(4) provides no entry

regarding the transfer of ownership of any motor vehicle which is held under the said agreement shall be made in the certificate of registration except with the written consent of the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement -- With regard to transfer of vehicle no clearance certificate is required. Case Law 2: Renewal of permit. Kerala High Court Shabu Sukumaran v. Regional Transport Officer, Tvm. and Others; 2018 (2) KHC 470 : 2018 (2) KLT 219 : AIR 2018 Ker. 103 Merely for the reason that the financier has refused to issue the certificate applied for under sub-section (7) of S.51, the registering authority cannot reject an application made for renewal of contract carriage permit, in a mechanical exercise of power. Registering authority has to apply its mind to the objections, raised by the financier and take an appropriate decision as to whether despite such objections of the financier, applicant is entitled for renewal of permit. Case Law 3: Replacement of vehicle. Kerala High Court Sajith C. S v. Regional Transport Authority and Another; 2016 KHC 195 : 2016 (1) KLT 653 : AIR 2016 NOC 347 A permission from financier is not required to replace a vehicle with a new vehicle during the pendency of the permit. Case Law 4: Registered owner execute a lease agreement- Legality. Kerala High Court Rajan P. v. Regional Transport Authority; 2014 KHC 2524 : 2014 (1) KLT 387 : 2014 (2) KLJ 198 S.51 enables a third party, with whom the registered owner of a vehicle has entered into an agreement of hire purchase, lease or hypothecation; with respect to the vehicle, to protect their interest -- Registered owner himself has executed a lease agreement handing over possession of the vehicle to the petitioner herein -- The petitioner herein has only a possessory claim over the vehicle only in so far as the terms of the lease agreement being satisfied -- There is no requirement that the said lease agreement be endorsed under S.51 of the Motor Vehicles Act, 1988 -- The petitioner who has obtained the lease of the vehicle, from the registered owner, cannot transfer the registration of the vehicle in another's name. Case Law 5: Termination of hire purchase agreement. Kerala High Court Satheesh Kumar T. v. Joint Regional Transport Officer, Tvm. and Another; 2012 (1) KHC 641 Held, Registering Authority to

communicate to the financier regarding the cancellation of hypothecation in the certificate of registration -- Receipt of the letter from the financier confirming genuineness and authenticity of the application regarding termination of the hire purchase agreement, not warranted.

Corresponding Law :S. 31-A of Act IV of 1939: [31A. Special provisions regarding motor vehicles subject to hire-purchase agreement. - (1) Where an application for registration of a motor vehicle which is held under a hire-purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement. (2) When the ownership of any motor vehicle registered under this Chapter is transferred and the transferee enters into a hire purchase agreement with any person, the registering authority shall on receipt of an application from the parties to that agreement make an entry as to the existence of such hire-purchase agreement in the certificate of registration. (3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the registering authority on proof of the termination of the hire-purchase agreement by the parties concerned. (4) No entry regarding the transfer of ownership of any motor, vehicle which is held under a hire-purchase, agreement shall be made in the certificate of registration except with the written consent of the person whose name has been specified in the certificate of registration as the person with whom the registered owner has, entered into a hire-purchase agreement. (5) Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into a hire-purchase agreement, satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate [and issue a fresh certificate of registration to the person with whom the registered owner has

entered into the hire-purchase agreement: Provided that a fresh certificate of registration issued in respect of a motor vehicle, unless the person pays the prescribed fee: Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force]. [(5A) The registered owner shall, before applying to the appropriate authority, for the renewal of a permit make an application to the person with whom the registered owner has entered into a hire-purchase agreement (such person being hereafter in this section referred to as the financier) for the issue of a no objection certificate (hereafter in this section referred to as the certificate). Explanation. - In this section, "appropriate authority", in relation to any permit, means the authority which is authorised by this Act to renew such permit. (5B) Within seven days of the receipt of an application under sub-section (5A), the financier may issue, or refuse, for reasons which shall be recorded in writing and communicated to the applicant, to issue, the certificate applied for, and where the financier fails to issue the certificate and also fails to communicate the reasons for refusal to issue the certificate to the applicant within the said period of seven days, the certificate applied for shall be deemed to have been issued by the financier. (5C) The registered owner shall, while applying to the appropriate authority for the renewal of any permit, submit with such application the certificate, if any, obtained under sub-section (5B) or, where no such certificate has been obtained, the communication received from the financier under that sub-section, ,or, as the case may be, a declaration that he has not received any communication from the financier within the period specified in that sub-section. (5D) On receipt of an application for the renewal of any permit under this section, the appropriate authority may subject to the other provisions of this Act- (i) in a case where the financier has refused to issue certificate applied for, after giving the applicant an opportunity of being heard, either renew, or refuse to renew, the permit; (ii) in any other case, renew the permit]- (6) The provisions of sub-sections (1) to [(5D)] so far as may be, apply to a motor vehicle which is subject to hypothecation they apply to any motor vehicle which is held

under a hire-purchase agreement.]

## **Section 52**

### **Alteration in motor vehicle.**

(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer: Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed: [Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles and in such cases, the warranty granted by the manufacturer shall not be considered as void for the purposes of such alteration or retrofitment.] Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose. (1A) [A manufacturer of a motor vehicle shall on the direction issued by the Central Government, alter or retrofit safety equipment, or any other equipment in accordance with such standards and specifications as may be specified by the Central Government.] (2) [Notwithstanding anything contained in sub-section (1), any person may, with the subsequent approval of the registering authority, alter or cause to be altered any vehicle owned by him to be converted into an adapted vehicle: Provided that such alteration complies with such conditions as may be prescribed by the Central Government.] (3) Where any alteration has been made in motor vehicle without the approval of registering authority or [x x x], the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein. (4) A registering authority other than the original

registering authority making any such entry shall communicate the details of the entry to the original registering authority. (5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner. Explanation: For the purposes of this section, alteration means a change in the structure of a vehicle which results in change in its basic feature. OLD LAW : Prior to its Substitution, Section 52 read as under :- " 52. Alteration in motor vehicle.- (1) No. owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are no longer accurate, unless- (a) he has given notice to the registering authority within whose jurisdiction he has the residence or the place of business whereof the vehicle is normally kept, as the case may be, of the alteration he proposes to make; and (b) he has obtained the approval of that registering authority to make such alteration: Provided that it shall not be necessary to obtain such approval for making any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration: \*[Provided further that modification of the engine, or any part thereof, of a vehicle for facilitating its operation by a different type of fuel or source of energy other than liquid petroleum gas shall be treated as an alteration but that shall be subject to such conditions as may be prescribed,] (2) Where a registering authority receives a notice under sub-section (1), it shall, within seven days of the receipt thereof, communicate, by post, to the owner of the vehicle its approval to the proposed alteration or otherwise: Provided that where the owner of the motor vehicle has not received any such communication within the said period of seven days, the approval of such authority to the proposed alteration shall be deemed to have<sup>4</sup> been given. (3) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, the owners of not less than ten transport vehicles to alter any vehicle owned by them so as to replace the engine thereof without the approval of the registering authority. (4)

Where any alteration has been made in a motor vehicle either with the approval of the registering authority given or deemed to have been given under sub-section (2) or by reason of replacement of its engine without such approval under sub-section (3), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of the alteration, may be entered therein, (5) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

\*[(6) No person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle for which approval of the registering authority is required under sub-section (1), except with the written consent of the registered owner. Explanation -- For the purposes of this section, "alteration" means a change in the structure of a vehicle which results in change in its basic feature]" .- \* Inserted by Act 54 of 1994, Section 15 (w.e.f. 14.11.1994). Case Law 1: Impermissibility of Alteration. Supreme Court Regional Transport Officer & Others v. K. Jayachandran & Another, (2019) 3 SCC 722. Alteration of vehicle at variance with particulars contained in the certificate of registration —No vehicle can be altered in a manner where particulars in the certificate of registration are at variance with those “originally specified by the manufacturer”. Also, the rules cannot be so interpreted so as to permit the alteration as prohibited under Section 52 (1) of the Act. Further, the provisions of Sections 52(2), (3), (4) and (5) have to be read harmoniously and the Explanation to Section 52 says that “alteration” means a change in the structure of a vehicle which results in a change in its basic feature. Thus, alterations which do not change the basic features are outside the purview of alteration. Case Law 2: Limitation of Alteration. Kerala High Court Raju Chacko v. State of Kerala and Others; 2019 KHC 163 : 2019 (1) KHC SN 32 : 2019 (1) KLT 668 Particulars in certificate of registration can be changed except to the extent of entries made in the same as per the specifications originally made by the manufacturer -- No doubt about it that the vehicle has to be in conformity



with the Rules also, but Rules cannot be so interpreted so as to permit the alteration as prohibited under sub-section (1) of S.52 of the Act. The alteration under the Rules is permissible except as prohibited by S.52. The specification of the Rules would hold good with respect to the matters as not specifically covered under sub-section (1) of S.52 and not specified therein by manufacturer. The emphasis of sub-section (1) of S.52 is not to vary the 'original specifications by the manufacturer'. Remaining particulars in a certificate of registration can be modified and changed and can be noted in the certificate of registration as provided in sub-sections (2) to (5) of S.52 of the Act and the Rules. Under sub-section (5) of S.52 of the Act, in case a person is holding a vehicle on a hire purchase agreement, he shall not make any alteration except with the written consent of the original owner. Circular No.7/2006 is also to be read in that spirit and the authorities have to act accordingly. Case Law 3: Alteration of vehicle as a tow truck. Kerala High Court Vinu Vincent v. Additional Registering Authority, Pala and Others; 2020 (3) KHC 176 : 2020 (3) KLT 547 : 2020 (3) KLJ 215 Chassis of a vehicle purchased and a body is built in such a way as to use the vehicle as a tow truck -- Rejection of registration -- Whether any interference called for -- Held, there can be no alteration made from that available in Prototype Test Certificate -- When specifications of manufacturer as available in CMVR Certificate has been deviated, from in making an alteration quite contrary to the design approved by the competent authority; alteration made would not enable registration as a non - transport vehicle and in addition, would result in the registration itself being declined, as has been rightly done by the authorities. Case Law 4: Conversion of Ambulance to Omni bus. Andhra Pradesh High Court E. Dastagiri E. Papa Saheb v. Regional Transport Officer, Proddatur, Kadapa District and Others ; 2011 KHC 2004 : AIR 2011 AP 8 S.52 (1) prohibits alteration of vehicles as regards the particulars contained in the Certificate of Registration which are at variance with those originally specified by the manufacturer -- The alterations made by the petitioner have admittedly resulted in alteration of the above said particulars contained in the Certificate of Registration and apparently they are at variance with the particulars originally specified by the manufacturer --

Thus the statutory prohibition under S.52 (1) is attracted and consequently the 1st respondent has rightly rejected the petitioner's request for registering the conversion of the vehicle from Ambulance to Omni Bus Case Law 5: Alteration of driver cabin legally impermissible. Kerala High Court Jacob Mathews v. Regional Transport Officer and Another; 2019 KHC 735 : ILR 2019 (4) Ker. 373 Any alteration or modification to the already type approved 'cab' (driver cabin) or the vehicle systems and components, e.g., chassis, suspension, brake system, steering system, electrical system, fuel system, engine, etc. is legally impermissible -- Any alterations or modifications of the windscreen, front doors, headlights, direction indicators, reflectors, reflective tapes, etc of the type approved driver cabin of the vehicle is legally impermissible. Case Law 6: Invalid Carriage - Permissibility of Alteration. Chattisgarh High Court Chitrasen Sahu v. Union of India and Others; 2019 KHC 4441 : AIR 2019 Chh. 167 Petitioner, a differently abled person modifying Maruti Dzire Car to make it suitable for him to drive -- He installed hand brake instead of foot brake and hand accelerator instead of foot accelerator through authorised centre -- No change made in basic feature of vehicle -- The restriction of S.52 of the Act, 1988 which speaks about the alteration of the motor vehicles, will not come into play as necessarily it would mean to change the entire basic feature of the motor and in a given case the engine and further parts of the vehicle were same but certain alteration was carried out -- Direction issued to authorities to register said vehicle under category of ' invalid carriage after necessary inspection. Case Law 7: Change of tyres of higher capacity is alteration. Kerala High Court Jefin Abraham v. Joint Regional Transport Officer,Thodupuzha and Others; 2019 KHC 828 : 2019 (4) KLT 1058 Prohibition in the alteration of a motor vehicle, in any manner, including change of tyres of higher capacity -- Sub-section (1) of S.52 of the Motor Vehicles Act prohibits any structural alterations on the prototype approved body of a motor vehicle by altering the number, size or position of the windows or by changing '270 degree opening' double door on the rear as 'hatch type' rear door that opens upwards, etc -- The structural alteration made by the petitioner on the pressed steel body panels of Force Traveller Ambulance, in violation of the provisions under sub-rule (1) of

R.52 of the Motor Vehicles Act, would result in the body shell of the vehicle, which acts as a load-bearing member, losing its structural integrity and also the higher safety factor attached to a monocoque body. Case Law 8: Conversion of omni bus to goods carriage. Madras High Court Abdul Rahman M. v. Transport Commissioner, Chepauk and another; 2013 KHC 2630 : AIR 2013 Mad. 92 Conversion was from omni bus to goods vehicle -- The only two changes the petitioner seeks are for removing the seats and the colour and type of the body for the purpose of modifying the omni buses as goods vehicles -- Basic feature of vehicle was not sought to be changed --The alteration which results in the change in the basic feature of the vehicle, must be concerning those in the chassis supplied by the manufacturer. It is common ground in the case on hand that the change will be only in the body of the vehicle and not in the chassis -- Impugned proceedings are set aside and a mandamus is issued directing the authorities to consider the application for conversion of the omni buses in question to goods vehicles and pass appropriate orders. Case Law 9: Alteration of Contract carriage as School bus. Kerala High Court Ma'din Public School (M/s. ) v. Regional Transport Officer, Malappuram and Another; 2019 (3) KHC 712 : 2019 (2) KLT 1011 Alteration of contract carriage as School bus -- Need for extra caution on the part of authorities -- Court moots for measures to ensure safety of children in transportation facility provided in every School in the State. The Transport Commissioner, shall take necessary steps to ensure that no application for altering the class of a stage carriage or a contract carriage as Educational Institution Bus shall be entertained by any Registering Authority in the State, without the vehicle being produced for inspection, along with its current records, and after satisfying that such request is in respect of a vehicle which is roadworthy. Case Law 10: Reduction of seating capacity. Karnataka High Court Appasaheb Vaman Shinge v. Deputy Commissioner for Transports, Belgaum and Another; 2005 KHC 5572 : AIR 2005 Kar. 75 Reduction of seating capacity -- By such reduction of seats no alteration has to be made in the entry regarding "seating capacity" in the certificate of registration inasmuch as the built in seating capacity in such case would continue to remain the same irrespective of the reduction in the

number of actual seats -- Merely by reducing the number of seats for the convenience of the passengers, the "seating capacity" of the vehicle will not change -- By the said process, the basic structure / feature of the vehicle also will not be changed -- Thus, no permission is required under S.52 of the Act to reduce number of seats. Case Law 11: Alteration of completely build vehicle to caravan. Kerala High Court Muhammed Rasheekh v. Joint RTO, Kottarakkara and Others; 2020 KHC 396 : ILR 2020 (4) Ker. 267 For registration purpose of motor caravan built on already registered vehicle (completely built vehicle), the vehicle owner shall apply to the concerned registering authority within 14 days of undertaking the alteration as required under S.52 of Motor Vehicle Act, for endorsement of particular alteration in registration certificate mentioning place and date of alteration and alteration certificate number -- This shall also be ensured by the motor caravan body builder -- After the introduction of the bus body code and the amendments made to the Central Motor Vehicles Rules, once an application for registration is received, the Registering Authority has to consider the same with reference to the vehicle details / bus body details uploaded by the manufacturer / accredited body builder, and certificate / self certification in Form 22, Form 22A / Form 22B, as the case may be. Corresponding Law :S. 32 of Act IV of 1939: [32. Alteration in motor vehicle. - (1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration no longer accurate, unless-Provided that it shall not be necessary to obtain such approval for making any change in the unladen weight of the, motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration. (a) he has given notice to the registering authority within whose jurisdiction he resides of the alteration he proposes to make; and Provided that it shall not be necessary to obtain such approval for making any change in the unladen weight of the, motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration. (b) he has obtained the approval of the registering authority to make such alteration: Provided that it shall not be

necessary to obtain such approval for making any change in the unladen weight of the, motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration. (2) Where a registering authority has received notice under sub-section (1), it shall, within seven days of the receipt thereof, communicate, by post, to the owner of the vehicle its approval to the proposed alteration or otherwise : Provided that where the owner of the motor vehicle has not received any such communication within the said period of seven days, the approval of such authority to the proposed alteration shall be deemed to have been given. (3) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, the owners of not less than ten transport vehicles to alter any vehicle owned by them so as to change its engine number by replacing the engine thereof without the approval of the registering authority. (4) Where any alteration has been made in a motor vehicle either with the approval of the registering authority given or deemed to have been given under sub-section (2) or by reason of any change in its engine number without such approval, under sub-section (3) the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority with in whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein. (5) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

## **Section 53**

### **Suspension of registration.**

(1) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of this Act or of the rules made thereunder, or has been, or is being, used for hire or reward without a valid permit for

being used as such, the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), for reasons to be recorded in writing, suspend the certificate of registration of the vehicle in any case falling under clause (a), until the defects are rectified to its satisfaction; and in any case falling under clause (b), for a period not exceeding four months. (2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of such suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension. (3) Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension. (4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration. (5) A certificate of registration surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

Case Law 1: Registration suspended on ground of PUC - Reports called of. Supreme Court *M. C. Mehta v. Union of India and Others*; 1991 (2) SCC 137 : AIR 1991 SC 1132 Environment Protection -- Motor Vehicle Pollution -- Rules 115(6) and 126 and 127 directed to be made operative from 01/04/1991 -- Directions given to Delhi Administration to place before court complete list of prosecutions launched, particulars of suspension of registration of vehicles with classification as to whether vehicle belongs to Central Government or Public Sector or Delhi Admin etc. -- Further suggested that Environment Ministry should carry out appropriate experiments to test the effectiveness of device invented by a Research Institute to reduce pollution content should be tested.

Case Law 2: Imposition & period of Suspension. Karnataka High Court *K. Knshnappa v. Registering Authority and Regional*

Transport Officer, AIR 1988 Kant 21. In this case the Hon'ble Court decided that the imposition of the penalty of suspension is in its nature punitive. It is a measure of punishment imposed on the owner. Therefore, exercise of that power is quasi-judicial in character inasmuch as the Registering Authority has to give an opportunity to the offender of being heard and thereafter proceed to impose punishment if found guilty of the offence alleged. In the same case Court also mentioned about the period of suspension.—There is no mandate in the section which empowers the Registering Authorities to impose four months' suspension, as a matter of course, in all cases. Automatic matter of course approach in suspending the registration certificate for the maximum period, is arbitrary exercise of power and without the authority of law. Case Law 3: Invalid suspension of registration. Orissa High Court IRC Natural Resources Private Ltd. v. State of Orissa and Another; 2019 KHC 3349 : AIR 2019 Ori. 81 Suspension of registration of vehicle -- Overloading transport vehicles -- Only officers of Motor Vehicles Department are authorised by State Government to take action against persons violating S.113 -- Relying on the weighment figures furnished by the Deputy Director of Mines, Sambalpur, a conclusion relating over loading has been drawn and fine amount has been imposed by the R.T.O -- Thus the prescribed procedure has not been followed in the matter or weighment -- Suspension of registration of vehicle, invalid. Case Law 4: Suspension of registration on ground illegal transportation. Bombay High Court Ganesh Jaglal Jaiswal v. State of Maharashtra; 2013 KHC 3158 : 2013 CriLJ 3243 The vehicle of the petitioner was admittedly not a transport vehicle -- It was allegedly involved in transportation of liquor -- The transportation by the passenger vehicle was obviously in contravention of the provisions of the Motor Vehicles Act -- The vehicle was used for hire or reward without a valid permit for said purpose -- Suspension of registration of vehicle, proper -- Stationary would make no difference as liquor in huge quantity was found in vehicle -- Once liquor in huge quantity is found in a passenger vehicle it can normally be inferred that the consignment was for transportation. Case Law 5: Suspension of registration illegal for permit violation. Karnataka High Court Chinagi A. B. v. Registering Authority and Regional Transport

Officer, Bijapur and Others; 1988 KHC 2007 : AIR 1988 Kar. 232 Where a motor vehicle possesses a valid permit for being used as a tourist vehicle but is used as a stage carriage permit by picking up individual passengers, the owner violates conditions of the permit and action against him could be taken only under S.60 and not under S.33(1)(b) of Motor vehicles Act 1939 -- Therefore the suspension of the registration certificate of the vehicle for a period is illegal and without jurisdiction. Case Law : Taking custody of vehicle is illegal. Bombay High Court Ganesh Jaglal Jaiswal v. State of Maharashtra; 2013 KHC 3158 : 2013 CriLJ 3243

Suspension of registration of vehicle -- A bare perusal of S.53 of the said Act makes it abundantly clear that the powers of prescribed authority under S.53 are confined to suspension of registration certificate and do not empower the prescribed authority to take custody of the vehicle -- Directions of prescribed authority to deposit vehicle at police station liable to be set aside. Case Law 6: Suspension of registration on ground of PUCC. Himachal Pradesh High Court Dr. Sanjiv Sharma v. State of H. P. and Another; 2006 KHC 3570 : AIR 2006 HP 141

Driving vehicle without Certificate of 'Pollution Under Control' -- As per the procedure, if the vehicle is found to be polluting, or if the driver is not carrying "Pollution Under Control Certificate" an opportunity has to be given to the driver or the person incharge of the vehicle to get his vehicle rectified -- Penalty is to be imposed only in case of non-compliance of directions -- If the certificate of 'pollution under control' under sub-rule (7) of Rule 116 of the Rules not produced, it is open to the concerned authority even to move the Registering Authority for suspension of the certificate of registration of the vehicle until such time the certificate is produced before the registering authority to the effect that the vehicle complies with the provisions of sub-rule (2) of Rule 115. Case Law 7: Period of suspension - 4 months. Karnataka High Court Krishnappa K. v. Registering Authority and Regional Transport Officer and Others; 1988 KHC 1964 : AIR 1988 Kar. 21

Offence under S.33(1)(b) of using vehicle for hire without valid permit -- The Legislature has thought it fit to provide only for the maximum punishment of suspension of the registration certificate for 4 months which may be imposed by the Registering Authorities when an offence of



using a vehicle for hire or reward without a valid permit is committed by the registered owner of a vehicle under S.33(1)(b) -- There is no mandate in S.33 which empowers the Registering Authorities to impose 4 months suspension as a matter of course in all cases -- Therefore, exercise of that power to impose penalty of suspension is quasi judicial in character inasmuch as the Registering Authority has to give an opportunity to the offender of being heard and thereafter proceed to impose punishment if found guilty of the offence alleged. Case Law 8: Suspension illegal - if violated natural justice. Kerala High Court Meeran Kutty v. RTO, Ernakulam; 1962 KHC 46 : AIR 1962 Ker. 290 Registering Authority is under an obligation to give the owner an opportunity of making any representation he may wish to make when the Registering Authority has a reason to believe that a motor vehicle within his jurisdiction has been used for hire without a valid permit -- Check report forms the basis for conviction -- Order purporting to the suspension of the registration certificate of the car has to be cancelled. Corresponding Law :S. 33 of Act IV of 1939: 33. Suspension of registration. - [(1) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction- (a) is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of Chapter V or of the rules made thereunder, or (b) has been, or is being, used for hire or reward without a valid permit for being used as such, the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), for reasons to be recorded in writing, suspend the certificate of registration of the vehicle- (i) in any case falling under clause (a), until the defects are remedied to its satisfaction; and (ii) in any case falling under clause (b), for a period not exceeding four months.] (2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension. (3) Where the registration of a motor vehicle has been suspended under

sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension; and when the suspension has continued without interruption for a period of not less than six months, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and, if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel it forthwith. (4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration and any token or card issued to authorise the use of the vehicle in a public place. (5) A certificate of registration and any token or card surrendered under sub-section (4) 1 shall be returned to the owner when the order suspending registration has been rescinded and not before.

## **Section 54**

### **Cancellation of registration suspended under section 53.**

Where the suspension of registration of a vehicle under section 53 has continued without interruption for a period of not less than six months, the registering authority within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel the registration.

## **Section 55**

### **Cancellation of registration.**

(1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is

normally kept, as the case may be, and shall forward to the authority the certificate of registration of the vehicle. (2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration. (3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration. (4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration. (5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the registration. (5A) [If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction has been used in the commission of an offence punishable under section 199A, the authority may, after giving the owner an opportunity of making a representation in writing, cancel the certificate of registration of the vehicle for a period of one year: Provided that the owner of the motor vehicle may apply for fresh registration in accordance with the provisions of section 40 and section 41.] (6) A registering authority cancelling the registration of a motor

vehicle under section 54 or under this section shall communicate such fact in writing to the owner of the vehicle, and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle. (7) A registering authority making an order of cancellation under section 54 or under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records. (8) The expression original registering authority in this section and in sections 41, 49, 50, 51, 52, 53 and 54 means the registering authority in whose records the registration of the vehicle is recorded. (9) In this section certificate of registration includes a certificate of registration renewed under the provisions of this Act. Case Law 1: Cancellation of registration can be done only by original RA. Kerala High Court Secretary, Transport Department, Tvm and Others v. Shibumon P. V. and Others; 2020 (6) KHC 479 : ILR 2020 (4) Ker. 1024 Vehicle normally kept in a State and allegation that there is no place of residence or business in the place of original Registering Authority -- Once such an order is passed, cancellation of certificate of registration and entry relating to the motor vehicle from the register can be made only by the original Registering Authority -- Any Registering Authority can make an order of cancellation of registration -- But certificate of registration and entry relating to vehicle in its records can be cancelled only by original Registering Authority. The case Sabu Johny and Others v. State of Kerala and Others; 2019 (4) KHC 311 overruled by this case. Case Law 2: Cancellation of registration illegal - if principle of natural justice violated. Himachal Pradesh High Court Parkash Chand Mehta v. State of H. P. and Others; 1986 KHC 1719 : AIR 1986 HP 38 Before exercising powers under subs.(4A) of S.34 of MV Act 1939, it is the duty of the Registering Authority to give to the owner an opportunity to make such representation as he may wish to make against the proposed action -- In order that the opportunity so afforded is real and not illusory, it is not sufficient merely to inform the owner that it is proposed to cancel the certificate of registration or

the entry therein made relating to the ownership of the motor vehicle, as the case may be -- For effectively availing of the opportunity to show cause, the owner must know what is against him and what he has to answer. Case Law 3: Which RA can conduct enquiry regarding S.55. Kerala High Court Secretary, Transport Department, Tvm and Others v. Shibumon P. V. and Others; 2020 (6) KHC 479 : ILR 2020 (4) Ker. 1024 Whether any other Registering Authority can conduct an enquiry with reference to any matters specified under sub section (5) -- Held, an order of cancellation can be made by any Registering Authority if it is satisfied that any of the situations as described under S.55 is brought to the notice of Registering Authority and if he is satisfied on enquiry that such a condition exists -- Once order of cancellation is made, it shall be forwarded to original Registering Authority to enable that authority to 'cancel certificate of registration' and 'entry relating to the motor vehicle' in its records. Corresponding Law :S. 34 of Act IV of 1939: 34. Cancellation of registration. - (1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he' resides and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorise the use of the vehicle in a public place. (2) The registering authority shall, if it is the original registering authority, cancel he registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration and the certificate of registration. (3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the [State Government] may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make [(by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration)] it is satisfied that the vehicle is in such a condition that [it is incapable of being used or] its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration of the vehicle.

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of [India], the registering authority shall cancel the registration. [(4A) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the certificate of registration of the vehicle.] (5) A registering authority cancelling the registration of a motor vehicle under section 33 or under this section shall communicate the fact in writing to the owner of the vehicle and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle/ and any token or card issued to authorise the use of the vehicle in a public place. (6) A registering authority making an order of cancellation under this section shall, if it is the. original registering authority, cancel the certificate of registration and. the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records. (7) The expression "original registering authority" in this section and in sections 30, 31, 32 and 33 means the registering authority in whose records the registration of the vehicle is recorded. [(8) In this section, "certificate of registration" includes a certificate of registration renewed under the provisions of this Act.

## **Section 56**

### **Certificate of fitness of transport vehicles.**

(1) Subject to the provisions of sections 59 and 60, a transport vehicle shall not be deemed to be validly registered for the purposes of section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorized testing station mentioned in

sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder: Provided that where the prescribed authority or the authorized testing station refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal. [Provided further that no certificate of fitness shall be granted to a vehicle, after such date as may be notified by the Central Government, unless such vehicle has been tested at an automated testing station.] (2) [The "authorised testing station" referred to in sub-section (1) means any facility, including automated testing facilities, authorised by the State Government, where fitness testing may be conducted in accordance with the rules made by the Central Government for recognition, regulation and control of such stations.] (3) Subject to the provisions of sub-section (4), a certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act. (4) The prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained: [Provided that no such cancellation shall be made by the prescribed authority unless, - (a) such prescribed authority holds such technical qualification as may be prescribed by the Central Government and where the prescribed authority does not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification; and (b) the reasons recorded in writing cancelling a certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose certificate of fitness is sought to be cancelled: Provided further that if the cancellation is confirmed by the authorised testing station, the cost of undertaking the test shall be borne by the owner of the vehicle being tested and in the alternative by the prescribed authority.] (5) A certificate of fitness issued under this Act shall, while it remains effective, be

valid throughout India. (6) [All transport vehicles with a valid certificate of fitness issued under this section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government. (7) Subject to such conditions as the Central Government may prescribe, the provisions of this section may be extended to non-transport vehicles.] Case Law 1: Vehicle should comply with Act, Rules & Safety standards for issuing CF. Kerala High Court Principal, Sabari PTB Smaraka H. S. S. , Ottapalam v. Additional Registering Authority, Ottapalam and Others The Transport Commissioner, Kerala shall take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no transport vehicle, including an Educational Institution Bus, shall be issued with fitness certificate, if the vehicle does not comply with the provisions of the Motor Vehicles Act and the Rules made thereunder, and also the safety standards. Case Law 2: Vehicle not comply with Act, Rules is a ground to cancel CF. Kerala High Court Jijith and Others v. State of Kerala and Others; 2019 (1) KHC 463 : ILR 2019 (1) Ker. 534 Non compliance of provisions of MV Act and Rules -- Whether a ground to cancel fitness certificate -- At any time after issuance of a fitness certificate, if prescribed authority, for reasons to be recorded in writing, is satisfied that transport vehicle to which it relates no longer complies with all the requirements of the MV Act and Rules made thereunder, fitness certificate is liable to be cancelled, as per the procedure contemplated under sub section (4) of S.56 of the MV Act. Case Law 3: Transport vehicle madatory conditions for satisfying registration. Kerala High Court Usha Nanthini M. v. Secretary, Regional Transport Authority cum RTO, Palakkad and Another; 2018 (2) KHC 89 : 2018 (1) KLT 725 A transport vehicle which is registered under S.39 can be driven or plied on road only if it possesses a valid fitness certificate. If it is not having a valid fitness certificate, it shall be deemed to be an unregistered motor vehicle. Case Law 4: Authorized testing stations cannot compelled to get counter-sinature of MVI. Jharkand High Court Nag's Auto Testing Station (M/s. ) v. State of Jharkhand and Others; 2008 KHC 7783 : AIR 2008 Jha. 42 Notification by State Government requiring Authorised Testing Stations to obtain counter signature from M.V. Inspectors in fitness



certificate issued by them -- Authorized Testing Stations cannot be compelled to get the counter-signature of the Motor Vehicle Inspectors in the certificates of fitness, as it amounts to interference into the exclusive power of the Authorized Testing Stations -- State Government, by issuing the aforesaid notification putting condition of getting the counter signature from the Motor Vehicle Inspectors, cannot be allowed to indirectly take away the powers of the Authorized Testing Stations given by the Parliament -- The impugned notification is liable to be quashed.

Case Law 5: CF & Registration is interlinked and cannot be segregated for transport vehicle. Kerala High Court Pareed Pillai v. Oriental Insurance Co. Ltd; 2018 (5) KHC 1 : AIR 2019 Ker. 9

Absence of permit or fitness certificate, in case of a transport vehicle, is a fundamental breach and not a technical breach -- Certificate of Registration, existence of valid permit & fitness certificate, all through out are closely interlinked in the case of transport vehicle and one requirement cannot be segregated from the other. Insurer can pay and recover in such cases.

Case Law 6: Fitness Testing Station- renewal of authorization. Rajasthan High Court Mahadev Fitness Center, Nagaur (M/s. ) and Others v. State of Rajasthan and Others; 2020 KHC 2083 : AIR 2020 Raj. 7

Authorised testing stations -- No FTS or public or private garage can claim authorization for issuing certificate of fitness to transport vehicles unless having regard to experience, training and ability of the operator of such FTS or garage and testing equipments installed therein, authorization is issued in this regard by the State Government -- The FTS once granted the authorization to discharge the function of issuing certificate of fitness in terms of provisions of sub-section (1) of S.56, cannot claim the renewal of the authorization as a matter of right -- Petitioner did not fulfil requirement to operate FTS as specified under recent Fitness Testing Station Regulation Scheme -- Authorization of petitioner to run FTS, cannot be renewed.

Case Law 7: Declining CF due to pendency of check report is inequitable. Kerala High Court Kerala Bus Transport Association and Another v. Transport Commissioner; 2013 (1) KHC 384 : AIR 2013 Ker. 140

Obtaining of 'check report' by owner of a vehicle -- Circular issued by Transport Commissioner -- Validity of -- Held, Cl.20 and 30 of Circular enabling the refusal of

renewal of permit or declining certificate of fitness because of mere pendency of a 'check report' is wholly inequitable -- Cl.20 and Cl.30 of Circular are arbitrary and unreasonable. Case Law 8: Absence of CF cannot exonerate insurance company. Karnataka High Court Rajesh Poojary v. Rajesh and Another; 2020 KHC 2709 : 2020 ACJ 489 Truck dashed against a bicycle resulting in injuries to cyclist -- Lapse of fitness certificate would constitute breach of provisions of Motor Vehicles Act, however, registration or permit would not stand cancelled or revoked on that account -- Held absence of fitness certificate cannot be a ground to exonerate insurance company and liable to give compensation. Case Law 9: Accident during CF test. Kerala High Court State of Kerala v. Oriental F. And G. Insurance Co.; 1997 KHC 454 Accidents during test drives -- Accident caused by motor vehicle inspector during test drive -- Before issuing a certificate of fitness which enables a vehicle owner to use the vehicle in public place, the inspecting authority has to conduct a through inspection of all parts of the vehicle to satisfy the sound conditions of the vehicle. Therefore, the said inspection and the driving of the vehicle for the purpose cannot be characterised as a speed test or test driving-- Said Inspector not liable -- No compensation required. Corresponding Law :S. 38 of Act IV of 1939: 38. Certificate of fitness of transport vehicles. - (1) Subject to the provisions of section 39, a transport vehicle shall not be deemed to be validly registered for the purposes of section 22, unless it carries a certificate of fitness in Form H as set forth in the First Schedule, issued by the prescribed authority, to the effect that the vehicle complies for the time being with all the requirements of Chapter V and the rules made thereunder. Where the prescribed authority refuses to issue such certificate, it shall supply 'the owner of the vehicle with its reasons in writing for such refusal. [(2) Subject to the provisions of sub-section (3), a certificate of fitness shall remain effective for such period, not being in any case more than two years or less than six months, as may be specified in the certificate by the prescribed authority under sub-section (1): ] [Provided that this sub-section shall, in respect of a certificate of fitness relating to a new transport vehicle registered for the first time and not plying in. hilly areas, have effect as if for the words it "six months", the words "one

year" were substituted. Explanation. - In this subsection, the "expression" hilly areas means such areas as the State Government may, having regard to the elevation and topography, by notification in the Official Gazette, declare to be hill areas.] (3) The issuing authority or other prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit, granted in respect of the vehicle under Chapter IV shall be deemed to be suspended until a new certificate of fitness has been obtained. [(4) A certificate of fitness issued under this Act shall, while it remains effective, be valid throughout India.]

## **Section 57**

### **Appeals.**

(1) [Any person aggrieved by an order of the registering authority under sections 41, 42, 43, 45, 47, 48, 49, 50, 52, 53, 55 or 56 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.] OLD LAW: Prior to its substitution, sub-Section (1) read as under :- " (1) Any owner of a motor vehicle aggrieved by an order of refusal under section 45 to register a motor vehicle or to renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle) or under section 48 to issue a no objection certificate or under section 50 to enter the particulars of the transfer of ownership in the certificate of registration or under sub-section (1) of section 56 to issue a certificate of fitness or by an order of suspension under section 53 or cancellation under section 54 or section 55 or by an order of cancellation under sub-section (4) of section 56 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the Prescribed Authority." (2) The appellate authority shall give notice of the appeal to the original authority and after giving an opportunity to the original authority and the appellant to be heard in the appeal pass such order as it thinks fit. Corresponding Law :S. 35 of Act IV of 1939:

35. Appeals. - (1) Any owner of a motor vehicle aggrieved by an order of refusal under section 27 [to register a motor vehicle or to renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle) or under section 29A to issue a no objection certificate] or under sub-section (1) section 38 to issue a certificate of fitness or by an order of suspension or cancellation made under section 33 or 34 or by an order of cancellation under sub-section (3) of section 38 may, within thirty days of the date on, which he has received notice of such order, appeal against the order to the prescribed authority. (2) The appellate authority shall give notice of the appeal to the original authority and after giving opportunity to the original authority and the appellant, to be heard either personally or by pleader in the appeal pass such orders as it thinks fit.

## **Section 58**

### **Special provisions in regard to transport vehicles.**

(1) The Central Government may, having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle (other than a motorcab), and its make and model and other relevant considerations, by notification in the Official Gazette, specify, in relation to each make and model of a transport vehicle, the [maximum gross vehicle weight] of such vehicle and the maximum safe axle weight of each axle of such vehicle. (2) A registering authority, when registering a transport vehicle, other than a motorcab shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely: the unladen weight of the vehicle; the number, nature and size of the tyres attached to each wheel; the gross vehicle weight of the vehicle and the registered axle weights pertaining to the several axles thereof; and if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided, and the owner of the vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle. (3) There shall not be entered in the certificate of registration of any such vehicle any gross vehicle weight or a registered axle weight of any of the axles

different from that specified in the notification under sub-section (1) in relation to the make and model of such vehicle and to the number, nature and size of the tyres attached to its wheels: Provided that where it appears to the Central Government that heavier weights than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicles of a particular type, the Central Government may, by order in the Official Gazette direct that the provisions of this sub-section shall apply with such modifications as may be specified in the order. (4) [x x x x] (5) In order that the gross vehicle weight entered in the certificate of registration of a vehicle may be revised in accordance with the provisions of sub-section (3), the registering authority may require the owner of transport vehicle in accordance with such procedure as may be prescribed to produce the certificate of registration within such time as may be specified by the registering authority. OLD LAW : Prior to its omission, sub-Section (4) read as under:- (4) When by reason of any alteration in such vehicle, including an alteration in the number, nature or size of its tyres, the gross vehicle weight of the vehicle or the registered axle weight of any of its axles no longer accords with the provisions of sub-section (3), the provisions of section 52 shall apply and the registering authority shall enter in the certificate of registration of the vehicle revised registered weights which accord with the said sub-section."

Case Law 1: Overloaders. Supreme Court *Paramjit Bhasin v. Union of India*, (2005) 12 SCC 642. In this case the Hon'ble Apex Court observed that the object for which maximum permissible weights have been fixed is crystal clear. Overloading causes significant damage to the road surface and also cause pollution through auto-emissions. Besides, overloaded vehicles are safety hazards not only for themselves, but also for other road users. Responsibility for enforcing the provisions of the MV Act and Central Rules being that of the State Government they have been suitably advised by the Central Governments to scrupulously enforce the same. Further, the State Government have also been directed to discontinue the practice of issuing green cards/golden passes purportedly on the basis of power of composition under Section 200.

Case Law 2: Penal nature. Supreme Court *Jantia Hill Truck Owners Assn. v. Shailang Area Coal*

Dealer & Truck Owner Assn., (2009) 8 SCC 492. The core question which arises for consideration in these appeals is as to whether the State Government is empowered to issue any executive order in respect of the matters required to be prescribed by Rules. Executive power of State extends to matters required to be prescribed by framing rules under the Act concerned -- Motor Vehicles Act, 1988 mandating determination of laden as well unladen weight of transport vehicles, for the purpose whereof rules had to be framed under the said Act for installation and use of weighing devices and regarding fee to be levied in relation to said operation -- Held, the State for giving effect to provisions of statute may take upon itself the burden of providing for weighbridges and collection of fee, etc. in exercise of its power under Art.162 or 298 of the Constitution - It may permit private parties to install weighbridges, subject to regulations. The nature of provisions under MV Act relating to "laden weight" and "unladen weight" being penal in nature, must be held to be imperative in character. Provisions prescribing weight which a carrier of given description may carry -- Held said provisions are necessary not only for construction and maintenance of road but also to prevent accidents. Case Law 3: Power of control. Supreme Court N. Venkateswara Rao and Others v. S. T. A. and Others; 1997 KHC 1336 : 1997 (2) SCC 320 Question whether Central Government in exercising its power under S.58 (1) abdicated its power in favour of manufacturers -- On consideration of the scheme of the Act and the purpose it seeks to serve, namely, roadworthiness and the safety of the vehicle and also the safety of the transport, the Government has not abdicated its power in exercising its power under S.58(1) of the Act by issuance of the notification dated October 18,1996. -- It could be seen that the Central Government have not abdicated their power of control and prescribing specification under S.58 of the Act nor it is a delegation of the manufacturer -- Court do not find any illegality in the order passed by the High Court warranting interference. Case Law 4: Fixation of maximum GVW & safe axle weight. Gauhati High Court Shiv Kr. Pandit and Others v. State of Assam and Others; 1999 KHC 3162 : AIR 1999 Gau. 68 Under the provisions of the Act, the power to specify the maximum gross vehicle weight of a vehicle is vested with the Central

Government and such power is to be exercised by the Central Government through a notification issued under S.58(1) -- Since the impugned notification specifying the maximum gross vehicle weight has been issued by the Central Government in exercise of such statutory powers under S.58(1), it cannot be said that the said notification is ultra vires R.95 of the Rules, 1989 -- Plea that notification cannot be given retrospective effect is not tenable in view of S.58(5) -- Vehicle owners not entitled to raise plea of estoppel on ground of payment of higher road tax/surcharge for period earlier to notifications. Corresponding Law :S. 36 of Act IV of 1939: [36. Special provisions in regard to transport vehicles. - (1) Having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle, other than a motor cab, and its make and model and other relevant considerations, [the Central Government may] by notification in the Official Gazette, specify in relation to each make and model of a transport vehicle the maximum safe laden weight of such vehicle and the maximum safe axle weight of each axle of such vehicle. (2) A registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely :- (a) the unladen weight of the vehicle; (b) the number, nature and size of the tyres attached to each wheel ; (c) the registered laden weight of the vehicle and the registered axle weights pertaining to the several axles thereof; and (d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods', the number of passengers for whom accommodation is provided; and the owner of the vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle. (3) There shall not be entered in the certificate of registration of any such vehicle any laden weight of the vehicle or a registered axle weight of any of its axles [different from that] specified in the notification under sub-section (1) in relation to the make and model of the vehicle and to the number, nature and size of the tyres attached to its wheels : Provided that where it appears to [the Central Government] that heavier weight than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicles of a particular type [the

Central Government] may, by order in the Official Gazette, direct that the provisions of this sub-section shall apply with such modifications as may be specified in the order. (4) When by reason of any alteration in such vehicle, including an alteration in the number, nature or size of its tyres, the registered laden weight of the vehicle or the registered axle weight: of any of its axles no longer accords with the provisions of sub-section the provisions of section 32 shall apply and the registering authority shall enter in the certificate of registration of the vehicle revised registered weights which accord with the said sub-section. (5) In order that the registered weight entered in the certificate of registration of a vehicle may be revised in accordance with the provisions of sub-section (3), the 'registering authority may require the owners of transport vehicles in accordance with such procedure as may be prescribed to produce the certificates of registration within such time as may be specified by the registering authority.]

## **Section 59**

### **Power to fix the age limit of motor vehicle.**

(1) The Central Government may, having regard to the public safety, convenience and objects of this Act, by notification in the Official Gazette, specify the life of a motor vehicle reckoned from the date of its manufacture, after the expiry of which the motor vehicle shall not be deemed to comply with the requirements of this Act and the Rules made thereunder: Provided that the Central Government may specify different ages for different classes or different types of motor vehicles. (2) Notwithstanding anything contained in sub-section (1), the Central Government may, having regard to the purpose of a motor vehicle, such as, display or use for the purposes of a demonstration in any exhibition, use for the purposes of technical research or taking part in a vintage car rally, by notification in the Official Gazette, exempt, by a general or special order, subject to such conditions as may be specified in such notification, any class or type of motor vehicle from the operation of sub-section (1) for the purpose to be stated in the notification. (3) Notwithstanding anything contained in section 56, no prescribed authority or authorized testing



station shall grant a certificate of fitness to a motor vehicle in contravention of the provisions of any notification issued under sub-section (1). (4) The Central Government may, having regard to the public safety, convenience, protection of the environment and the objects of this Act, make rules prescribing the manner of recycling of motor vehicles and parts thereof which have exceeded their life.] Case Law 1: Fixation of age limit to motor vehicles. Patna High Court Rajesh Kumar and Others v. State of Bihar and Others; 2009 KHC 7003 : AIR 2009 Pat. 98

Fixation of age limit of motor vehicle -- What was delegated exclusively by the Legislature to the Central Government cannot be usurped by the Regional Authority even under regulatory power -- Once road permit is withdrawn then notwithstanding registration or certificate of fitness the vehicle becomes junk and a useless piece of property -- It would amount to depriving petitioners of their property or usage thereof without authority of law and that would clearly violate Art.300-A of the Constitution of India -- Decision of the Regional Transport Authority restricting the life of vehicles to be used under any permit to fifteen years cannot be sustained in law and has to be set aside and is set aside accordingly. Case Law 2: Power to fix age limit of motor vehicles. Uttarakhand High Court State Transport Authority and Another v. Auto Rickshaw Vikram Union and Another; 2018 KHC 2105 : AIR 2018 NOC 29

Power to fix age limit of motor vehicle -- Grant of contract carriage permits does not confer any right on Regional Transport Authority to vary or specify age of vehicles in contravention to provision under S.59. S.74 sub-S.2 (IX) (b) had not taken note of the fact that the principal Section lays down the stipulations to be followed for the purposes of grant of contract carriage permits only. This Section in itself does not confer any right on the State Transport Authority or Regional Transport Authority to vary or specify the age of the vehicles in contravention to the provisions contained under S.59. Thus, since the intention of legislature for S.74 being absolutely divergent to the provisions of S.59, as both sections being independent have different object to attain. Case Law 3: Restriction in usage of motor vehicles. Kerala High Court Siddique P. K. A. and Others v. Regional Transport Authority, Kozhikode and Others; 2013 KHC 105

State is empowered to prescribe any conditions in

pursuance of powers vested with it as understood from S.74(2)(xiii)-- Conditions now imposed restricting the user of the vehicle owned by educational institutions as 15 years is outside the purview of the jurisdiction vested with the Regional transport authorities as such conditions could be prescribed only by the State. Case Law 4: Restriction in usage of motor vehicles beyond an age. Culcutta High Court Bengal Bus Syndicate and Others v. State of W. B. and Others; 2006 KHC 3324 : AIR 2006 Cal. 232 Plying of transport vehicles -- By making the impugned rule the State Government conferred power on itself to issue notification directing the transport authorities to impose special conditions in permits restricting use of transport vehicles beyond a particular age and in any particular area of the State --Provisions of S.96 of the Motor Vehicles Act, 1988 did not empower the State Government to confer any power on itself by making rule in exercise of power conferred by that section -- Such a power could have been conferred on the State Government only by the Legislature-- The delegate State Government, in reality, delegated power to itself in exercise of its power to make the delegated legislation --Impugned rule and notification issue on basis thereof are, therefore, liable to be struck down. Case Law 5: Age limit in granting national permit. Allahabad High Court Radhey Shyam Sharma v. Regional Transport Authority, Kathgodam, Nainital; 1991 KHC 1816 : AIR 1991 All. 158 National permit -- Grant of or renewal -- R.88 which provides for model condition of nine years for grant of national permit and consequence of which is that national permit cannot be granted in respect of motor vehicle which is more than nine years old from the date of its registration and such a permit was to become invalid from the date the vehicle attained the age of nine years, unless it is replaced by new motor vehicle is valid -- The fixation of the age of the motor vehicle for national permit under the Rules is for providing safety to the users of the highways and their properties and for smooth movement of goods from one place to another -- Such a condition is therefore undoubtedly in public interest. Case Law 6: No need to issue seperate notification u/s 59 for public carrier. Rajasthan High Court Ishar v. State of Rajasthan and Others; 1992 KHC 2643 : AIR 1992 Raj. 40 S.59 laying down that age limit may be prescribed by Central Government by notification -- It

is an admitted position that no notification under S.59 has been issued -- It may also be relevant to mention here that there is no reference of S.59 in sub section (12) of S.88 and at the same time there is no prohibition contained in sub section (14) of S.88 that the Central Government cannot frame the Rules prescribing the age limit for the goods carriage vehicles -- Non issuance of separate notification under S.59 would not prevent the Government from framing the Rules for public carrier -- R.88 prescribing such age limit for national permit not invalid on that ground.

Case Law 7: STA can fix the age of vehicles. Telenghana High Court Under S.68(3) of the Act, 1988, the STA subject to the directions issued by the State Government under S.67 shall exercise and discharge throughout the State the functions and powers as enumerated in sub-s.3 -- One of the functions provided in subs.3 is to co-ordinate and regulate the activities and policies of the R.T. A -- Keeping in view serious air pollution and traffic problem, it fixed age of vehicles for safety and benefit of general public -- Hence fixing age of vehicles by STA would be proper. Case Law 8: Age reckoned from date of registration. Kerala High Court Balakrishnan C. K. v. State Transport Authority, Tvm. and Others; 2018 (2) KHC 623 : ILR 2018 (2) Ker. 1081 Period of non use of stage carriage on account of detention by authorities -- Whether can be added to 15 years' life span of vehicle -- Held, age of 15 years has to be reckoned from the date of initial registration of stage carriage -- Period of non use of a stage carriage on account of its detention in connection with any recovery proceedings or litigations before a Court of law cannot be excluded while calculating the age of the stage carriage, thereby adding the period of such non use along with 15 years' life of that vehicle.

## **Section 60**

### **Registration of vehicles belonging to the Central Government.**

(1) Such authority as the Central Government may, by notification in the Official Gazette, specify, may register any motor vehicle which is the property or for the time being under the exclusive control of the Central Government and is used for Government purposes relating to the defence of the country and unconnected with any commercial enterprise and any vehicle so registered

shall not, so long as it remains the property or under the exclusive control of the Central Government, require to be registered otherwise under this Act. (2) The authority registering a vehicle under sub-section (1) shall assign a registration mark in accordance with the provisions contained in the rules made in this behalf by the Central Government and shall issue a certificate in respect of that vehicle to the effect that such vehicle complies for the time being with all the requirements of this Act and the rules made thereunder and that the vehicle has been registered under this section. (3) A vehicle registered under this section shall carry the certificate issued under sub-section (2). (4) If a vehicle registered under this section ceases to be the property or under the exclusive control of the Central Government, the provisions of sections 39 and 40 shall thereupon apply. (5) The authority registering a vehicle under sub-section (1) shall furnish to any State Government all such information regarding the general nature, overall dimensions and axle weights of the vehicle as the State Government may at any time require.

Corresponding Law :S. 36 of Act IV of 1939: 39. Registration of vehicles, the property of the Central Government. - (1) The authority specified in Part B of the Fourth Schedule may register any motor vehicle which is the property [or for the time being under the exclusive control] of the Central Government and any vehicle so registered shall not, so long as it remains the property [or under the exclusive control] of the Central Government, require to be registered otherwise under this Act. (2) A transport vehicle registered under this section shall carry a certificate [to the effect that the vehicle complies for the time being with all the requirements of Chapter V and the rules made thereunder] issued by the authority referred to in sub-section (1). (3) An authority registering a vehicle under sub-section (1) shall assign a registration mark in accordance with the provisions contained in the Fourth Schedule and shall issue a certificate in respect of the vehicle that the vehicle has been registered under this section. (4) If a vehicle registered under this section ceases to be the property [or under the exclusive control] of the Central Government, the provisions of section 23 shall thereupon apply. (5) The authority registering a vehicle under sub-section (1) shall furnish to any State Government I all such information

regarding the general nature, overall dimensions, and axle weights of the vehicle as the State Government may at any time require.

## **Section 61**

### **Application of Chapter to trailers.**

(1) The provisions of this Chapter shall apply to the registration of trailers as they apply to the registration of any other motor vehicle. (2) The registration mark assigned to a trailer shall be displayed in such manner on the side of the drawing vehicle as may be prescribed by the Central Government. (3) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed on the trailer or on the last trailer in the train, as the case may be, in such manner as may be prescribed by the Central Government. Case Law 1: Otherwise commercial purpose, trolley of trailer not to be insured. Allahabad High Court United India Insurance Co. Ltd. v. Suman and Others; 2014 KHC 5662 S.61 provides for separate registration of trolley but S.146 does not provide for separate insurance of trolley -- Neither the Act nor the Rules provide for insurance of trolley used for agricultural or personal purpose -- Trolley is liable to be insured if it is used for commercial purposes and not for agricultural or domestic purposes -- In case of dispute about the use of tractor trolley onus lies upon the party which disputes that it was being used for commercial purpose -- Held insurance company failed to establish that tractor trolley was being used on public road for commercial purpose at the time of accident and is liable. Case Law 2: Impermissible to use trailer attached to a tractor w/o registration. Punjab and Haryana High Court New India Assurance Co. Ltd. v. Sohan Lal and Others; 2014 KHC 5635 It is impermissible for any person to use trailer and attach it to a tractor without registration. the 'Central Motor Vehicles Rules' stipulates some special brakes and safety requirements for a trailer as well. R.97 of the Central Motor Vehicles Rules of 1989 prescribes specific rules for brakes that would require to be attached to a trailer. Corresponding Law :S. 36 of Act IV of 1939: 40. Application of Chapter III to trailers. - (1) The registration mark assigned to a trailer 'shall be

displayed in the prescribed manner on the side of the vehicle. (2) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed in the prescribed manner on the trailer or on the last trailer in the train, as the case may be.

## **Section 62**

### **Information regarding stolen and recovered motor vehicles to be furnished by the police to the State Transport Authority.**

The State Government may, if it thinks necessary or expedient so to do in the public interest, direct the submission by the Inspector General of Police (by whatever designation called) and such other police officers as the State Government may specify in this behalf, of such returns containing the information regarding vehicles which have been stolen and stolen vehicles which have been recovered of which the police are aware, to the State Transport Authority, and may prescribe the form in which and the period within which such returns shall be made.

## **Section 62A**

### **Prohibition of registration and issuance of certificate of fitness to oversized vehicles.**

[Prohibition of registration and issuance of certificate of fitness to oversized vehicles] (1) [No registering authority shall register any motor vehicle that contravenes any rule made under clause (a) of sub-section (1) of section 110. (2) No prescribed authority or authorised testing station shall issue a certificate of fitness under section 56 to any motor vehicle that contravenes any rule made under section 110.]

## **Section 62B**

### **National Register of Motor Vehicles.**

(1) [The Central Government shall maintain a National Register of Motor Vehicles in such form and manner as may be prescribed by it: Provided that all State Registers of Motor Vehicles shall be subsumed under the National Register of Motor Vehicles by such date as may be notified in

the Official Gazette by the Central Government. (2) No certificate of registration issued, or renewed, under this Act shall be valid unless it has been issued a unique registration number under the National Register of Motor Vehicles. (3) In order to maintain the National Register of Motor Vehicles, all State Governments and registering authorities under this Act shall transmit all information and data in the State Register of Motor Vehicles to the Central Government in such form and manner as may be prescribed by the Central Government. (4) State Governments shall be able to access the National Register of Motor Vehicles and update records in accordance with the provisions of this Act and the rules made by the Central Government thereunder.]

## **Section 63**

### **Maintenance of State Registers of Motor Vehicles.**

[Each State Government shall maintain in such form as may be prescribed by the Central Government a register to be known as the State Register of Motor Vehicles, in respect of the motor vehicles in that State, containing the particulars including - registration numbers; years of manufacture; classes and types; names and addresses of registered owners; and such other particulars as may be prescribed by the Central Government.]

## **Section 64**

### **Power of the Central Government to make rules.**

The Central Government may make rules to provide for all or any of the following matters, namely: (a) the period within which and the form in which an application shall be made and the documents, particulars and information it shall accompany under sub-section (1) of section 41; (b) the form in which the certificate of registration shall be made and the particulars and information it shall contain and the manner in which it shall be issued under sub-section (3) of section 41; (c) the form and manner in which the particulars of the certificate of registration shall be entered in the records of the registering authority under sub-section (5) of section 41; (d) the manner in which and the form in which the registration mark, the letters and figures and other

particulars referred to in sub-section (6) of section 41 shall be displayed and shown; (da) [providing for the period of validity of a certificate of registration under sub-section (7) of section 41;] (e) the period within which and the form in which the application shall be made and the particulars and information it shall contain under sub-section (8) of section 41; (ea) [the period of renewal of certificate of registration of different types of motor vehicles under sub-section (10) of section 41;] (f) the form in which the application referred to in sub-section (14) of section 41 shall be made, the particulars and information it shall contain and the fee to be charged; (fa) [the issue of temporary certificate of registration and temporary registration mark under section 43;] (fb) the terms and conditions under which a motor vehicle sold by an authorised dealer shall not require production before a registering authority under sub-section (1) of section 44;] (g) the form in which and the period within which the application referred to in sub-section (1) of section 47 shall be made and the particulars it shall contain; (h) the form in which and the manner in which the application for No Objection Certificate shall be made under sub-section (1) of section 48 and the form of receipt to be issued under sub-section (2) of section 48; (i) the matters that are to be complied with by an applicant before no objection certificate may be issued under section 48; (j) the form in which the intimation of change of address shall be made under sub-section (1) of section 49 and the documents to be submitted alongwith the application; (ja) [the form and manner for the electronic submission of the intimation of change of address, documents to be submitted along with such intimation including proof of authentication under sub-section (1A) of section 49;] (k) the form in which and the manner in which the intimation of transfer of ownership shall be made under sub-section (1) of section 50 or under sub-section (2) of section 50 and the document to be submitted alongwith the application; (l) the form in which the application under sub-section (2) or sub-section (3) of section 51 shall be made; (la) [specifications, conditions for approval, retrofitment and other related matters for the alteration of motor vehicles under sub-section (1) of section 52;] (lb) the conditions for the alteration of any motor vehicle into an adapted vehicle under sub-section (2) of section 52;] (m) the form in which the certificate of



fitness shall be issued under sub-section (1) of section 56 and the particulars and information it shall contain; (n) the period for which the certificate of fitness granted or renewed under section 56 shall be effective; (na) [the distinguishing mark to be carried on the body of transport vehicles under sub-section (6) of section 56;] (nb) the conditions under which the application of section 56 may be extended to non-transport vehicles under sub-section (7) of section 56; (nc) the recycling of motor vehicles and parts thereof which have exceeded their life under sub-section (4) of section 59;] (o) the fees to be charged for the issue or renewal or alteration of certificates of registration, for making an entry regarding transfer of ownership on a certificate of registration, for making or cancelling an endorsement in respect of agreement of hire-purchase or lease or hypothecation on a certificate of registration, for certificates of fitness for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees; (oa) [all or any of the matters under sub-section (1) of section 62B;] (ob) all or any of the matters under sub-section (1) and sub-section (2) of section 63;] (p) any other matter which is to be, or may be, prescribed by the Central Government.

Corresponding Law :S. 36 of Act IV of 1939: 36. Special provisions in regard to transport vehicles. - (1) Having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle, other than a motor cab, and its make and model and other relevant considerations, [the Central Government may] by notification in the Official Gazette, specify in relation to each make and model of a transport vehicle the maximum safe laden weight of such vehicle and the maximum safe axle weight of each axle of such vehicle. (2) A registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely :- (a) the unladen weight of the vehicle; (b) the number, nature and size of the tyres attached to each wheel ; (c) the registered laden weight of the vehicle and the registered axle weights pertaining to the several axles thereof; and (d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods', the number of passengers for whom accommodation is provided; and the owner of the

vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle. (3) There shall not be entered in the certificate of registration of any such vehicle any laden weight of the vehicle or a registered axle weight of any of its axles [different from that] specified in the notification under sub-section (1) in relation to the make and model of the vehicle and to the number, nature and size of the tyres attached to its wheels : Provided that where it appears to [the Central Government] that heavier weight than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicles of a particular type [the Central Government] may, by order in the Official Gazette, direct that the provisions of this sub-section shall apply with such modifications as may be specified in the order. (4) When by reason of any alteration in such vehicle, including an alteration in the number, nature or size of its tyres, the registered laden weight of the vehicle or the registered axle weight: of any of its axles no longer accords with the provisions of sub-section the provisions of section 32 shall apply and the registering authority shall enter in the certificate of registration of the vehicle revised registered weights which accord with the said sub-section. (5) In order that the registered weight entered in the certificate of registration of a vehicle may be revised in accordance with the provisions of sub-section (3), the 'registering authority may require the owners of transport vehicles in accordance with such procedure as may be prescribed to produce the certificates of registration within such time as may be specified by the registering authority.]

## **Section 65**

### **Power of the State Government to make rules.**

(1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 64. (2) Without prejudice to the generality of the foregoing power, such rules may provide for (a) the conduct and hearing of appeals that may be preferred under this Chapter (the fees to be paid in respect of such appeals and the refund of such fees); (b) the appointment, functions and jurisdiction of registering and other

prescribed authorities; (c) the exemption of road-rollers, graders and other vehicles designed and used solely for the construction, repair and cleaning of roads from all or any of the provisions of this Chapter and the rules made thereunder and the conditions governing such exemption; (d) the issue or renewal of certificates of registration and fitness and duplicates of such certificates to replace the certificates lost, destroyed or mutilated; (e) the production of certificates of registration before the registering authority for the revision of entries therein of particulars relating to the gross vehicle weight; (f) the temporary registration of motor vehicles, and the issue of temporary certificate of registration and marks [under the proviso to section 43]; (g) the manner in which the particulars referred to in sub-section (2) of section 58 and other prescribed particulars shall be exhibited; (h) the exemption of prescribed persons or prescribed classes of persons from payment of all or any portion of the fees payable under this Chapter; (i) the forms, other than those prescribed by the Central Government, to be used for the purpose of this Chapter; (j) the communication between registering authorities of particulars of certificates of registration and by owners of vehicles registered outside the State of particulars of such vehicles and of their registration; (k) the amount or amounts under sub-section (13) of section 41 or sub-section (7) of section 47 or sub-section (4) of section 49 or sub-section (5) of section 50; (l) the extension of the validity of certificates of fitness pending consideration of applications for their renewal; (m) the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers; (n) the form in which and the period within which the return under section 62 shall be sent; (o) [x x x x] (p) any other matter which is to be or may be prescribed. STATE AMENDMENTS: State : Haryana For clause (h) of sub-section (2) of section 65 of the Motor Vehicles Act, 1988, the following clause shall be substituted, namely: - "(h) the exemption of prescribed persons or prescribed classes of persons from payment of all or any portion of the fee payable under this Chapter retrospectively or prospectively;". (Haryana Act No. 39 of 2019, dated 3.12.2019). Corresponding Law :S. 36 of Act IV of 1939: 41. Power to make rules. - (1) A [State Government] may make rules for the

purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the conduct and hearing of appeals that may be preferred under this Chapter, [the, fees to be paid in respect of such appeals and the refund of such fees]; (b) the appointment, functions and jurisdiction of registering and other prescribed authorities; [(ba) the period within which an application for renewal of a certificate of registration in respect of a motor vehicle, other than a transport vehicle, may be made and the period for which such certificate may be renewed;] [(c) [the issue or renewal] of certificates of registration and fitness and duplicates of such certificates to replace the certificates lost, destroyed or mutilated; (cc) the production-of certificates of registration before the registering authority for the revision of entries therein of particulars relating to the registered weight or the colour or colours of the body, wings and front end of vehicles;] (d) the temporary registration of motor vehicles, and the issue temporary certificates of registration and marks; [(da) the form in which and the manner in which an application for no objection certificate may be made under sub-section (1) of section 29A and the form of receipt to be issued under sub-section (2) thereof;] (e) the manner in which registration marks and the particulars referred to in [sub-section [(2)] of section 36], and other prescribed particulars shall be exhibited; (f) the fees to be charged for [the issue or renewal] or alteration of certificates of registration [for making or cancelling an endorsement in respect of an agreement of hire-purchase or hypothecation on a certificate of registration,] for certificates of fitness, for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees; [(ff) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter.] (g) the forms, other than those set forth in the First Schedule, to be used for the purposes of this Chapter; (h) the communication between registering authorities of particulars of certificates of registration and by owners of vehicles registered outside the State of particulars of such vehicles and their registration; [(i) the amount or amounts under sub-section (1C) of see on 30 or sub-section (1C) of section 31;] (j) the

extension of the validity of certificates of fitness pending consideration of applications for their, renewal; (k) the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers (l) the exemption of road-rollers, [graders and other vehicles designed and used solely for the construction, repair and cleansing of roads] from all or any of the provisions of this Chapter and the rules made thereunder, and the conditions governing such exemption; and the exemption of [goods vehicles, being light motor vehicles] from the provisions of section 38 and the conditions governing such exemption; and [(la) the conditions governing the registration of rebuilt vehicles;] (m) any other matter which is to be or may be prescribed.

## **Chapter V**

### **CONTROL OF TRANSPORT VEHICLES**

Section 66 to 96

#### **Section 66**

##### **Necessity for permits.**

(1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used: Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage: Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not: Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by

him. [Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.] (2) The holder of a goods carriage permit may use the vehicle, for drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed: [Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.] (3) The provisions of sub-section (1) shall not apply to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise; to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes; to any transport vehicle used solely for police, fire brigade or ambulance purposes; to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses; to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety; to any transport vehicle used for any other public purpose as may be prescribed by the State Government in this behalf; to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf; [x x x x] OLD LAW : Prior to its omission, Cl. (h) read as under:- (h) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognised by the Central or " State Government or whose managing committee is a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;" to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms; subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other

State, without carrying any passenger or goods; to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle; [x x x x] OLD LAW : Prior to its omission, Clause (l) read as under:- (l) to any motor vehicle which is operated by electric battery, compressed natural gas or solar energy;" to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination; to any transport vehicle used for such purposes as the Central or State Government may, by order, specify; to any transport vehicle which is subject to a hire-purchase, lease or hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or to any transport vehicle while proceeding empty to any place for purpose of repair. [to any transport vehicle having been issued a licence under a scheme, under sub-section (3) of section 67 or sub-section (1) of section 88A, or plying under such orders as may be issued by the Central Government or by the State Government.] (4)

Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver. Case Law 1: Use of vehicle in public place w/o permit - fundamental statutory infraction. Supreme Court Amrit Paul Singh and Another v. TATA AIG General Insurance Co. Ltd. and Others; AIR 2018 SC 2662 : 2018 (7) SCC 558 Vehicle, though insured, not having valid permit on the date of accident -- Liability of the Insurance Company to indemnify the Insured -- Explained -- Held, use of a vehicle in a public place without a permit is a fundamental statutory infraction -- Hence, Insurer is required to pay the compensation amount to the claimants and are entitled to recover the same from the Insured. Case Law 2: Meaning & scope of permit. Supreme Court Hardev Motor Transport v. State of M. P. and Others; 2006 (8) SCC 613 : AIR 2007 SC 839 Central Act of 1988 enabling the State to enact statutes for levying

tax on motor vehicles -- Owner of a vehicle having one kind of permit could not have been treated as a person having no permit at all only because the transport authorities had reasons to believe that the conditions of permit have been violated -- The executive while fixing a rate of duty cannot be permitted to usurp the legislative power and make a provision which was inconsistent with the substantive provision of the statute -- Clause.(g) of Entry.4 along with Explanation.(7) of the First Schedule to the State Act of 1991 as amended in 2004 therefore declared as unconstitutional. Case Law 3: Authority can detain the vehicle for the violation of permit condition. Supreme Court State of Maharashtra and Others v. Nanded-Parbhani Z. L. B. M. V. Operator Sangh; 2000 (2) SCC 69 : AIR 2000 SC 725 Luxury bus carrying passengers excess in number than allowed by the permit -- Whether under S.207(1) the appropriate authority can be said to have the power to detain a vehicle, the vehicle being found to be used in contravention of the conditions of permit relating to the number of passengers which could be carried in the vehicle. Case Law 4: Necessity of permit. Kerala High Court Pareed Pillai v. Oriental Insurance Co. Ltd; 2018 (4) KLT 792 : AIR 2019 Ker. 9 : 2019 ACJ 16 Necessity for permit -- Mandatory requirement under S.66(1) of the Act, to possess a valid 'Permit' by a transport vehicle cannot be avoided, unless it comes under the specified circumstances mentioned in sub section (3), which is a matter to be pleaded and proved by the party who claims the exemption i.e. the insured / owner. Fitness of a vehicle, to be used as a transport vehicle, is of paramount importance -- It is a mandatory requirement of every Permit, that the vehicle to which the Permit relates, shall carry valid 'Certificate of Fitness' at all time, absence of which will automatically lead to a situation that the vehicle will not be deemed as having a Permit. Case Law 5: Prohibition against plying of vehicle on unauthorised route. Karnataka High Court Kenchanna S. N. v. Anitha and Others; 2019 KHC 2126 : AIR 2019 NOC 43 Prohibition against plying of vehicle on unauthorised route -- Exemption' -- ' What is good for the purpose granting exemption while the vehicle is being taken to a place for repair ought to be good and subsisting when the vehicle is being brought from the place of repair to the place where it would



resume its trips, and that appears to be an intention of the legislature -- Thus, the interpretation of S.66(3)(p) would be such that the exemption obtained therein would be extended to when the transport vehicle was also proceeding back from the place of repair and cannot be merely limited to when it was proceeding to the place of repair. Case Law 6: Non renewal of permit - KSRTC - Insurer liable to pay compensation. Kerala High Court New India Assurance Company Ltd. v. Managing Director, KSRTC; 2020 (3) KHC 553 : 2020 (4) KLT 38 Non renewal of permit -- Whether insurer can pay and recover -- MV Act dispenses with requirement of renewal of permits issued to STUs in notified areas / routes, as long as a Scheme is in existence -- Hence, even in the absence of a renewal of permit in respect of the offending KSRTC bus, it has to be treated that vehicle had valid permit even on the date of accident -- Insurer liable to pay compensation. Case Law 7: Plying Autorickshaw beyond permit limits - Legality. Karnataka High Court Divisional Manager, United India Insurance Co. Ltd. v. Jayamma and Others; 2020 KHC 2579 : 2020 ACJ 267 Autorickshaw toppled and a passenger sustained fatal injuries -- Plying the autorickshaw a few kilometres beyond the permit limits does not amount to fundamental breach of the terms of the policy -- The said alleged violation finds no place in S.149(2) of the Act -- Therefore, the defence of the counsel that the vehicle in question had been driven beyond the territorial limits amounts to violation of the permit condition, is not acceptable and the same is hereby rejected. Case Law 8: No permit - No insurance compensation. Kerala High Court Honnura and Another v. Saganagouda and Others; 2020 KHC 4345 : 2020 ACJ 1799 Accident between a lorry and van resulting in death of cleaner on van -- Evidence that van had no permit to ply on the date of accident -- There was breach of policy -- Insurance company be directed to pay compensation and then recover the amount from the owner. Case Law 9: Liability of insurance company w/o permit. Chattisgarh High Court Mungeshwar Prasad Rajwade and Another v. Katharina Minj and Others; 2020 KHC 3110 Tribunal exonerated insurance company from liability on the ground that offending vehicle which was registered as taxi had no permit to ply on public road -- Owner failed to produce permit and an adverse inference is drawable

--Contention that no passenger was travelling in the vehicle at the relevant time so there was no need of permit -- S.66(3) does not envisage that permit would not be required for a transport vehicle plying on road without passengers -- Held, in view of violation of conditions of policy, Tribunal was justified in exonerating insurance company from liability -- Insurance company directed to pay compensation and then recover the amount from the owner. Case Law 10: Stage carriage permit. Madhya Pradesh High Court Rishikesh Singh v. Seema Arora and Others; 2015 KHC 1336 : AIR 2015 MP 10 If a lease has been executed in favour of the person he can be deemed to be the owner of the vehicle in view of S.2(30) of the Motor Vehicles Act for a limited purpose i.e. under the provisions of Motor Vehicles Act -- He was owner of vehicle at relevant time -- Petitioner entitled to grant of permit. Case Law 11: Deviation of route from permit. Allahabad High Court Rampati Jaiswal and Others v. State of U. P. and Others; AIR 1997 All. 170 S.66 makes it clear that the owner cannot ply the vehicle off the route even it is not actually carrying any passenger as S.66 enjoins upon the permit holder to ply his vehicle in strict adherence to and observations of the conditions attached to the permit. Case Law 12: Use of motor vehicle w/o permit - seizure. Patna High Court Sharangdhar Sharma v. State of Bihar and Others; 1992 KHC 1468 : 1992 CriLJ 2063 Use of motor vehicle without permit -- Seizure of vehicle -- Whether Trial Court justified in ordering release of vehicle -- Under subsection (1) of S.66, no motor vehicle can be used as a transport vehicle in any public place without there being a permit for the purpose -- Court would have verified route permit, before order of release is passed -- Object being that a transport vehicle can neither be used except under and in accordance with permit granted by Transport Authorities -- Hence, if owner of vehicle had no permit, then under no situation vehicle can be used or permitted to be used in any public place -- Power of Magistrate under S.457 of CrPC stands excluded in view of specific provision in S.207 of the Act -- Release order not justified. Case Law 13: Vehicle adapted or constructed to carry goods required permit. Punjab and Haryana High Court Partap Singh v. National Insurance Co. and Others; 2015 KHC 6184 Vehicle adapted or constructed to carry goods becomes a goods

carriage requiring permit, if it is put to use in public place. To a owner of a vehicle which is constructed or adapted his vehicle to carry goods within his own compound which is not a public place, there might be no requirement for a permit. Such a situation could exist within a factory, or within enclosed spaces where right of entry is restricted and the general public has no right of way. Corresponding Law :S. 42 of Act IV of 1939: 42. Necessity for permits. - (1) No owner of, a transport vehicle shall,use or permit the use of the vehicle in any public place [whether or not such vehicle is actually carrying any passenger or goods]] in accordance with the conditions of a permit granted or countersigned by a Regional or [State] Transport Authority [or the Commission] authorising the use of the vehicle in that place in the manner in which the vehicle is being used : Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage: Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods vehicle either when carrying passengers or not: Provided further that a public carrier's permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him. (2) In determining, for the purposes of this Chapter, whether a transport vehicle is or is not used for the carriage of goods for hire or reward,- (a) the delivery or collection by or on behalf of the owner of goods sold, used or let on hire or hire-purchase in the course of any trade or business carried on by him other than the trade or business of providing transport, (b) the delivery or collection by or on behalf of the owner of goods which have been or which are to be subjected to a process or treatment in the course of a trade or business carried on by him, or (c) the carriage of goods in a transport vehicle by a manufacturer of or agent or dealer in such goods whilst the vehicle is being used for demonstration purposes, shall not be deemed to constitute a carrying of the goods for hire or reward but the carriage in a transport vehicle of goods by a person not being a dealer in such goods who has acquired temporary ownership, of the goods for the purpose of transporting them to another place and there

relinquishing ownership shall be deemed to constitute a carrying of the goods for hire or reward.

(3) Sub-section (1) shall not apply- [(a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise;] (b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes; (c) to any transport vehicle used solely for police, fire brigade or ambulance purposes; (d) to any transport vehicle used solely for the conveyance of corpses; (e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety: [(ee) \* \* \*] (f) to any transport vehicle used for any other public purpose prescribed in this behalf ; [(ff) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;] (g) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognised by the State Government or whose managing committee is a society registered under the Societies Registration Act, 1860; [(h) \* \* \*] (i) [\* \* \*] to any goods vehicle which is a light motor vehicle and does not ply for hire or reward. or to any two wheeled trailer with a registered laden weight not exceeding [800 kilogrammes] drawn by a motor car; [(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in any other State, without carrying any passenger or goods; (k) to any transport vehicle which has been temporarily registered under section 25, while proceeding empty to any place for the purpose of registration of the vehicle under section 24; (l) to any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette, specify; (m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, is required to be diverted through any other route, whether within or outside the State,

with a view to enabling it to reach its destination; or (n) to any transport vehicle while proceeding empty to any place for purpose of repair]. (4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 68 so prescribes, apply to any motor vehicle adapted to carry more than nine [persons] excluding the driver.

## **Section 66A**

### **National Transportation Policy.**

The Central Government may develop a National Transportation Policy consistent with the objects of this Act in concurrence with the State Governments and other agencies with a view to

- establish a planning framework for passengers and goods transportation within which transport bodies are to operate; establish a medium and long term planning framework for all forms of road transport, identify areas for the development of transport improvement infrastructure across India in consultation with the authorities and agencies related to ports, railways and aviation as well as with local and State level planning, land holding and regulatory authorities for the delivery of an integrated multimodal transport system; establish the framework of grant of permits and schemes; establish strategic policy for transport by road and its role as a link to other means of transport; identify strategic policies and specify priorities for the transport system that address current and future challenges; provide medium to long term strategic directions, priorities and actions; promote competition, innovation, increase in capacity, seamless mobility and greater efficiency in transport of goods or livestock or passengers, and economical use of resources; safeguard the interest of the public and promote equity, while seeking to enhance private participation and public-private partnership in the transport sector; demonstrate an integrated approach to transport and land use planning; identify the challenges that the National Transportation Policy seeks to address; and address any other matter deemed relevant by the Central Government.]

## **Section 66B**

## **No bar against permit holders to apply and hold licences under schemes.**

No person who holds the permit issued under this Act shall - be disqualified from applying for a licence under the scheme made under sub-section (3) of section 67 or sub-section (1) of section 88A by reason of holding such permit; and be required to get such permit cancelled on being issued a licence under any scheme made under this Act.]

## **Section 67**

### **Power to State Government to control road transport.**

(1) A State Government, having regard to - the advantages offered to the public, trade and industry by the development of motor transport; the desirability of co-ordinating road and rail transport; the desirability of preventing the deterioration of the road system, and [promoting effective competition among the transport service providers, may, from time to time, by notification in the Official Gazette issue directions both to the State Transport Authority and Regional Transport Authority regarding the passengers' convenience, economically competitive fares, prevention of over crowding and road safety.] [x x x x] (2) Any direction under sub-section (1) regarding the fixing of fares and freights for stage carriages, contract carriages and goods carriages may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the consignors of the goods, as the case may be, to the operators of the stage carriages, contract carriages or goods carriages under any law for the time being in force relating to tax on passengers and goods. [Provided that the State Government may subject to such conditions as it may deem fit, and with a view to achieving the objectives specified in clause (d) of sub-section (1), relax all or any of the provisions made under this Chapter.] (3) [Notwithstanding anything contained in this Act, the State Government may, by notification in the Official Gazette, modify any permit issued under this Act or make schemes for the transportation of goods and passengers and issue licences under such scheme for the promotion of development and efficiency in transportation - last mile connectivity; rural transport; reducing traffic congestion; improving urban transport; safety of road users; better utilisation of

transportation assets; the enhancement of economic vitality of the area, through competitiveness, productivity and efficiency; the increase in the accessibility and mobility of people; the protection and enhancement of the environment; the promotion of energy conservation; improvement of the quality of life; enhance integration and connectivity of the transportation system, across and between modes of transport; and such other matters as the Central Government may deem fit.] (4) [The scheme framed under sub-section (3), shall specify the fees to be charged, form of application and grant of a licence including the renewal, suspension, cancellation or modification of such licence.] OLD LAW : Prior to its substitution, clause (d) of sub-section (1) & Proviso read as under:- (d) the desirability of preventing uneconomic competition among holders of permits. may, from time to time, by notification in the Official Gazette, issue directions both to the State Transport Authority and Regional Transport Authority— regarding the fixing of fares and freights (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages; regarding the prohibition or restriction, subject to such conditions as may be specified in the directions, of the conveying of long distance goods traffic generally, or of specified classes of goods by goods carriages; regarding any other matter which may appear to the State Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other State Government or the Government of any other country relating to the regulation of motor transport generally, and in particular to its coordination with other means of transport and the conveying of long distance goods traffic: Provided that no such notification in respect of the matters referred to in clause (ii) or clause (iii) shall be issued unless a draft of the proposed directions is published in the Official Gazette specifying therein a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has, in consultation with the State Transport Authority, been considered after giving the representatives of the interests affected an opportunity of being heard. Provided that the fares and freights in respect of such stage carriage,

contract carriages and goods carriages operated by battery, compressed natural gas or solar energy shall be fixed by the owner or operator;" Case Law 1: Powers of State Government. Supreme Court *Jai Prakash v. State of U.P.*, (2004) 13 SCC 390. Circular issued under S.67(1) besides fixing rates of fares of stage carriages and contract carriages, prohibiting recovery of tax from passengers. In view of Section 67(2) of the Motor Vehicles Act, 1988, there is no substance in the submission that the State Government could not prohibit the recovery of the tax levied under the Act from the passengers. The mere fact that Section 67(2) has not been referred to the circular would make no difference to the existence of the power in the State Government.

Case Law 2: Conditions of a permit can be varied by a State Govt. notification. Supreme Court *Captain Sube Singh and Others v. Lt. Governor of Delhi and Others*; 2004 (6) SCC 440 : AIR 2004 SC 3821 Notification dt. 31-12-1999 issued by Lt. Governor of NCT of Delhi Para 3(a) -- Validity of upward revision of charges for bus queue shelters and bus terminals payable by private bus operators to DTC -- Steep increase in the charges does not make the conditions of permit in respect of such charges illegal or ultra vires the powers of the respondent authorities. It is settled law that the condition of a permit can be varied by a notification issued by the Government under S.67 of the Act. Alteration of conditions of a permit granted under S.66 -- When the State has exercised its power under S.67 then the conditions of the permit automatically get altered. Case Law 3: Power of State Government & RTA are different. Kerala High Court *Noushad A. M. and Another v. RTA, Ekm and Others*; 2020 (2) KHC 247 : 2020 (2) KLT 518 Fixation of the fares and freights for stage carriages -- Powers enjoyed by State Government as per S.67, and Regional Transport Authority under R.211 of Kerala MV Rules are different -- When Regional Transport Authority fixes fare stages, it cannot be said that it is overlooking powers of State Government under S.67. Case Law 4: Transport service providers. Telenghana High Court *Vishweshwar Rao P. L. (Prof. ) v. State of Telangana and Others*; 2020 KHC 4318 : AIR 2020 Tel. 116 Stage carriage permits to private operators -- The term 'transport service providers' would include both the State Transport Corporation, and private operators



from the private sector -- Subsection (3) of S.67 begins with the non obstante clause, thereby it implies that the embargo contained in Chap.6 can be ignored, while the State Govt. invokes its power under S.67(3) -- S.102 necessarily has to be interpreted in light of the enormous power bestowed upon the State Government to control road transport under S.67 of the Act of 1988 -- S.102 permits the State Government to modify any scheme, provided the modification is considered necessary, and in public interest -- Therefore, the State Government does have the power to take a decision to grant to the private transport operators in compliance with S.102 while invoking its power under S.67(1)(d) Case Law 5: Concession for students beyond territorial limits of State. Kerala High Court Sayyid Muhammad Haneef Thangal v. State of Kerala and Others; 2010 (4) KHC 156 Notification providing concession for students -- Whether can be extended beyond the territorial limits of the State of Kerala -- Held, even if educational institution in which students undergo study is situated outside the territorial limits of the State of Kerala, they are entitled to concession for travel in stage carriages, provided the permits are issued by the transport authorities within the State of Kerala. Case Law 6: Legislation made by State - Assent of President. Uttaranchal High Court Srivastava S. K. and Others v. State of Uttaranchal; AIR 2007 Utr. 52 S.67 of the Motor Vehicles Act, 1988 does not touch the tax imposed by this enactment in any manner -- Provision of S.67 is entirely different altogether, which is clear from its language -- Since the field is unoccupied, there is no need to seek the assent of the President for which the present Legislation has been enacted by the Legislators under Art.246 read with Entry 57 of List 2 of Seventh Schedule. Case Law 7: Powers of State Govt. - Enumerated. Kerala High Court State of Kerala v. Sebastian; 1995 KHC 73 : 1995 (1) KLT 421 : ILR 1995 (2) Ker. 274 While fixing fares and freights for stage carriages, contract carriages, and goods carriages, the Government must have regard to the advantages offered to the public. SRO. 364/94 notification issued under S.67 is subordinate legislation. In the said notification the following contents need to be struck down. Condition that operators must provide advance reservation facility at important stations in all districts apart from reservation facility at both ends

-- Held, unworkable -- Direction is to be read down as reservation facility at both ends only. Also permit holders to provide retirement rooms, latrines etc and to maintain bus stations in all districts lying in route -- Held arbitrary and unworkable -- Liable to be struck down as unreasonable. Also requiring permit holders to maintain reserve bus is unreasonable.

Government must provide rules fixing standard to be maintained by vehicles which are to be granted permits as Fast passenger, Super Fast etc. -- Absence of rules will lead to arbitrary grant of permit. Case Law 8: Replacement of vehicle. Madras High Court Kumar K. v. Secretary, STA, Pondicherry; 2002 KHC 3611 : AIR 2002 Mad. 78 Application for replacement of vehicle was rejected on ground of loss of revenue issued by RTO which was not published in official gazette as per instruction of RTO but not published in gazette as required by S.67 -- Rejection was not sustainable as the reason falls outside ambit of R.75 of Pondicherry Motor Vehicles Rules, 1987. Corresponding Law :S. 43 of Act IV of 1939: 43. Power to State Government to control road transport. - (1) A [State Government], having regard to- (a) the advantages offered to the public, trade and industry by the development of motor transport, and (b) the desirability of coordinating road and rail transport, and (c) the desirability of preventing the deterioration of the road system, and (d) the desirability of preventing uneconomic competition among motor vehicles, [may, from time to time, by notification in the Official Gazette, issue directions to the State Transport Authority- (i) regarding the fixing of fares and freights [(including the maximum and minimum in respect thereof)] for stage carriages, contract carriages and public carriers ; (ii) regarding the prohibition or restriction, subject to such conditions as may be specified in the directions, of the conveying of long distance goods traffic generally, or of specified classes of goods, by private or public carriers; (iii) regarding the grant of permits for alternative routes or areas, to persons in whose cases the existing permits [are not renewed in pursuance of the provisions of sub-section (1D) of section 68F, or] are cancelled or the terms thereof are modified in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of section 68F; (iv) regarding any other matter which may appear to the State Government necessary or

expedient for giving effect to any, agreement entered into with the Central Government or any other State Government or the Government of any other country relating to the regulation of motor transport generally, and in particular to its co-ordination with other means of transport and the conveying of long distance goods traffic : Provided that no such notification shall be issued unless a draft of the proposed directions is published in the Official Gazette specifying therein a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has, in consultation with the State Transport Authority, been considered after giving the representatives of the interests affected an opportunity of being heard.] (2) The [State Government] shall permit, at such intervals of time as it may fix, the interests affected by any notification issued under sub-section (1) to make representations urging the' cancellation or variation of the notification on the following grounds, namely:- (a) that the railways are not giving reasonable facilities or are giving unfair, advantage of the action of the State Government under this section; or (b) that conditions have changed since the publication of the notification; or (c) that the special needs of a particular industry or locality require to be considered afresh. (3) If the [State Government], after considering any representation made to it under sub-section (2) and having heard the representatives of the interests affected and [the State Transport Authority], is satisfied that any notification issued under sub-section (1) ought to be cancelled or varied, it may cancel the notification or vary it in such manner as it thinks fit.

## **Section 68**

### **Transport Authorities.**

(1) The State Government shall, by notification in the Official Gazette, constitute for the State a State Transport Authority to exercise and discharge the powers and functions specified in sub-section (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may be specified in the notification, in respect of each Regional Transport Authority, the powers and

functions conferred by or under this Chapter on such Authorities: Provided that in the Union Territories, the Administrator may abstain from constituting any Regional Transport Authority. (2) A State Transport Authority or a Regional Transport Authority shall consist of a Chairman who has had judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law and in the case of a State Transport Authority, such other persons (whether officials or not), not being more than four and, in the case of a Regional Transport Authority, such other persons (whether officials or not), not being more than two, as the State Government may think fit to appoint; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport undertaking shall be appointed, or continue to be, a member of a State or Regional Transport Authority, and, if any person being a member of any such Authority acquires a financial interest in any transport undertaking, he shall within four weeks of so doing, give notice in writing to the State Government of the acquisition of such interest and shall vacate office: Provided that nothing in this sub-section shall prevent any of the members of the State Transport Authority or a Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law: Provided further that the State Government may, where it considers necessary or expedient so to do, constitute the State Transport Authority or a Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law; by rules made in this behalf, provide for the transaction of business of such authority in the absence of the Chairman or any other member and specify the circumstances under which, and the manner in which, such business could be so transacted: Provided also that nothing in this sub-section shall be construed as debarring an official (other

than an official connected directly with the management or operation of a transport undertaking) from being appointed or continuing as a member of any such authority merely by reason of the fact that the Government employing the official has, or acquires, any financial interest in a transport undertaking. (3) The State Transport Authority and every Regional Transport Authority shall give effect to any directions issued under section 67 and the State Transport Authority shall, subject to such directions and save as otherwise provided by or under this Act, exercise and discharge throughout the State the following powers and functions, namely: (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State; (b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions; (c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; (ca) [Government to formulate routes for plying stage carriages; and] (d) to discharge such other functions as may be prescribed. (4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a State Transport Authority may, subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority, and the Regional Transport Authority shall, in the discharge of its functions under this Act, give effect to and be guided by such directions. (5) The State Transport Authority and any Regional Transport Authority, if authorised in this behalf by rules made under section 96, may delegate such of its powers and functions to such authority or person subject to such restrictions, limitations and conditions as may be prescribed by the said rules.

Case Law 1: Interpretation/Construction - Financial Interest. Supreme Court Mor Modern Coop. Transport Society Ltd. v. Financial Commr. & Secy., BB 6 SCC 269. The expression "financial interest" occurring in Section 68(2) is capable of a narrower as well as a wider meaning. In the narrower sense, it implies direct personal benefit of an economic nature. In the wider sense, it may include any interest direct or indirect which a person has in relation to the finances of the undertaking. Such an interest may be the

interest of an official who manages the finances of the undertaking or on whom rests the burden of financial accountability. The intention of the legislature must be found by reading the statute as a whole. The court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed but to the entire statute; it must compare the clause with the other parts of the law, and the setting in which the clause to be interpreted occurs. The rule is of general application as even the plainest terms may be controlled by the context. The expressions used in a statute should ordinarily be understood in a sense in which they best harmonize with the object of the statute, and which effectuate the object of the legislature. Therefore, when two interpretations are feasible, the court will prefer that which advances the remedy and suppresses the mischief as the legislature envisioned. Case Law 2: STA to coordinate & regulate the activities of RTA. Allahabad High Court Mahraj Uddin and Others v. State of U. P. and Others; 2011 KHC 2712 : AIR 2011 All. 151 Under S.68(3) of the Act, 1988, the STA subject to the directions issued by the State Government under S.67 shall exercise and discharge throughout the State the functions and powers as enumerated in sub-s.3 -- One of the functions provided in subs.3 is to co-ordinate and regulate the activities and policies of the R.T. A -- Keeping in view serious air pollution and traffic problem, it fixed age of vehicles for safety and benefit of general public -- Hence fixing age of vehicles by STA would be proper. Case Law 3: STA to coordinate & regulate the activities of RTA. Allahabad High Court Renewal of permits -- Powers of State Transport Authority -- Under R.52, of Odisha Motor Vehicles Rules, 1993 power has been vested to the STA for renewal of permits and that itself is statutory one -- Appellate Tribunal directed reconsideration of application of petitioner to STA, instead of Secretary, STA -- It is the State Transport Authority, which is competent to renew the permanent permit issued in respect of a vehicle, unless the power is so delegated under R.41(b)(ii) either to Chairman or Secretary or any other officer not below the rank of Assistant Secretary -- Hence direction given by the STAT cannot be said to be illegal nor can it be said that there is an error apparent on the face of record. Case Law 4: Dual charge. Punjab and Haryana High Court Gill Bus Service

Regd. , Amritsar v. State of Punjab and Another; 2014 KHC 2083 : AIR 2014 P&H 13 If there is a State Transport Authority and Regional Transport Authority, in the hierarchy State Transport Authority is superior to the Regional Transport Authority -- Perform function of issuing permits qua different matters / areas -- State Transport Authority, if deemed expedient, can issue directions to the Regional Transport Authority under sub-s.(4) of S.68 of the said Act -- Does not imply that notification Annexure P3 is bad in law merely because the State Transport Commissioner has been designated as both as the State Transport Authority and the Regional Transport Authority which performs the function of issuing permits qua different matters/areas.

Case Law 5: Scope of sub Section 4. Uttarakhand High Court STA and Another v. Auto Rickshaw Vikram Union and Another; 2018 KHC 2105 : AIR 2018 NOC 29 Provision only procedural law and not substantive law -- It only postulates manner in which State Transport Authority can exercise power subject to conditions and directions issued by Regional Transport Authority -- State Transport Authority created under statute cannot widen its powers beyond what has been conferred under Act.

Case Law 6: Power of STA to issue permit. Kerala High Court Quilon District PBOA and Another v. RTA, Kollam and Others; 2016 KHC 819 : 2016 (3) KLT 994 State Transport Authority is vested with powers to issue permits under S.68(3)(b) and therefore the said authority is also vested with power to delegate its powers under sub-section (5) of S.68, in accordance with R.137, R.138 of the State Rules (Kerala).

Case Law 7: Grant of permit. Allahabad High Court Mahraj Uddin and Others v. State of U. P. and Others; 2011 KHC 2712 : AIR 2011 All. 151 Under S.68(3) of the Act, 1988, the STA subject to the directions issued by the State Government under S.67 shall exercise and discharge throughout the State the functions and powers as enumerated in sub-s.3 -- One of the functions provided in subs.3 is to co-ordinate and regulate the activities and policies of the R.T. A -- Keeping in view serious air pollution and traffic problem, it fixed age of vehicles for safety and benefit of general public -- Hence fixing age of vehicles by STA would be proper.

Case Law 8: Delegation of power. Karnataka High Court Karnataka SRTC, Bangalore and Others v. Karnataka STA and Others;

AIR 2005 Kar. 205 The effect of delegation of powers of STA to the Secretary amounts to rewriting S.68, S.96 of the Act -- The delegation in question empowers only the Secretary to discharge the functions of STA -- Such delegation has got overriding effect on S.68 of the MV Act or making it redundant -- Delegation of power to grant permits to Secretary, STA not justified -- Delegation defeats the very purpose and object of the MV Act and Rules. Also Court held that The persons to be inducted as Chairman and Members shall be in a position to discharge their duties on full fledged basis -- State Government shall bring necessary amendments for the proper functioning of STA and RTAs in accordance with their constitution under the MV Act.

Case Law 9: Govt. fails its duty, Courts have to interrupt. Karnataka High Court K. Rajavarma Ballal and Othres v. State of Karnataka and Others; AIR 2004 Kar. 138 Stage carriage permit -- Division Bench in the second batch of petitions, in its judgment of 19/11/2002, has again ruled that the Government is expected to consider the same and frame rules as early as possible -- 10 long years are over 4 long years are over after the Division Bench decision -- Government has not moved to frame routes in terms of S.68 of the Act -- When Govt. fails in its duty Courts have to pump blood so as to provide life to a dying letter of law -- Court thus fixed a time limitation of 6 months for framing routes so that perpetual inaction of the Govt. is arrested in terms of the object of the statute.

Case Law 10: RTA can grant of stage carriage permit. Kerala High Court Premalal v. Govt. of Kerala; 2004 KHC 1070 : ILR 2004 (2) Ker. 321 Grant of stage carriage permit -- Even before the route formation by the State Government is complete, Regional Transport Authority can grant stage carriage permit for a particular route. Also there is no requirement in the Act that an operator must ply on a route which has been formulated by the State Government under S.68(3) of the Act.

Case Law 11: Power of formulating route. Madhya Pradesh High Court M. P. SRTC v. STAT, Gwalior and Another; 2001 KHC 3544 : AIR 2001 MP 209 Sub-cl. (c-a) of sub-section (3) of S.68 is part of sub-section (3) of S.68. Sub-cl (c-a) provides that the Government should formulate routes for plying stage carriages -- Reading this provision in consonance with S.68(1) the State Government is empowered to confer the powers



for discharging its functions upon the Authorities, namely, State Transport Authority or Regional Transport Authority -- Hence plea that route can only be formulated by State Government. is not tenable -- Words "State Govt." inserted in Cl.3(c-a) by Amendment Act of 1994 would mean Authority conferred with the powers to exercise powers of State Govt. Case Law 12: Grant of permits to inter-state transport. Rajasthan High Court Kishan Lal v. State of Rajasthan and Another; 2001 KHC 3857 : AIR 2001 Raj. 115 Inter-State transport -- Grant of permits to ply vehicles on inter State routes -- Number of permits stipulated in agreement, includes number of vehicles that continue to be validly permitted vehicles -- Action of the respondents in considering the applications for grant of inter State routes and permits of over and above number fixed by the inter State agreement is bad in law. Case Law 13: Proviso to S.68(2) -Appointment of Chairman - Legality. Punjab and Haryana High Court Haryana Co-op. Transport Societies Welfare Association, Kurukshetra v. State of Haryana and Another; AIR 2000 P&H 230 Appointment of Chairman -- Head of Transport Department of the Government State Transport Commissioner was overall incharge of Roadways but he cannot be treated as a person connected directly with the management or operation of Roadways -- His role vis a vis Haryana Roadways was only supervisory -- The power of managing every day affairs of the Haryana Roadways are vested in the General Managers of the respective depots -- Therefore, the prohibition contained in the third Proviso to S.68(2) of the Act would not be attracted against the appointment of the State Transport Commissioner as Chairman of the RTAs. Case Law 14: Petition by SRTC against permit granted to private operators. Andhra Pradesh High Court APSRTC, Hyderabad v. Transport Commissioner, Govt. of A. P. ,Hyderabad and Another; AIR 2000 AP 252 Petition by State Road Transport Corporation -- State Road Transport Corporation had sought the direction to the authorities for implementation of the provisions of the Motor Vehicles Act on principal ground that inaction on the part of the transport authorities, resulting heavy losses by allowing the private operators to ply the vehicles unauthorisedly or in contravention of the permits granted to them -- Since the Act is conceived of in the interest of the

citizens the Corporation may bring it to the notice of the authorities, if any illegalities are committed by the rival operators and it is the discretion of the authorities to proceed to take action as per law -- It cannot seek the authorities to be compelled to perform the legal duty in a particular manner, only with a view to ensure that it is saved from the heavy losses -- Petition not maintainable. Case Law 15: STA constituted Collector as RTA for a region. Madras High Court RTA, Namakkal Region v. STAT, Madras and Others; AIR 1995 Mad. 226 Where the State Transport Authority had constituted the Collector as Regional Transport Authority for a region under the Motor Vehicles Act and the Tribunal changed order of the Collector refusing to grant permit or variation of conditions of permit, the Collector was not the aggrieved person by the order of the Tribunal -- Hence, the writ petition to challenge the order of the Tribunal at his instance was not competent. Case Law 16: Security Committee - Legality. Kerala High Court Krishnan Nair v. The Scrutiny Committee; 1993 KHC 279 : AIR 1993 Ker. 313 Decision of Scrutiny Committee to grant permits to ply State carriages -- Validity --The Scrutiny Committee appointed by the Regional Transport Authority has no place under the statute. The Regional Transport Authority has no power to delegate its statutory functions to such committee. Such "delegation" is wholly unauthorised. Decision of the Scrutiny Committee is without jurisdiction. Case Law 17: RTA have both administrative & quasi judicial function. Kerala High Court Ettumanoor Motors (Pvt) Ltd. v. STAT Trichur and Others; 1959 KHC 383 : ILR 1959 Ker. 1022 Directions contemplated under S.44(4) of Motor Vehicles Act, 1939 are and can be only of an administrative nature -- Regional Transport Authorities have both administrative as well as quasi judicial functions and in respect of the former alone can directions be issued by the State Transport Authority. Corresponding Law :S. 44 of Act IV of 1939: 44. Transport authorities. - (1) The [State Government] shall, by notification in the Official Gazette, constitute for the [State] a [State] Transport Authority to exercise and discharge the powers and functions specified in subsection (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may be specified in

the notification, in respect of each Regional Transport Authority, the powers and functions conferred by or under this Chapter on such Authorities : Provided that [\* \* \*] in [the Union territories] the [State Government] may abstain from constituting any Regional Transport Authority; Provided further that the area specified as the region of a Regional Transport Authority shall in no case be less than an entire district, or the whole area of a Presidency-town. (2) A [State] Transport Authority or a Regional Transport Authority shall consist' of [a Chairman who has had [judicial experience or experience as an appellate or a revisional authority under any law relating to land revenue] [and in the case of a State Transport Authority, such other officials and non-officials, not being less than two, and, in the case of a regional Transport Authority, such other persons (whether officials or not), not being less than two,] as the [State Government] may think fit to appoint]; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport undertaking shall be appointed as or continue as a member of a [State] or Regional Transport Authority, and, if any person being a member of any such Authority acquires a financial interest in any transport undertaking, he shall, within four weeks of so doing, give notice in writing to the [State Government] of the acquisition of such interest and shall vacate office. [[Provided that nothing in this section shall prevent any of the members of the State Transport Authority or the Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience: Provided further that the State Government may- (i) where it considers necessary or expedient so to do, constitute Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience; (ii) by rules made in this behalf, provide for the transaction of business in the absence of the Chairman or any other member and specify the nature of business which, the circumstances under which, and the manner in which, business could be so transacted: Provided also that] nothing in this sub-section shall be construed as debarring an official (other than an official connected directly with the management or operation of a transport

undertaking) from being appointed as or continuing as a member of any such Authority merely by reason of the fact that the Government employing the official has, or acquires, any financial interest in a transport undertaking.] (3) A [State] Transport Authority [shall give effect to any directions issued under section 43, and subject to such directions and save as otherwise provided by or under this Act] shall exercise and discharge throughout the State the following powers and functions, namely:- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the [State]; (b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions; (c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and (d) to discharge such other functions as may be prescribed. (4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a [State] Transport Authority may, subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority and the Regional Transport Authority shall [in the discharge of its functions under this Act, give effect to and] guided by such directions. [(5) The State Transport Authority and any Regional Transport Authority, if authorised in this behalf by rules made under section 68, may delegate such of its powers and functions to such authority or person and subject to such restrictions, limitations and conditions as may be prescribed by the said rules.]

## **Section 69**

### **General provision as to applications for permits.**

(1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles: Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the

regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles: Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business. (2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business. Case Law 1: Application for Permit. Supreme Court *M. Duraiswami v. Murugan Bus Service*, 1986 Supp SCC 1. Under Section 57(8) (as amended by T. N. Act 3 of 1964)— Application to vary conditions of stage carriage permit for inter-regional route RTA which issued the Original permit has initial jurisdiction to accord sanction irrespective of whether the major portion of the route or even the entire route in respect of which the variation is sought lies within the jurisdiction of another RTA. RTA within whose jurisdiction such route lies would then either countersign the permit or refuse to do so. Expression “shall be treated as an application for the grant of a new permit”—Import of. Words ‘new permit in the context of the expression indicate applicability of sub-sections (3) to (7) of Section 57 and not of Section 45. Case Law 2: Route falls within the jurisdiction of two RTA - Legality. Kerala High Court *C. P. Mohammedali v. Elias Mathai*; 2002 KHC 367 : 2002 (2) KLJ 907 When a route falls within the jurisdiction of two RTA -- The application shall be filed before the RTA of the region in which the major portion of the proposed route or area lies -- The number of trips that the stage carriage is being used in that particular region is not relevant in such a case -- The word 'use' is made in the sense that the stage carriage is operating in a particular route. It is not relevant in considering the number of trips that the stage carriage is being used in that particular region. Case Law 3: Jurisdiction for application of Permit. Orissa High Court *Dinesh Mehta v. STA, Odisha and Others*; AIR 2015 Ori. 88 Stage carriage permit -- If the

petitioner has got either residence or principal place of business, he can make an application for grant of permanent permit. Case Law 4: Implimentation of order granting variation of Permit. Madras High Court Anna Transport Corporation Limited v. N. Ramasamy and Others; AIR 1996 Mad. 82 Order passed under old Act and not implemented till coming into force of new Act -- The order of variation though made while the repealed enactment was in force has to be deemed to have been made under the corresponding provisions of the 1988 Act -- The view taken by the respondent that it is not necessary for the 1st respondent to obtain counter signature, is in accordance with the provisions of the Act, 1988. Case Law 5: Implimentation of color code in routes. Culcutta High Court Asoke Chowdhury and Others v. State of W. B. and Others; 2007 KHC 7042 : AIR 2007 Cal. 176 In a particular route falling within two or more regions, the colour identification of the vehicle since have been prescribed on the basis of permit granting authority, there would be vehicles painted with different colours in the same route -- Court also failed to understand any justification of prescription of the colours of the vehicle in particular route on the basis of the permits granted by respective authorities -- Prescription of colour scheme for Public Transport Vehicles based on permit granting authority i.e. either by RTA or STA per se, arbitrary decision/Wednesbury Arbitrariness. Even assuming that the State Government got the power to prescribe a particular colour for painting of motor vehicle mandatory requirement for publication of the same in the Gazette giving a wide publication thereof is required to be fulfilled.

Corresponding Law :S. 45 of Act IV of 1939: [45. General provision as to applications for permits. - [(1)] Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles: General provisions as to applications for permits. Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the

vehicle or vehicles: Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.] [(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall, be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business. (3) Every applicant for the grant of a new permit under section 46 or section 54 shall deposit, by way of security, With his application an amount in such manner and at such rate not exceeding rupees two hundred per, motor vehicle, as the State Government may, with reference to each class of vehicle, by notification in the Official Gazette, specify. (4) The security furnished under sub-section (3) may be forfeited in whole or in part by the transport authority if it is satisfied that the application was made for the purpose of preventing the issue of a temporary permit under section 62 and the whole or part of it as has not been forfeited shall be refunded to the applicant, as soon as may be, after the disposal of the application; Provided that no such forfeiture shall be made unless the transport authority has given the applicant a reasonable opportunity of being heard.]

## **Section 70**

### **Application for stage carriage permit.**

(1) An application for a permit in respect of a stage carriage (in this Chapter referred to as a stage carriage permit) or as a reserve stage carriage shall, as far as may be, contain the following particulars, namely: the route or routes or the area or areas to which the application relates; the type and seating capacity of each such vehicle; the minimum and maximum number of daily trips proposed to be provided and the time-table of the normal trips. Explanation : For the purposes of this section, section 72, section 80 and section 102, trip means a single journey from one point to another, and every return journey shall be deemed to be a separate trip; the

number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions; the arrangements intended to be made for the housing, maintenance and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage; such other matters as may be prescribed. (2) An application referred to in sub-section (1) shall be accompanied by such documents as may be prescribed. Case Law 1: Grant of Permit. Supreme Court Pancham Chand v. State of H.P., (2008) 7 SCC 117. In this case the Hon'ble Supreme Court observed the authority is an independent quasi-judicial body which is required to act only in terms of the Act. State or Minister/Chief Minister cannot make recommendations for granting permit to any particular person, nor can Director (Transport) forward such recommendation to the authority to take necessary action as the same would amount to interference with the functioning of LE quasi-judicial authority. Authority also cannot take any stand one way or the other and affirm affidavit along with State before the court. Case Law 2: Application for stage carriage permit. Madhya Pradesh High Court Vivek Dwivedi and Another v. Prem Narain and Others; AIR 1999 MP 1 The legislative intent underlying the provisions of the Act, does not indicate that a single application is entertainable for different routes as different considerations have to be taken into account while granting the permits for different routes -- Entertaining of a single application for routes covering different areas or different routes in the same area, seeking permits for plying stage carriage providing service on the different routes does not appear to have been contemplated under the provisions of the Act -- However it is open to the applicant for a permit to amend his application so as to confine it to a single route. Case Law 3: Incomplete application. Uttarakhand High Court Sandeep Kumar v. State of Uttarakhand and Others; 2020 KHC 2853 : AIR 2020 NOC 331 Application for stage carriage permit, submitted without enclosing time table as per provisions of S.70, S.71, S.72 of Act and R.68 of Rules -- Regional Transport Authority granting permit on basis of such incomplete application is illegal and contrary to law -- Order of STAT cancelling permit, proper. Case Law 4: Replacement of vehicle. Kerala High Court Mohammed Rafi v. Secretary, RTA and



Others; 2019 (2) KHC 673 : 2019 (2) KLT 139 Replacement of a vehicle with another stage carriage - Endorsement in permit - Held, roadworthiness and viability of incoming vehicle shall be the consideration in an application for replacement, rather than model of incoming vehicle.

Case Law 5: Interstate route permit. Chhattisgarh High Court Alok Kumar Akhilesh v. State of Chhattisgarh and Others; AIR 2019 NOC 334 The requirement under S.70 of the Act, 1988 has definite object behind it, therefore, in the absence of statutory prescribed particulars being provided in the application, consideration of the application by the respondent was not in accordance with law -- Therefore, as a consequence, permit granted to respondent deserves to be and is hereby set aside.

Case Law 6: Stage carriage permit. Rajasthan High Court Deva Ram v. State of Rajasthan and Others; AIR 2006 Raj. 180 Stage carriage permit -- Law is required to be interpreted so that the procedural law makes a procedure to do the work and cannot be interpreted so as to result into making the procedure a heavy burden -- The process of keeping the applications for grant of permit in anticipation of opening of routes several years after or even decades after, is not a workable procedure -- It is held that the application submitted prior to the opening of the route is incompetent and premature application.

Case Law 7: Change of vehicle before issuance of permit. Kerala High Court Vinod Thomas v. RTA Kottayam; 1999 KHC 276 : 1999 (2) KLJ 1092 Question is whether there can be a change in respect of the vehicle after granting of permit and before issuance of permit -- Issuance of regular permit to vehicle which was not shown in the application -- Held, there can be a change in respect of the vehicle after granting and before issuance of permit -- After issuance of permit also the stage carriage operator can change the vehicle in respect of the permit -- Refusal to issue the granted permit stating that it is in violation of Motor Vehicle Rules, 1989 (Kerala), R.159(1) is not correct.

Case Law 8: Grant of transport permit. Allahabad High Court Om Prakash Sharma v. RTA, Aligarh and Others; AIR 2000 All. 160 Grant of transport permit -- Court directing petitioners to file their objections before competent authority -- The only explanation which has been put forth before us is that the Regional Transport Authority had convened meeting on 08/06/1999 and, therefore, the

objections were filed on that date -- This is not only unsatisfactory but wholly without any justification -- The conduct of the petitioners by merely referring the judgment of this Court in two representations dated 28/04/1999 and 18/05/1999 without filing objections lacks good faith -- Malice and mala fide intention on part of petitioners -- Reason shown for belated filing not found relevant -- Grievance againsts rejection of objection is not proper. Case Law 9: Fixing of time table for stage carriage. Madhya Pradesh High Court Vivek Dwivedi and Another v. Prem Narain and Others; 1999 KHC 3404 : AIR 1999 MP 1 Time schedule regulating the running of the stage carriage for which purpose the permit is granted assumes considerable importance and the Regional Transport Authority has to consider at the time of fixing the time schedule the interests of the travelling public in relation to the entire route between the two termini. Case Law 10: Application for grant of stage carriage permit. Calcutta High Court Rina Maity v. State of W. B. and Others; AIR 2003 Cal. 124 No reason assigned individually to applicants while considering the application for grant of stage carriage permit -- Selection of Candidates not even fulfilling published conditions such as filing of professional Tax certificates and Income tax clearance certificates is illegal. Corresponding Law :S. 44 of Act IV of 1939: 46. Application for stage carriage permit. - An application for a permit in respect of a service of stage carriages or to use a particular motor vehicle as a stage carriage (in this Chapter referred to as a stage carriage permit) shall, as far as may be contain the following particulars, namely:- (a) the route or routes or the area or areas to which the application relates; (b) the number of vehicles it is proposed to operate in relation to each route or area and the type and seating capacity of each such vehicle; (c) the minimum and maximum number of daily [trips] proposed to be provided in relation to each route or area and the time-table of the normal [trips]; (d) the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions; (e) the arrangements intended to be made for the housing and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage; (f) such other matters as may be prescribed.] [Explanation. - For the purposes of this section, section 48 and

section 57, "trip" means a single journey from one point to another, and every return journey shall be deemed to be a separate trip;]

## **Section 71**

### **Procedure of Regional Transport Authority in considering application for stage carriage permit.**

(1) A Regional Transport Authority shall, while considering an application for a stage carriage permit, have regard to the objects of this Act: [x x x x] (2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened: Provided that before such refusal an opportunity shall be given to the applicant to amend the time-table so as to conform to the said provisions. (3) (a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs. (b) Where the number of stage carriages are fixed under clause (a), the Government of the State shall reserve in the State certain percentage of stage carriage permits for the scheduled castes and the scheduled tribes in the same ratio as in the case of appointments made by direct recruitment to public services in the State. (c) Where the number of stage carriages are fixed under clause (a), the Regional Transport Authority shall reserve such number of permits for the scheduled castes and the scheduled tribes as may be fixed by the State Government under sub-clause (b). (d) After reserving such number of permits as is referred to in clause (c), the Regional Transport Authority shall in considering an application have regard to the following matters, namely: financial stability of the applicant; satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been an operator of stage carriage service; and such other matters as

may be prescribed by the State Government: Provided that, other conditions being equal, preference shall be given to applications for permits from State transport undertakings; co-operative societies registered or deemed to have been registered under any enactment for the time being in force; ex-servicemen; [or] [any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary] (4) [x x x x] (5) [x x x x] OLD LAW Prior to its omission, the Proviso to subsection (1) read as under :- " Provided that such permit for a route of fifty kilometers or less shall be granted only to an individual or a State transport undertaking," Prior to their omission, sub-Ss. (4) and (5) read as under:- (4) A Regional Transport Authority shall not grant more than five stage carriage permits to any individual or more than ten stage carriage permits to any company (not being a State transport under taking). (5) In computing the number of permits of permits to be granted under sub-section (4), the permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account. Explanation : For the purposes of this section company means any body corporate, and includes a firm or other association of individuals; and director, in relation to a firm, means a partner in the firm. Case Law 1: Grant of Stage carriage permit Supreme Court Kan Sing v. STAT, 1987 Supp SCC 671, 676 to 678 This case regarding the grant of stage carriage permit—Section 47(1-H) [Section 71(3) of new Act] requires the RTA to arrive at its satisfaction not subjectively but on an objective consideration of the various facts and circumstances placed before it in a quasi-judicial enquiry. It is only the private operators, who are seeking permits for themselves, that may be in a position to place material which would show that the Corporation does not have the capacity to take up this additional responsibility of running buses on the inter-State route for which it seeks a permit. It is therefore, the duty of the RTA to consider the evidence placed by both the parties, allow each party an opportunity to rebut the material placed by the other and arrive at its satisfaction one way or the other. Case Law 2: Number of Permits. Supreme Court Patiala Bus (Sirhand) (P) Ltd. v. STA, AIR 1988 P&H 32. This is a case regarding number of permits.—A notification

inviting applications for grant of one additional permit on existing route constitutes a decision under Section 47(3) [Section 71(3) of 1988 Act] fixing the number of permits. Grant of more permits than fixed is illegal. Case Law 3: Grant & Issue of Permit. Supreme Court APSRTC v. STAT, (1998) 7 SCC 353. In this case the Hon'ble Court observed the difference between "Grant and Issue of permit."—Grant and issue of permit, held, are distinct acts and not the same. Issue of permit is only a ministerial act and cannot be equated with grant of permit. Case Law 4: No provision for objection. Madhya Pradesh High Court Sattar Khan v. Secretary, RTA and Others; AIR 2020 MP 69 Grant of Stage carriage permit -- Objections from existing permit holders -- In entire S.71, there is no provision for calling or inviting objections from the existing transporters -- Therefore, under the Motor Vehicle Act, there is no statutory right available to the existing operators to submit an objection for grant of temporary permit. Case Law 5: Permit stage carriages to operate in city route, overlaps notified scheme. Kerala High Court Akash Dev v. State of Kerala and Others; AIR 2015 NOC 923 Scheme dated 14/07/2009 and Notification dated 22/03/2010. S.71(1) details the procedure for considering the application having due regard to various factors which are narrated in sub-clauses (i) to (iv) of sub-section (d) in S.71. S.71(3)(a) is a special provision in relation to operations being carried out in a city route but the manner of consideration of every application is on the basis of the provisions under S.71(d). Therefore, as far as city routes are concerned, it is akin to any other route. The only factor is the limitation being provided by the State Government on the directions from the Central Government in regard to the number of permits that could be issued. The provisions in Chap.6 applies even in respect of city routes and the prohibition under S.104 of the Act in granting permits except in accordance with the Scheme applies even in respect of a city route as mentioned in S.71(3)(a). Case Law 6: Refusal of permit. Kerala High Court Sushamma v. RTA, Ekm and Others; 2014 (2) KHC 251: AIR 2014 Ker. 114 Refusal of permit on the ground that proposed route touches two intermediate points of notified route -- Whether sustainable -- Held on facts, proposed route does not connect two or more intermediate places / points -- Hence,

refusal of permit not justified. Case Law 7: First come first serve principle is improper. Allahabad High Court Shamim Haider and Another v. RTA, Meerut and Another; 1995 KHC 1507 : AIR 1995 All. 385 The view of the Transport Authority that the permit shall be granted on the basis of 'first come first serve' principle was not proper -- In fact, every one has a right to apply for a permit from amongst whom the choice has to be made by the transport authority in accordance with the provisions contained in the Act itself and only suitable candidate in order of suitability or merit is to be selected. Case Law 8: No special privileges to KSRTC. Kerala High Court Remesh Kumar v. RTA, Palakkad and Others; 2014 KHC 116 : 2014 (3) KLT SN 2 Chap.5 S.71(3)(d) Proviso (i) -- Under Chap.5, KSRTC has been granted a preference only when other conditions are found to be equal, not a special privilege, exemption or reservation -- Exclusion in R.212 of Motor Vehicles Rules, 1989 (Kerala) is not in the nature of a preference -- Nor a policy of the Government granting exemption. Case Law 9: Improper publication of permit. Calcutta High Court Rina Maity v. State of W. B. and Others; AIR 2003 Cal. 124 Stage carriage permit -- Where in the advertisement inviting applications for stage carriage permit it was not mentioned whether there was any reservation for the Scheduled Caste or for that matter physically handicapped candidates, or any other reserved category or minority or otherwise -- Authorities however, following reservation policy -- Such decision of authorities could not be upheld because had there been proper publication, perhaps large number of physically handicapped and disabled persons and Scheduled Caste Candidates, Ex - service men candidates or minority community candidates could have come. Case Law 10: Stage carriage permits. Kerala High Court U. P. STC v. State of U. P. and Others; AIR 2012 All. 95 Merely because the corporation was plying on non-notified route did not mean that the corporation could not be granted permit on a non-notified route -- Even otherwise the remedy of the private operators was only by filing an appeal under S.89 or a revision under S.90 of the Act -- The permits had been issued to the corporation by the State Transport Authority and hence the question of interpretation of the line of travel could only be decided by the State Transport Authority or the Appellate Tribunal -- Thus,

the impugned order is absolutely illegal and without jurisdiction. Case Law 11: Suppression of material fact. Calcutta High Court Mobesher Hossain Mondal and Others v. Sekhar Chatterjee and Others; AIR 2008 Cal. 31 Stage carriage permit -- It was not mandatory on the part of the applicant and that he is having the permits in his possession -- In fact after the amendment of the Act in question, there is no bar of any permit-holders to have more than one permit to become an operator in a particular route -- Non disclosure of holding other permits by applicant cannot be said to be or cannot be deemed to be a suppression of material facts either from authorities or from Court. Case Law 12: RTA can't fix limit of permit. Allahabad High Court Munni Devi and Others v. RTA and Another; AIR 1995 All. 330 Fixing of limit to certain number by Regional Transport Authority is not permissible -- That part of the impugned resolution dated 26/09/1994 of the R.T.A. fixing limit of permit of 35 for the route, for grant of stage carriage permit is quashed -- The R.T.A. is directed to consider the request of the petitioners for issue of permits in accordance with law. Case Law 13: RTA a quasi judicial functionary. Calcutta High Court Rajni Bala Das v. RTA, Cuttack and Others; AIR 2003 Ori. 28 The R.T.A. is a quasi judicial functionary and is required to consider and deal with the applications in accordance with law -- The decision of the R.T.A. to consider all the applications through "lottery process" is illegal and unauthorised. Case Law 14: STA can consider relevant materials or circumstances. Orissa High Court Samuel Pani v. Ramesh Chandra Mallick; 1994 KHC 1995 : AIR 1994 Ori. 231 There is no prohibition in law to take into consideration by the S.T.A. relevant materials or circumstances having bearing on the issue which may emerge during the period from the date of applications till it takes up the applications for consideration subject of course to the wholesome principles of natural justice -- The experience gained by an applicant on the basis of temporary permit granted to him on the disputed route during post application period will be a plus point in favour of the applicant. Case Law 15: Cooperative society is not STU. Kerala High Court Quilon D. P. B. Operators Assn. v. STAT and Others; 1991 KHC 321 : AIR 1992 Ker. 267 A cooperative society does not come within the meaning of a State Transport undertaking -- Cooperative Societies can

be considered as associations of individuals only, Such associations of individuals come within the mischief of S.71 (4) of the Act. Corresponding Law :S. 44 of Act IV of 1939: 47. Procedure of Regional Transport Authority in considering application for stage carriage permit. - [(1) A Regional Transport Authority shall, in considering an application for a stage carriage permit, have regard to the following matters, namely (a) the interest of the public generally (b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken; (c) the adequacy of other passenger transport services operating or likely to operate in the near future, whether by road or other means, between the places to be served; (d) the benefit to any particular locality or localities likely to be afforded by the service; (e) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending; (f) the condition of the roads included in the proposed route or area; and shall also take into consideration any representations made by persons already providing passenger transport facilities by any means along or near the proposed route or area, or by any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government, or by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies : Provided that other conditions being equal, an application for a carriage permit from a co-operative society registered or deemed to have been registered under any enactment in force for the time being [and an application for a stage carriage permit from a person who has a valid licence for driving transport vehicles] shall as far as may be, be given preference over applications from individual owners.] [(1A) The Government of a State shall reserve in that State certain percentage of stage carriage permits for the Scheduled Castes and the Scheduled Tribes. Explanation. - In this section and in sections 55 and 63, "Scheduled Castes" and "Scheduled Tribes" have the meanings respectively assigned to them in article 366 of the Constitution. (1B) The reservation of permits under sub-section (1A) shall be in the same ratio as in the case of appointments made by direct



recruitment to public services in the State. (1C) The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted stage carriage permits in that State.- (a) reserve in that State such percentage of stage carriage permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or (b) notwithstanding anything contained in the proviso to sub-section (1) give preference, in such manner as may be prescribed to applications for stage carriage permits from such persons. Explanation I. - In this section 55, 63 and 68, a person shall be deemed to belong to economically weaker section of the community, if and only if, on the prescribed date.- (a) the annual income of such person together with the annual income, if any, of the members of his family; or (b) the extent of land (whether in one class or in different classes) held by such person together with that, if any, held by the members of his family; or (c) the annual income and the extent 'of land aforesaid, does, or do, not exceed such limit as may be prescribed. Explanation II. - For the purposes of Explanation I, "family", in relation to an individual, means the wife or husband, as the case may be, of such individual and the minor children of such individual. (1D) The number of permits reserved under sub-section (1B) and clause (a) of sub-section (1C) shall not exceed fifty per cent. of the total number of stage carriage permits granted during a calendar year. (1E) In giving effect to the provisions of sub-section (1B) and clause (a) of sub-section (1C), the Regional Transport Authority or the State Transport Authority may, if it considers necessary or expedient so to do, group the various routes within its jurisdiction. (1F) Where any stage carriage permit is to be granted from the quota reserved under sub-section (1B) or clause (a) of sub-section (1C) to any co-operative society registered or deemed to have been registered under any enactment in force for the time being or any firm to which the provisions of the Indian Partnership Act, 1932 apply, no permit shall be granted to such society or firm unless the members of the co-operative society or the partners of the firm belong to the, Scheduled Castes, the Scheduled Tribes or economically weaker sections of the community: Provided that where the members of such, co-operative

society or the partners of such firm are partly from the Scheduled Castes, partly from the Scheduled Tribes and partly from the economically weaker sections of the community, or from section shall be granted to such society or firm only from the quota reserved for the category to which the largest number of members of the co-operative society, or, as the case may be, partners of the firm, belong: Provided further that where no reservation has been made in the State for economically weaker sections of the community under clause (a) of sub-section (1C) no permit under this sub section shall be granted to a co-operative society or firm unless the members of such society or partners of such firm belong to the Scheduled Castes or the Scheduled Tribes or partly to the Scheduled Castes and partly to the Scheduled Tribes and permit to such society or firm shall be granted only from the quota reserved for the Scheduled Castes or the Scheduled Tribes according as to whether the larger number of the members of the co-operative society, or partners of the firm, belong to the Scheduled Castes or the Scheduled Tribes. (1G) The circumstances under which, the manner in which, and the extent to which, reservation under sub-section (1A) and clause (a) of sub-section (1C) may be carried forward shall be such as may be prescribed. (1H) Notwithstanding anything contained in this section, an application for a stage carriage permit from a State transport undertaking for operating in any inter-State route shall be given preference over all other applications: Provided that the authority shall not grant a permit under this sub-section unless it is satisfied' that the State transport undertaking would be able to operate in the inter-State route without detriment to its responsibility for providing efficient and adequate road transport service in any notified area or notified route as is referred to in sub-section (3) of section 68D where the undertaking operates the service. Explanation. - For the purposes of this sub-section, "interState route" means any route lying contiguously in two or more States] (2) A Regional Transport authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened: Provided that before such refusal an opportunity shall be given to the applicant to

amend the time-table so as to conform to the said provisions. [(3) A Regional Transport Authority may, having regard to the matters mentioned in sub-section limit the number of stage carriages generally or of any specified type for which stage carriage permits may be granted in the region or in any specified area or on any specified route within the region.] State Amedments: Kerala In its application to the State of Kerala, in Section 71, sub-S. (4), (i) for the words five and ten, the words ten and fifty shall, respectively, be substituted; (ii) for the words any company, the words any co-operative society or to any company shall be substituted.Kerala Amendment Act 12 of 1993, Section 2 (w.r.e.f. 26-2-1993).

## **Section 72**

### **Grant of stage carriage permit.**

(1) Subject to the provisions of section 71, a Regional Transport Authority may, on an application made to it under section 70, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit: Provided that no such permit shall be granted in respect of any route or area not specified in the application. (2) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely: (i) that the vehicles shall be used only in a specified area, or on a specified route or routes; (ii) that the operation of the stage carriage shall be commenced with effect from a specified date; (iii) the minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions; (iv) that copies of the time-table of the stage carriage approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area; (v) that the stage carriage shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify; (vi) that within municipal limits and such other areas and places as may be prescribed, passengers or goods shall not be taken up or set down

except at specified points; (vii) the maximum number of passengers and the maximum weight of luggage that may be carried on the stage carriage, either generally or on specified occasions or at specified times and seasons; (viii) the weight and nature of passengers luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers; (ix) the rate of charge that may be levied for passengers luggage in excess of the free allowance; (x) that vehicles of a specified type fitted with body conforming to approved specifications shall be used: Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating on that date; (xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles; (xii) the conditions subject to which goods may be carried in the stage carriage in addition to or to the exclusion of passengers; (xiii) that fares shall be charged in accordance with the approved fare table; (xiv) that a copy of, or extract from, the fare table approved by the Regional Transport Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on the stage carriage and at specified stands and halts; (xv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner; (xvi) that mails shall be carried on the vehicle subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified; (xvii) the vehicles to be kept as reserve by the holder of the permit to maintain the operation and to provide for special occasions; (xviii) the conditions subject to which the vehicle may be used as a contract carriage; (xix) that specified arrangements shall be made for the housing, maintenance and repair of vehicle; (xx) that any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use; (xxi) that the conditions of the permit shall not be departed from, save with the

approval of the Regional Transport Authority; (xxii) that the Regional Transport Authority may, after giving notice of not less than one month, vary the conditions of the permit; attach to the permit further conditions: Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof; (xxiii) that the holder of a permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may from time to time prescribe; (xxiv) any other conditions which may be prescribed. [Provided that the Regional Transport Authority may waive any such condition for a stage carriage permit operating in a rural area, as it deems fit.] Case Law 1: Short period Permits. Supreme Court *Basant Roadways v. S.T.A.T.*, (1986) 4 SCC 504. In this case Hon'ble Court mentioned about the practice of granting short term permits.—Practice of granting stage carriage permits for short periods repeatedly where need for increasing number of regular services in public interest is made out, deprecated. Proper action to be taken in such cases stated. However, interim order of High Court not interfered with. Case Law 2: Interpretation to 72(1) proviso. Supreme Court *State of West Bengal and Others v. S. K. Nurul Amin*; AIR 2010 SC 2271 : 2010 (11) SCC 182 What is prohibited by the proviso to sub-s.(1) of S.72 is granting of a permit in respect of any route or area not specified in the application -- The said proviso does not prohibit curtailment in regard to portion of the route applied for, for any valid reason -- Curtailment of a route would be a modification as contemplated under sub-s.(1)-- Application made for grant of permit from one termini to other -- Grant of permit by curtailing sum portion of route not invalid and does not amount to granting permit for route not applied for. Case Law 3: Authority has the power to modify as it deems fit. Supreme Court *State of West Bengal and Others v. S. K. Nurul Amin*; AIR 2010 SC 2271 : 2010 (11) SCC 182 Respondent making application for certain route -- Transport

Authority granting permit by curtailing some portion of route -- Curtailment made to prevent congestion at place -- Authority has the power to grant a stage carriage permit in accordance with the application or with such modifications as it deems fit -- So long as the reason for the modification is not found to be arbitrary or unreasonable, the question of interfering with the order of the Authority does not arise - Held, reason being valid, fact that some permits were granted to others for routes touching would not affect validity of orders of Authority. Case Law 4: Grant of permit when code of election conduct issued -Legality Rajasthan High Court Omprakash v. Chief Electoral Officer and Others; 2009 KHC 7122 : AIR 2009 Raj. 161 Grant of permit -- At time of decision on application model code of conduct was issued by Election Commission of India -- Chief Electoral Officer could not proceed on the assumption that grant of permit, which was preceded by a full fledged process of hearing and considered order passed by a quasi judicial body like Regional Transport Authority, in favour of one or the other applicant, could be conceived as influence on the fairness of the conduct of elections -- Polling in the State of Rajasthan and elsewhere in the country has already taken place -- No justification to prevent the Regional Transport Authority to go ahead and pronounce its order -- View taken by Chief Electoral Officer that Regional Transport Authority, which is a quasi judicial authority, should not pronounce order even after hearing is complete, held improper. Case Law 5: Uniform colour code - RTA have power to impliment. Kerala High Court Kasaragod District Bus Owners Association v. RTA, Kasaragod and Others; 2015 (1) KHC 156 Power of Regional Transport Authority to impliment uniform colour code to all stage carriages -- Held, RTA has general powers to issue such stipulations with respect to stage carriages and other vehicles while granting permits under the Act, even in the absence of rule to that end coined by the State Government -- RTA has to take into consideration the safety of the public, in imposing such specifications. Case Law 6: RTA should invite objections priopr a time table. Rajasthan High Court Ramkumar v. Secretary, R. T. A. Bikaner and Others; AIR 1993 Raj. 30 Before fixing a time table it is not incumbent upon the R.T.A. or the Secretary, R.T.A. to give a notice to the

affected parties -- If a permit is granted to a person to ply his particular vehicle on a particular route, the R.T.A. can provisionally determine the time table keeping in view the time tables of other Vehicles plied on the route, which have been approved by him or his delegate and after issuing interim time table, he will have to invite and consider the objections from the existing operators. Also the Court held that power of R.T.A. to approve time table, fare chart etc. of stage carriage can be delegated to Secretary / Addl. Secretary, R.T.A. Case Law 7: Power to restrict grant of permit. Kerala High Court Raghavan v. RTO, Kollam; 2001 KHC 387 : ILR 2001 (2) Ker. 297 Can restrict the age of vehicle -- Under S.72(2) the Regional Transport Authority has the power to restrict the grant of permit for a stage carriage of a specified description and the restriction can be based on age of the vehicle -- Constitution of India, Art.19(1)(g) is not violated. Case Law 8: No special privileges to KSRTC. Kerala High Court Remesh Kumar v. RTA, Palakkad and Others; 2014 KHC 116 : 2014 (3) KLT SN 2 Secretary, RTA, being the Authority has power to make modifications in the timings proposed in an application, whether it is by a private operator or KSRTC -- Right of opportunity to make objections is available to a competitor in the same route, whether it is private operator or a State Transport Undertaking -- Under Chap.5, STU and a private stage carriage operator cannot be treated differently. Case Law 9: Condition imposed for granting of permit. Jharkhand High Court Giribala Jha v. State of Jharkhand and Others; 2007 KHC 7332 : AIR 2007 Jha. 47 Petitioner was earlier granted stage carriage permit -- At the time of renewal of the said permit in the year 2004, the condition for replacing the existing 1990 model Bus by a higher model has been imposed -- Condition has been imposed at the time of renewal of the permit and in my view, it falls within the provisions of S.72(2) Cl.10 of the said Act -- Though the authority has got power to impose the condition to the permit granted to the petitioner, the same shall not prevent the petitioner from using her vehicle until the notice, as prescribed, is published in accordance with law or as prescribed under Rules. Case Law 10: Procedural irregularity can be cured subsequently. Kerala High Court Bhavikumar B. A. v. RTA, Kodagu and Others; 2006 KHC 3709 : AIR 2006 Kar. 160 Grant of

stage carriage permit -- Each page of resolution not signed by Chairman and members of RTA --

It is not the case of the 2nd respondent before the Tribunal that due to non signing of the resolution on each page by the Chairman and the Members, the 2nd respondent has been put to any prejudice or that the same has occasioned a failure of justice -- Irregularity committed by the RTA is at best a procedural irregularity; which has been cured subsequently -- Interference with resolution under S.214(3) by Tribunal held not proper. Case Law 11: Permit only grant to new vehicles- Condition imposed- Legality. Uttarakhand High Court Vijay Goyal and Others v. State of Uttarakhand and Others; AIR 2010 Utt. 12 Grant of stage carriage permit -- Condition imposed that permit would only be granted to new vehicles -- RTA can prescribe "any other condition" as such if the RTA has come to the conclusion keeping in mind that the State of Uttarakhand is largely a hill State and the permit shall only be granted to the new vehicle this Court finds no anomaly in the same as the order is within the jurisdiction of the RTA --

Uttarakhand is a new State and the RTA in Uttarakhand has got powers under S.72 of the Act for fixing any condition before granting permit to the stage carriage vehicle -- If in the wisdom of the RTA it is necessary that the permit can only be given to new vehicle, the same cannot be held to be unreasonable merely because on the earlier occasion, certain age of these vehicles were fixed as 20 years or 10 years by the erstwhile RTA of Uttar Pradesh. Case Law 12: Grant of permits. Kerala High Court Basheer T. M. v. Secretary, RTA, Ekm and Another; AIR 2016 NOC 641 Statutory functions of the Regional Transport Authority or its Secretary in the matter of granting permits, conducting timing conferences or allowing replacement of the vehicles need not be held up owing to the model code of conduct for election. No Superior Authority can dictate in what manner the power vested in the Regional Transport Authority or the Secretary has to be exercised in a given circumstances -- Regional Transport Authority being a statutory body is deemed to act strictly in terms of the statutory provisions uninfluenced by any political interference. Case Law 13: Delay in appeal. Karnataka High Court Krishna Murthy M. and Others v. Karnataka STA; AIR 2012 Kar. 188 Order of variation passed in year 1998 -- Appeal



filed by Corporation in year 2005 without applying for condonation of delay, could not be entertained -- On perusal of the order of the STAT, it is clear that none of the grounds urged by the appellants are considered by it -- If the Tribunal has allowed the appeals without considering grounds urged by the appellants, in all fairness, the learned single Judge was required to remand the matter to the STAT and not to the STA -- The question of remanding the matter would arise only if the Tribunal was of the opinion that the order granting variation of route by the STA is contrary to any provision of law. Case Law 14: Clause (xxii) applies only to initial permit. Kerala High Court Devee Motors v. State of Kerala; 1996 KHC 395 : ILR 1997 (1) Ker. 599 Application of clause.(xxii) of sub-s.(2) -- Grant a stage carriage permit -- Clause applies only when Regional Transport Authority initially decides to grant a stage carriage permit and it does not apply to a subsequent variation of permit -- A subsequent variation to be applied has to establish that the permit already issued contains condition as prescribed in S.72(2)(xxii).

Corresponding Law :S. 44 of Act IV of 1939: [48. Grant of stage carriage permits. - (1) Subject to the provisions of section 47, a Regional. Transport Authority may, on an application made to it under section 46, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit : Provided that no such permit shall be granted in respect of any route or area not specified in the application. (3) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of a specified description or for one or more particular stage carriages, and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:- [(i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes; (ia) that the service or any specified part thereof shall be commenced with effect from a specified date;] (ii) the minimum and maximum number of daily [trips to be provided] in relation to any route or area generally or on specified days and occasions; (iii) that copies of the time-table of the service or of particular stage carriages approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified

stands and halts on the route or within the area; (iv) that the service shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify; (v) that within municipal limits and such other areas and places as may be prescribed, passengers or goods shall not be taken up or set down except at specified points; (vi) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons; (vii) the weight and nature of passengers' luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers; (viii) the rate of charge that may be levied for passengers' luggage in excess of the free allowance: (ix) that vehicles of specified types fitted with bodies conforming to approved specifications shall be used: Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating on that date; (x) that specified standards of comfort and cleanliness shall be maintained in the vehicles; (xi) the conditions subject to which goods may be carried in any stage carriage in addition to or to the exclusion of passengers; (xii) that fares shall be charged in accordance with the approved fare table; (xiii) that a copy of, or extract from, the fare table approved by the Regional Transport Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on every stage carriage and at specified stands and halts; (xiv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner; (xv) that mails shall be carried on any of the vehicles authorised by the permit subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified; (xvi) the reserve of vehicles to be kept by the holder of the permit to maintain the service and to provide for special occasions; (xvii) the conditions subject

to which any vehicle covered by the permit may be used as a contract carriage; (xviii) that specified arrangements shall be made for the housing, maintenance and repair of vehicles; (xix) that an specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use; (xx) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority; (xxi) that the Regional Transport Authority may, after giving notice of not less than one month,- (a) vary the conditions of the permit; (b) attach to the permit further conditions; [Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof ;] (xxii) that the holder of a permit shall furnish to the Regional Transport Authority such periodical returns, statistic and other information as the State Government may from time to time prescribe (xxiii) any other conditions which may be prescribed.]

## **Section 73**

### **Application for contract carriage permit.**

An application for a permit in respect of a contract carriage (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely: the type and seating capacity of the vehicle; the area for which the permit is required; any other particulars which may be prescribed. Corresponding Law :S. 49 of Act IV of 1939: 49. Application for contract carriage permits. - An application for a permit to use [one or more motor vehicles as a contract, carriage or carriages] (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely:- (a) the type and seating capacity of the vehicle [or each of the vehicles]; (b) the area for which the permit is required; (c) in the case of a motor vehicle other than a motor cab, the manner in which it is claimed that the public convenience will be served by the vehicle;

and (d) any other particulars which may be prescribed.

## **Section 74**

### **Grant of contract carriage permit.**

(1) Subject to the provisions of sub-section (3), a Regional Transport Authority may, on an application made to it under section 73, grant a contract carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit: Provided that no such permit shall be granted in respect of any area not specified in the application. (2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely: (i) that the vehicles shall be used only in a specified area or on a specified route or routes; (ii) that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area; (iii) the maximum number of passengers and the maximum weight of luggage that may be carried on the vehicle, either generally or on specified occasions or at specified times and seasons; (iv) the conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of, passengers; (v) that, in the case of motorcabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle; (vi) that, in the case of vehicles other than motorcabs, specified rates of hiring not exceeding specified maximum shall be charged; (vii) that, in the case of motorcabs, a specified weight of passengers luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate; (viii) that, in the case of motorcabs, a taximeter shall be fitted and maintained in proper working order, if prescribed; (ix) that the Regional Transport Authority may, after giving notice of not less than one month, (a) vary the conditions of the permit; (b) attach to the permit further conditions; (x) that the conditions of permit shall not be departed from save with the approval of the Regional Transport Authority; (xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles; (xii) that,

except in the circumstances of exceptional nature, the plying of the vehicle or carrying of the passengers shall not be refused; (xiii) any other conditions which may be prescribed. [Provided that the Regional Transport Authority may in the interests of last mile connectivity waive any such condition in respect of any such types of vehicles as may be specified by the Central Government.] (3) (a) The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs. (b) Where the number of contract carriages are fixed under clause (a), the Regional Transport Authority shall, in considering an application for the grant of permit in respect of any such contract carriage, have regard to the following matters, namely: financial stability of the applicant; satisfactory performance as a contract carriage operator including payment of tax if the applicant is or has been an operator of contract carriages; and such other matters as may be prescribed by the State Government: Provided that, other conditions being equal, preference shall be given to applications for permits from the India Tourism Development Corporation; State Tourism Development Corporations; State Tourism Departments; State transport undertakings; co-operative societies registered or deemed to have been registered under any enactment for the time being in force; ex-servicemen. self-help groups. Case Law 1: Inter-State contract carriage permit. Supreme Court Bihar SRTC v. Sushil Kumar Vohra and Others; 1993 KHC 1165 : 1993 (3) SCC 91 S.74 (3) - Respondent by way of writ petition before High Court sought necessary direction concerning granting commercial permit for plying on certain route -- High Court issued necessary direction to be followed by transport authority and permit granted to appellant -- Claim of appellant and respondent for grant of permit found to be equal -- Even if other conditions being equal, preference has to be given to applications for permits from State Transport Undertaking in comparison to the private operators -- Route in question from

Hazaribagh to Calcutta is a long inter state route and in case the State Transport Authority has granted permit in favour of the Corporation -- No justification to interfere in such order by the High Court. Case Law 2: Power to impose conditions. Bombay High Court Shivpujan Kumar Gopikisan Singh v. State of Maharashtra and Others; 2017 KHC 5080 : AIR 2017 Bom. 198 As R.24 has no application whatsoever to auto rikshaws, the eligibility condition No.7 based on R.24 could not have been incorporated as a qualification for a person applying for the grant of a Contract Carriage Permits under S.74 of the said Act for auto rickshaws -- Even such a condition could not have been imposed even while granting permit as the Rule making power has not been exercised under cl.(xiii) of sub s.(2) of S.74. Case Law 3: Contract carriage permit. Uttarakhand High Court Arvind Kumar Pandey v. State of Uttarakhand and Others; 2016 KHC 2373 : AIR 2016 Utr. 32 In view of S.74(ix), S.79 of Act of 1988 once the petitioners have applied for auto rickshaw contract carriage permits and the same having been sanctioned by the competent authority, the authority could not have changed the terms and conditions of the permits in arbitrary manner without informing the petitioners -- Decision was taken by authority in its meeting without prior public notice, in contravention of the provisions of S.74(ix), S.79 of the Motor Vehicles Act, 1988. Action on part of authority changing condition of permit thus arbitrary. Case Law 4: RTA authorized to issue contract carriage permit. Karnataka High Court Bangalore Tourist Taxi Owners Association (Regd. ) and Another v. RTA, Bengaluru and Another; AIR 2015 Kar. 193 The impugned contract carriage permits are issued by a Regional Transport Authority -- S.74 of the Act does not contemplate a separate order to be preceded before issuance of a contract carriage permit -- It only contemplates grant of a contract carriage permit by a Regional Transport Authority, on an application made to it under S.73 of the Act -- Regional Transport Authority is authorised to issue permit and even discretion to attach conditions is left to it Case Law 5: Limits of permits could be notified by State. Kerala High Court Sijo Devassy and Others v. Joint RTO, Angamaly and Others; 2016 KHC 4033 The mere existence of a number of permits and the decision by the Regional Transport Authority or a higher authority to restrict the grant

based on numbers alone would fall foul, since such limits could be prescribed only by the State Government under a notification. Case Law 6: RTA can impose condition. Kerala High Court Mumbai Pune Taxi Owners Association v. Principal Secretary, Ministry of Surface Transport, Maharashtra, and Others; AIR 2014 Bom. Condition imposed by Regional Transport Authority that replacement vehicle should have engine capacity of not less than 1300 C.C. -- In terms of S.74(2) of the Motor Vehicles Act, 1988, it is within the competence and authority of the Regional Transport Authority to impose a condition that replacement vehicles shall have engine capacity of not less than 1300 C.C. -- The challenge of the petitioner that the respondents have no power or authority in this regard, therefore, fails and is hereby rejected. Case Law 7: EIB comes under contract carriage. Kerala High Court Siddique P. K. A. and Others v. RTA, Kozhikode and Others; 2013 KHC 105 : ILR 2013 (1) Ker. 829 Whatever may be the nomenclature given in the permit, ultimately it would mean contract carriage (educational institution bus), which attracts provisions of S.74 of the Act so far as issuance of a permit is concerned. Case Law 8: RTA has the power to issue intra district permits. Karnataka High Court Karnataka SRTC, Bangalore and Others v. Karnataka STA and Others; AIR 2005 Kar. 205 Intra region or intra district permit -- Power to grant intra region or intra district contract carriages vests with the Regional Transport Authority (RTA) and STA has no jurisdiction to entertain the applications in terms of S.9 or under S.74 of the MV Act. Also held that Sub-S.(2) of S.74 of MV Act which is extracted at para 13(ii) empowers the authority granting contract carriage permit to impose or attach any of the conditions enumerated therein -- In accordance with this provision, the circular in question has been issued directing to comply with certain conditions by the contract carriage operators -- There cannot be any grievance against circular or conditions attached. Case Law 9: Luggage carrier on top of jeep is illegal. Rajasthan High Court Taxi Vikas Karya Sanstha and Others v. State of Rajasthan and Others; AIR 2002 Raj. 151 Respondents authority have filed the reply stating that there had been cases of overloading; taking passengers on the roof of the Jeep -- It was considered in public interest not to allow the luggage carrier on the top of the Jeep for the

reason that it is put only on four iron pipes without any proper body which could support the luggage -- Only six passengers are permitted to be carried and for carrying the luggage of six passengers there is sufficient space inside the Jeep itself -- Conditions imposed herein cannot be held to be illegal or invalid as the same has been imposed in public safety and public interest.

Corresponding Law :S. 51 of Act IV of 1939: [51. Grant of contract carriage permits. - (1) Subject to the provisions of section 50, a Regional Transport Authority may, on an application made to it under section 49, grant a contract carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit: Provided that no such permit shall be granted in respect of any area not specified in the application. (2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:-

- (i) that the vehicle or vehicles shall be used only in a specified area or on a specified route or routes;
- (ii) that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area;
- [(iia) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons and the same is prominently marked on the vehicle;]
- (iii) the conditions subject to which goods may be carried in any contract carriage in addition to or to the exclusion of passengers;
- (iv) that, in the case of motor cabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle;
- (v) that, in the case of vehicles other than motor cabs, specified rates of hiring not exceeding specified maxima shall be charged;
- (vi) that, in the case of motor cabs, a specified weight of passengers' luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;
- (vii) that, in the case of motor cabs, a taxi-meter shall be fitted and maintained in proper working order, if prescribed;
- (viii) that the Authority may, after giving notice of not less than one month,-

- (a) vary the conditions of the permit;
- (b) attach to



the permit further conditions; (ix) that the conditions of permit shall not be departed from save with the approval of the Authority; (x) any other conditions which may be prescribed.]

## **Section 75**

### **Scheme for renting of motorcabs.**

(1) The Central Government may, by notification in the Official Gazette, make a scheme for the purpose of regulating the business of renting of [motorcabs or motor cycles to persons desiring to drive either by themselves or through drivers, motorcabs or motor cycles] for their own use and for matters connected therewith. (2) A scheme made under sub-section (1) may provide for all or any of the following matters, namely: licensing of operators under the scheme including grant, renewal and revocation of such licences; form of application and form of licences and the particulars to be contained therein; fee to be paid with the application for such licences; the authorities to which the application shall be made; condition subject to which such licences may be granted, renewed or revoked; appeals against orders of refusal to grant or renew such licences and appeals against orders revoking such licences; conditions subject to which motorcabs may be rented; maintenance of records and inspection of such records; such other matters as may be necessary to carry out the purposes of this section.

## **Section 76**

### **Application for private service vehicle permit.**

(1) A Regional Transport Authority may, on an application made to it, grant a private service vehicle permit in accordance with the application or with such modification as it deems fit or refuse to grant such permit: Provided that no such permit shall be granted in respect of any area or route not specified in the application. (2) An application for a permit to use a motor vehicle as a private service vehicle shall contain the following particulars, namely: type and seating capacity of the vehicle; the area or the route or routes to which the application relates; the manner in which it is claimed that the purpose of carrying persons otherwise than for hire or

reward or in connection with the trade or business carried on by the applicant will be served by the vehicle; and any other particulars which may be prescribed. (3) The Regional Transport Authority if it decides to grant the permit may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely: that the vehicle be used only in a specified area or on a specified route or routes; the maximum number of persons and the maximum weight of luggage that may be carried; that the Regional Transport Authority may, after giving notice of not less than one month (a) vary the conditions of the permit; (b) attach to the permit further conditions; that the conditions of permit shall not be departed from, save with the approval of the Regional Transport Authority; that specified standards of comforts and cleanliness shall be maintained in the vehicle; that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, specify; and such other conditions as may be prescribed. Case Law 1: School bus permit - Power to impose conditions. Kerala High Court Calicut Islamic R. H. S. School v. STA; 2004 KHC 807 : 2004 (2) KLT SN 71 State Transport Authority and the Regional Transport Authority have power to impose the conditions such as the necessity to fix Speed Governor, the qualifications of the driver to be employed and the necessity to engage Attendants -- Such conditions cannot be said to be irrational and unreasonable. Case Law 2: Permit to use bus as PSV. Andhra Pradesh High Court Steel Employees Welfare Association v. DTC and Secretary, RTA, Visakhapatnam; AIR 1998 AP 128 Permit to use bus as private service vehicle -- No evidence showing misuse of bus as contract carriage, as long as there is no evidence to show that the permit given on the basis of the application in terms of S.76(2) of the Act was in any way contravened-- The reference to collection of subscription by the members of the association for meeting the expenses on running the bus, cannot be construed as payment of hire charges or reward for being transported in the bus -- Order imposing penalty to pay higher taxes for bus being used as contract carriage held not proper. Corresponding Law :S. 52 of Act IV of 1939: 52. Applications

for private carriers permit. - An application for a permit to use [one or more transport vehicles] for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a private carrier's permit) shall contain the following particulars, namely: - (a) the type and carrying capacity of the vehicle [or each of the vehicles]; (b) the nature of the goods which the applicant expects normally to carry in connection with his trade or business; (c) the area for which the permit is required; and (d) any other particular which may be prescribed.

## **Section 77**

### **Application for goods carriage permit.**

An application for a permit to use a motor vehicle for the carriage of goods for hire or reward or for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a goods carriage permit) shall, as far as may be, contain the following particulars, namely: the area or the route or routes to which the application relates; the type and capacity of the vehicle; the nature of the goods it is proposed to carry; the arrangements intended to be made for the housing, maintenance and repair of the vehicle and for the storage and safe custody of the goods; such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant; particulars of any agreement, or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region; any other particulars which may be prescribed. Corresponding Law :S. 44 of Act IV of 1939: [54. Application for public carrier's permit. - An application for a permit to use one or more motor vehicles for the carriage of goods for hire or reward (in this Chapter referred to as a public carrier's permit), shall, as far as may be, contain the following particulars, namely:- (a) the area or the route or routes to which

the application relates; (b) the number of vehicles it is proposed to operate in relation to each area or route and the type and [\* \* \*] capacity of each such vehicle; (c) the nature of the goods it is proposed to carry; (d) the manner in which it is claimed that a public need will be served by the vehicle; (e) the arrangements intended to be made for the housing of the vehicles and for the storage and safe custody of the goods to be carried; (f) particulars as to whether the applicant is a co-operative society registered or deemed to have been registered under any enactment in force for the time being, or is an individual owner; (g) such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant; (h) particulars of any agreement, or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region; (i) any other particulars which may be prescribed.]

## **Section 78**

### **Consideration of application for goods carriage permit.**

A Regional Transport Authority shall, in considering an application for a goods carriage permit, have regard to the following matters, namely: the nature of the goods to be carried with special reference to their dangerous or hazardous nature to human life; the nature of the chemicals or explosives to be carried with special reference to the safety to human life. Corresponding Law :S. 55 of Act IV of 1939: [55. Procedure in considering application for public carrier's permit. - (1) A Regional Transport Authority shall, in considering an application for a public carrier's permit, have regard to the following matters, namely: - (a) the interests of the public generally; (b) the advantages to the public of the service to be provided and the convenience afforded to the public by the provision of such service and the saving of time likely to be effected thereby; (c) the adequacy of other goods services operating or likely to operate in the near future, whether

by road or other means, between the places to be served; (d) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending; (e) the benefit to any particular locality or localities likely to be afforded by the service; (f) the condition of the roads included in the proposed area or route; (g) the nature of the goods to be carried with special reference to any of a fragile or perishable nature; (h) the volume of traffic and the existence of marketing centers in the proposed area or along or near the proposed route; and shall also take into consideration any representations made by persons already providing goods transport facilities by any means, whether by road or otherwise, in the proposed area or along or near the proposed route, or by any local authority or police authority within whose jurisdiction any part of the proposed area or route lies: Provided that other conditions being equal, an application for a public carrier's permit from a co-operative society registered or deemed to have been registered under any enactment in force for the time being [and an application for a public carrier's permit from a person who has a valid licence for driving transport vehicles] shall as far as may be, be given preference over applications from individual owners. [(1A) The Government of a State shall reserve in that State certain percentage of public carriers' permits for the Scheduled Castes and the Scheduled Tribes. (1B) The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted public carriers' permits in that State, (a) reserve in that State such percentage of public carriers' permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or (b) notwithstanding anything contained in the proviso to sub-section (1), give preference, in such manner as may be prescribed, to applications for public carriers' permits from such persons. (1C) The provisions of sub-sections (1B), (1D), (1F) and (1G) of section 47 shall apply to or in relation to the grant of public carriers' permits under this section as they apply to or in relation to the grant of stage carriage permits under that section.] (2) A Regional Transport Authority may, having regard to the matters mentioned in sub-section (1), limit the number of transport vehicles generally or of

any specified type for which public carrier's permits may be granted in the region or in any specified area or on any specified route within the region.]

## **Section 79**

### **Grant of goods carriage permit.**

(1) A Regional Transport Authority may, on an application made to it under section 77, grant a goods carriage permit to be valid throughout the State or in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit: Provided that no such permit shall be granted in respect of any area or route not specified in the application. (2) The Regional Transport Authority, if it decides to grant a goods carriage permit, may grant the permit and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely: that the vehicle shall be used only in a specified area, or on a specified route or routes; that the gross vehicle weight of any vehicle used shall not exceed a specified maximum; that goods of a specified nature shall not be carried; that goods shall be carried at specified rates; that specified arrangement shall be made for the housing, maintenance and repair of the vehicle and the storage and safe custody of the goods carried; that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, prescribe; that the Regional Transport Authority may, after giving notice of not less than one month, (a) vary the conditions of the permit; (b) attach to the permit further conditions; that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority; any other conditions which may be prescribed. (3) The conditions referred to in sub-section (2) may include conditions relating to the packaging and carriage of goods of dangerous or hazardous nature to human life. Corresponding Law :S. 56 of Act IV of 1939: [56. Grant of public carrier's permits. - (1) Subject to the provisions of section 55, a Regional Transport Authority may, on an application made to it under section 54, grant a public carrier's permit in accordance with the application or with such modifications as it deems fit or refuse to

grant such a permit : Provided that no such permit shall be granted in respect of any area or route not specified in the application. (2) The Regional Transport Authority, if it decides to grant a public carrier's permit. may grant the permit for one or more goods vehicles of a specified description and may, subject to any rules that may be made under this Act, attach to, the permit any one or more of the following conditions, namely:- (i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes; (ii) that the laden weight of any vehicle used shall not exceed a specified maximum; (iii) that goods of a specified nature shall not be carried; (iv) that goods shall be carried at specified rates; (v) that specified arrangement shall be made for the housing, maintenance and repair of vehicles and the storage and safe custody of the goods carried; (vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, prescribe; (vii) that the Regional Transport Authority may after giving notice of not less than one month,- (a) vary the conditions of the permit; (b) attach to the permit further conditions; (viii) that the conditions of the permit shall not be departed from save with the approval of the Regional Transport Authority; (ix) any other conditions which may be prescribed. (3) Where there is any free zone along or contiguous to the area or route for which a public carrier's permit is granted, the Regional Transport Authority shall include in such permit, wherever possible, an authorisation to carry any goods other than those prohibited by any law for the time being in force, anywhere in that free zone. (4) For the purposes of this section, "free zone" means such municipal limits of a town or such other area as the State Transport Authority may, subject to any rules that may be made under section 68 and having regard to the volume of traffic in the area and other circumstances, declare to be a free zone within which goods may be carried anywhere by any motor vehicle covered by a public carrier's permit.]

## **Section 80**

### **Procedure in applying for and granting permits.**

(1) An application for a permit of any kind may be made at any time. (2) A [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act: Provided that the [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74: Provided further that where a [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter. (3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit: Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles: Provided further that, in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometres; in the case of extension, the distance covered by extension shall not exceed twenty-four kilometres from the termini, and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or



extended or any part thereof. (4) A [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid: Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit. (5) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.

**Case Law 1: Variations of conditions of Permit of existing permit holders - Legality.**

Supreme Court Karnataka S.R.T.C. v. Karnataka S.T.A., 1987 Supp SCC 648. State Transport Undertaking as well as the permit holders operating on an inter-State route, part of which covered by the scheme. Permit holders applying for variation of conditions of their permits. State Transport Authority hearing the applicants and the objectors and prima facie complying with the procedure under Section 57(8) [Section 80(3) of new Act] permitting the applicants to make more trips. Such an order, held, legal. Objections, if any, against extension of the trips could be agitated before the appellate authority under the Act.

**Case Law 2: Publishing the application.**

Supreme Court Jamindara Motor Transport Cooperative Society v. Superintendent, Govt. Central Press, AIR 1988 Raj 91. The act of publishing the application under Section 57 [Section 80 of new Act] does not require any application of mind by the Regional Transport Authority. It is purely a ministerial act. No specific authorisation of the Authority in favour of the Secretary is needed for the purposes and the Secretary of the Regional Transport Authority is fully competent to publish the applications.

**Case Law 3: Refusal of permit.** Supreme Court Jagdip Singh v. Jagir Chand, (2001) 8 SCC 437. Permits cannot ordinarily be refused except where State Government

is of view that in public interest, State transport undertaking must run and operate transport service generally or in a particular area and formulates a proposal regarding such scheme. Case Law 4: Grant of variation in permit. Supreme Court Venkataswamy Reddy v. State Transport Authority, (2016) 8 SCC 402. The application for variation of permit must be treated as application for grant of new permit since sub-sections (1) to (7) mandate compliance with various specific requirements which are intricately connected with grant of new permit which are to be “mutatis mutandis” complied with, G.7. Case Law 5: Right to objection have been taken away. Supreme Court Mithilesh Garg and others v. Union of India and others; 1992 (1) SCC 168 : AIR 1992 SC Right of existing operators to file objections have been taken away -- The scheme envisaged under S.47 and 57 of the old Act has been completely done away with by the new Act. There is no provision under the Act like that of S.47(3) of the old Act and as such no limit for the grant of permits can be fixed under the Act, There is, however, a provision under S.71(3)(a) of the Act under which a limit can be fixed for the grant of permits in respect of the routes which are within town having population of more than five lakhs. Case Law 6: Variation in permit by extension of new route- Legality. Rajasthan High Court Gopal Purohit v. State of Rajasthan and Others; 2019 KHC 3040 : AIR 2019 Raj. 73 Stage carriage permit -- Private operators operating on strength of State Carriage Permit granted by State Government -- Extension of new route sought by private operators -- A bare perusal of second proviso to subs.(3) of Section 80 makes it abundantly clear that in case of variation, the termini shall not be altered and the distance covered by variation shall not be exceed 24 kilometers -- Therefore, either by inclusion of a new route or routes or by extension of the route or routes, neither the termini of existing route is permissible to be altered nor the inclusion or the extension of the route could be permitted beyond 24 kilometers. Case Law 7: New model vehicles should be prioritise. Kerala High Court Beena Rani v. Regional Transport Authority; AIR 1999 Ker. 249 :1999 KHC 165 When large number of applications are received, it is open to the R.T.A. to look into the comparative merits and make best judgment assessment of its own for granting permit -- The crucial time is the time

of consideration of all the applications together -- When an applicant who submitted application first offers old model vehicle, and the applicant who submitted application later, offers a latest model vehicle, it is always open to the Authority to grant permit to the latest model vehicle, which is more beneficial to the travelling public. Case Law 8: Carrying passengers in violation of statutory provisions. Calcutta High Court Prabhat Pan and Others v. State of West Bengal and Others; AIR 2015 Cal. 112 Stage carriage permit -- Complaint in relation to acts of other operators in plying their vehicles for carrying passengers in violation of statutory provisions / policy -- Action or inaction on part of Transport authorities dealing with it -- Subject to the considerations as to there being an efficacious alternative remedy, the Court exercising jurisdiction under Art.226 of the Constitution of India may entertain applications by holder of stage or contract carriage permits under the Motor Vehicles Act, 1988 questioning any action or inaction on the part of the transport authorities. Case Law 9: Notice fixing cut off date for application submission- Legality. Madhya Pradesh High Court Pawan Arora v. State of M. P. and Another; AIR 2015 MP 36 Stage carriage permit -- Notice fixing cut off date for submission of applications and filing of documents in support of pending applications before scheduled date of meeting -- There is no provision either in the Act of 1988 or Rules framed thereunder prescribing the procedure to be followed for grant of any kind of permit -- As such notice fixing cut off date not in accordance with mandate contained in S.80 of Act but in excess of authority of law -- Notice, not proper. Case Law 10: Notice fixing cut off date for application submission- Legality. Madhya Pradesh High Court Rajesh T. v. Secretary, RTA and Another; 2014 KHC 3688 Grant of permit for a stage carriage or contract carriage is the Rule -- Applications are to be considered on its individual merits and the grant is the rule, while refusal the exception -- When making such refusal, it is the statutory mandate that, an opportunity for hearing is granted and there is a further mandate in so far as the refusal being in writing and speaking loud and clear about the reasons for such refusal. Case Law 11: Granting permit through bidding - Legality. Punjab and Haryana High Court Shivani Adarsh Co operative Transport Society Ltd. v. State of Haryana and

Others; AIR 2009 P&H 95 System of granting permits by bid would not only create monopoly but would be detrimental to public interest, as those enjoying financial muscle shall usurp all route permits -- Allotment of the route permits on the basis of bid alone, being bad, cannot be sustained. Case Law 12: Procedural law to be interpreted simple. Rajasthan High Court Deva Ram v. State of Rajasthan and Others; AIR 2006 Raj. 180 Law is required to be interpreted so that the procedural law makes a procedure to do the work and cannot be interpreted so as to result into making the procedure a heavy burden -- The process of keeping the applications for grant of permit in anticipation of opening of routes several years after or even decades after, is not a workable procedure -- It is held that the application submitted prior to the opening of the route is incompetent and premature application. Case Law 13: Pvt. operators have no locus standi to object notified route. Rajasthan High Court Charanjit and Others v. R. T. A. , Bikaner; AIR 1993 Raj. 134 Grant of permit -- The private operators have no locus standi to object to the grant of a permit on a portion of the notified route or a route under draft scheme, because it is the State Transport Undertaking which alone is an aggrieved party Case Law 14: Violation of natural justice-Legality. Kerala High Court Vineetha v. RTA; 2003 KHC 1180 : AIR 2004 Ker. 24 Refusal of permit to operate as limited stop ordinary service -- No reason communicated to the appellant in writing for such refusal -- No opportunity of being heard in the matter was given -- Hence, the decision to refuse the permit is illegal. Case Law 15: Extension / Variation of permit - Differentiate. Kerala High Court Muktha V. Rai v. Nageswar Rao; 2000 KHC 621 : 2000 (3) KLT 281 As per S. 80(3) it cannot be said to be an extension, if neither of the termini is altered and instead at a point in between the termini the stage carriage takes a deviation and come back and join the same place and then proceeds to the termini -- Only then it is a case of variation. Corresponding Law :S. 57 of Act IV of 1939: 57. Procedure in applying for and granting permits. - (1) An application for a contract carriage permit or a private carrier's permit may be made at any time. (2) An application for I stage carriage permit or a public carrier's permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or,

if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates. (3) On receipt of an application for a stage carriage permit or a public carrier's permit, the Regional Transport Authority shall make the application available for inspection at the office of the Authority and shall publish the application or the substance thereof in the prescribed manner together with a notice of the date before which 76 representations in connection therewith may be submitted and the date not being less than thirty days from such publication, on which, and the time and place at which, the application and any representations, received will be considered; [Provided that, if the grant of any permit in accordance with the application or with modifications would have the effect of increasing the number of vehicles operating in the region, or in any area or on any route within the region, under the class of permits to which the application relates, beyond the limit fixed in that behalf under subsection (3) of section 47 or sub-section (2) of section 55, as the case may be, the Regional Transport Authority may summarily refuse the application without following the procedure laid down in this sub-section.] (4) No representation in connection with an application referred to in sub-section (3) shall be considered by the Regional Transport Authority unless it is made in writing before the appointed date and unless a copy thereof is furnished simultaneously to the applicant by the person making such representation. (5) When any representation such as is referred to in sub-section (3) is made, the Regional Transport Authority shall dispose of the application at a public hearing at which the applicant and the person making the representation shall have an opportunity of being heard either in person or by a duly authorised representative. (6) When any representation has been made by the persons or authorities referred to in section 50 to the effect that the number of contract carriages for which permits have already been granted in any region or any area within a region is sufficient for or in excess of the needs of the region or of such area, whether such representation is made in connection with a particular application for the grant of a contract carriage permit or otherwise, the Regional Transport Authority may take any such steps as it considers appropriate for the hearing of the representation in the presence of any persons

likely to be affected thereby. (7) When a Regional Transport Authority refuses an application for a permit of any kind, it shall give to the applicant in writing its reasons for the refusal. [(8) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or, in the case of a stage carriage permit, by increasing the [number of trips above the specified maximum, or by altering the route covered by it], or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit. Provided that it shall not be necessary so to treat an application made by the holder of a stage carriage permit who provides the only service on any route or in any area to increase the frequency of the service so provided, without any increase in the number of vehicles. (9) A Regional Transport Authority may, before such date as may be specified by it in this behalf, replace any stage carriage permit, contract carriage permit or public carrier's permit granted by it before the said date by a fresh permit conforming to the provisions of section 48 or section 51 or section 56, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid: Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit. (10) Notwithstanding anything contained in section 58, a permit issued under the provisions of sub-section (9) 'shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.]

## **Section 81**

### **Duration and renewal of permits.**

(1) A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective [from the date of issuance or renewal thereof] for a period of five years: Provided that where the permit is countersigned under

sub-section (1) of section 88, such countersignature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit. (2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry. (3) Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified. (4) The Regional Transport Authority or the State Transport Authority, as the case may be, may reject an application for the renewal of a permit on one or more of the following grounds, namely: the financial condition of the applicant as evidenced by insolvency, or decrees for payment of debts remaining unsatisfied for a period of thirty days, prior to the date of consideration of the application; the applicant had been punished twice or more for any of the following offences within twelve months reckoned from fifteen days prior to the date of consideration of the application committed as a result of the operation of a stage carriage service by the applicant, namely: (i) plying any vehicle without payment of tax due on such vehicle; without payment of tax during the grace period allowed for payment of such tax and then stop the plying of such vehicle; on any unauthorised route; (ii) making unauthorised trips: Provided that in computing the number of punishments for the purpose of clause (b), any punishment stayed by the order of an appellate authority shall not be taken into account: Provided further that no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant. (5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded. Case Law 1: Grant of renewal of stage carriage permit. Supreme Court Gajraj Singh v. STAT, (1997) 1 SCC 650. Nature of — Grant of renewal is a fresh grant though it breathes life into the operation of the

previous lease or licence granted as per existing appropriate provisions of the Act, rule or orders or acts intra vires or as per the law in operation as on the date of renewal. Case Law 2: Power of STA to renew permit. Odisha High Court Santosh Kumar Sahoo v. Secretary, STA, Odisha, Cuttack and Another; 2020 KHC 4148 : AIR 2020 Ori. 111 Renewal of permits -- Powers of State Transport Authority -- Under Odisha Motor Vehicles Rules, 1993, R.52, power has been vested to the STA for renewal of permits and that itself is statutory one -- Appellate Tribunal directed reconsideration of application of petitioner to STA, instead of Secretary, STA -- It is the State Transport Authority, which is competent to renew the permanent permit issued in respect of a vehicle, unless the power is so delegated under R.41(b)(ii) either to Chairman or Secretary or any other officer not below the rank of Assistant Secretary -- Hence direction given by the STAT cannot be said to be illegal nor can it be said that there is an error apparent on the face of record. Case Law 3: Rejection of renewal of permit - Improper. Punjab and Haryana High Court General Manager, Haryana Roadways, Gurgaon and Others v. Satish Kumar; AIR 2017 NOC 317 Renewal of permit -- Rejection of application on ground of nonpayment of Adda fees by transporters -- The order had been passed without hearing the private respondents -- The provisions of S.81(4) of the Motor Vehicles Act, 1988 were taken into consideration by the Tribunal that application could not be rejected unless an opportunity of being heard was given to the applicant -- Resultantly, it was rightly held that once the mandatory provisions were not complied the order would liable to be set aside on that ground -- A finding has also been recorded that the arrears of Adda Fees were never demanded or that any such notice was issued asking for the said amount and the arrears and for which period, though claim was made that they were there since 2007 -- Rejection improper being violative of mandatory provisions relating to permit. Case Law 4: Application filed late for renewal of permit. Kerala High Court Moideenkutty P. C. and Others v. Secretary and Another; 2012 (2) KHC 317 Application for renewal of regular permit filed beyond time -- Whether can be considered for granting temporary permit -- Held, application for temporary permit shall be considered only in cases where the



applications for renewal are filed within the prescribed period -- When applications for renewal are filed out of time, applications for temporary permit shall be considered only when the Authority is satisfied that the applicant was prevented by good and sufficient cause from making the application for renewal within the time specified. Case Law 5: Renewal of pucca permit. Kerala High Court Firoz v. RTA, Malappuram; 1997 KHC 333 Renewal of application for pucca permit for fast passengers services -- Renewal of permits amounts to fresh grant -- When delay in granting renewal pucca permit temporary grants may be granted -- No absolute right to insist temporary permit. Case Law 6: Consideration of age of vehicle for renewal of permit. Rajasthan High Court RTA, Jodhpur v. Sita Ram; AIR 1993 Raj. 76 Model condition attached with permit during renewal of stage carriage permit -- Grant of renewal is not a matter of course and it is open to the authorities to impose fresh condition at the time of renewal -- Thus there is no force in the contention of the learned counsel for the petitioner respondents that at the time of renewal of permit no condition regarding model can be imposed -- Such attachment does not amount to refusal of renewal within S.81(4). Corresponding Law :S. 58 of Act IV of 1939: 58. Duration and renewal of permits. - [(1) (a) A stage carriage permit or a contract carriage permit other than a temporary permit issued under section 62 shall be effective without renewal for such period, not less than three year and not more than five years, as the Regional Transport Authority may specify in the permit. b) A private carrier's permit or a public carrier's permit other than a temporary permit issued under section 62 shall be effective without renewal for a period of five years.] (2) A permit may be renewed on an application made and disposed of as if it were an application for a permit : [Provided that the application for the renewal of a permit shall be made,- (a) in the case of a stage carriage permit or a public carrier's permit, not less than [one hundred and twenty days] before the date of its expiry; and (b) in any other case, not less than [sixty days] before the date of its expiry:] Provided [further] that, other conditions being equal, an application for renewal shall be given preference over new applications for permits. [(2A) Notwithstanding anything contained in sub-section (2), An application for the renewal of a permit

may be made by a State transport undertaking in the case of a stage carriage permit or a public carries permit or a contract carriage permit, not less than fifteen days before the date of expiry of the permit.] [(3) Notwithstanding anything contained in the [first] proviso to sub-section (2), the Regional Transport Authority may entertain an application for the renewal of a permit after the last date specified in the said proviso for the making of such an application, if the application is made not more than fifteen days after the said last date and is accompanied by the prescribed fee.] [(4) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 62, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.]

## **Section 82**

### **Transfer of permit.**

(1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit. (2)

Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself: Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit: Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(3) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit: Provided that the Transport Authority may entertain an application made after the expiry of the said period of three months if it is satisfied that the applicant was

prevented by good and sufficient cause from making an application within the time specified.

Case Law 1: Death of permit holder -Transfer of permit. Kerala High Court Bindu

Reghunandanan v. RTA and Others; 2016 (5) KHC 468 It is obligatory for the Transport Authority to dispose of the application for transfer of permit within the period (three months) during which the applicant is permitted to operate the service, after the death of permit holder. Also no requirement that application for transfer of permit shall be accompanied by the heirship certificate of the permit holder -- Only requirement is that Transport Authority shall satisfy that the applicant has succeeded to the possession of the vehicle covered by the permit -- Also held, there is no provision which enables the Transport Authority to impose a condition that permit holder should produce NOC of the financier of the vehicle while permitting replacement of the vehicle. Case Law 2: Transfer of route permit. Himachal Pradesh High Court Rajiv Kumar

Sharma v. Renu Sharma; AIR 2015 HP 105 Transfer of the ownership of the vehicle is entirely different from the transfer of the permit, whereas, the transfer of the vehicle is governed by the provisions of the Sales of Goods Act, whereas the transfer of the permit would be regulated by the provisions of the Motor Vehicles Act, 1988 -- Therefore, the sale of vehicle does not essentially mean that even the permit has been transferred or sold as the same can only be transferred after complying with the provisions as contained in Chap.5 of the Act of 1988. Case

Law 3: Permit holder died during pendency of permit transfer. Uttarakhand High Court Kishan Lal v. STAT, Uttarakhand; AIR 2008 Utt. 58 Joint application for transfer by holder of permit and transferee -- Permit holder had already died during the pendency of the application for transfer of permit, i.e. on 19/05/2003 and, subsequently, the impugned order dt. 29/07/2003 / 30/07/2003 was passed by the RTA -- It is evident from a bare perusal of the order passed by the RTA that factum of death was not brought to the notice of the RTA either by the petitioner or by the legal heirs of the deceased -- Petitioner may take recourse to Sub-s.(3) of S.82 instead of Sub-section (2) of S.82 of the Act -- Petitioner may prosecute his application for transfer of permit under S.82(3) of the Act. Case Law 4: RTA cannot frame norms. Kerala High Court Swarna Prabha v.

The TA and Others; 2006 KHC 1657 : 2006 (3) KLJ 728 Procedure framed by the statutory authority, which is not contemplated under the Act -- For grant of permission to transfer a permit, the RTA cannot frame a norm, not authorised by the Act and Statute and in that process fetter its own discretion -- The power to grant permission to transfer permit, is a power coupled with duty -- Has to be exercised having regard to the facts of each case. Corresponding Law :S. 59 (1) of Act IV of 1939: 59. General conditions attaching to all permits. - (1) Save as provided in section 61, a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not without such permission operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

## **Section 83**

### **Replacement of vehicles.**

The holder of a permit may, with the permission of the authority by which the permit was granted, replace any vehicle covered by the permit by any other vehicle of the same nature.

Case Law 1: Condition for replacement of a vehicle. Kerala High Court Usha Nanthini M. v. Secretary, RTA cum RTO, Palakkad and Another; 2018 (2) KHC 89 : AIR 2018 Ker. 172 No request made by a permit holder for replacement of vehicle can be declined merely for the reason that incoming vehicle is an older model, subject to the condition that older model vehicle being certified as roadworthy. Roadworthiness and viability of incoming vehicle shall be the consideration in an application for replacement, rather than the model of incoming vehicle. Case Law 2: Rules cannot override Act. Kerala High Court RTA, Ernakulam and Another v. Shaju; 2017 KHC 4853 : ILR 2017 (3) Ker. 720 When in exercise of delegated authority the subordinate authority i.e. the State, makes the rules, the rules have to be consistent with the Act -- The Rules cannot override the Act or restrict the ambit of the Act -- When the expression is vehicle of same nature, then if Motor Vehicles Rules, 1989, R.174(2)(c) restricts that an older vehicle cannot be brought in, it would be restricting the right conferred to a person by the provisions of the Act and

hence restrictive -- Rules have to be consistent with the Act and not restricting or in derogation thereto -- The Rules to that extent cannot thus be held to be consistent with the Act and would have to be held to be inoperative. Case Law 3: Difference in seating capacity cannot be a different "nature". Patna High Court Satyendra Kumar Deo Nandan Singh v. State of Bihar and Others; AIR 2017 NOC 584 Bus having seating capacity of 53 replaced by bus having seating capacity of 40/41 cannot be said that vehicle was of different 'nature' -- Renewal cannot be denied on said ground. Case Law 4: Secretary RTA not empowered to reject application. Kerala High Court Viswambaran v. State of Kerala and Others; 2008 (4) KHC 604 : AIR 2009 Ker. 53 Application for replacement of vehicle -- Rule permits transport authority to delegate certain powers to the Secretary -- Secretary, RTA as the delegatee is not empowered to reject an application under S.83 of the Act seeking replacement of one vehicle by another -- If the Secretary is of the opinion that the application for replacement cannot be allowed he should place the application before the RTA and it is upto the RTA to take a decision in accordance with law. Corresponding Law :S. 59(2) of Act IV of 1939: (2) The holder of a permit may, with the permission of the authority by which the permit was granted, [replace any vehicle covered by the permit by any other vehicle of the same nature].

## **Section 84**

### **General conditions attaching to all permits.**

The following shall be conditions of every permit that the vehicle to which the permit relates carries valid certificate of fitness issued under section 56 and is at all times so maintained as to comply with the requirements of this Act and the rules made thereunder; that the vehicle to which the permit relates is not driven at a speed exceeding the speed permitted under this Act; that any prohibition or restriction imposed any fares or freight fixed by notification made under section 67 are observed in connection with the vehicle to which the permit relates; that the vehicle to which the permit relates is not driven in contravention of the provisions of section 5 or section 113; that the provisions of this Act limiting the hours of work of drivers are observed in

connection with any vehicle or vehicles to which the permit relates; that the provisions of Chapters X, XI and XII so far as they apply to the holder of the permit are observed; and that the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters. Case Law 1: Restriction to advertisement. Keral High Court Principal, Sabari PTB Smaraka H. S. S. , Ottapalam v. Additional Registering Authority, Ottapalam and Others; 2020 KHC 95 No transport vehicle, including vehicles owned/operated by KSRTC and KURTC, shall be permitted to be used in any public place exhibiting advertisements, figures, writings, etc. which are likely to distract the attention of other drivers, cyclists and pedestrians. Corresponding Law :S. 59(3) of Act IV of 1939: 59 (3) The following shall be conditions of every permit- (a) that the vehicle or vehicles to which the [permit relates carry valid certificates of fitness issued under section 38 and] are at all times so maintained as to comply with the requirements of Chapter V and the rules made thereunder; (b) that the vehicle or vehicles to which the permit relates are not driven at a speed exceeding the speed lawful under this Act; (c) that any prohibition or restriction imposed and any [\* \* \*] fares or freights fixed by notification made under section 43 or observed in connection with any vehicle or vehicles to which the permit relates; (d) that the vehicle or vehicles to which the permit relates are not driven in contravention of the provisions of [section 5 or section 72]; (e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates; (f) and that the provisions of Chapter VIII so far as they apply, to the holder of the permit are observed.

## **Section 85**

### **General form of permits.**

Every permit issued under this Act shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto. Corresponding Law :S. 59-A of Act

IV of 1939: [59A. General form of permits. - Every permit other than a temporary permit issued under section 62 shall consist of two parts, Part A of which shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto, and Part B of which shall be a summary of the permit containing such particulars as may be prescribed; and where a permit covers more than one, vehicle, there shall be issued to the holder of the permit as many copies of Part B as there are vehicles authorised by the permit to be in operation at any one time.

## **Section 86**

### **Cancellation and suspension of permits.**

(1) The Transport Authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit on the breach of any condition specified in section 84 or of any condition contained in the permit, or if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or if the holder of the permit ceases to own the vehicle covered by the permit, or if the holder of the permit has obtained the permit by fraud or misrepresentation, or if the holder of the goods carriage permit, fails without reasonable cause, to use the vehicle for the purposes for which the permit was granted, or if the holder of the permit acquires the citizenship of any foreign country: Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the holder of the permit to furnish his explanation. (2) The Transport Authority may exercise the powers conferred on it under sub-section (1) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 68 as if the said permit was a permit granted by the Transport Authority. (3) Where a Transport Authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the action taken. (4) The powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of section 68. (5) Where a permit is liable to

be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the Transport Authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then notwithstanding anything contained in sub-section (1), the Transport Authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon. (6) The powers exercisable by the Transport Authority under sub-section (5) may, where an appeal has been preferred under section 89, be exercised also by the appellate authority. (7) In relation to a permit referred to in sub-section (9) of section 88, the powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit, may be exercised by any Transport Authority and any authority or persons to whom power in this behalf has been delegated under sub-section (5) of section 68, as if the said permit was a permit granted by any such authority or persons. Case Law 1: Cancellation of permit. Supreme Court *M. Narasimhaiah v. Dy. Commr. for Transport*, 1987 Supp SCC 452, 457. A person who has obtained a stage carriage permit exposes himself to the cancellation of the permit itself under Section 60 of the Act (Section 86 of new Act) if he carries passengers in excess of the maximum number of passengers that he is permitted to carry under the permit. Case Law 2: Personal hearing. Madras High Court *G.K.T. Bus Service v. S.T.A.T., Madras*, AIR 1988 Mad 127. Section 60 (Section 86 of new Act) only contemplates explanation to be furnished by the affected party. It does not contemplate personal hearing. Case Law 3: Both cancellation of permit & criminal proceeding are independent. Delhi High Court *Delhi Autorikshaw Sangh and Others v. Govt. of NCT of Delhi and Others*; AIR 2014 NOC 101 Driving of a vehicle in contravention of the terms of a permit is a criminal offence -- Can be prosecuted -- Prosecution does not preclude authority from impounding the vehicle or initiating action for cancellation and suspension of permit -- Both proceedings are independent Case Law 4: Cancellation & suspension of permits Kerala High Court *Santhosh P. K. and Others v. State of Kerala and Others*; 2019 KHC 759 Transport



Authority which granted a 'contract carriage' permit is authorised to cancel permit or suspend it for such period as it thinks fit on the breach of any condition specified in S.84 or of any condition contained in the permit. Case Law 5: Permit & possession of vehicle. Madras High Court B. S. Chinnasamy Gounder v. RTA, Dharmapuri and Another; AIR 2007 Mad. 288 Permit holder losing possession of vehicles as vehicles were repossessed by Finance Company for default -- The ownership of the vehicle is different from the grant of permit -- The possession of the vehicle pursuant to a hire purchase agreement does not contemplate ownership of the vehicle as contemplated under S.86(1)(c) of the Motor Vehicles Act, 1988 -- Petitioner ceased to have possession of the vehicles -- There is, therefore, a clear indication in S.86(1)(c) of the Act that it will apply with regard to persons who own the vehicle -- Cancellation of permit, improper. Case Law 6: Compounding of order cancelling permit. Karnataka High Court Hanuman Transport Co. Pvt. Ltd. and Another v. RTA, Shimoga and Others; AIR 2004 Kar. 164 Compounding of order cancelling stage carriage permit -- When the statute provides as to how the said discretion has to be exercised, this Court cannot shut its eyes to the same and allow illegal orders on the ground of discretion -- Discretion is not to nullify a provision of law -- In the circumstances of this case, discretion is a conditional discretionary power under S.86(5) of the Act. Case Law 7: Violation of permit condition- permit cancelled. Kerala High Court Abdul Azeez N. E. v. Regional Transport Authority and Others; 2009 (1) KHC 976 Regional Transport Authority cancelled permit of the stage carriage on the ground that vehicle was driven by a person who was prohibited from driving a stage carriage -- Lack of knowledge of the owner debarring the driver from driving a stage carriage, is totally irrelevant -- Owner of the vehicle is liable for the conduct of the driver -- Violation of the permit conditions by the permit holder will entail cancellation of the permit. Case Law 8: Permit to be surrendered while withdrawing the vehicle. Kerala High Court Secretary, RTA v. Abdul Salam T. K. and Others; AIR 2016 Ker. 124 When a permit is suspended, temporary permit can be granted -- Object is that service covered by permit should always be run for the benefit of the public and permit holder has an obligation to run the service and in the event he

wants to withdraw from service, he has to surrender the permit with notice so that the authorities can make proper arrangement -- There is no prohibition under the 1988 Act and the 1989 Rules for a permit holder in withdrawing the vehicle from the service but in that event he has to surrender the permit. Corresponding Law :S. 60 of Act IV of 1939: 60. Cancellation and suspension of permits. - (1) The transport authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit- (a) on the breach of any condition specified in sub-section (3) of section 59, or of any condition contained in the permit, or (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or (c) if the holder of the permit ceases to [own] the vehicle or vehicles covered by the permit, or (d) if the holder of the permit has obtained the permit by fraud or misrepresentation, [or] [(e) if the holder of the permit, not being a private carrier's permit, fails without reasonable cause to use the vehicle or vehicles for the purposes for which the permit was granted, or (f) if the holder of the permit acquires the citizenship of any foreign country;]

Provided that no permit shall be cancelled unless an opportunity has been given to the holder of the permit to [furnish] his explanation. [(1A) The transport authority which granted a permit may, after giving the holder thereof an opportunity to furnish his explanation, reduce either permanently or for such period as it thinks fit, the number of vehicles or the route or area covered by the permit on any of the grounds mentioned in sub-section 1).] [(1B) The transport authority may exercise the powers conferred on it under sub-section (1) and (1A) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 44 as if the said permit was a permit granted by the transport authority.] (2) Where a transport authority cancels or suspends a permit 2[ or reduces the number of vehicles or the routes or area covered by a permit], it shall give to the holder in writing its reasons for [the action taken]. [(2A) The powers exercisable under sub-section (1) or sub-section (1A) (other than the power to cancel a permit) by the transport authority which granted the permit may be exercised by any authority or person to whom such powers have

been delegated under subsection (5) of section 44: Provided that- (i) no such authority or person shall pass an order suspending the permit for a period exceeding one month or reducing the period thereof by more than one month; and (ii) any such order shall be placed within the said period of one month before the transport authority who may vacate the order or extend the said period of one month where it has not expired or cancel the permit or take action under sub-section (3), as it may deem fit.] [(3) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of subsection (1) and the transport authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then, notwithstanding anything contained in subsection (1), the transport authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon.] [(4) The powers exercisable by the transport authority under sub-section (3) may, where an appeal has been preferred under section 64, be exercised also by the appellate authority.]

## **Section 87**

### **Temporary permits.**

(1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four months, to authorise the use of a transport vehicle temporarily for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or for the purposes of a seasonal business, or to meet a particular temporary need, or pending decision on an application for the renewal of a permit, and may attach to any such permit such condition as it may think fit: Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may, in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year. (2) Notwithstanding anything

contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a Court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or as a result of the suspension by a Court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension: Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended. Case Law 1: Grant of temporary permit. Supreme Court A. Viswanathan v. S.T.A.T., (1987) 2 SCC 63, 68, 69. A temporary permit can be granted only if the permit is required for the purposes or reasons mentioned in clauses (a) to (d) of Section 62(1) of the Act (Section 87 of new Act) or in the circumstances referred to in sub-section (2) thereof. Revalidation or renewal of a temporary permit or extension of the period for which a temporary permit is issued is not contemplated by law. The issue of temporary permits by the State Transport Authority in the instant case continuously for a number of years is clearly in violation of the statute. Case Law 2: Grant of temporary permit. Supreme Court Jagjit Bus Service v. S.T. Commissioner, (1987) 4 SCC 131. In this case The Hon'ble Court decided that the grant of temporary stage carriage permits instead of regular permits on applications made under Section 46 (Section 70 of new Act) even when there is permanent need for grant of regular permits in respect of the route or the area, merely because new transport policy of the State Government is in the offing, held, not justified. Case Law 3: Grant of temporary permit. Supreme Court Karnataka SRTC v. Karnataka State Transport Authority, 1987 Supp SCC 728, 731. In this case The Hon'ble Court decided that in temporary permit pending grant of a permanent permit. Such a permit, could not ensure

beyond four months from the date of grant. Case Law 4: Inter State / Inter region temp. permit. Supreme Court State of West Bengal and Others v. Mani Bhushan Kumar; 2011 (10) SCC 147 : AIR 2012 SC 184 Unless there is concurrence, given generally or for the particular occasion, of the Regional Transport Authority of the other region or of the State Transport Authority of the other State no valid temporary permit can be issued for the other region or the other State. Case Law 5: Grant of temporary permit. Karnataka High Court Bharath Motor Service v. R.T.A., AIR 1988 Kant 190. In this case The Hon'ble Court decided where application for grant of additional trip by way of variation of conditions of permit is rejected the R.T.A. cannot grant temporary permit on the same route. Case Law 6: Road worthiness & viability of vehicle should be ensured. Kerala High Court Baby K. v. Secretary, RTA, Vadakara; AIR 2020 Ker. 22: 2020 KHC 2047 Stage carriage -- Before issuing temporary permit, based on application filed under S.87 of Motor Vehicles Act, Competent Authority has to consider road worthiness and viability of vehicle and shall ensure that, vehicle complies with provisions of Motor Vehicles Act and Rules made thereunder. Case Law 7: Temporary permit only for temporary need. Kerala High Court Sajeeve Madhavan v. Secretary, RTA, Thrissur; AIR 2019 Ker. 205: 2019 KHC 5159 Temporary stage carriage permit -- A reading of the provisions under clause (c) of subsection (1) of S.87 of the Motor Vehicles Act make it explicitly clear that the grant of a temporary permit under the said clause can only be made for meeting a particular temporary need -- Therefore in an application for temporary permit, invoking the provisions under clause (c) of sub section (1) of S.87, it is incumbent upon the applicant to state the temporary need on the route applied for, so as to enable the competent authority to entertain such an application -- Applicant cannot seek re issuance of temporary permit, since clause (c) of sub section (1) of S.87 of Act do not contemplate either renewal or reissue of temporary permit. Case Law 8: No Temp. permit issued while application for permanent permit submitted. Kerala High Court Cannanore District Bus Operators Association and Others v. State of Kerala and Others; AIR 2017 Ker. 209 Merely because an application for permanent permit (not renewal) is pending consideration, temporary

permit cannot be granted -- For grant of temporary permit, authorities are required to consider conditions as stipulated in S.87 of Act and only if one or the other of those conditions is satisfied, then for a limited period as stipulated in the said Section, temporary permit can be granted. Case Law 9: No Temp. permit issued while application for permanent permit submitted. Madhya Pradesh High Court Hridayanand Tiwari v. State of M. P. and Others; 2001 KHC 3505 : AIR 2001 MP 17 It is for the Regional Transport Authority to assess the sufficiency of the material as to the necessity of granting a temporary permit -- This power of issuing the temporary permit is not an uncontrolled or unrestricted power -- While granting the permit, the interest of the public generally and the advantages flowing from the temporary provision to the public must be borne in mind.

Case Law 10: Temp. permit operates in different field. Kerala High Court Mohanan v. RTA; 2000 KHC 390 : 2000 (2) KLT 485 The principle of locus standi of an existing operator must be restricted to the grant of regular permit and not to the grant of temporary permit in violation to the mandatory provisions contained in S.87 of the Act -- Existing operator can challenge the grant of temporary permit if the same is without jurisdiction and illegal -- The granting of temporary permits under S.87 of the Act operates in a different field. Only under certain conditions enumerated in the Section the first respondent can grant temporary permits -- If no such conditions exist in a given case, then such a grant can become illegal and without jurisdiction.

Case Law 11: Scope of RTA to grant Temp. permit in other regions. Kerala High Court Siju v. R. T. A. , Kannur and Others; 1998 KHC 304 : 1998 (2) KLJ 849 Scope of power of the R. T. A. to grant temporary permits valid in other regions -- A temporary permit granted under clause (a) or (c) of S.87 of the Act, for a period not exceeding 20 days, and also a temporary permit granted under clauses (c) and (b) of S.87 of the Act exceeding 20 days is operative in other regions, provided prior concurrence of sister authorities have been obtained. Case Law 12: RTA must free from arbitrariness. Calcutta High Court Sanjit Kumar Sardar and Others v. State of W. B. and Others; 1996 KHC 1990 : AIR 1996 Cal. 135 -- Regional Transport Authority which is a statutory body rejects the application of some applicants on such ground, namely nondisclosure

of the purpose for obtaining temporary permit in an application for temporary stage carriage permit as provided in R.123(2) but it allows the application of some other persons although such purpose is not indicated in their application -- Certainly such action of the Regional Transport Authority can be termed as arbitrary -- The Regional Transport Authority being a statutory body and also being a State within the meaning of Art.12 of the Constitution, it must be for public purpose and must be free from arbitrariness. Case Law 13: Conditions for temp. permit. Orissa High Court Jubla Kumar Jothi v. State Transport Authority; 1994 KHC 2003 : AIR 1994 Ori. 282 A combined reading of S.87 and R.84(6) make it clear that it is not a requirement of law that all applications for grant of temporary permits are to be disposed of together in respect of a specified route -- Since applications are not required to be made within a specified date and are made at different points of time and under law applications are required to be disposed of within four days from the date of the application if such application is covered by Cls.(a) and (b) and within 15 days, if the application is covered by Cl.(c) of sub-section (1) of S.87, it cannot be said that all such applications for grant of temporary permits on a specified route are required under law to be disposed of together. Case Law 14: Validity of temp. permit. Calcutta High Court Gautam Kumar Sarangi v. Sabyasachi Shee and Others; 2019 KHC 4128 : AIR 2019 NOC 494 Stage carriage permit -- A temporary permit should be limited in duration and should not be so renewed so that it becomes a grant of a permanent permit without observance of the due procedure for such grant -- Cannot be extended beyond six months. Corresponding Law :S. 44 of Act IV of 1939: 62. Temporary permits. - [(1)] A Regional Transport Authority may [\* \* \*] without following the procedure laid down in section 57, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily- (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or (b) for the purposes of a seasonal business, or (c) to meet a particular temporary need, [or] [(d) pending decision on an application for the renewal of a permit,] and may attach to any such permit any condition it thinks fit: [Provided that a temporary

permit under this section shall, in no case, be granted in respect of any route or area specified in an application for the grant of a new permit under section 46 or section 54 during the pendency of the application : Provided further that a temporary permit under this section shall, in no case, be granted more than once in respect of any route or area specified in. an application for the renewal of a permit during the pendency of such application for renewal.] [(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where- (i) no permit could be issued under section 48 or section 51 or section 54 in respect of that route or area by reason of an order of a court or other competent authority res-training the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or (ii) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension: Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended.]

## **Section 88**

### **Validation of permits for use outside region in which granted.**

(1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned: Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State, shall be valid in that area without the



countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned: Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State: Provided also that where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State. (2)

Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit. (3) A Regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit and may likewise vary any condition attached to the permit by the authority by which the permit was granted. (4) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits: Provided that it shall not be necessary to follow the procedure laid down in section 80 for the grant of countersignatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States after complying with the requirements of sub-section (5). (5) Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted

or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered. (6) Every agreement arrived at between the States shall, insofar as it relates to the grant of countersignature of permits, be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in the regional language circulating in the area or route covered by the agreement and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it. (7) Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under section 87 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be. (8) Notwithstanding anything contained in sub-section (1), but subject to any rules that may be made under this Act by the Central Government, the Regional Transport Authority of any one region or, as the case may be, the State Transport Authority, may, for the convenience of the public, [grant a special permit to any public service vehicle including any vehicle covered] by a permit issued under section 72 (including a reserve stage carriage) or under section 74 or under sub-section (9) of this section for carrying a passenger or passengers for hire or reward under a contract, express or implied, for the use of the vehicle as a whole without stopping to pick up or set down along the line of route passengers not included in the contract, and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle, for display thereon, a special distinguishing mark in the form and manner specified by the Central Government and

such special permit shall be valid in any other region or State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be. (9) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made by the Central Government under sub-section (14), any State Transport Authority may, for the purpose of promoting tourism, grant permits in respect of tourist vehicles valid for the whole of India, or in such contiguous States not being less than three in number including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application and the provisions of sections 73, 74, 80, 81, 82, 83, 84, 85, 86, [clause (d) of sub-section (1) of section 87 and section 89] shall, as far as may be, apply in relation to such permits. (10) [x x x x] (11) The following shall be conditions of every permit granted under sub-section (9), namely: every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf; every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and such other conditions as may be prescribed by the Central Government. (12)

Notwithstanding anything contained in sub-section (1), but, subject to the rules that may be made by the Central Government under sub-section (14), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, grant in a State, national permits in respect of goods carriages and the provisions of sections 69, 77, 79, 80, 81, 82, 83, 84, 85, 86, [clause (d) of sub-section (1) of section 87 and section 89] shall, as far as may be, apply to or in relation to the grant of national permits. (13) [x x x x] OLD LAW : Prior to its omission, sub-Section (13) read as under:- (13) The appropriate authority shall, in considering an application for a national permit, have regard to the following matters, namely:- (a) no national permit shall be issued- (i) to an individual owner so as to exceed five national permits in its own name; (ii) to a company so as to exceed ten valid national permits in its own name; (b)

the restriction under clause (a) regarding the number of permits to be issued shall not apply to the State transport undertakings; (c) in computing the number of permits for the purposes of clause (a), the number of permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account. (14) (a) The Central Government may make rules for carrying out the provisions of this section. (b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: the authorisation fee payable for the issue of a permit referred to in sub-sections (9) and (12); the fixation of the laden weight of the motor vehicle; the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle; the colour or colours in which the motor vehicle is to be painted; such other matters as the appropriate authority shall consider in granting a national permit. Explanation: In this section, (a) appropriate authority, in relation to a national permit, means the authority which is authorised under this Act to grant a goods carriage permit; (b) authorisation fee means the annual fee, not exceeding one thousand rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the permit referred to in sub-sections (9) and (12) to be used in other States subject to the payment of taxes or fees, if any, levied by the States concerned; (c) national permit means a permit granted by the appropriate authority to goods carriages to operate throughout the territory of India or in such contiguous States not being less than four in number, including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application. Case Law 1: Permission os State Transport Authority. Supreme Court State of W.B. v. Mani Bhushan Kumar, (2011) 10 SCC 147. In this case the Hon'ble Supreme Court decided that Unless Regional Transport Authority (RTA) of other region or State Transport Authority (STA) of other State gives concurrence, valid temporary permits cannot be issued for that region or State. Case Law 2: Issuance of inter-State route permit. Supreme Court A. Venkatakrishnan v. State Transport Authority, (2004) 11 SCC 207. In this case the Hon'ble Court decided that for issuance of

inter-State route permit, reciprocal agreement between the two States within which the proposed inter-State route lies, mandatory. In absence of any such agreement as contemplated under Section 88(5) between the two States, STA of one State has no jurisdiction to grant the permit. Where such permit was granted by one STA, application filed before the other STA for countersigning the permit was rightly rejected. Case Law 3: Jurisdiction to cancel inter-State permit Supreme Court U. P. SRTC v. Assistant Comnr. of Police (Traffic) Delhi; 2009 KHC 4233 : 2009 (3) SCC 634 Respondent under powers delegated by Delhi Government and cancelling permit given by State of U.P. -- Agreement between State of U.P. and Delhi Government that in case of any violation of interstate stage carriage permits, it was the authorities of the State of U.P. which could take action -- Rules framed by the State of U.P. alone were to be applicable in relation thereto -- Held, the respondent did not have jurisdiction to cancel the permit which could have been cancelled only by the State of U.P. Case Law 4: Inter-State permit required counter signature. Supreme Court Vishnu Dutt and Others v. State of Rajasthan and Others; 2005 KHC 2279 : 2005 (13) SCC 592 Inter State permit -- Agreement between States of Rajasthan and Haryana providing for grant of a specific number of inter State permits to buses belonging to Rajasthan State -- Rajasthan State issuing identical number of permits to SRTC and also issuing additional permits to private vehicle operators with the stipulation that the same were in excess of the quota under the said Inter State Agreement -- Permits issued to SRTC found to be not countersigned by Haryana State whereas permits issued to the private vehicle operators found to be so countersigned -- Held, High Court had rightly held the permits issued to SRTC to be invalid and therefore rightly held the permits issued to the private vehicle operators to be within the said quota and valid. Case Law 5: Absence of reciprocal agreements. Supreme Court A. Venkatakrishnan v. STA, Kerala; 2004 KHC 1822 : 2004 (11) SCC 207 There must be a reciprocal agreement between the two States within which the proposed inter State route lies -- Absence of any such agreement as contemplated under S.88(5) between the two States -- In such a situation, held, State Transport Authority of one State has no jurisdiction to grant the

permit. Case Law 6: No temp. permits to be issued in inter-State routes beyond four months. Orissa High Court *Ajay Kumar Sahoo v. State of Orissa and Others*; 2006 KHC 3943 : AIR 2006 Ori. 188 Grant of, for stage carriages running inter State in approved and unapproved routes followed with counter signature of competent authorities of other State in breach of the mandate of law in S.88 -- Direction to the opposite party members to adhere to the Government Order made on the basis of reciprocal agreement between two States on specified routes by inviting application for permanent permit instead of continuing with the practice of grant of temporary permit -- Direct the opposite party members not to grant temporary permits on such specified routes or on any unspecified routes unless they come within the exceptions of running such stage carriages for a temporary period due to any special occasion or special reason and such period shall not in any case be beyond a period of four months, as indicated in various provisions and exception in S.88 of the Act. Case Law 7: Stage carriage permit on inter-State route. Allahabad High Court *Mohd Sajid Ansari v. State of U. P. and Others*; AIR 2006 All. 308 : 2007 KHC 3446 Stage carriage permit on inter - State route -- The Transport Authority of either State is not competent to grant permit or counter signature over and above the strength fixed by the agreement -- Number of trips provided in the agreement cannot be enhanced, as it would amount to variation of conditions of permit, in contravention of the terms and conditions incorporated in the inter State agreement, and thus, such an order of the authority either granting permit or counter signature or increasing the number of trips would be without jurisdiction. Case Law 8: National permit alone not eligible to use in other States. Kerala High Court *Sunil v. R. T. O. , Palakkad*; 2005 KHC 586 : 2005 (2) KLT 415: AIR 2005 Ker. 221 National Permit alone does not make a vehicle eligible for use in other States -- In respect of the year or the States for which authorisation is not issued by the home State in respect of the vehicle, for the only reason that there was a national permit valid for a period of five years, the State is not entitled to collect authorisation fee and composite fee. Case Law 9: Effectiveness of inter-State permit agreements. Rajasthan High Court *Radhey Shyam v. State of Rajasthan and*

Others; 2004 KHC 4356 : AIR 2004 Raj. 300 The authorities can give effect to such an agreement only when such agreement is published in Gazette as well as in the newspaper -- Thus, an agreement can be effected only after the same is published in the Official Gazette as well as in the local newspapers -- The RTA cannot give effect to the agreement before its publication in the local newspapers -- Application for grant of permit made one day before newspaper publication of agreement is premature. Case Law 10: Validation of permits. Rajasthan High Court Vishnudutt v. Manoj Kumar and Others; 2002 KHC 3920 : AIR 2002 Raj. 395 State Road Transport Corporation has not been able to obtain any countersignature on permits issued to it under order dated 29-2-1996, until commencement of the new agreement and even thereafter, therefore it cannot be said that the State Road Transport Corporation had valid permits to its credit as an existing operator -- Thus grant of new permits would be confined to remaining vacancies after adjusting existing permits. Case Law 11: No temp. permits to be issued in inter-State routes. Madhya Pradesh High Court Kashmiri Lal Batra v. State of M. P. and Others; 2015 KHC 3797 : AIR 2015 NOC 1102 Insurance of temporary permits in respect of inter State route created under reciprocal agreement -- It would not be just and proper to issue temporary permits on inter State routes which are permanent in nature because temporary permits could only be issued under the circumstances and contingencies enumerated under S.87 of the Act of 1988 as mentioned in the order -- This apart, issuance of temporary permits in place of regular permits on inter State routes would adversely affect the interest of commuters because no bus operator would ply good condition buses and recent model of buses on a temporary permit because it is for a limited period and it will also affect the economic development of the region. Case Law 12: Provision in regard to communication of grant of permit. Rajasthan High Court Rajasthan SRTC v. STAT and Others; 1999 KHC 3809 : AIR 1999 Raj. 111 Provision in regard to communication of grant of permit -- Provisions be held to be mandatory as the order cannot be held to be effective unless it is communicated to the applicant -- Non compliance of the conditions mentioned in the Resolution while granting the permit, if not

communicated, would cause serious prejudice to the grantee -- He would not be able to lift permit in stipulated period nor would be able to file appeal under provisions of S.89. Case Law 13: STA empowered to grant tourist permit. Kerala High Court All Kerala Tourist Taxi Association v. The Secretary to Government; 2005 KHC 165 :ILR 2005 (1) Ker. 362 State Transport Authority is the authority empowered to grant permits in respect of tourist vehicles -- Neither S.88 nor the Central Rules authorises delegation of the power conferred on State Transport Authority to any other authority. Case Law 14: Inter-State route scheme has to be reciprocal not unilateral. Rajasthan High Court State of Rajasthan and Another v. Gyan Singh and Another; 2001 KHC 3903 : AIR 2001 Raj. 369 Existence of a route is condition precedent for exercise of the power under sub-s.(1) of S.88 of the Act and inter-State route under the scheme of the Act has to be reciprocal and cannot be unilaterally created by one State or an Authority in the State and that the concerned State Governments are supposed to deliberate and decide the routes to be opened. Case Law 15: Interference of Court while statutory provisions violated. Calcutta High Court Prabhat Pan and Others v. State of West Bengal and Others; 2015 KHC 2204 : AIR 2015 Cal. 112 Complaint in relation to acts of other operators in plying their vehicles for carrying passengers in violation of statutory provisions / policy -- Action or inaction on part of Transport authorities dealing with it -- Subject to the considerations as to there being an efficacious alternative remedy, the Court exercising jurisdiction under Art.226 of the Constitution of India may entertain applications by holder of stage or contract carriage permits under the Motor Vehicles Act, 1988 questioning any action or inaction on the part of the transport authorities. Case Law 16: Bus stand used by stage carriages. Madhya Pradesh High Court Nandkishore Tiwari v. Collector-Cum-District Magistrate and Others; 1993 KHC 2426 There is no dispute that the petitioner has been granted All India Tourist Permits by State Transport Authority in accordance with the Rules framed under sub-section (14) of S.88 of the Act -- Indira Complex Bus stand has been declared to be a bus stand for stage carriages -- Under these circumstances, the All India Tourist Buses owned and operated by the petitioner could not be



plied or operated from that bus stand -- Notification directing that tourists buses to be operated from bus stand used by stage carriages violates R.85(6). Corresponding Law :S. 63 of Act IV of 1939: 63. Validation of permits for use outside region in which granted. - (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned: [Provided that a private carrier's permit, granted by the Regional Transport Authority of any one region with the approval of the State Transport Authority, for any area in any other region or regions within the same State shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned:] [Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.] [Provided also that- (a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and (b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.] [(1A) Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit.] (2) A Regional Transport Authority when

countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted. (3) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits : [Provided that it shall not be necessary to follow the procedure laid down in section 57 for the grant of countersignatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States [after complying with the requirements of sub-section (3A), or for the grant of countersignatures of permits in pursuance of any direction issued by the Commission under clause (c) of subsection (2) of section 63A.] [(3A) Every proposal to enter into an agreement between the States referred to in the proviso to sub-section (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette together with a notice of the date before which representations in connection therewith may be submitted, and the date, not being less than thirty days from the date of such publication, on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered: Provided that no person, association or authority, other than those mentioned hereunder, shall have a right to make such representation, namely: - (i) any person already providing passenger or goods transport facilities by any means in the proposed area or along or near the proposed route; (ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government; (iii) any local authority or police authority within whose jurisdiction any part of the proposed area or route lies. (3B) Every agreement arrived at between the States shall, in so far as it relates to the grant of counter signature of permits, be published in the Official Gazette by each of the State concerned and the

State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.] (4) Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under clause (a) or clause (c) of sub-section (1) of section 62 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be. (6) Notwithstanding anything contained in sub-section (1), but subject to any rules that may be made under this Act, the Regional Transport Authority of any one region may, for the convenience of the public, grant a special permit in relation to a public service vehicle for carrying a passenger or passengers for hire or reward under a contract, express or implied, for the use of the vehicle as a whole without stopping to pick up or set down, along the line of route passengers not included in the contract, 'and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle, for display thereon, a special distinguishing mark in the form and manner specified by the Central Government and such special permit shall be valid in any other region or State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be.] [(7) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant [permits valid for the whole or any part of India, in respect of such number of tourist vehicles] as the Central Government may, in respect of that State, specify in this behalf, and the provisions of sections 49, 50, 51, 57, 58, 59, 59A, 60, 61 and 64 shall, as far as may be apply in relation to such permits: [Provided that preference shall be given to applications for permits from- (i) the India Tourism Development Corporation; (ii) a State Tourism Development Corporation; (iii) a State Tourist Department; (iv) such operators of tourist cars, or such travel agents, as may be approved in this behalf by the Ministry of the Central Government dealing in tourism.] (8) Every applicant for a permit under sub-section (7) shall deposit, by way of security, in such manner and

such amount, not exceeding rupees two thousand per motor vehicle, as the Central Government may with reference to each class of vehicle, by notification in the Official Gazette, specify, and such security shall be refunded wholly or in part to the applicant if his application for permit has not been granted, or, as the case may be, granted for a lesser number of vehicles than what was applied for. (9) Any amount deposited by way of security under sub-section (8) may, at any time, be forfeited in whole or in part by the State Transport Authority if it is satisfied after making such inquiry as it thinks fit that- (a) the permit was obtained by fraud or misrepresentation, or (b) the holder of the permit has failed without reasonable cause to use the vehicle or vehicles for the purpose for which the permit was granted, or (c) the holder of the permit has committed a breach of any condition of the permit, (d) the holder of the permit has used or caused it to be used in any manner not authorised by the permit: Provided that no such forfeiture shall be made unless the State Transport Authority has given the permit-holder a reasonable opportunity of being heard. (10) The following shall be conditions of every permit granted under sub-section (7), namely:- (i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify In this behalf; (ii) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and (iii) such other conditions as may be prescribed by the Central Government.] [(11) Notwithstanding anything contained in sub-section (1), but, subject to the rules that may be made by the Central Government under sub-section (15), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, [grant, in a State, national permits to the owners of motor vehicles who use, or intend to use, such vehicles for the carriage of goods, for hire or reward, in respect of such number of motor vehicles] as the Central Government may specify in this behalf in relation to that State, and the provisions of sections 54, 56, 57, 58, 59, 59A, 60, 61, and 64 shall as far as may be, apply to or in relation to the grant of national permits; Provided that the number of national

permits specified for a State shall not be varied or modified except after consultation with the concerned State Government. Explanation. - In this section- (a) "national permit" means a permit granted by the appropriate authority [to the owner of a motor vehicle authorising him to operate as a public carrier] throughout the territory of India or in such contiguous States, not being less than five in number (including the State in which the permit is issued), as may be specified in such permit in accordance with the choice [indicated by such owner] to whom such permit is granted; (b) "appropriate authority" in relation to a national permit means the authority which is authorised by this Act to grant a public carrier's permit. [(11A) The Government of a State shall reserve in that State certain percentage of national permits for the Scheduled Castes and the Scheduled Tribes. (11B) The Government of a State may, having regard to the extent to which persons belonging to economically weaker sections of the community have been granted national permits in that State,- (a) reserve in that State such percentage of national permits, as may be prescribed, for persons belonging to economically weaker sections of the community; or (b) notwithstanding anything contained in clause (b) of sub-section (12), give preference, in such manner as may be prescribed, to applications for national permits from such persons. (11C) The provisions of sub-sections (1B), (1D), (1F) and (1G) of section 47 shall apply to or in relation to the grant of national permits under this section as they apply to or in relation to the grant of stage carriage permits under that section.] (12) Without prejudice to the provisions of sub-section (1) of section 55, the appropriate authority shall, in considering an application for a national permit, also have regard to the following matters, namely: (a) no national permit shall be issued- (i) to an individual owner if he already holds in his own name three or more valid national permits, or, when he holds valid national permits as well as valid inter-State region permits, if the aggregate number of such permits is three or more; (ii) to a company which already holds in its Own name seven or more valid national permits, or, when it holds valid national permits as well as valid inter-State region permits, if the aggregate number of such permits is seven or more; (b) other conditions being equal, preference shall be given to applicants who are ex-army personnel, [and]

who have valid licences for driving transport vehicles. Explanation. - In this sub-section "company" includes a body corporate. (13) If, as a result of the acquisition of one or more inter State region permits by an individual owner or a company after one or more national permits have been granted to him or it, the aggregate number of the permits held by such individual or company exceeds, in the case of the individual, three, or, in the case of a company, seven, the appropriate authority shall, notwithstanding anything contained in section 60, cancel such number of national permits as would bring down the aggregate number of national permit and inter State region permit held by such individual, to three, or, in the case of a company, to seven: Provided that before cancelling any national permit, the appropriate authority shall give to the individual owner or the company, as the case may be, an option to indicate which of the national permits held by him or it should be so cancelled. (14) Nothing contained in sub-section (12) and (13) shall apply to a State Transport Undertaking. (15)(a) The Central Government may make [rules] for carrying out the provisions of sub-section (11). (b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.- (i) the authorisation fee payable for the issue of a national permit; (ii) the fixation of the laden weight of the motor vehicle; (iii) the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle; (iv) the colour or colours in which the motor vehicle is to be painted; (v) any matter, not specified in this Act, which shall be borne in mind by the appropriate authority in granting a national permit. Explanation. - In this sub-section "authorisation fee" means the annual fee, not exceeding seven hundred rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the national permit, to be used in other States.]

## **Section 88A**

**Power of Central Government to make schemes for national, multimodal and inter-State transport of passengers and goods.**

(1) [Notwithstanding anything contained in this Act, the Central Government may, by notification

in the Official Gazette, modify any permit issued under this Act or make schemes for national, multimodal and inter-State transportation of goods or passengers, and issue or modify licences under, such scheme for the following purposes, namely: - last mile connectivity; rural transport; improving the movement of freight, and logistics; better utilisation of transportation assets; the enhancement to the economic vitality of the area, especially by enabling competitiveness, productivity and efficiency; the increase in the accessibility and mobility of people; the protection and enhancement of the environment; the promotion of energy conservation; improvement of the quality of life; enhancement of the integration and connectivity of the transportation system, across and between modes of transport; and such other matters as the Central Government may deem fit: Provided that the Central Government may, before taking any action under this sub-section seek concurrence of the State Governments. (2) Notwithstanding anything contained in sub-section (1), two or more States may make schemes for the operation within such States for the inter-State transportation of goods or passengers: Provided that in the event of any repugnancy between the schemes made by the Central Government under sub-section (1) and schemes made by two or more States under this sub-section, the schemes made under sub-section (1) shall prevail.]

## **Section 89**

### **Appeals.**

(1) Any person aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or aggrieved by the refusal to transfer the permit under section 82, or aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or aggrieved by the refusal of renewal of a permit, or aggrieved by the refusal to grant permission under section 83, or aggrieved by any other order which may be prescribed, may, within the prescribed time and in the prescribed manner, appeal to the State Transport

Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final. (2) The State Government shall constitute such number of Transport Appellate Tribunals as it thinks fit and each such Tribunal shall consist of a judicial officer who is not below the rank of a District Judge or who is qualified to be a Judge of the High Court and it shall exercise jurisdiction within such area as may be notified by that Government.] OLD LAW : Prior to its substitution, sub-Section (1) read under:- (1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work- (a) for more than five hours before he has had an interval of rest of at least half an hour; or (b) for more than eight hours in one day; or (c) for more than forty-eight hours in any week." Prior to its substitution, sub-Section (2) read as under:- " (2) The State Government shall constitute for the state, a State Transport Appellate Tribunal which shall consist of a judicial officer who is not below the rank of a district Judge, or who is qualified to be a Judge of a High Court: Provided that in relation to a Union territory, the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience. (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of this Act, shall continue to be proceeded with and disposed of as if this Act had not been passed.

Explanation : For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Inter-State Transport Commission under clause (c) of sub-section (2) of section 63-A of the Motor Vehicles Act, 1939, as it stood immediately before the commencement of this Act, and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-section (1) to the State Transport Appellate Tribunal against such order but not against the direction so issued. Case Law 1: Appeal. Chattisgarh High Court New Jeevan Bus Service, Chhattisgarh v. State of Chhattisgarh and Others; 2020 KHC 2338 : AIR 2020 Chh. 26 Against order passed by delegated authority in



exercise of amended R.66(a-a) -- Order passed by the delegated authority is by stepping into the shoes of the State Transport Authority, in exercise of the delegated power -- In the said circumstance, it has to be deemed as an order passed by the original authority who delegated the power -- Appeal against such order, maintainable before State Transport Appellate Tribunal.

Case Law 2: Scope of enquiry & powers. Kerala High Court Pramod Kumar v. KSRTC, Tvm and Others; 2014 (1) KHC 614 : ILR 2014 (1) Ker. 949 Scope of enquiry and powers -- Held, power of the Appellate Tribunal is co extensive with that of the original Authority viz. the Regional Transport Authority -- Appeal is a re hearing of the matter, and the appellate power is as wide as the power vested in the original Authority -- STAT can enter into factual enquiry, in any given case -- Denial of permit for private stage carrier -- Factual enquiry by Tribunal -- Permissibility -- Assessment of routes by Advocate Commissioner.

Case Law 3: Delay in appeal. Kerala High Court Krishna Murthy M. and Others v. Karnataka STA, Bangalore and Others; AIR 2012 Kar. 188 Appeal filed by Corporation in year 2005 without applying for condonation of delay, could not be entertained -- On perusal of the order of the STAT, it is clear that none of the grounds urged by the appellants are considered by it -- If the Tribunal has allowed the appeals without considering grounds urged by the appellants, in all fairness, the learned single Judge was required to remand the matter to the STAT and not to the STA -- The question of remanding the matter would arise only if the Tribunal was of the opinion that the order granting variation of route by the STA is contrary to any provision of law.

Case Law 4: Rejection w/o assigning reason is arbitrariness. Jharkand High Court Dinesh Nand Jha v. State of Jharkhand and Others; 2011 KHC 2040 : AIR 2011 Jha. 6 No reasons have been assigned. Only one reason assigned is "dismissed" -- This is not a method in which an order should be passed by the respondent authorities -- This is thoroughly a non application of mind and it reveals absolute arbitrariness, which leads to inequality -- The impugned order is an appealable order under S.89 of the Motor Vehicles Act, 1988 and, therefore, also reasons ought to have been assigned by the concerned respondent authorities -- Authorities therefore directed to decide application afresh.

Case Law 5:

Limitation of appeal. Punjab and Haryana High Court Jagtar Singh v. State Transport Appellate Tribunal and Others; AIR 2009 P&H 114: 2009 KHC 7057 Appeal against orders of State or Regional Transport Authority -- Limitation -- Knowledge whether actual or constructive of the order passed by the State or Regional Transport Authority should result in commencement of the period of limitation -- In cases where the State or Regional Transport Authority has not communicated the order of refusal passed to the persons concerned, the period of limitation for filing an appeal would commence from the date when the parties concerned acquire knowledge of passing of the said order. Case Law 6: Appeal - Locus standi. Karnataka High Court Sree Gajanana Motor Transport Co. Ltd v. Karnataka STAT and Others; AIR 2003 Kar. 326 Appeal -- Locus standi -- Words "any person" in the context should undoubtedly include "every aggrieved person" -- Therefore, the appeal remedy provided in S.89 of the Act is available to any aggrieved person. Also held that It cannot be said that only that person who receives a copy of order sent suo motu and freely by maker of order can prefer appeal and not a person who applies for copy of order and receives it. Case Law 7: Appeal against before STAT. Rajasthan High Court Balu Lal v. State of Rajasthan and Others; 2001 KHC 3889 : AIR 2001 Raj. 316 Powers of State Transport Appellate Tribunal (STAT) -- Cancellation of permit -- Appeal against before State Transport Appellate Authority -- There is no provision under Act empowering STAT to review its own order STAT directed to decide appeal afresh after giving opportunity of hearing to all parties concerned -- Relegating petitioner to remedy of review before STAT is not proper. Case Law 8: Powers of High Court. Allahabad High Court Ved Pal Singh and Another v. State Transport Appellate Tribunal, Lucknow and Others; AIR 1999 All. 136 Powers of High Court -- Orders passed by State Transport Appellate Tribunal under Motor Vehicles Act -- Writ petition for executing orders of State Transport Appellate Tribunal under Motor Vehicles Act, is not maintainable -- Tribunal is constituted under S.89 (2) which is capable of implementing its own order under the rules framed governing the procedure before the STAT itself. Corresponding Law :S. 64 of Act IV of 1939: 64. Appeals. - [(1)] Any person- (a) aggrieved by the refusal of State or

a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or (b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or (c) aggrieved by the refusal to transfer the permit to the person succeeding on the death of the holder of a permit, or (d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such counter-signature, or (e) aggrieved by the refusal of renewal of a permit, or (f) being a local authority or police authority or an association which, or a person providing transport facilities who, having opposed the grant of a permit, is aggrieved by the grant thereof by any condition attached thereto, or [(g) aggrieved by the refusal to grant permission under sub-section (1) or sub-section (2) of section 59, or] (h) aggrieved by a reduction under sub-section (1A) of section 60 in the number of vehicles or routes or area covered by a permit, or [(hh) aggrieved by an order of forfeiture passed under sub-section (4) of section 45 or under sub-section (9) of section 63, or] (i) aggrieved by any other order which may be prescribed, may, within the prescribed time and in the prescribed manner, appeal to [the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final]. [(2) The State Government shall [constitute] for the State a State Transport Appellate Tribunal which shall consist of a [\* \* \* \*] judicial officer not below the rank of a District Judge : Provided that in relation to a Union territory the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience. (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of the Motor Vehicles (Amendment) Act, 1969, shall be proceeded with and disposed of as if that Act had not been passed. Explanation. - For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Commission under clause (c) of sub-section (2) of section 63A and any person feels aggrieved by such order on the ground that it is not in consonance with such

direction, he may appeal under sub-section (1) to the State Transport Appellate Tribunal against such order but not against the direction so issued.]

## **Section 90**

### **Revision.**

The State Transport Appellate Tribunal may, on an application made to it, call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority against which no appeal lies, and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final: Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of a State Transport Authority or Regional Transport Authority, unless the application is made within thirty days from the date of the order: Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by good and sufficient cause from making the application in time: Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Case Law 1: Revisional powers. Uttarakhand High Court Sandeep Kumar v. State of Uttarakhand and Others; 2020 KHC 2853 : AIR 2020 NOC 331 Revisional powers -- Revisional jurisdiction of the STAT can only be invoked by a person aggrieved, by way of an application, that too only if it relates to an order made by the Regional Transport Authority (RTA) against which no appeal lies -- Since an appeal lies against the refusal of the RTA to grant a permit, the remedy of a revision under S.90 of the Act is not available to the person aggrieved -- The remedy of a revision, under S.90 can be exercised by the STAT only on an application made to it, and not suo motu -- While the existing permit holders would be entitled to avail the remedy of a revision under S.90, the STAT can exercise its revisional jurisdiction, under S.90, only if it is

satisfied that the order made by the Regional Transport Authority is either improper or is illegal, and not on the ground that any of the existing rights, of an existing permit holder, is violated.

Case Law 2: RTA follow the findings of tribunal. Kerala High Court Jose and Others v. Regional Transport Authority; 2019 KHC 3525 When the order passed by the Tribunal contains certain observations or findings, the Secretary of the Regional Transport Authority, is not expected to sit over that findings and he is bound to follow the findings in that order -- Only in such cases, an enroute operator can be said to be aggrieved by an order passed by the Tribunal in a revision filed under S.90 of the Act.

Case Law 3: Revision instead of appeal- Legality. Rajasthan High Court Marvel Tour Services v. RTO, Jodhpur and Others; 2020 KHC 3969 : AIR 2020 NOC 675 Revision against order of assessment / demand notice -- Revision filed instead of appeal -- Even the remedy of revision under S.90 of the Act of 1988 was not available to the petitioner, as such provision clearly provides that the revision will lie only in case, no appeal has been provided -- Directions issued to assessee to prefer an appeal against impugned demand notices within stipulated time.

Case Law 4: Revision interpretation. Kerala High Court Ratheesh M. C. and Another v. Secretary, RTA, Thrissur and Another; AIR 2015 Ker. 86 : 2015 (1) KHC 69 S.90 cannot be interpreted in a manner to exclude or prohibit an application for revision at the instance of existing permit holder in all circumstances -- Whether a person, who is filing application can be said to be "a person aggrieved" is a question which has to be decided in the facts of each case.

Case Law 5: Revision power of STAT. Kerala High Court Mohanan v. RTA; 2000 KHC 390 Revision power of STAT -- Orders of State Transport Authority or Regional Transport Authority can be revised by STAT -- It is improper or illegal -- The State Transport Appellate Tribunal can interfere with any order of the State Transport Authority or Regional Transport Authority if it is improper or illegal -- In such cases the question of a person aggrieved does not arise.

Corresponding Law :S. 44 of Act IV of 1939: [64A. Revision. - The [State Transport Appellate Tribunal] may, either on its own motion or on an application made to it, call for the record of any case in which an order has been made by a [State Transport Authority or

Regional Transport Authority] and in which no appeal lies, and if it appears to the [State Transport Appellate Tribunal] that the order made by the [State Transport Authority or Regional Transport Authority] is improper or illegal, the [State Transport Appellate Tribunal] may pass such order in relation to the case as it deems fit [and every such order shall be final]. Provided that the [State Transport Appellate Tribunal] shall not entertain any application from a person aggrieved by an order of a [State Transport Appellate Tribunal] unless the application is made within thirty days from the date of the order: [Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time:.,] Provided [also] that the [State Transport Appellate Tribunal] shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.]

## **Section 91**

### **Restriction of hours of work of drivers.**

(1) [The hours of work of any person engaged for operating a transport vehicle shall be such as provided in the Motor Transport Workers Act, 1961 (27 of 1961)] (2) A State Government may, by notification in the Official Gazette, grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen. (3) A State Government or, if authorised in this behalf by the State Government by rules made under section 96, the State or a Regional Transport Authority may require persons employing any person whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform to those provisions, and may provide for the recording of the hours so fixed. (4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons under sub-section (3). (5) A State Government may prescribe the circumstances under which and the period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the

meaning of sub-section (1). OLD LAW : Prior to its substitution, sub-Section (1) read as under:-

"(1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work- (a) for more than five hours before he has had an interval of rest of at least half an hour; or (b) for more than eight hours in one day; or (c) for more than forty-eight hours in any week." Corresponding Law :S. 65 of Act IV of 1939: 65. Restriction of hours of work of drivers. - (1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work- (a) for more than five hours before he has had an interval of rest of at least half an hour; or (b) for more than [eight hours] in one day; or (c) for more than [forty-eight hours] in the week. (2) The [State Government] may by rule made under section 68 grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen. (3) The [State Government] [or, if authorised in this behalf by the [State Government] by rules made under section 68, the [State] or a Regional Transport Authority] may require persons employing any persons whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform with those provisions, and may provide for the recording of the hours so fixed. (4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons in compliance with any rule made under sub-section (3). (5) The State Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of subsection (1).

## **Section 92**

### **Voidance of contracts restrictive of liability.**

Any contract for the conveyance of a passenger in a [transport vehicle, in respect of which a permit or licence] has been issued under this Chapter, shall, so far as it purports to negative or

restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void. Corresponding Law :S. 66 of Act IV of 1939: 66. Voidance of contracts restrictive of liability. - Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

## **Section 93**

### **Agent or canvasser or aggregator to obtain licence.**

(1) No person shall engage himself as an agent or a canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting customers for such vehicles, or as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government. [as an aggregator, Provided that while issuing the licence to an aggregator the State Government may follow such guidelines as may be issued by the Central Government: Provided further that every aggregator shall comply with the provisions of the Information Technology Act, 2000 and the rules and regulations made thereunder.] (2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely: the period for which a licence may be granted or renewed; the fee payable for the issue or renewal of the licence; the deposit of security (i) of a sum not exceeding rupees fifty thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by goods carriages; (ii) of a sum not exceeding rupees five thousand in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited; the provision by



the agent of insurance of goods in transit; the authority by which and the circumstances under which the licence may be suspended or revoked; such other conditions as may be prescribed by the State Government. (3) It shall be a condition of every licence that no agent or canvasser to whom the licence is granted shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the licence number, the date of expiry of licence and the particulars of the authority which granted the licence. Case Law 1: Aggregator - Scope. Uttarakhand High Court Satish N. Narayan and Others v. State of Karnataka and Others; 2017 KHC 3204 : AIR 2017 NOC 376 Karnataka On demand Transportation Technology Aggregators Rules, 2016, R.1 -- Validity -- High Court has declared some of the Aggregators Rules as being unconstitutional -- However, as the remaining valid parts of the Aggregators Rules can be severed from the invalid parts of the Aggregators Rules, applying the doctrine of severability, the Aggregators Rules, de hors the invalid parts, are constitutionally valid. S.93 does not suffer from ambiguity. Therefore. external aids like proposed amendment bill cannot be considered for interpreting said provision. Case Law 2: Licence under S.93 - Necessity. Uttarakhand High Court Ani Technologies Pvt. Ltd v. State of Uttarakhand and Others; AIR 2015 Utr. 90 Petitioner company neither sell the tickets for travel by public service vehicles nor is indulged in soliciting customers for use of particular taxi owner or the company -- The only service being provided by the petitioner company is -- the moment request is received by the customer to send the taxi, petitioner company forward that request to the different taxi owners of nearby area for which nothing is being charged by the petitioner company from the passenger or person desirous to have taxi services -- Petitioner company does not fall within the four corners of S.93 of the Act -- Cannot be ordered to stop its operation for want of licence. Corresponding Law :S. 66-A of Act IV of 1939: [66A. Agent or canvasser to obtain licence. - (1) No person shall engage himself- (i) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or (ii) as an agent in the business of

collecting, forwarding or distributing goods carried by public carriers, unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government. (2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely:- (a) the period for which a licence may be granted or renewed : (b) the fee payable for the issue or renewal of the licence; (c) the deposit of security- (i) of a sum not exceeding rupees five thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by public carriers. (ii) of a sum not exceeding rupees five hundred in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited; (d) the provision by the agent of insurance of goods in transit; (e) the authority by which and the circumstances under which the licence may be suspended or revoked.

## **Section 94**

### **Bar on jurisdiction of Civil Courts.**

No Civil Court shall have jurisdiction to entertain any question relating to the grant of a permit [or licence issued under any scheme] under this Act, and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit [or licence issued under any scheme], shall be entertained by any Civil Court.

## **Section 95**

### **Power of State Government to make rules as to stage carriages and contract carriages.**

(1) A State Government may make rules to regulate, in respect of stage carriages and contract carriages and the conduct of passengers in such vehicles. (2) Without prejudice to the generality of the foregoing provision, such rules may authorise the removal from such vehicle of any person contravening the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer; require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand; require a passenger to

declare, if so demanded by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket issued therefor; require, on demand being made for the purpose by the driver or conductor or other person authorised by the owners of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him; require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid; require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him; require a passenger to abstain from doing anything which is likely to obstruct or interfere with the working of the vehicle or to cause damage to any part of the vehicle or its equipment or to cause injury or discomfort to any other passenger; require a passenger not to smoke in any vehicle on which a notice prohibiting smoking is exhibited; require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

Corresponding Law :S. 67 of Act IV of 1939: 67. Power to rules as to stage carriages and contract carriages. - (1) A [State Government] may make rules to regulate, in respect of stage carriages and contract carriages,- [(a) \* \* \* \*] (b) the conduct of passengers in such vehicles. (2) Without prejudice to the generality of the foregoing provision, such rules may- (a) authorise the removal from such vehicle of any person infringing the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer; (b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand (c) require a passenger to declare, if so requested by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket provided therefor; (d) require, on demand being made for the purpose by the driver or conductor or other person authorised by the owner of the vehicle, production during the journey and surrender at the end of the journey by the thereof of any ticket issued to him; (e)

require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid; (f) require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him; [(ff) require a passenger to abstain from doing anything which is likely to obstruct or interfere with the working of the vehicle or to cause damage to any part of the vehicle or its equipment or to cause injury or discomfort to any other passenger; (fff) require a passenger not to smoke in any vehicle on which a notice prohibiting smoking is exhibited;] (g) require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

## **Section 96**

### **Power of State Government to make rules for the purposes of this Chapter.**

(1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely: the period of appointment and the terms of appointment of and the conduct of business by Regional and State Transport Authorities and the reports to be furnished by them; the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted; the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees; the forms to be used for the purposes of this Chapter, including the forms of permits; the issue of copies of permits in place of permits lost, destroyed or mutilated; the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed; the fees to be paid in respect of applications for permits, duplicate permits and plates; the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter; the

custody, production and cancellation on revocation or expiration of permits, and the return of permits which have been cancelled; the conditions subject to which, and the extent to which, a permit granted in another State shall be valid in the State without countersignature; the conditions subject to which, and the extent to which, a permit granted in one region shall be valid in another region within the State without countersignature. the conditions to be attached to permits for the purpose of giving effect to any agreement such as is referred to in clause (iii) of sub-section (1) of section 67; the authorities to whom, the time within which and the manner in which appeals may be made; the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether generally or in specified areas; the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried; the conditions subject to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers; the safe custody and disposal of property left in a stage or contract carriage; regulating the painting or marking of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails; the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes; the provision of taxi meters on motorcabs requiring approval or standard types of taxi meters to be used and examining testing and sealing taxi meters; prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in specified areas or at places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to board or alight from the vehicle at a notified halting place; the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provision of adequate equipment and facilities for the convenience of

all users thereof; the fees, if any, which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat, and the duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition; the regulation of motorcab ranks; requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward; authorising specified persons to enter at all reasonable times and inspect all premises used by permit holders for the purposes of their business; requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare; the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried; the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicit customers for such vehicles; the licensing of agents engaged in the business of collecting for forwarding and distributing goods carried by goods carriages; the inspection of transport vehicles and their contents and of the permits relating to them; the carriage of persons other than the driver in goods carriages; the records to be maintained and the returns to be furnished by the owners of transport vehicles; and [framing of schemes under sub-section (3) of section 67;] [the promotion of effective competition, passenger convenience and safety, competitive fares and prevention of overcrowding;] any other matter which is to be or may be prescribed.

Case Law 1: Bus stand. Supreme Court Hari Om Gautam v. District Magistrate, Mathura, (1987) 2 SCC 397. In this case the Hon'ble Supreme Court observed that District Magistrate is not competent to determine Bus stand or halting place. RTA is the competent authority. Section 68(r) [96(2)(xxi) of new Act] attracted. Neither Sections 76 and 91(2)(e) of the Act nor Rule 93 of U.P. Motor Vehicles Rules, 1940 applicable. Corresponding Law :S. 68 of Act IV of 1939: (2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely:- (a) the period of appointment and the

terms of appointment of and the conduct of business by Regional and State Transport Authorities and the reports to be furnished by them; [(aa) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted;] (b) the conduct and hearing of appeals that may be preferred under this Chapter, [the fees to be paid in respect of such appeals and the refund of such fees]; (c) the forms to be used for the purposes of this Chapter, including the forms of permits; [(ci) the percentage of stage carriage permits public or public carrier's permits to be reserved under section 47 or section 55 [\* \* \*] for economically weaker sections of the community; (cii) the manner in which preference shall be given in the grant of stage carriage permits or public carriers permits or public carriers permits to economically weaker sections of the community where no reservation is made to such applicants; (ciii) the date and limits of annual income and the extent of land, for the purposes of Explanation I below sub-section (1C) of section 47; (civ) the circumstances under which, the manner in which, and the extent to which. reservation may be carried forward in respect of stage carriage permits or public carriers permits.] [(cc) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published, as required by sub-section (3) of section 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted;] (d) the issue of copies of permits in place of permits [lost, destroyed or mutilated;] (e) the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed; [(f) \* \* \* \*] [(g) the fees to be paid in respect of applications for permits, duplicate permits and plates;] [(gg) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter;] (h) the custody, production and cancellation on revocation or expiration of permits, and the return of permits which have become void or have been revoked; [(hh) the conditions subject to which, and the extent to which, a permit granted in

another State shall be valid in the State without counter-signature;] [(i) the conditions subject to which, and the extent to which, a permit granted in one region shall be valid in another region within the State without counter-signature; (ii) the conditions to be attached to permits for the purpose of giving effect to any agreement such as is referred to in clause (iv) of sub-section (1) of section 43;] (j) the authorities to whom, the time within which and the manner in which appeals may be made; (k) the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether gene. rally or in specified areas; (l) the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried; (m) the conditions subject to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers; (n) the safe custody and disposal of property left in a stage or contract carriage; (o) [regulating the painting or marking of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles] in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails; (p) the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes; (q) the provision of taxi meters on motor cabs requiring approval or standard types of taxi meters to be used and examining, testing and sealing taxi meters; (r) prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in specified areas or at places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to and or alight from the vehicle at a notified halting place; [(s) the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provision of adequate equipment and facilities for the convenience of all users thereof, the fees, if any, which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat, and the



duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition; (ss) the regulation of motor-cab ranks:] (t) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward; [(tt) authorising specified persons to enter at all reasonable times and inspect all premises used by permit holders for the purposes of their business;] (u) requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare; (v) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried; [(w) the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicit custom for such vehicles;] [(ww) the licensing of agents engaged in the business of collecting, [or forwarding and distributing] goods carried by public carriers;] (x) the inspection of transport vehicles and their contents and of the permits relating to them; (y) the carriage of persons other than the driver in goods vehicles; [(yy) the specification of the municipal limits of a town or of any other area as a free zone within which goods may, subject to the prescribed conditions, be carried anywhere by a motor vehicle covered by a public carrier's permit;] (z) the records to be maintained and the returns to be furnished by the owners of transport vehicles; and (za) any other matter which is to be or may be prescribed.

## **Chapter VI**

### **SPECIAL PROVISIONS RELATING TO STATE TRANSPORT UNDERTAKINGS**

Section 97 to 108

#### **Section 97**

##### **Definition.**

In this Chapter, unless the context otherwise requires, road transport service means a service of motor vehicles carrying passengers or goods or both by road for hire or reward. Case Law 1:

Over riding effect. Supreme Court Venkataswamy Reddy v. State Transport Authority, (2016) 8 SCC 402. Provisions of Chapter IV-A (Chapter VI of 1988 Act) are devised to override provisions of Chapter IV (Chapter V of 1988 Act) and it is expressly so enacted. Provisions of Chapter IV-A are clear and complete regarding manner and effect of “takeover” of operation of road transport service by State transport undertaking in relation to any area, or route or portion thereof, G.7.

Corresponding Law :S. 68-A of Act IV of 1939: 68A. Definitions. - In this Chapter, unless the context otherwise requires,- (a) "road transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward; (b) "State transport undertaking" means any undertaking providing road transport service, where such undertaking is carried on by,- (i) the Central Government, or a State Government; (ii) any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950; (64 of 1950.) [(iii) \* \* \*] (iv) any municipality or any corporation or company owned or controlled by [the Central Government or one or more State Governments, or by the Central Government and one or more State Governments].

## **Section 98**

### **Chapter to override Chapter V and other laws.**

The provisions of this Chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter V or in any other law for the time being in force or in any instrument having effect by virtue of any such law. Case Law 1: Overiding effect. Supreme Court Punjab Roadways Moga through its General Manager and Others v. Punja Sahib Bus and Transport Co. and Others; 2010 (5) SCC 235 Special scheme for STUs under powers delegated to State Government -- Scheme once published is law and Chap.6 has an overriding effect on Chap.5 of the Act and it operates against everyone unless it is modified or cancelled by the State Government -- Provisions of the scheme including the list of routes mentioned in the various annexures, and the ratio fixed are statutory in character which cannot be tinkered with by the RTAs and have overriding effect over the powers of RTAs under

Chap.5 of the Act-- Power of RTAs or STAs under Chap.5 or rights of private operators, held, are restricted by scheme published under Chap.6 -- Nobody can disturb a scheme published under S.100(3) except State Government in exercise of powers under S.102. Case Law 1: Validity of Scheme. Supreme Court Raj Transport Co. Pvt. Ltd. , Amritsar v. State Transp. Appellate Tribunal Pb. and Others; 2010 (13) SCC 460 Scheme was introduced in the year 1990 and the aforesaid substitution of a new clause in place of old Cl.(4) was brought about in the year 1997 -- Modification / provision it was clearly provided that only those permits which were granted by the Regional Transport Authority before coming into force of the scheme to the private operators for operating on monopoly routes, wholly or on portion thereof would remain unaffected -- As on the said date, when the aforesaid provision was inserted, the appellants had no permit granted in their favour by the Regional Transport Authority -- Held that the present appellants had no permit in their favour granted by the Regional Transport Authority before coming into force of the scheme -- Aforesaid scheme does not give any protection or benefit to the appellants. Case Law 1: Applicability. Andra Pradesh High Court H. Pattabhi Rami Reddy v. Secretary to Govt. Transport and R.B. Department, AIR 1988 AP 129 (FB). Section 68-B [Section 98 of new Act] does not bar to applicability of the General Clauses Act, 1897 to Chapter IV-A (Chapter VI of new Act). Corresponding Law :S. 68-B of Act IV of 1939: 68B. Chapter IVA to over ride Chapter IV and other laws. - The provisions of this Chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter IV of this Act or in any other law for the time being in force or in any instrument having effect by virtue of any such law.

## **Section 99**

### **Preparation and publication of proposal regarding road transport service of a State transport undertaking.**

(1) Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the

public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and other relevant particulars respecting thereto and shall publish such proposal in the Official Gazette of the State formulating such proposal and in not less than one newspaper in the regional language circulating in the area or route proposed to be covered by such scheme and also in such other manner as the State Government formulating such proposal deem fit. (2) [Notwithstanding anything contained in sub-section (1), when a proposal is published under that sub-section, then from the date of publication of such proposal, no permit shall be granted to any person, except a temporary permit during the pendency of the proposal and such temporary permit shall be valid only for a period of one year from the date of its issue or till the date of final publication of the scheme under section 100, whichever is earlier.] Case Law 1: Validity of Scheme. Supreme Court Jagjit Bus Service v. State Transport Commr., (1987) 4 SCC 131. In this case the Hon'ble Court decided that the Scheme published under Section 68-C [Section 99 of new Act] neither specifying any notified routes or areas nor stating whether private operators would be excluded from any particular route or area. Held, the scheme incomplete and ineffective. Case Law 2: Pending schemes. Supreme Court Devki Nandan v. State of Rajasthan, 1987 Supp SCC 438. In this case the Hon'ble Court quashed the scheme pending finalisation for eight years without proper explanation. Case Law 3: Quashed draft scheme. Supreme Court Ashfaq Ullah v. State of U.P., 1987 Supp SCC 38. In this case the Hon'ble Court quashed the notification publishing draft scheme under Section 68-C [Section 99 of new Act] on ground of unexplained inordinate delay in publishing approved scheme under Section 68-D [Section 100 of new Act]. Case Law 4: Right to operate vehicles. Supreme Court Pandiyan Roadways Corpn. Ltd. v. M.A. Egappan, (1987) 2 SCC 47, 52. After publication of approved scheme under Section 68-D [Section 100 of

new Act], apart from STU no person, other than those authorised by the terms of the scheme itself, is entitled to operate his vehicle on the entire notified route or any part thereof. Case Law 5: Withdrawal of scheme. Supreme Court Chavali Shivaji v. Govt. of A.P., AIR 1988 AP 124. In this case the Hon'ble Court decided that in view of Section 21, General Clauses Act, the State transport undertaking has power to withdraw a draft scheme published in Gazette. Case Law 6: Formulation of scheme. Supreme Court G.T Venkataswamy Reddy v. State Transport Authority, (2016) 8 SCC 402. In this case the object of formulation of scheme to be prepared and published by State transport undertaking is for providing efficient, adequate, economical and properly coordinated road transport service in public interest. Case Law 7: Rejection of claim for counter signature, erroneous. Supreme Court Ambala Bus Syndicate Pvt. Ltd v. Chandigarh Administration and Others; AIR 2018 SC 5354 : 2019 (12) SCC 685 Scheme framed under S.99 restricting grant of permit to non air conditioned buses -- Despite availability of scheme State permitting non air conditioned buses to operate on inter State route by virtue of reciprocal agreement -- Unless the reciprocal agreement is superseded by a fresh agreement or unless there is a new scheme framed by the Union Territory of Chandigarh specifying the provisions to the contrary, the buses operated by the appellant, which had permits issued prior to 01/11/1966 -- So long as they are renewed by the State of Punjab, the Union Territory of Chandigarh cannot refuse counter signature for the reason that the permits already issued in 1966 had outlived its life after five years of the reorganization -- The overriding effect provided in S.98 of the said Act operates only in case of an inconsistency on a legal position -- Rejection of claim for counter signature on inter State permit, erroneous. Case Law 8: Distinction between overlapping & intersection. Supreme Court Karnataka State Road Transport Corporation v. Ashrafulla Khan; 2002 (2) SCC 560 : AIR 2002 SC 629 Operation of stage carriage services scheme in question -- (Kolar pocket scheme) is for total exclusion of private operators on notified route or portion thereof -- No permit can be granted to private operators on same line of notified route or portion thereof excepting an intersection -- Small portion or portions falling within limits of a town or

village on a notified route cannot be treated as intersection but is an overlapping. Case Law 9: Permits for mini buses. Supreme Court Subhash Chander and Another v. STAT and Others; 2002 (4) SCC 168 : AIR 2002 SC 1562 Scheme framed by State -- Scheme cannot be vague reserving some routes on the assumption that in future State Transport Undertaking would operate upon such routes -- Not contemplating that State Transport Undertaking would operate on particular route -- S.80(2) and not S.99 would be applicable -- Under the scheme also, dominant purpose should be public interest and not to have permit Raj through back door otherwise whole purpose of sub-s.(2) of S.80 would be frustrated. Case Law 10: Requirements of schemes. Kerala High Court Kasaragod Dist. Bus Owners Association v. State of Kerala; AIR 1991 Ker. 139: ILR 1991 (2) Ker. 601 S.99 requires two things to be given in the scheme, that is the nature of the service proposed to be rendered and the area of the route proposed to be covered -- So long as the scheme gives these things which the section itself prescribes there will be a prima facie compliance for the purpose of validity of the scheme -- This section does not direct the disclosure of the material which assisted for the formation of the opinion. Case Law 11: Overlapping of notified routes. Kerala High Court Babudas N. R. v. STAT and Others; 2008 (4) KHC 650 Overlapping of notified route -- Temporary Permit -- Issuance of -- While considering reissuance of Temporary Permit for a notified route, authority should consider whether the State Government Undertaking has applied for and obtained a permit in relation to the said route or not -- As and when KSRTC applies for and obtains a permit in such route, the Temporary Permit issued in favour of a private operator would cease to be effective with immediate effect. Case Law 12: Validity of schemes. Bombay High Court Socorro N. Gracias and etc. v. State of Goa and Others; AIR 1999 Bom. 436 Scheme is in consonance with the provisions contained in S.99 and S.100 of the said Act -- Once it is found that the scheme is perfectly valid in terms of S.99 and S.100 of the Act, it is not necessary to find out whether the scheme is in consonance with the provisions contained in R.311 -- In compliance with the provisions of S.99 and S.100 the scheme clearly discloses the information regarding its

efficiency, adequacy and economical viability. Case Law 13: If STC not utilising notified routes, open to private operators. Kerala High Court Mohankumar R. v. Government of Kerala and Another; 2016 (3) KHC 244 If the State Transport Corporation (STC) does not apply for grant of permit through any route which is a notified route or covered by a Scheme, temporary permits can be granted to private operators based on temporary need -- If there are routes for which permits have been granted to STC in relation to notified routes or notified areas and if STC is not utilising the permit by operating the services, it will be open to the Regional Transport Authority to act on any application for grant of temporary permit to the private operators over such routes. Corresponding Law :S. 68-C of Act IV of 1939: 68C. Preparation and publication of scheme of road transport service of State transport under-taking. - Where any State transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly coordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State transport undertaking may prepare a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall cause every such scheme to be published in the Official Gazette and also in such other manner as the State Government may direct.

## **Section 100**

### **Objection to the proposal.**

(1) On the publication of any proposal regarding a scheme in the Official Gazette and in not less than one newspaper in the regional language circulating in the area or route which is to be covered by such proposal any person may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government. (2) The State Government may, after considering the objections and after giving an opportunity to the objector or his

representatives and the representatives of the State transport undertaking to be heard in the matter, if they so desire, approve or modify such proposal. (3) The scheme relating to the proposal as approved or modified under sub-section (2) shall then be published in the Official Gazette by the State Government making such scheme and in not less than one newspaper in the regional language circulating in the area or route covered by such scheme and the same shall thereupon become final on the date of its publication in the Official Gazette and shall be called the approved scheme and the area or route to which it relates shall be called the notified area or notified route: Provided that no such scheme which relates to any inter-State route shall be deemed to be an approved scheme unless it has the previous approval of the Central Government. (4) Notwithstanding anything contained in this section, where a scheme is not published as an approved scheme under sub-section (3) in the Official Gazette within a period of one year from the date of publication of the proposal regarding the scheme in the Official Gazette under sub-section (1), the proposal shall be deemed to have lapsed. Explanation : In computing the period of one year referred to in this sub-section, any period or periods during which the publication of the approved scheme under sub-section (3) was held up on account of any stay or injunction by the order of any Court shall be excluded. Case Law 1: Applicability. Supreme Court Nishar Ahmad v. State of U.P., 1994 Supp (3) SCC 460 (462). This is a case regarding the applicability of Section 100(4). The Hon'ble Court observed that the draft scheme already approved by Supreme Court, held, question of its lapse under Section 100(4) would not arise. Case Law 2: Failure to publish approved scheme within one year. Supreme Court Ram Krishna Verma v. State of U.P., (1992) 2 SCC 620. This is a case regarding the approval of old Act. The Hon'ble Court observed that the Sub-section (4) of draft scheme published under Section 68-C of the repealed Act would stand lapsed only if it is not approved within one year from the date when the new Act came into force i.e. July 1, 1989. Case Law 3: Sub-Section (2) - Power to approve or modify. Supreme Court Chandra Mohan Tiwari v. State of Madhya Pradesh, (1992) 2 SCC 105. The Hon'ble Court observed that despite the approval of the scheme under



Section 68-D (2) [Section 100 of new Act], the State Government may at any time, if it considers necessary in public interest so to do, modify any scheme published under Section 68-D(3). The exercise of that power would be dehors the approval granted under Section 68-D(2) and published under Section 68-D(3). Case Law 4: Validity of Scheme. Supreme Court *Madan Lal v. M.P.S.R.T.C.*, 1987 Supp SCC 35. Scheme for inter-State route approved by one State Government under sub-section (3) [Section 100(3) of new Act] but pending approval of the other State Government and Central Government under proviso to sub-section (3) and not yet published under sub-section (3) even after 13 years without any satisfactory explanation—Hence scheme quashed—Directions issued. Case Law 5: Hearing and Objection. Supreme Court *H. Pattabhirami Reddy v. Secretary to Govt., Transport and R & B Department, Hyderabad*, AIR 1988 AP 129 (FB). The Hon'ble Court observed that the fact that the draft schemes, prepared and got published by the Corporation earlier, remained without being disposed of by the Government, would not by itself make the later draft schemes approved by the Government invalid. On the promulgation of the new scheme the earlier schemes stand modified by implication *protanto*. In this case the Hon'ble Court also decided that the Government hearing objections is only a quasi judicial body. It need not give detailed reasons for rejection of objection. Case Law 6: Objection to scheme. Supreme Court *M. Madan Mohan Rao v. Union of India*, (2002) 6 SCC 348. Objection to proposed nationalization scheme must relate only to those relevant factors about which the State Government is required to form an opinion under the statute. Any objection which is irrelevant and extraneous to the provisions of the statute is not permissible. The Court also said that no private operator can operate his services on any part or portion of a notified area or notified route unless authorized so to do by the terms of the scheme itself. Case Law 7: Jurisdiction of hearing authority. Supreme Court *Anwar v. First Addl. District Judge*, (1986) 4 SCC 21. In this case the Hon'ble Court decided that the Hearing Authority has exclusive jurisdiction under Section 68-D [Section 100 of new Act] to decide merits of a scheme or desirability of bringing such scheme—Civil Court's jurisdiction to issue injunction

restraining Hearing Authority from proceeding under Section 68-D impliedly barred—Where aggrieved private operators raising objections under Section 68-D inter alia on ground of violation of Article 19(g), writ petition before High Court instead maintainable. Case Law 8: Right to claim permission. Supreme Court Punjab Roadways v. Punja Sahib Bus & Transport Co., (2010) 5 SCC 235. A combined reading of Sections 99, 100 and 104 in the light of Section 2(38), MV Act, makes it clear that once a scheme is published under Section 100, routes are notified, no persons other than STUs may operate on the notified area or route except as provided in the scheme itself. The scheme once published under Section 100 is law and operates against everyone unless it is modified or cancelled by the State Government under its powers under Section 102. The provisions of the Scheme including the list of routes notified and the ratio fixed therein between STUs and private operators are statutory in character and legally binding and cannot be tinkered with by the RTAs and have overriding effect over the powers of RTAs under Chapter V, MV Act. Private operators have no right to claim regular permits upsetting the ratio fixed. Private operators may get regular permits on the notified route or a portion thereof as per the scheme and within the quota earmarked for them. Case Law 9: Delay. Supreme Court Onkar Singh v. R.T.A., (1986) 3 SCC 259. Inordinate delay in approving draft scheme—Effect—Delay of 25 years, in absence of sufficient explanation, fatal—Scheme quashed. Case Law 9: Scheme violation. Madras High Court Tvl. Cholan Roadways Corporation Ltd. , Kumbakonam v. PL-A. Annamalai Chettiar, Prop. PLA Savings Corporation Ltd. and Others; AIR 1995 Mad. 205 Providing for complete exclusion of other persons except State Transport Undertaking from operating -- Permits granted to Stage Carriage Companies overlapping such served route in the Scheme -- Granting of such permits, violate the Scheme, as such liable to be quashed. Case Law 10: Grant of extension of new route to pvt. operators. Rajasthan High Court Gopal Purohit v. State of Rajasthan and Others; 2019 KHC 3040 : AIR 2019 Raj. 73 Grant of extension of new route to private operators -- Grant of new route by State Government covering notified area or notified route under Scheme published under S.100(3) -- As per the provisions of S.104 of the

Act, the State Transport Authority or the Regional Transport Authority are not entitled to grant any permit on any notified area or notified route covered by the Scheme published under subs.(3) of S.100 of the Act except in accordance with the provisions of the Scheme -- State Transport Authority (STA) and Regional Transport Authority (RTA) granting new route beyond scope of notification, beyond powers under S.104 -- Permits liable to be quashed.

Corresponding Law :S. 68-D of Act IV of 1939: 68D. Objection to the scheme. - [(1) On the publication of any scheme in the Official Gazette and in not less than one newspaper in regional language circulating in the area or route which is proposed to be covered by such scheme,- (i) any person already providing transport facilities by any means along or near the area or route proposed to be covered by the scheme; (ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government; and (iii) any local authority or police authority within whose jurisdiction any part of the area or route proposed to be covered by the scheme lies, may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government.] (2) The State Government may, after considering the objections and after giving an opportunity to the objector or his representatives and the representatives of the State transport undertaking to be heard in the matter, if they so desire, approve or modify the scheme. (3) The scheme as approved or modified under sub-section (2) shall then be published in the Official Gazette by the State Government and the same shall thereupon become final and shall be called the approved scheme and the area or route to which it relates shall be called the notified area or notified route : Provided that no such scheme which relates to any inter-State route shall be deemed to be an approved scheme unless it has been published in the Official Gazette with the previous approval of the Central Government.

## **Section 101**

**Operation of additional services by a State transport undertaking in certain circumstances.**

Notwithstanding anything contained in section 87, a State transport undertaking may, in the public interest operate additional services for the conveyance of the passengers on special occasions such as to and from fairs and religious gatherings: Provided that the State transport undertaking shall inform about the operation of such additional services to the concerned Transport Authority without delay.

## **Section 102**

### **Cancellation or modification of scheme.**

(1) The State Government may, at any time, if it considers necessary, in the public interest so to do, modify any approved scheme after giving the State transport undertaking; and any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification, an opportunity of being heard in respect of the proposed modification. (2) The State Government shall publish any modification proposed under sub-section (1) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not being less than thirty days from such publication in the Official Gazette, and the time and place at which any representation received in this behalf will be heard by the State Government. Case Law 1: Cancellation of the Scheme. Supreme Court Afsar Jahan Begum v. State of M.P., (1996) 8 SCC 38. In this case the Hon'ble Court observed where relaxation granted up to a distance of 25 kms. on nationalised route to private operators without picking up or setting down the passengers on notified route strictly subject to terms and conditions mentioned therein—Supreme Court cannot give any direction or relief to the petitioners—If they have any right in the modified scheme the RTA or STA may go into the matter after notice to the State Transport Undertaking and all other interested persons. Case Law 2: Partial exemption. Supreme Court A.P. State Road Transport Corpn. v. P.V. Ramamohan Chowdhary, (1992) 2 SCC 235. In this case the Hon'ble Court observed where in a scheme for nationalisation some routes are exempted, partial exemption cannot be questioned as discriminatory as it is controlled and regulated by the proviso. Case

Law 3: Modification of scheme. Supreme Court Linga Reddy B. A. and Others v. Karnataka STA and Others; AIR 2015 SC 767 : 2015 (4) SCC 515 Modification or cancellation of scheme under S.102, MV Act, 1988 -- Modification of a scheme is a quasi-judicial function -- It is the duty of State to give reasons and to pass a speaking order that excludes arbitrariness in action -- State is supposed to be acting in public interest while exercising power under S.102 -- No such reason was given in present case -- Government simply stated that modification of schemes concerned is in public interest without anything more -- Therefore, State Government has to hear the objections, consider and decide the same in accordance with law by a reasoned order within three months as correctly directed by High Court.

Case Law 4: Modification of nationalisation scheme. Supreme Court Rasid Javed and Others v. State of U. P. and Another; 2010 (7) SCC 781 : AIR 2010 SC 2275 Notification dated April 16, 1999 does not empower the Hearing Authority to approve or modify the scheme; he has only been empowered to hear the objections -- Order of the Hearing Authority dated October 11, 1999 is in excess of the authority given to him and cannot be construed as a final order of approval under S.102 (1) of the 1988 Act.

Case Law 5: Modification of scheme should be in public interest. Telangana High Court Vishweshwar Rao P. L. (Prof. ) v. State of Telangana and Others; AIR 2020 Tel. 116 The term 'transport service providers' would include both the State Transport Corporation, and private operators from the private sector -- Subsection (3) of S.67 begins with the non obstante clause, thereby it implies that the embargo contained in Chap.6 can be ignored, while the State Govt. invokes its power under S.67(3) -- S.102 necessarily has to be interpreted in light of the enormous power bestowed upon the State Government to control road transport under S.67 of the Act of 1988 -- S.102 permits the State Government to modify any scheme, provided the modification is considered necessary, and in public interest -- Therefore, the State Government does have the power to take a decision to grant to the private transport operators in compliance with S.102 while invoking its power under S.67(1)(d).

Case Law 6: Extent of interference by RTA. Kerala High Court Palakkad Jilla Bus Operators Association and Another v. Government of Kerala and

Others; ILR 2017 (3) Ker. 819 Modification of Scheme -- Extent of interference by Regional Transport Authority (RTA) -- By giving important intermediate points, route is notified, but in order to traverse through the town / city / district the line of path is to be identified -- Thus, merely because the line of path is fixed by RTA, it can never be termed as cancellation or modification of Scheme notified by the Government. Corresponding Law :S. 68-E of Act IV of 1939: 68E.

Cancellation or modification of scheme. - [(1)] Any scheme published under sub-section (3) of section 68D may at any time be cancelled or modified by the State transport undertaking and the procedure laid down in section 68C and section of 68D shall, so far as it can be made applicable, be followed in every case where the scheme is [proposed to be cancelled or modified as if the proposal were a separate scheme: Provided that the State Transport Undertaking may, with the previous approval of the State Government, modify without following the procedure laid down in section 68C and section 68D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons in respect of the following matters, namely:- (a) increase in the number of vehicles or the number of trips; (b) change in the type of vehicles without reducing the seating capacity; (c) extension of the route or area, without reducing the frequency of the service; or (d) alteration of the time-table without reducing the frequency of the service.] [(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, if it considers necessary in the public interest so to do, modify any scheme published under sub-section (3) of section 68D, after giving,- (i) the State Transport Undertaking, and (ii) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification, an opportunity of being heard in respect of the proposed modification.]

## **Section 103**

### **Issue of permits to State transport undertakings.**

(1) Where, in pursuance of an approved scheme, any State transport undertaking applies in

such manner as may be prescribed by the State Government in this behalf for a stage carriage permit or a goods carriage permit or a contract carriage permit in respect of a notified area or notified route, the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case shall issue such permit to the State transport undertaking, notwithstanding anything to the contrary contained in Chapter V. (2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the State Transport Authority or, as the case may be, the Regional Transport Authority concerned may, by order, refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending; cancel any existing permit; modify the terms of any existing permit so as to (i) render the permit ineffective beyond a specified date; (ii) reduce the number of vehicles authorised to be used under the permit; (iii) curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route. (4) For the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by the State Transport Authority or any Regional Transport Authority under sub-section (1) or sub-section (2).

STATE AMENDMENTS: State - Karnataka. - In its application to the State of Karnataka in Section 103, after sub-S. (1), insert the following sub-section, namely: (1-A) It shall be lawful for the State Transport Undertaking to operate on any route as stage carriage, under any permit issued therefor to such Undertaking under sub-section (1), any vehicle placed at the disposal and under the control of such Undertaking by the owner of such vehicle under any arrangement entered into between such owner and the Undertaking for the use of the said vehicle by the Undertaking.

Karnataka Act 11 of 1996, Section 2 ( w.r.e.f . 8-7-1996). State - Punjab. - In Section 103, after sub-section (1), the following sub-section shall be inserted, namely :- (1-A) Notwithstanding anything contained in this Act, a State Transport Undertaking may operate on any route as Stage Carriage under any permit issued therefor to such undertaking under sub-section (1), any vehicle, placed at the disposal and under the control of such undertaking by the owner of such vehicle under any

arrangement, entered into between such owner and the undertaking for the use of the said vehicle by the undertaking.[Added by Punjab Act No. 17 of 2006.] State - Uttar Pradesh. - In its application to the State of Uttar Pradesh, in Section 103, after sub-S. (1), the following sub-section shall be inserted, namely: (1-A) It shall be lawful for a State transport undertaking to operate on any route as stage carriage, under any permit issued therefor to such undertaking under sub-section (1), any vehicle placed at the disposal and under the control of such undertaking by the owner of such vehicle under any arrangement entered into between such owner and the undertaking for the use of the said vehicle by the undertaking.Uttar Pradesh Act 5 of 1993, Section 2 ( w.r.e.f . 16-1-1993). State - Haryana. - After sub-section (1) of section 103 of the Motor Vehicles Act, 1988, the following sub-section shall be Inserted, namely:- (1A) Notwithstanding anything contained in this Act, State Transport Undertaking may operate on any route as Stage Carriage under any permit issued thereof to such undertaking under sub-section (1), any vehicle, placed at the disposal and under the control of such undertaking by the owner of such vehicle under any arrangement, entered into between such owner and the undertaking for the use of the said vehicle by the undertaking.[Inserted by Haryana Act No. 22 of 2018. Case Law 1: Variation of Permit. Supreme Court Pandiyan Roadways Corpn. Ltd. v. M.A. Egappan, (1987) 2 SCC 47, 50, 51. In this case the Hon'ble Court observed that the variation of permit by including the whole route or a part thereof in respect of which a scheme is published under Section 68-C, cannot be granted. Case Law 2: Issue of permits to STU. Kerala High Court Sathyan K. v. K. K. Babu and Others; 2017 (3) KHC 25 : ILR 2017 (3) Ker. 753 Issue of permits to State Transport Undertakings -- Secretary hearing the matter and Regional Transport Authority passed order -- Held, not proper -- If a person has to take a decision, it is he who is to hear the matter. If any action, administrative or quasi judicial is to be taken to the prejudice of a person having adverse effect on him and having civil consequences, the person has to be heard and any action taken or order passed without hearing would be void ab initio being in violation of principles of natural justice. Case Law 3: Cancellation of granted permit disregarding scheme.



Kerala High Court Pramod Kumar v. KSRTC, Tvm and Others; ILR 2014 (1) Ker. 949 : 2014 (1) KHC 614 Held, once the Scheme is brought into play under S.103(2)(a) of the Motor Vehicles Act, the Authority is expected to refuse to entertain an application for the grant of any permit which goes against the Scheme as may be pending -- Power under S.103 to cancel an existing permit or to modify the term of the existing permit will not extend to cancelling or modifying a permit which was granted after the Scheme has come into effect. Case Law 4: Challenges as to grant of. Kerala High Court Tvl. Cholan Roadways Corporation Ltd. , Kumbakonam v. PL-A. Annamalai Chettiar, Prop. PLA Savings Corporation Ltd. and Others; AIR 1995 Mad. 205 Where Roadways Transport Corporation prepared and published the approved scheme -- It is entitled to ensure that the scheme is not violated -- Plea that Corporation cannot be aggrieved party as the permits granted in favour of licensee were not challenged by the Roadways Transport Corporation by preferring an appeal and as it is not operating any service on the routes of the approved schemes in question cannot be sustained. Corresponding Law :S. 68-F of Act IV of 1939: 68F. Issue of permits to State transport under-takings. - (1) Where, in pursuance of an approved scheme, any State transport undertaking applies [in such manner as may be prescribed by the State Government in this behalf] for a stage carriage permit or a public carrier's permit or a contract carriage permit in respect of a notified area or notified route, the [State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case] shall issue such permit to the State transport undertaking, notwithstanding anything to the contrary contained in Chapter IV. [(1A) Where any scheme has been published by a State Transport Undertaking under section 68C that Undertaking may apply for a temporary permit, in respect of any area or route or portion thereof specified in the said scheme, for the period intervening between the date of publication of the scheme and the date of publication of the approved or modified scheme, and where such application is made, the State Transport Authority or the Regional Transport Authority as the case may be, shall, if it is satisfied that it is necessary to increase, in the public interest, the

number of vehicles operating in such area or route or portion thereof, issue the temporary permit prayed for by the State Transport Undertaking. (1B) A temporary permit issued in pursuance of the provisions of sub-section (1A) shall be effective,- (i) if the scheme is published under sub-section (3) of section 68D, until the grant of the permit to the State Transport Undertaking under sub-section (1), or (ii) if the scheme is not published under sub-section (3) of section 68D, until the expiration of the one week from the date on which the order under subsection (2) of section 68D is made. (1C) If no application for a temporary permit is made under sub-section (1A), the State Transport Authority or the Regional Transport Authority, as the case may be, may grant, subject to such conditions as it may think fit, temporary permit to any person in respect of the area or route or portion thereof specified in the scheme and the permit so granted shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route or portion thereof. (1D) Save as otherwise provided in sub-section (1A) or subsection (1C), no permit shall, be granted or renewed during the period intervening between the date of publication, under section 68C of any scheme and the date of publication of the approved or modified scheme, in favour of any person for any class of road transport service in relation to an area or route or portion thereof covered by such scheme : Provided that where the period of operation of a permit in relation to any area, route or portion thereof specified in a scheme published under section 68C expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of section 68D.] [(1E) Where a State transport undertaking applies for renewal of a permit within the period specified in sub-section (2A) of section 58, the State Transport Authority or, as the case may be, the Regional Transport Authority, shall, renew such permit, notwithstanding anything to the contrary contained in Chapter IV.] (2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, [the State Transport Authority or as the case may be, the Regional Transport Authority concerned] may, by order,- (a) refuse to entertain any application for [the

grant or renewal of any other permit or reject any such application as may be pending]; (b) cancel any existing permit; (c) modify the terms of any existing permit so as to- (i) render the permit ineffective beyond a specified date; (ii) reduce the number of vehicles authorised to be used under the permit; (iii) curtail the area or route covered by the permit so far as such permit relates to the notified area or notified route. (3) For, the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by [the State Transport Authority or any Regional Transport Authority] under sub-section (1) or sub-section (2).

## **Section 104**

### **Restriction on grant of permits in respect of a notified area or notified route.**

Where a scheme has been published under sub-section (3) of section 100 in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme: Provided that where no application for a permit has been made by the State transport undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State transport undertaking in respect of that area or route. Case Law 1: Right to claim permit. Supreme Court U.P. SRTC v. Anwar Ahmed, (1997) 3 SCC 191. In this case the Hon'ble Court decided that after a scheme is approved and published, private operators have no right to claim permit to operate their vehicles on the notified area, route or portion thereof except to the extent permitted by the scheme itself. The scheme is law and prevails till varied according to law. Where SRTC has already obtained permits and commenced plying their vehicles on the notified routes in accordance with the scheme, private operators cannot be allowed to enter into the prohibited area, routes or portions thereof covered by the scheme through backdoor by seeking temporary permits under proviso to Section 104 for a new route by fusing two notified

routes. Case Law 2: Scope of S.104 - Enumerated. Supreme Court Kerala SRTC v. Baby P. P. and Others; AIR 2018 SC 2909 : 2018 (7) SCC 501 Where a Scheme has been published under S.100(3) of the Act in respect of any notified area or notified route, grant of any permit on the notified route or area is impermissible, except in accordance with the provisions of the Scheme. If there is any need for protecting the travelling public from inconvenience, State Transport Undertaking and the Government will have to make sufficient provision in the Scheme itself to avoid inconvenience being caused to travelling public -- Mere inconvenience caused to public cannot be cited as a reason to grant permit traversing a notified route. Intersection in a route and overlapping in a route -- Examined -- In case of overlapping, such carrier would ply on the same line to travel on a portion of the notified route, whereas in case of intersection, private stage carriage operator's route only cuts across the notified route for its onward journey. Fusing non notified and notified route for granting temporary permits -- Held, cannot be allowed -- Thus, a new route cannot be introduced by fusing a non notified route with the notified route to seek a temporary permit on a carved out route. Scope of the Proviso -- Examined -- Held, Proviso to S.104 cannot be read aloof from the main Section -- A plain reading of the Proviso to S.104 makes it clear that temporary permits can be granted to the private sector, wherever the STU does not operate its service -- However, Proviso is also subject to the stipulations of the Scheme, akin to the main Section. Case Law 3: Temporary Permit. Supreme Court Karnataka SRTC. v. Secy., Karnataka STA., 1987 Supp SCC 728. Temporary permit for an inter-State route, partly covering a route under for intra-State routes. Issuance of such a permit to a private operator after the enforcement of the Scheme, held, impermissible. Case Law 4: Variation of Permit. Supreme Court G.T. Venkataswamy Reddy v. State Transport Authority, (2016) 8 SCC 402. Variation of permit after publication of approved scheme, not permissible. Hence, existing operators cannot seek increase in number of trips or vehicles beyond what was permitted and stood frozen under the approved scheme. Case Law 5: Restriction on grant of permit on notified route. Madras High Court Tvl. Jeeva Transport Corporation Ltd. v. RTA, Salem and Others; AIR

1998 Mad. 292 As per S. 104 of the Act, after the scheme is published under S. 100(3) in respect of notified area or notified route, the authorities cannot grant any permit except in accordance with Law -- State Appellate Tribunal allowed variation of condition of permit sought by existing operator in view of the fact that such scheme was struck off by High Court -- Order allowing such variation was illegal as the scheme was subsequently upheld by Supreme Court and as a result of such upholding the scheme was deemed to have been in force from the date when it was published. Case Law 6: Issue of temp. permit in notified route. Kerala High Court Kerala SRTC v. Akash Dev K. A. and Others; 2020 (2) KHC 474 : 2020 (3) KLT 218 A temporary permit cannot be issued to a private stage carriage operator to traverse on the notified route which is being served by the State Transport Undertaking, in excess of the permissible distance provided under the scheme. Corresponding Law :S. 68-FF of Act IV of 1939: [68FF. Restriction on grant of permits in respect of a notified area or notified route. - Where a scheme has been published under sub-section (3) of section 68D in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme; Provided that where no application for a permit has been made and by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, 'as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the' condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.]

## **Section 105**

### **Principles and method of determining compensation and payment thereof.**

(1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified, there shall be paid by the State transport undertaking to the holder of the permit, compensation, the amount of

which shall be determined in accordance with the provisions of sub-section (4) or sub-section (5), as the case may be. (2) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route or area in lieu thereof has been offered by the State Transport Authority or the Regional Transport Authority, as the case may be and accepted by the holder of the permit. (3) For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-section (2) of section 103. (4) Where, in exercise of the powers conferred by clause (b) or sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period from which the permit, would otherwise have been effective, the compensation payable to the holder of the permit for each vehicle affected by such cancellation or modification shall be computed as follows: for every complete month or part of a month Two hundred exceeding fifteen days of the unexpired period of the permit rupees; for part of a month not exceeding fifteen One hundred days of the unexpired period of the permit rupees: Provided that the amount of compensation shall, in no case, be less than four hundred rupees. (5) Where, in exercise of the powers conferred by sub-clause (iii) of clause (c) of sub-section (2) of section 103, the terms of an existing permit are modified so as to curtail the area or route of any vehicle authorised to be used thereunder, the compensation payable to the holder of the permit on account of such curtailment shall be an amount computed in accordance with the following formula, namely:  $Y \times \frac{A}{R}$  Explanation : In this formula, Y means the length or area by which the route or area covered by the permit is curtailed; A means the amount computed in accordance with sub-section (4); R means the total length of the route or the total area covered by the permit. (6) The amount of compensation payable under this section shall be paid by the State transport undertaking to the person or persons entitled thereto within one month from the date on which the cancellation or

modification of the permit becomes effective: Provided that where the State transport undertaking fails to make the payment within the said period of one month, it shall pay interest at the rate of seven per cent. per annum from the date on which it falls due. Corresponding Law :S. 68-G of Act IV of 1939: 68G. Principles and method of determining compensation. - (1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of section 68F, any existing permit is cancelled or the terms thereof are modified, there shall be paid by the State transport undertaking to the holder of the permit compensation the amount of which shall be determined in accordance with the provisions of sub-section (4) or sub-section (5), as the case may be. (2) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route or area in lieu thereof has been offered by [the State Transport Authority or the Regional Transport Authority, as the case may be,] and accepted by the holder of the permit. (3) For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-section (2) of section 68F. (4) Where, in exercise of the powers conferred by clause (b) or sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (2) of section 68F, any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period for which the permit would otherwise have been effective, the compensation payable to the holder of the permit for each vehicle affected by such cancellation or modification shall be computed as follows:- (a) for every complete month or part of a Two hundred month exceeding fifteen days of the rupees unexpired period of the permit: (b) for part of a month not exceeding fifteen One hundred days of the unexpired period of the rupees permit : Provided that the amount of compensation shall, in no case, be less than four hundred rupees. (5) Where, in exercise of the powers conferred by sub-clause (iii) of clause (c) of sub-section (2) of section 68F, the terms of an existing permit are modified so as to curtail the area or route of any vehicle authorised to be used thereunder, the

compensation payable to the holder of the permit on account of such curtailment shall be an amount computed in accordance with the following formula, namely:-  $Y \times A \times R$  Explanation. - In this formula,- (i) "Y" means the length or area by which the route or area covered by the permit is curtailed; (ii) "A" means the amount computed in accordance with sub-section (4); (iii) R " means the total length of the route or the total area covered by the permit.

## **Section 106**

### **Disposal of article found in vehicles.**

Where any article found in any transport vehicle operated by the State transport undertaking is not claimed by its owner within the prescribed period, the State transport undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand. Corresponding Law :S. 68-HH of Act IV of 1939: [68HH. Disposal of articles found in vehicles. - Where any article found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period, the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.]

## **Section 107**

### **Power of State Government to make rules.**

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: the form in which any proposal regarding a scheme may be published under section 99; the manner in which objections may be filed under sub-section (1) of section 100; the manner in which objections may be considered and disposed of under sub-section (2) of section 100; the form in which any approved scheme may be published under sub-section (3) of section 100; the manner in which



application under sub-section (1) of section 103 may be made; the period within which the owner may claim any article found left in any transport vehicle under section 106 and the manner of sale of such article; the manner of service of orders under this Chapter; any other matter which has to be, or may be, prescribed. Corresponding Law :S. 68-I of Act IV of 1939: 68I. Power to make rules. - (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: - (a) the form in which, any scheme or approved scheme may be published under section 68C or sub-section (3) of section 68D; (b) the manner in which objections may be filed under sub-section (1) of section 68D; (c) the manner in which objections may be considered and disposed of under sub-section (2) of section 68D; [(cc) the manner in which application under sub-section (1) of section 68F may be made; (ccc) the period within which the owner may claim an article found left in any transport vehicle under section 68HH and the manner of sale of such article ;] (d) the manner of service of orders under this Chapter; (e) any other matter which has to be, or may be, prescribed.

## **Section 108**

### **Certain powers of State Government exercisable by the Central Government.**

The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area. Corresponding Law :S. 68-J of Act IV of 1939: [68J. Certain powers of State Government exercisable by the Central Government. - The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area.]

## **Chapter VII**

### **CONSTRUCTION, EQUIPMENT AND MAINTENANCE OF MOTOR VEHICLES**

Section 109 to 111

#### **Section 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 with a mechanical or electrical signalling device of a prescribed nature. (3) [If the Central Government is of the opinion that it is necessary or expedient so to do, in public interest, it may, by order published in the Official Gazette, notify that any article or process used by a manufacturer shall conform to such standard as may be specified in that order.] Case Law 1: Interpretation. Supreme Court Association of Registration Plates v. Union of India, (2005) 1 SCC 679. In this case the Hon'ble Court interpreted certain words of S 109. An article which is adjunct to or necessarily attached to a motor vehicle would also be covered by words "any article or process used by a manufacturer" in Section 109(3) in the said expression in Section 109(3). Hence, a high security registration plate is covered. Moreover, "in the context", "manufacturer" cannot be restricted to only manufacturers of motor vehicles as defined in Section 2(21-A). Registration plates are not manufactured by the manufacturer of motor vehicle, but for maintenance and operation of motor vehicles, registration plates are necessary. Therefore manufacturers of registration plates can be subjected to certain standards by a statutory order to be notified and published in accordance with Section 109(3). Hence the Motor Vehicles (New High Security Registration Plates) Order, 2001 was intra vires Section 109(3). Corresponding Law :S. 69-A of Act IV of 1939: [69A. Vehicles to have right hand control. - Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.]

## **Section 110**

### **Power of Central Government to make rules.**

(1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all or any of the following matters, namely: the width, height, length and overhand of vehicles and of the loads carried; [the size, nature, maximum retail price and condition of tyres, including embossing thereon of date and year of manufacture, and the maximum load carrying capacity;] brakes and steering gear; the use of safety glasses including prohibition of the use of tinted safety glasses; signalling appliances, lamps and reflectors; speed governors; the emission of smoke, visible vapour, sparks, ashes, grit or oil; the reduction of noise emitted by or caused by vehicles; the embossment of chassis number and engine number and the date of manufacture; safety belts, handle bars of motor cycles, auto-dippers and other equipments essential for safety of drivers, passengers and other road users; standards of the components, [including software,] used in the vehicle as inbuilt safety devices; provision for transportation of goods of dangerous or hazardous nature to human life; standards for emission of air pollutants; [installation of catalytic convertors in the class of vehicles to be prescribed; the placement of audio-visual or radio or tape recorder type of devices in public vehicles; warranty after sale of vehicle and norms therefor : Provided that any rules relating to the matters dealing with the protection of environment, so far as may be, shall be made after consultation with the Ministry of the Government of India dealing with environment. (2) Rules may be made under sub-section (1) governing the matters mentioned therein, including the manner of ensuring the compliance with such matters and the maintenance of motor vehicles in respect of such matters, either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances [and such rules may lay down the procedure for investigation, the officers empowered to conduct such investigations, the procedure for hearing of such matters and the penalties to be levied thereunder] (2A) [Persons empowered under sub-section (2) to conduct

investigations referred to in sub-section (2) shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely: - summoning and enforcing the attendance of any person and examining him on oath; requiring the discovery and production of any document; receiving evidence on affidavit; and any other matter as may be prescribed.] (3) Notwithstanding anything contained in this section, the Central Government may exempt any class of motor vehicles from the provisions of this Chapter; a State Government may exempt any motor vehicle or any class or description of motor vehicles from the rules made under sub-section (1) subject to such conditions as may be prescribed by the Central Government.

Case Law 1: Direction to petrol pump not to supply fuel to vehicles w/o PUC- Illegal. Supreme Court State of Madhya Pradesh v. Centre for Environment Protection Research and Development and Others; AIR 2020 SC 4221 : 2020 (9) SCC 781 Motor Vehicles not complying with requirement of possessing and / or displaying valid PUC Certificate cannot be debarred from being supplied fuel -- In passing blanket direction, directing appellant State Government to ensure that no dealer and / or outlet and / or petrol pump should supply fuel to vehicles without PUC Certificate, de hors Central Motor Vehicles Rules, Tribunal overlooked fact that no vehicle can either be repaired to comply with pollution norms, nor tested for compliance with pollution norms upon repair, without fuel -- Tribunal had no power and / or authority and / or jurisdiction to pass orders directing the Appellant State Government to issue orders, instructions or directions on dealers, outlets and petrol pumps not to supply fuel to vehicles without PUC Certificate.

Corresponding Law :S. 69-B of Act IV of 1939: [69B. Power of Central Government to make rules. - (1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to any of the following matters, namely:- (a) the width, height, length and overhang of vehicles and of the loads carried; (b) the size, nature and condition of tyres. (2) Rules may be made under sub-section (1) governing the matters mentioned therein either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances.]

## **Section 110A**

### **Recall of motor vehicles.**

(1) [The Central Government may, by order, direct a manufacturer to recall motor vehicles of a particular type or its variants, if - a defect in that particular type of motor vehicle may cause harm to the environment or to the driver or occupants of such motor vehicle or other road users; and a defect in that particular type of motor vehicle has been reported to the Central Government by -

(i) such percentage of owners, as the Central Government, may by notification in the Official Gazette, specify; or (ii) a testing agency; or (iii) any other source. (2) Where the defect referred to in sub-section (1) lies in a motor vehicle component, the Central Government may, by order, direct a manufacturer to recall all motor vehicles which contain such component, regardless of the type or variants of such motor vehicle. (3) A manufacturer whose vehicles are recalled under sub-section (1) or sub-section (2), shall - reimburse the buyers for the full cost of the motor vehicle, subject to any hire-purchase or lease-hypothecation agreement; or replace the defective motor vehicle with another motor vehicle of similar or better specifications which complies with the standards specified under this Act or repair it; and pay such fines and other dues in accordance with sub-section (6). (4) Where a manufacturer notices a defect in a motor vehicle manufactured by him, he shall inform the Central Government of the defect and initiate recall proceedings and in such case the manufacturer shall not be liable to pay fine under sub-section (3). (5) The Central Government may authorise any officer to conduct investigation under this section who shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely: - summoning and enforcing the attendance of any person and examining him on oath; requiring the discovery and production of any document; receiving evidence on affidavit; and any other matter as may be prescribed. (6) The Central Government may make rules for regulating the recall of motor vehicles, of a particular type or its variants, for any defect which in the opinion of the Central Government, may cause harm to the environment or to the driver or occupants of such motor vehicle or to other

road users.]

## **Section 110B**

### **Type - approval certificate and testing agencies.**

(1) [No motor vehicle, including a trailer or semi-trailer or modular hydraulic trailer or side car shall be sold or delivered or offered for sale or delivery or used in a public place in India unless a type-approval certificate referred to in sub-section (2) has been issued in respect of such vehicle: Provided that the Central Government may, by notification in the Official Gazette, extend the requirement of type-approval certificate to other vehicles drawn or intended to be drawn by a motor vehicle: Provided further that such certificate shall not be required for vehicles which are - intended for export or display or demonstration or exhibition; or used by a manufacturer of motor vehicles or motor vehicle components or a research and development centre or a test by agency for testing and validation or for data collection, inside factory premises or in a non-public place; or exempted by the Central Government. (2) The manufacturer or importer of motor vehicles including trailers, semi-trailers, modular hydraulic trailers and side cars shall submit the prototype of the vehicle to be manufactured or imported for test to a testing agency for obtaining a type-approval certificate by such agency. (3) The Central Government shall make rules for the accreditation, registration and regulation of testing agencies. (4) The testing agencies shall conduct tests on vehicles drawn from the production line of the manufacturer or obtained otherwise to verify the conformity of such vehicles to the provisions of this Chapter and the rules and regulations made thereunder. (5) Where the motor vehicle having a type-approval certificate is recalled under section 110A, the testing agency which granted the certificate to such motor vehicle shall be liable for its accreditation and registration to be cancelled.]

## **Section 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. (2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing all or any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or description or in particular circumstances, namely: seating arrangements in public service vehicles and the protection of passengers against the weather; prohibiting or restricting the use of audible signals at certain times or in certain places; prohibiting the carrying of appliances likely to cause annoyance or danger; the periodical testing and inspection of vehicles by prescribed authorities [and fees to be charged for such test;] the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited; and the use of trailers with motor vehicles; [x x x x] OLD LAW : Prior to its omission, Clause (g) read as under:- (g) the placement of audio-visual or radio or tape-recorder type of devices in the vehicle. Corresponding Law :S. 70 of Act IV of 1939: 70.

Power 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 referred to in clause (a) or clause (b) of sub-section (1) of section 69B] (2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances, namely:- [(a) \* \* \* \*] (b) seating arrangements in public service vehicles and the protection of passengers against the weather; [(c) \* \* \* \*] (d) brakes and steering gear; (e) the use of safety glass; (f) signalling appliances, lamps and reflectors; (g) speed governors; (h) the emission of smoke, visible vapour, sparks, ashes, grit or oil; (i) the reduction of noise emitted by or caused by vehicles; (j) prohibiting or restricting the use of audible signals at certain times or in certain places; (k) prohibiting the carrying of appliances likely to cause annoyance or danger; (l) the periodical testing and inspection of vehicles by prescribed authorities; (m) the particulars other

than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited; and (n) the use of trailers with motor vehicles.

## **Chapter VIII**

### **CONTROL OF TRAFFIC**

Section 112 to 138

#### **Section 112**

##### **Limits of speed.**

(1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle under this Act or by or under any other law for the time being in force: Provided that such maximum speed shall in no case exceed the maximum fixed for any motor vehicle or class or description of motor vehicles by the Central Government by notification in the Official Gazette.

(2) The State Government or any authority authorised in this behalf by the State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in the Official Gazette, and by causing appropriate traffic signs to be placed or erected under section 116 at suitable places, fix such maximum speed limits or minimum speed limits as it thinks fit for motor vehicles or any specified class or description of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads: Provided that no such notification is necessary if any restriction under this section is to remain in force for not more than one month. (3) Nothing in this section shall apply to any vehicle registered under section 60 while it is being used in the execution of military manoeuvres within the area and during the period specified in the notification under sub-section (1) of section 2 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938 (5 of 1938). Case Law 1: Speed governors. Karnataka High Court Raghupathy Bhat and Others v. State of Karnataka and



Another; AIR 2008 Kar. 203 Fixing of speed governors in transport vehicles -- Notification dt.28/03/2005 specifying transport vehicles which shall be fitted with Speed Governors (speed controlling device) -- Under the impugned notifications, vehicles already registered will be required to fit Speed Governors when they seek renewal of the fitness certificate during the period of twelve months -- No merit in the contention that the owners of Maxi Cabs will face real hardship in complying with the requirements under the impugned notifications -- Maxicabs are also motor vehicles governed by provisions contained in S.112 of Act -- Nonavailability of speed governors in market, baseless ground. Case Law 2: STA & RTA have power to restrict speed. Kerala High Court Sebastian V. J. v. State of Kerala and Others; 2005 KHC 816 : ILR 2005 (2) Ker. 737 Power to issue order restricting the maximum or minimum speed of Motor Vehicles of any specified class in the interest of safety or convenience -- State Transport Authority and Regional Transport Authority has such power. Case Law 3: Condition of speed limit to be impliment in permits. Kerala High Court Radhakrishnan v. State of Kerala; 2003 (1) KLT 383 : ILR 2002 (3) Ker. 558 When stage carriage permits are issued under S.72(2)(xxii) the Regional Transport Authority is directed, to insist on condition of speed limit -- To limit the speed stage carriages are to install suitable speed Governor. Corresponding Law :S. 71 of Act IV of 1939: 71. Limits of speed. - (1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed fixed for the vehicle by or under this Act or by or under any law for the time being in force: Provided that such maximum speed shall in no case exceed the maximum fixed for the vehicle in the Eighth Schedule. (2) The [State Government] or any authority authorised in this behalf by the [State Government] may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interests of public safety or convenience or because of the nature of any road or bridge, by notification in the Official Gazette, [and by causing appropriate traffic signs to be placed or erected under section 75 at suitable places,] fix such maximum speed limits as it thinks fit for motor vehicles or any specified class of motor vehicles or for motor vehicles to which a trailer is attached, either

generally or in a particular area or on a particular road or roads: [Provided that where any restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary.] [(3) Nothing in this Section shall apply to any vehicle registered under section 39 while it is being used in the execution of military manoeuvres within the area and during the period specified in the notification under sub-section (1) of section 2 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938.]

## **Section 113**

### **Limits of weight and limitations on use.**

(1) The State Government may prescribe the conditions for the issue of permits for [transport vehicles] by the State or Regional Transport Authorities and may prohibit or restrict the use of such vehicles in any area or route. (2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place any motor vehicle which is not fitted with pneumatic tyres . (3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration. (4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) of sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of the motor vehicle or trailer. Case Law 1: Carrying excess load. Kerala High Court Anoop K. A. and Another v. State of Kerala and Others; 2019 (5) KHC 414 Compounding can be done either before or after the institution of the prosecution in respect of the enumerated offence -- Even after compounding excess load, same cannot be permitted to be carried in vehicle concerned -- Such carriage would amount to infraction of S.113. Case Law 2: Overloading transport vehicles- authority to take action. Orissa High Court IRC Natural Resources Private Ltd. v. State of Orissa and Another; AIR 2019 Ori. 81 Suspension of registration of vehicle -- Overloading transport vehicles -- Only officers of Motor Vehicles

Department are authorised by State Government to take action against persons violating S.113 -- Relying on the weighment figures furnished by the Deputy Director of Mines, Sambalpur, a conclusion relating over loading has been drawn and fine amount has been imposed by the R.T.O -- Thus the prescribed procedure has not been followed in the matter or weighment -- Suspension of registration of vehicle, invalid. Case Law 3: Authority to take action against overload. Karnataka High Court Bhalchandra Transport Company, Hubli and Others v. State of Karnataka and Others; AIR 1998 Kar. 213 Overloading transport vehicles -- Only Officers of Motor Vehicles Department are authorised / empowered by State Government to proceed against persons violating S.113-- Action taken by police against truck driver for overloading is illegal. Corresponding Law :S. 72 of Act IV of 1939: 72. Limits of weight and limitations on use. - (1) The State Government may prescribe conditions for the issue of permits for [heavy goods vehicles or heavy passenger motor vehicles] by the State or Regional Transport Authorities and may prohibit or restrict the use of such vehicles in any area or route within the State. (2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place any motor vehicle which is not fitted with pneumatic tyres. (3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer- (a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or (b) the laden weight of which exceeds the registered laden weight specified in the certificate of registration, [\* \* \*] (4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) of sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of the motor vehicle or trailer.

## **Section 114**

### **Power to have vehicle weighed.**

(1) Any officer of the Motor Vehicles Department [or any other person authorised in this behalf by the State Government] shall, if he has reason to believe that a goods vehicle or trailer is being

used in contravention of section 113,] require the driver to convey the vehicle to a weighing device, if any, within a distance of ten kilometres from any point on the forward route or within a distance of twenty kilometres from the destination of the vehicle for weighment; and if on such weighment the vehicle is found to contravene in any respect the provisions of section 113 regarding weight, he may, by order in writing, direct the driver to off-load the excess weight at his own risk and not to remove the vehicle or trailer from that place until the laden weight has been reduced or the vehicle or trailer has otherwise been dealt with so that it complies with section 113 and on receipt of such notice, the driver shall comply with such directions. (2) Where the person authorised under sub-section (1) makes the said order in writing, he shall also endorse the relevant details of the overloading on the goods carriage permit and also intimate the fact of such endorsement to the authority which issued that permit. Case Law 1: Authority to have vehicle weighed. Orissa High Court IRC Natural Resources Private Ltd. v. State of Orissa and Another; AIR 2019 Ori. 81 Suspension of registration of vehicle -- Overloading transport vehicles -- Only officers of Motor Vehicles Department are authorised by State Government to take action against persons violating S.113 -- Relying on the weighment figures furnished by the Deputy Director of Mines, Sambalpur, a conclusion relating over loading has been drawn and fine amount has been imposed by the R.T.O -- Thus the prescribed procedure has not been followed in the matter or weighment -- Suspension of registration of vehicle, invalid. Corresponding Law :S. 73 of Act IV of 1939: 73. Power to have vehicle weighed. - [(1)] Any person authorised in this behalf by the State Government may, if he has reason to believe that a goods vehicle or trailer is being used in contravention of section 72, require the driver to convey the vehicle to a weighing device, if any, within a distance of [2 kilometres] from any point on the forward route or within a distance of [10 kilometres] from the destination of the vehicle for weighment; and if on such weighment the vehicle is found to contravene in any respect the provisions of section 72 regarding weight, he may, by order in writing, direct the driver to convey the vehicle or trailer to the nearest place, to be specified in the notice, where facilities exist for the storage of goods,

and not to remove the vehicle or trailer from that place until the laden weight [\* \* \*] has been reduced or the vehicle has otherwise been treated so that it complies with section 72. [(2) Where any excess goods are removed from any goods vehicle or trailer for storage under sub-section (1) such person as may be authorised in this behalf by the State Government shall cause a notice in writing to be served on the owner of the vehicle or trailer, as the case may be, requiring him to remove the goods within the time to be specified in the notice and if the owner of the vehicle or trailer refuses or fails to remove the goods within the time specified, the authorised person may sell the goods by public auction and the balance of the sale proceeds, after deducting therefrom the charges for the storage of the goods and the costs incidental to the sale, shall be paid to the owner of the vehicle or trailer, as the case may be: Provided that where the excess goods removed are of a perishable nature, the sale can be held immediately after causing the notice to be served on the driver of the vehicle or trailer.]

## **Section 115**

### **Power to restrict the use of vehicles.**

The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may, by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 116 at suitable places: Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction. Case Law 1: Power to restrict use of vehicle. Chattisgarh High Court Sandeep Jain (Dr. ) and Others v. State of Chhattisgarh and Others; AIR 2018 Chh. 158 A fair

and simple reading of S.115 of the Act would indicate that these are temporary powers vested in the State Government for a limited object and purpose, mainly to deal with emergent situations which may emerge on a particular route, area or road or bridges which requires some kind of regulation -- This limited power or emergent power for which provision has been made in S.115 cannot be read or expanded to include fixing shelf life of vehicle for plying as a public vehicle on Stage Carriage. Case Law 2: Restriction imposed. Guuhati High Court Ch. Ibomcha Singh and Another v. State of Manipur and Others; AIR 2004 Gau. 125 Order regulating route and indicating parking place of vehicles -- Restriction has been imposed upon certain vehicles in the matter of plying of Taxi Service over certain routes, thus, such restriction can only be done by following the provisions prescribed under S.115 of the Act -- In the present case it has been admitted by the learned counsel on both sides that no Gazette notification has been made with regard to the aforesaid impugned order at Annexure --A / 14- Therefore said notification shall have no legal effect -- Nothing is mentioned in notification regarding consultation with local authority having jurisdiction -- Therefore directions given to authorities to regulate matter in accordance with law. Corresponding Law :S. 74 of Act IV of 1939: 74. Power to restrict the use of vehicles. - The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interests of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class of motor vehicles or the use of trailers either generally in a specified area or on a specified road [and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 75 at suitable places: Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.]

## Section 116

### Power to erect traffic signs.

(1) (a) The State Government or any authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of bringing to public notice any speed limits fixed under sub-section (2) of section 112 or any prohibitions or restrictions imposed under section 115 or generally for the purpose of regulating motor vehicle traffic. (b) A State Government or any authority authorised in this behalf by the State Government may, by notification in the Official Gazette or by the erection at suitable places of the appropriate traffic sign referred to in Part A of the Schedule, designate certain roads as main roads for the purposes of the driving regulations made by the Central Government. (1A) [Notwithstanding anything contained in sub-section (1), the National Highways Authority of India constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may cause or permit traffic signs, as provided in the First Schedule, to be placed or erected or removed on national highways for the purpose of regulating motor vehicle traffic and may order the removal of any sign or advertisement which in its opinion is so placed as to obscure any traffic sign from view or is so similar in appearance to a traffic sign as to mislead or is likely to distract the attention or concentration of the driver: Provided that for the purposes of this sub-section, the National Highway Authority of India or any other agency authorised by the Central Government may seek assistance from the authorities of the State Government and the said State Government shall provide such assistance.] (2) Traffic signs placed or erected under sub-section (1) for any purpose for which provision is made in the Schedule shall be of the size, colour and type and shall have the meanings set forth in the Schedule, but the State Government or any authority empowered in this behalf by the State Government may make or authorise the addition to any sign set forth in the said Schedule, of transcriptions of the words, letters or figures thereon in such script as the State Government may think fit provided that the transcriptions shall be of similar size and colour to the words,

letters or figures set forth in the Schedule. (3) Except as provided by sub-section (1) or sub-section (1A), no traffic sign shall, after the commencement of this Act, be placed or erected on or near any road; but all traffic signs placed or erected prior to the commencement of this Act by any competent authority shall for the purpose of this Act be deemed to be traffic signs placed or erected under the provisions of sub-section (1). (4) A State Government may, by notification in the Official Gazette, empower any police officer not below the rank of a Superintendent of Police to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which in his opinion is so similar in appearance to a traffic sign as to be misleading or which in his opinion is likely to distract the attention or concentration of the driver. (5) No person shall wilfully remove, alter, deface, or in any way tamper with, any traffic signs placed or erected under this section. (6) If any person accidentally causes such damage to a traffic sign as renders it useless for the purpose for which it is placed or erected under this section, he shall report the circumstances of the occurrence to a police officer or at a police station as soon as possible, and in any case within twenty-four hours of the occurrence. (7) For the purpose of bringing the signs set forth in the First Schedule in conformity with any International Convention relating to motor traffic to which the Central Government is for the time being a party, the Central Government may, by notification in the Official Gazette, make any addition or alteration to any such sign and on the issue of any such notification, the First Schedule shall be deemed to be amended accordingly.

Case Law 1: Removal of advertisements in roadsides. Supreme Court M. C. Mehta v. Union of India (UOI) and Others; 1998 KHC 706 : 1998 (1) SCC 363 Clarification / modification of the order -- Order directing the authorities to 'remove all hoardings which are on roadsides and which are hazardous and a disturbance to safe traffic movement' -- No ambiguity in the order -- Clarification / modification in respect of the said direction of the Court sought by Outdoor Advertisers' Association in the present application, held, must be rejected. Corresponding Law :S. 75 of Act IV of 1939: 75. Power to erect traffic signs. - (1) The State Government or any



authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of [bringing to public notice any speed limits fixed under sub-section (2) of section 71 or any prohibitions or restrictions imposed under section 74, or generally for the purpose of] regulating motor vehicle traffic. (2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in the Ninth Schedule shall be of the size colour and type and shall have the meanings set forth in the Ninth Schedule, but the State Government or any authority empowered in this behalf by the State Government may make or authorise the addition to any sign set forth in the said Schedule, of transcriptions of the words, letters or figures thereon in such script as the State Government may think fit, provided that the transcriptions shall be of similar size and colour to the words, letters or figures set forth in the Ninth Schedule. (3) Except as provided by sub-section (1) no traffic sign shall, after the commencement of this Act, be placed or erected on or near any road; but all traffic signs erected prior to the commencement of this Act by any competent authority shall for the purposes of this Act be deemed to be traffic signs erected under the provisions of sub-section (1). (4) A [State Government] may, by notification in the Official Gazette, empower any District Magistrate or Superintendent of Police [(or, in the Presidency-towns, the [Chief Metropolitan Magistrate] or the Commissioner of Police)] to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be Misleading. [(5) No person shall wilfully remove, alter, deface, or in any way tamper with, any traffic signs placed or erected under this section. (6) If any person accidentally causes such damage to a traffic sign as renders it useless for the purpose for which it is placed or erected under this section, he shall report the circumstances of the occurrence to a police officer or at a police station as soon as possible, and in any case within twenty-four hours of the occurrence. (7) For the purpose of bringing the signs set forth in the Ninth Schedule in conformity with any international convention relative to motor traffic to which the Central Government is for the time

being a party, the Central Government may, by notification in the Official Gazette, make any addition or alteration to any such sign and on the issue of any such notification, the Ninth Schedule shall be deemed to be amended accordingly.]

## **Section 117**

### **Parking places and halting stations.**

The State Government or any authority authorised in this behalf by the State Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers. [Provided that the State Government or the authorised authority shall, give primacy to the safety of road users and the free flow of traffic in determining such places: Provided further that for the purpose of this section the National Highways Authority of India, constituted under the National Highways Authority of India Act, 1988 or any other agency authorised by the Central Government, may also determine such places.] Case Law 1: Shifting of bus stand. Karnataka High Court *Girimallappa and Others v. Chairman, RTA, Bellary and Others*; AIR 1998 Kar. 182 Shifting of bus stand -- At existing site, commercial complex had to be created under world bank loan and it was time bound project -- Area was extremely congested and that therefore it was necessary to shift the bus stand to some other convenient place -- New spot is reasonably close to the old one and under these circumstances -- No rigid requirement of law that public notice be given or that objections should be invited -- Matter of relocation of markets or bus stands necessarily involves displeasing of a section of public -- No public notice is necessary. Case Law 2: Restriction imposed. Guuhati High Court *Ch. Ibomcha Singh and Another v. State of Manipur and Others*; AIR 2004 Gau. 125 Order regulating route and indicating parking place of vehicles -- Restriction has been imposed upon certain vehicles in the matter of plying of Taxi Service over certain routes, thus, such restriction can only be done by following the provisions prescribed

under S.115 of the Act -- In the present case it has been admitted by the learned counsel on both sides that no Gazette notification has been made with regard to the aforesaid impugned order at Annexure --A / 14- Therefore said notification shall have no legal effect -- Nothing is mentioned in notification regarding consultation with local authority having jurisdiction --

Therefore directions given to authorities to regulate matter in accordance with law.

Corresponding Law :S. 76 of Act IV of 1939: 76. Parking places and halting stations. - The [State Government] or any authority authorised in this behalf by the [State Government] may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

## **Section 118**

### **Driving regulations.**

The Central Government may, by notification in the Official Gazette, make regulations for the driving of motor vehicles.

## **Section 119**

### **Duty to obey traffic signs.**

(1) Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by mandatory traffic sign and in conformity with the driving regulations made by the Central Government, and shall comply with all directions given to him by any police officer for the time being engaged in the regulation of traffic in any public place. (2) In this section mandatory traffic sign means a traffic sign included in Part A of the First Schedule, or any traffic sign of similar form (that is to say, consisting of or including a circular disc displaying a device, word or figure and having a red ground or border) placed or erected for the purpose of regulating motor vehicle traffic under sub-section (1) of section 116. Case Law 1: Traffic obedience for public safety.

Supreme Court M. C. Mehta v. Union of India (UOI) and Others; 1997 (8) SCC 770 : AIR 1998 SC 186 Public safety -- Issue related to proper management and control of traffic in National Capital Region and National Capital Territory to ensure maximum possible safeguards necessary for public safety -- provisions of Act of 1988 in addition to Police Act and Code of 1973 confer ample powers on authorities to take necessary steps to control and regulate road traffic and to suspend registration or permit of motor vehicle if it poses threat or hazard to public safety -- Existing provisions in the Act alone are sufficient to clothe the members of the police force and the transport authorities with ample powers to control and regulate the traffic in an appropriate manner so that no vehicle being used in a public place poses any danger to the public in any form -- Control and regulation of traffic in NCR and NCT, Delhi, is a matter of paramount public safety and, therefore, is evidently within the ambit of Art.21 of the Constitution. Corresponding Law :S. 78 of Act IV of 1939: 78. Duty to obey traffic signs. - [(1)] Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by [a mandatory traffic sign] and in conformity with the driving regulations set forth in the Tenth Schedule, and shall comply with all directions given him by any police officer for the time being engaged in the regulation of traffic in any public place. [(2) In this section "mandatory traffic sign" means a traffic sign included in Part A of the Ninth Schedule, or any traffic sign of similar form (that is to say, consisting of or including a circular disc displaying a device, word or figure and having a red ground or border) erected for the purpose of regulating motor vehicle traffic under sub-section (1) of section 75.]

## **Section 120**

### **Vehicles with left hand control.**

No person shall drive or cause or allow to be driven in any public place any motor vehicle with a left-hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature and in working order. Corresponding Law :S. 80 of Act IV of 1939: 80.

Vehicles with left hand control. - No person shall drive or cause or allow to be driven in any

public place any motor vehicle with a left hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature and in working order: [Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this section for the purpose of plying in that area or rout

## **Section 121**

### **Signals and signalling devices.**

The driver of a motor vehicle shall make such signals and on such occasions as may be prescribed by the Central Government: Provided that the signal of an intention to turn to the right or left or to stop in the case of a motor vehicle with a right-hand steering control, may be given by a mechanical or electrical device of a prescribed nature affixed to the vehicle; and in the case of a motor vehicle with a left-hand steering control, shall be given by a mechanical or electrical device of a prescribed nature affixed to the vehicle: Provided further that the State Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt subject to such conditions as may be specified therein any motor vehicle or class or description of motor vehicles from the operation of this section for the purpose of plying in that area or route. Corresponding Law :S. 79 of Act IV of 1939: 79. Signals and signalling devices. - [(1)] The driver of a motor vehicle [with a right hand steering control] shall on the occasions specified in the Eleventh Schedule make the signals specified therein: Provided that the signal of an intention to turn to the right or left or to stop may be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle. [(2) In the case of a motor vehicle with a left hand steering control, the signal of an intention to turn to the right or left of to stop shall be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle : Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as

may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this sub-section for the purpose of plying in that area or route.]

## **Section 122**

### **Leaving vehicle in dangerous position.**

No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers. Case Law 1: Leaving vehicle in dangerous position. Gujarat High Court Bharti AXA General Insurance Co. Ltd. v. Gafurbhai Kalabhai Desai and Others; 2020 KHC 3091 : 2020 ACJ 935 Driver dashed his car in night hours against rear of truck parked on left side of the road without any signal, indicator or reflectors resulting in death of car driver -- Truck being bigger vehicle was in stationary position that too without any sign or reflector -- The driver of the truck had admitted in the criminal proceeding that the truck was parked in a dangerous position -- Appellate court held that driver of truck which is a bigger vehicle was negligent to the extent of 70 per cent and car driver was negligent to the extent of 30 per cent. Case Law 2: Contributory negligence. Hyderabad High Court Jaisoorya B. and Others v. D. Ramakrishna Reddy and Another; 2015 KHC 6113 Motorcyclist going on left side of the road on seeing truck coming from opposite direction moved further towards his left and hit rear portion of a parked truck and sustained fatal injuries -- Photographs clearly show that rear tyres of the truck were on road violating S.122 and S.126 -- Deceased before proceeding by the side of parked truck failed to observe whether any vehicle was coming from opposite direction or not -- Held that both the drivers were negligent in causing the accident and their respective negligence being 75 per cent for truck driver and 25 per cent for motorcyclist. Corresponding Law :S. 81 of Act IV of 1939: 81. Leaving vehicle in dangerous position. - No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to remain at rest on any road in such position or in such a condition or in such circumstances as to cause or be likely to cause

danger, obstruction or undue inconvenience to other users of the road.

## **Section 123**

### **Riding on running board, etc.**

(1) No person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle. (2) No person shall travel on the running board or on the top or on the bonnet of a motor vehicle.

## **Section 124**

### **Prohibition against travelling without pass or ticket.**

No person shall enter or remain in any stage carriage for the purposes of travelling therein unless he has with him a proper pass or ticket: Provided that where arrangements for the supply of tickets are made in the stage carriage by which a person has to travel, a person may enter such stage carriage but as soon as may be after his entry therein, he shall make the payment of his fare to the conductor or the driver who performs the functions of a conductor and obtain from such conductor or driver, as the case may be, a ticket for his journey. Explanation: In this section, (a) pass means a duty privilege or courtesy pass entitling the person to whom it is given to travel in a stage carriage gratuitously and includes a pass issued on payment for travel in a stage carriage for the period specified therein; (b) ticket includes a single ticket, a return ticket or a season ticket. Corresponding Law :S. 82-A of Act IV of 1939: [82A. Prohibition against travelling without pass or ticket. - No person shall enter or remain in any stage carriage for the purposes of travelling therein unless he has with him a proper pass or ticket: Provided that where arrangements for the Supply of tickets are made in the stage carriage by which a person has to travel, a person may enter such stage carriage but as soon as may be after his entry therein, he shall make the payment of his fare to the conductor or the driver who discharges the functions of a conductor and obtain from such conductor or driver, as the case may be, a ticket for his journey. Explanation. - In this section. (a) "Pass" means a duty, privilege or courtesy pass

entitling the Person to whom it is given to travel in a stage carriage gratuitously and includes a pass issued on payment for travel in a stage carriage for the period specified therein; (b) "ticket" includes a single ticket, a return ticket or a season ticket.]

## **Section 125**

### **Obstruction of driver.**

No person driving a motor vehicle shall allow any person to stand or sit or to place anything in such a manner or position as to hamper the driver in his control of the vehicle. Corresponding Law :S. 83 of Act IV of 1939: 83. Obstruction of driver. - No person driving a motor vehicle shall allow any person to stand or sit or anything to be placed in such a manner or position as to hamper the driver in his control of the vehicle.

## **Section 126**

### **Stationary vehicles.**

No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the drivers seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver. Corresponding Law :S. 84 of Act IV of 1939: 84. Stationary vehicles. - No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the driver's seat a person duly licenced to drive the vehicles or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

## **Section 127**

### **Removal of motor vehicles abandoned or left unattended on a public place.**

(1) [Where any motor vehicle is abandoned or left unattended on a public place for ten hours or



more or is parked in a place where parking is legally prohibited, its removal by a towing service or its immobilisation by any means including wheel clamping may be authorised by a police officer in uniform having jurisdiction.] (2) Where an abandoned, unattended, wrecked, burnt or partially dismantled vehicle is creating a traffic hazard, because of its position in relation to the public place, or its physical appearance is causing the impediment to the traffic, its immediate removal from the public place by a towing service may be authorised by a police officer having jurisdiction. (3) Where a vehicle is authorised to be removed under sub-section (1) or sub-section (2) by a police officer, the owner of the vehicle shall be responsible for all towing costs, besides any other penalty. OLD LAW : Prior to its substitution, sub-Section (1) read as under:- (1) Where any motor vehicle is abandoned, or left unattended, on a public place for ten hours or more, its removal by a towing service may be authorised by a police officer having jurisdiction.

## **Section 128**

### **Safety measures for drivers and pillion riders.**

(1) No driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the motor cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the motor cycle behind the drivers seat with appropriate safety measures. (2) In addition to the safety measures mentioned in sub-section (1), the Central Government may, prescribe other safety measures for the drivers of two-wheeled motor cycles and pillion riders thereon. Corresponding Law :S. 85 of Act IV of 1939: 85. Pillion riding. - No driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the cycle behind the driver's seat.

## **Section 129**

### **Wearing of protective headgear.**

Every person, above four years of age, driving or riding or being carried on a motorcycle of any class or description shall, while in a public place, wear protective headgear conforming to such standards as may be prescribed by the Central Government: Provided that the provisions of this section shall not apply to a person who is a Sikh, if, while driving or riding on the motorcycle, in a public place, he is wearing a turban: Provided further that the Central Government may by rules provide for measures for the safety of children below four years of age riding or being carried on a motorcycle. Explanation: "Protective headgear" means a helmet which, - (a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motorcycle a degree of protection from injury in the event of an accident; and (b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear. Corresponding Law :S. 85-A of Act IV of 1939: [85A. Wearing of protective head-gear. - Every person driving or riding (otherwise than in a side car) on a motor cycle of any class shall, while in a public place, wear a protective headgear of such description as may be specified by the Central Government by rules made by it in this behalf, and different descriptions of head-gears may be specified in such rules in relation to different circumstances or different class of motor cycles: Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban: Provided further that the Central Government may, by such rules, provide for such exceptions as it may think fit. Explanation. - "Protective headgear" means a helmet which,- (a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a motor cycle a degree of protection from injury in the event of an accident; and (b) is securely fastened to the head of the wearer by means of the straps or other fastenings provided on the headgear.]

## **Section 130**

### **Duty to produce licence and certificate of registration.**

(1) The driver of a motor vehicle in any public place shall, on demand by any police officer in

uniform, produce his licence for examination: Provided that the driver may, if his licence has been submitted to, or has been seized by, any officer or authority under this or any other Act, produce in lieu of the licence a receipt or other acknowledgement issued by such officer or authority in respect thereof and thereafter produce the licence within such period, in such manner as the Central Government may prescribe to the police officer making the demand. (2) [The conductor, if any, of a motor vehicle on any public place shall, on demand by any officer of the Motor Vehicles Department authorised in this behalf, produce the licence for examination] (3) [The owner of a motor vehicle (other than a vehicle registered under section 60), or in his absence the driver or other person in charge of the vehicle, shall, on demand by a registering authority or any other officer of the Motor Vehicles Department duly authorised in this behalf, produce the certificate of insurance of the vehicle and, where the vehicle is a transport vehicle, also the certificate of fitness referred to in section 56 and the permit; and if any or all of the certificates or the permit are not in his possession, he shall, within fifteen days from the date of demand, submit photo copies of the same, duly attested in person or send the same by registered post to the officer who demanded it. Explanation : For the purposes of this sub-section, certificate of insurance means the certificate issued under sub-section (3) of section 147.] (4) If the licence referred to in sub-section (2) or the certificates or permit referred to in sub-section (3), as the case may be, are not at the time in the possession of the person to whom demand is made, it shall be a sufficient compliance with this section if such person produces the licence or certificates or permit within such period in such manner as the Central Government may prescribe, to the police officer or authority making the demand: Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle. OLD LAW: Prior to its substitution, sub-Section (2) & (3) read as under:- (2) The conductor, if any, of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination. (3) The owner of a motor vehicle

(other than a vehicle registered under section 60), or in his absence the driver or other person in charge of the vehicle, shall on demand by a registering authority or any person authorised in this behalf by the State Government, produce the certificate of registration and the certificate of insurance of the vehicle and, where the vehicle is a transport vehicle, also the certificate of fitness referred to in section 56 and the permit. Explanation. - For the purposes of this sub-section, " certificate of insurance" means the certificate issued under sub-section (3) of section 147. Case Law 1: Competent authority to inspect documents. Himachal Pradesh High Court Private Bus Operator Welfare Society v. State of H. P. and Others; AIR 2016 NOC 138 Checking of documents of private buses -- Competent authority -- Complete mechanism has been provided under the Act clearly specifying therein the authorities which can demand the production of the documents -- Employees of the HRTC have no jurisdiction or authority to check the documents and at best, it would be the employees of the BSM & DA, who alone, apart from the authorities specified under the Act of 1988 would have the authority to check the documents of these buses. Case Law 2: Power to demand documents for examination. Karnataka High Court Palaksha M. S. and Another v. Union of India and Others; AIR 1996 Kar. 209 Documents of vehicles -- Production for checking -- The power to demand productions of and to examine the documents cannot be divorced from the purpose behind the conferment of the said power -- The purpose clearly is to enable the Police Officers concerned to check such vehicles for the commission of any violation of the provisions of the Act and to take such follow up action as may be necessary -- The Amendment of S.130 sub sec.(2) has a very limited effect and does not render the other provisions of the Act particularly S.158, S.206 and S.207 nugatory.

Corresponding Law :S. 86 of Act IV of 1939: 86. Duty to produce licence and certificate of registration. - [(1) The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination: Provided that the driver may, if his licence has been submitted to, or has been seized by, any officer or authority under this or any other Act, produce in lieu of the licence a receipt or other acknowledgement issued by such

officer or authority in respect thereof and thereafter produce the licence within ten days at any police station in India which he specifies to the police officer making the demand. (1A) The conductor, if any, of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination.] (2) The owner of a motor vehicle [other than a vehicle registered under section 39], or in his absence the driver or other person in charge of the vehicle, shall on demand by a registering authority or any person authorised in this behalf by the State Government produce the certificate of registration of the vehicle and, where the vehicle is a transport vehicle, the certificate of fitness referred to in section 38. (3) If the [licence referred to in sub-section (1A) or the certificates referred to in sub-section (2), as the case may be,] are not at the time in the possession of the person to whom demand is made, it shall be a sufficient compliance with this section if such person produces the licence or certificates within ten days at any police station in [India] which he specifies to the police officer or authority making the demand : Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply [\* \* \*] to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle.

## **Section 131**

### **Duty of the driver to take certain precautions at unguarded railway level crossings.**

Every driver of a motor vehicle at the approach of any unguarded railway level crossing shall cause the vehicle to stop and the driver of the vehicle shall cause the conductor or cleaner or attendant or any other person in the vehicle to walk up to the level crossing and ensure that no train or trolley is approaching from either side and then pilot the motor vehicle across such level crossing, and where no conductor or cleaner or attendant or any other person is available in the vehicle, the driver of the vehicle shall get down from the vehicle himself to ensure that no train or trolley is approaching from either side before the railway track is crossed.

## **Section 132**

### **Duty of driver to stop in certain cases.**

(1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may for such reasonable time as may be necessary, but not exceeding twenty-four hours, [when required to do so by any police officer not below the rank of a Sub-Inspector in uniform, in the event of the vehicle being involved in the occurrence of an accident to a person, animal or vehicle or of damage to property, or] when required to do so by any person in charge of an animal if such person apprehends that the animal is, or being alarmed by the vehicle will become, unmanageable, or [x x x x] and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnishes his name and address. (2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under section 184, give his name and address to that person. (3) In this section the expression animal means any horse, cattle, elephant, camel, ass, mule, sheep or goat. OLD LAW: Prior to its substitution, Clause (a) & (c) read as under :-  
(a) when required to do so by any police officer in uniform; or (c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage, Corresponding Law :S. 87 of Act IV of 1939: 87. Duty of driver to stop in certain cases.

- (1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary- (a) when required to do so by any police officer in uniform, or (b) when required to do so by any person in charge of an animal if such person apprehends that the animal is, or being alarmed by the vehicle will become, unmanageable, or (c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage, and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it

provided such person also furnishes his name and address. (2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under section 116, give his name and address to that person. (3) In this section the expression "animal" means any horse, cattle, elephant, camel, ass, mule, sheep or goat.

## **Section 133**

### **Duty of owner of motor vehicle to give information.**

The owner of a motor vehicle, the driver or conductor of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by the State Government, give all information regarding the name and address of, and the licence held by, the driver or conductor which is in his possession or could by reasonable diligence be ascertained by him. Corresponding Law :S. 88 of Act IV of 1939: 88. Duty of owner of motor vehicle to give information. - The owner of a motor vehicle the driver [or conductor] of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by the [State Government], give all information regarding the name and address of and the licence held by the driver [or conductor] which is in his possession or could by reasonable diligence be ascertained by him.

## **Section 134**

### **Duty of driver in case of accident and injury to a person.**

When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person, by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on the duty in the hospital immediately to

attend to the injured person and render medical aid or treatment without waiting for any procedural formalities, unless the injured person or his guardian, in case he is a minor, desires otherwise; give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence, including the circumstances, if any, for not taking reasonable steps to secure medical attention as required under clause (a), at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence; give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely: (i) insurance policy number and period of its validity; (ii) date, time and place of accident; (iii) particulars of the persons injured or killed in the accident; (iv) name of the driver and the particulars of his driving licence . Explanation: For the purposes of this section, the expression driver includes the owner of the vehicle. Case Law 1: S.134 prescriptive in nature. Calcutta High Court National Insurance Co. Ltd. v. Shila Debi and Others; 2020 KHC 3089 Provisions of S.134 can be described prescriptive in nature and not compulsorily be applied in all cases; consequences of non-compliance would not nullify the entire action; penalty prescribed for contravention of S.134 has nothing to do with legitimate award of the Tribunal. Case Law 2: Duty to give medical assistance. Bombay High Court Salman Salim Khan v. State of Maharashtra; 2016 KHC 3343 : 2016 CriLJ NOC 185 S.134 contemplates a duty imposed by law on person to give medical assistance / help and this duty is cast not only on driver of vehicle but also every person in charge of vehicle -- Accused leaving the spot without giving any medical assistance to injured or taking steps to secure medical aid to injured -- Evidence on record showing that mob of angry persons had gathered on the spot -- Accused left the place in order to escape from fury of mob hence charge under S.134 cannot be attracted. Corresponding Law :S. 89 of Act IV of 1939: 89. Duty of driver in case of accident and injury to a person. - When any person is injured [or any property of a third party is, damaged,] as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall- (a) take all



reasonable steps to secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian, in case he is a minor, desires otherwise; (b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence at the nearest police station as soon as possible, and in any case within twenty four hours of the occurrence.

## **Section 134A**

### **Protection of Good Samaritans.**

(1) [A Good Samaritan shall not be liable for any civil or criminal action for any injury to or death of the victim of an accident involving a motor vehicle, where such injury or death resulted from the Good Samaritan's negligence in acting or failing to act while rendering emergency medical or non-medical care or assistance. (2) The Central Government may by rules provide for the procedure for questioning or examination of the Good Samaritan, disclosure of personal information of the Good Samaritan and such other related matters. Explanation: For the purposes of this section, "Good Samaritan" means a person, who in good faith, voluntarily and without expectation of any reward or compensation renders emergency medical or non-medical care or assistance at the scene of an accident to the victim or transports such victim to the hospital.]

## **Section 135**

### **Schemes to be framed for the investigation of accident cases and wayside amenities, etc.**

(1) The State Government may, by notification in the Official Gazette, make one or more schemes to provide for an in depth study on causes and analysis of motor vehicle accidents; wayside amenities on highways; traffic aid posts on highways; [x x x] truck parking complexes along highways; and any other amenities in the interests of the safety and the convenience of the public. (2) Every scheme made under this section by any State Government shall be laid, as soon as may be after it is made, before the State Legislature. (3) The Central Government may,

by notification in the Official Gazette, make one or more schemes to conduct in-depth studies on the causes and analysis of road accidents.

## **Section 136**

### **Inspection of vehicle involved in accident.**

When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the State Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination: Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned after completion of the formalities to the owner, driver or the person in charge of the vehicle within twenty-four hours. Corresponding Law :S. 90 of Act IV of 1939: 90. Inspection of vehicle involved in accident. - When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the [State Government] may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination: Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned without unnecessary delay.

## **Section 136A**

### **Electronic monitoring and enforcement of road safety.**

(1) [The State Government shall ensure electronic monitoring and enforcement of road safety in the manner provided under sub-section (2) on national highways, state highways, roads or in any urban city within a State which has a population up to such limits as may be prescribed by the Central Government. (2) The Central Government shall make rules for the electronic monitoring and enforcement of road safety including speed cameras, closed-circuit television cameras, speed guns, body wearable cameras and such other technology. Explanation: For the

purpose of this section the expression "body wearable camera" means a mobile audio and video capture device worn on the body or uniform of a person authorised by the State Government.]

## **Section 137**

### **Power of Central Government to make rules.**

The Central Government may make rules to provide for all or any of the following matters, namely: (a) the occasions on which signals shall be made by drivers of motor vehicles and such signals under section 121; (aa) [providing for the standards of protective headgear and measures for the safety of children below the age of four years riding under section 129;] (b) the manner in which the licences and certificates may be produced to the police officer under section 130. (c) [providing for limits of urban city by the State Governments under sub-section (1) of section 136A; and] (d) [providing for electronic monitoring and enforcement under sub-section (2) of section 136A.]

## **Section 138**

### **Power of State Government to make rules.**

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 137. (1A) [The State Government may, in the interest of road safety, make rules for the purposes of regulating the activities and access of non-mechanically propelled vehicles and pedestrians to public places and national highways: Provided that in the case of national highways, such rules shall be framed in consultation with the National Highways Authority of India.] (2) Without prejudice to the generality of the foregoing power, such rules may provide for the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads; the installation and use of weighing devices; the maintenance and management of wayside amenities complexes; the exemption from all or any of the provisions of this Chapter of fire Brigade vehicles, ambulances and other special classes or descriptions of vehicle, subject to

such conditions as may be prescribed; the maintenance and management of parking places and stands and the fees, if any, which may be charged for their use; prohibiting the driving downhill of a motor vehicle with the gear disengaged either generally or in a specified place; prohibiting the taking hold of or mounting of a motor vehicle in motion; prohibiting the use of foot-paths or pavements by motor vehicles; generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic; and any other matter which is to be, or may be, prescribed. Corresponding Law :S. 91 of Act IV of 1939: 91.

Power to make rules. - (1) The [State Government] may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the nature of the mechanical or electrical signalling devices which may be used on motor vehicles; (b) the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads; (c) the installation and use of weighing devices; [(cc) the maintenance and management of godowns for the storage of goods removed from over-loaded vehicles and the fees, if any, to be charged for the use of such godowns ;] (d) the exemption from all or any of the provisions of this Chapter of Fire Brigade vehicles, ambulances and other special classes of vehicle, subject to such conditions as may be prescribed; (e) the maintenance and management of parking places and stands and the fees, if any, which may be charged for their use; (f) prohibiting the driving down hill of a motor vehicle with the gear disengaged either generally or in a specified place; (g) prohibiting the taking hold of or mounting of a motor vehicle in motion; (h) prohibiting the use of foot-paths or pavements by motor vehicles; (i) generally, the prevention of danger, injury, or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic and (j) any other matter which is to be or may be prescribed.

## **Chapter IX**

### **MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING INDIA**

## **Section 139**

### **Power of Central Government to make rules.**

(1) The Central Government may, by notification in the Official Gazette, make rules for all or any of the following purposes, namely:-- the grant and authentication of travelling passes, certificates or authorisations to persons temporarily taking motor vehicles out of India to any place outside India or to persons temporarily proceeding out of India to any place outside India and desiring to drive a motor vehicle during their absence from India; prescribing the conditions subject to which motor vehicles brought temporarily into India from outside India by persons intending to make a temporary stay in India may be possessed and used in India; and prescribing the conditions subject to which persons entering India from any place outside India for a temporary stay in India may drive motor vehicles in India. (2) For the purpose of facilitating and regulating the services of motor vehicles operating between India and any other country under any reciprocal arrangement and carrying passengers or goods or both by road for hire or reward, the Central Government may, by notification in the Official Gazette, make rules with respect to all or any of the following matters, namely:-- the conditions subject to which motor vehicles carrying on such services may be brought into India from outside India and possessed and used in India; the conditions subject to which motor vehicles may be taken from any place in India to any place outside India; the conditions subject to which persons employed as drivers and conductors of such motor vehicles may enter or leave India; the grant and authentication of travelling passes, certificates or authorisations to persons employed as drivers and conductors of such motor vehicles; the particulars (other than registration marks) to be exhibited by such motor vehicles and the manner in which such particulars are to be exhibited; the use of trailers with such motor vehicles; the exemption of such motor vehicles and their drivers and conductors from all or any of the provisions of this Act [other than those referred to in sub-section (4)] or the rules made thereunder; the identification of the drivers and conductors of such motor vehicles; the

replacement of the travelling passes, certificates or authorisations, permits, licences or any other prescribed documents lost or defaced, on payment of such fee as may be prescribed; the exemption from the provisions of such laws as relate to customs, police or health with a view to facilitate such road transport services; any other matter which is to be, or may be, prescribed. (3) No rule made under this section shall operate to confer on any person any immunity in any State from the payment of any tax levied in that State on motor vehicles or their users. (4) Nothing in this Act or in any rule made there under by a State Government relating to:-- the registration and identification of motor vehicles, or the requirements as to construction, maintenance and equipment of motor vehicles, or the licensing and the qualifications of drivers and conductors of motor vehicles, shall apply— (i) to any motor vehicle to which or to any driver of a motor vehicle to whom any rules made under clause (b) or clause (c) of sub-section (1) or under sub-section (2) apply; or (ii) to any conductor of a motor vehicle to whom any rules made under sub-section (2) apply. Corresponding Law :S. 92 of Act IV of 1939: 92. Power to Central Government to make rules. - (1) The Central Government may, by notification in the Official Gazette, make rules for all or any of the following purposes, namely:- (a) the grant and authentication of travelling passes, certificates or authorisations to persons temporarily taking motor vehicles out of [India] to any place outside India or to persons temporarily proceeding out of [India] to any place outside-India and desiring to drive a motor vehicle during their absence [from India]; (b) prescribing the conditions subject to which motor vehicles brought temporarily into [India] from outside India by persons intending to make a temporary stay in [India] may be possessed and used in [India]; and (c) prescribing the conditions, subject to which persons entering [India] from any place outside India for a temporary stay in [India] may drive motor vehicles in [India]. [(1A) For the purpose of facilitating and regulating the services of motor vehicles operating between India and any other country [\* \* \*] under any reciprocal arrangement and carrying passengers or goods or both by road for hire or reward, the Central Government may, by notification in the Official Gazette, make rules with respect to all or any of the following matters, namely:- (a) the

conditions subject to which motor vehicles carrying on such services may be brought into India from outside India and possessed and used in India; (b) the conditions subject to which motor vehicles may be taken from any place in India to any place outside India; (c) the conditions subject to which persons employed as drivers and conductors of such motor vehicles may enter or leave India; (d) the grant and authentication of travelling passes, certificates or authorisations to persons employed as drivers and conductors of such motor vehicles; (e) the particulars (other than registration marks) to be exhibited by such motor vehicles and the manner in which such particulars are to be exhibited; (f) the use of trailers with such motor vehicles; (g) the exemption of such motor vehicles and their drivers and conductors from all or any of the provisions of this Act [other than those referred to in sub-section (4)] or of the rules made thereunder; (h) the identification of the drivers and conductors of such motor vehicles; (i) the replacement of the travelling passes, certificates or authorisations, permits, licences or any other prescribed documents lost or defaced, on payment of such fee as may be, prescribed; (j) the exemption from the provisions of such laws as relate to customs, police or health with a view to facilitate such road transport services; (k) any other matter which is to be, or may be, prescribed.] (2) No rule made under this section shall operate to confer on any person any immunity in any State from the payment of any tax levied in that State on motor vehicles or their users. (4) Nothing in this Act or in any rule made thereunder by a State Government relating to- (a) the registration and identification of motor vehicles, or (b) the requirements as to construction, maintenance and equipment of motor vehicles, or (c) the licensing and the qualifications of drivers [and conductors] of motor vehicles [shall apply- (i) to any motor vehicle to which or to any driver of a motor to whom any rules made under clause (b) or clause (c) of sub-section (1) or under sub-section (1A) apply; (ii) to any conductor of a motor vehicle to whom any rules made under sub-section (1A) apply.]

## **Chapter X**

## **LIABILITY WITHOUT FAULT IN CERTAIN CASES (Omitted)**

Section 140 to 144 (Omitted)

### **Section 140**

**[Omitted].**

[x x x x] OLD LAW: Prior to the omission Section 140 read as Section 140. Liability to pay compensation in certain cases on the principle of no fault. (1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section. (2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of [fifty thousand rupees] and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of [twenty-five thousand rupees]. (3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person. (4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement. (5) Notwithstanding anything contained in sub-section (2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force: Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section



163-A].

## **Section 141**

**[Omitted].**

[x x x x] OLD LAW: Prior to the omission Section 141 read as Section 141. Provisions as to other right to claim compensation for death or permanent disablement. (1) The right to claim compensation under section 140 in respect of death or permanent disablement of any person shall be in addition to [any other right, except the right to claim under the scheme referred to in section 163-A (such other right hereafter] in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force. (2) A claim for compensation under section 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 140 and also in pursuance of any right on the principle of fault, the claim for compensation under section 140 shall be disposed of as aforesaid in the first place. (3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under section 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and- (a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation; (b) if the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

## **Section 142**

**[Omitted].**

[x x x x] OLD LAW: Prior to the omission Section 142 read as Section 142. Permanent disablement. For the purposes of this Chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in sub-section (1) of section 140 if such person has suffered by reason of the accident, any injury or injuries involving:- (a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or (b) destruction or permanent impairing of the powers of any member or joint; or (c) permanent disfiguration of the head or face.

## **Section 143**

**[Omitted].**

[x x x x] OLD LAW: Prior to the omission Section 143 read as Section 143. Applicability of Chapter to certain claims under Act 8 of 1923. The provisions of this Chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's Compensation Act, 1923 (8 of 1923) resulting from an accident of the nature referred to in sub-section (1) of section 140 and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

## **Section 144**

**[Omitted].**

[x x x x] OLD LAW: Prior to the omission Section 144 read as Section 144. Overriding effect. The provisions of this Chapter shall have effect notwithstanding any thing contained in any other provision of this Act or of any other law for the time being in force.

## **Chapter XI**

### **INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISK**

Section 145 to 164D

## Section 145

### Definitions.

[\* \* \*] (a) : Authorised insurer. means an insurer for the time being carrying on general insurance business in India and granted a certificate of registration by the Insurance Regulatory and Development Authority of India established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 and any Government insurance fund authorised to do general insurance business under the General Insurance Business (Nationalisation) Act, 1972; (b) : Certificate of insurance. means a certificate issued by an authorised insurer in pursuance of section 147 and includes a cover note complying with such requirements as may be prescribed, and where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be; (c) : Grievous hurt. shall have the same meaning as assigned to it in section 320 of the Indian Penal Code; (d) : Hit and run motor accident. means 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; (e) : Insurance Regulatory and Development Authority. means the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999; (f) : Policy of insurance. includes certificate of insurance; (g) : Property. includes roads, bridges, culverts, causeways, trees, posts, milestones and baggage of passengers and goods carried in any motor vehicle; (h) : Reciprocating country. means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Act; (i) : Third party. includes the Government, the driver and any other co-worker on a transport vehicle.

Corresponding Law :S. 93 of Act IV of 1939: 93. Definitions. - In this Chapter- [(a) "authorised insurer" means an insurer in whose case the requirements of the Insurance Act, 1938,(4 of 1938.) are complied with ;] (b) certificate of insurance "means a certificate issued by an authorised insurer in pursuance of sub-section (4) of section 95; and includes [a cover note

complying with such requirements as may be prescribed, and] where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be; [(ba) "liability" wherever used in relation to the death of or bodily injury to any person includes liability in respect thereof under section 92A;] [(bb) "property" includes roads, bridges, culverts, causeways, trees, posts and milestones ,] [(c) "reciprocating country" means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Chapter;] [(d) "third party" includes the Government.]

## **Section 146**

### **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: Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991. Explanation: For the purposes of this sub-section, a person driving a motor vehicle merely as a paid employee, while there is in relation to the use of the vehicle no such policy in force as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force. (2) The provisions of sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for purposes not connected with any commercial enterprise. (3) The appropriate Government may, by order, exempt from the operation of sub-section (1), any vehicle owned by any of the following authorities, namely: - the Central Government or a State Government, if the vehicle is used for purposes connected with any commercial enterprise; any local authority; any State Transport Undertaking: Provided that no such order shall be made in relation to any such authority unless a fund has been established

and is maintained by that authority in such manner as may be prescribed by appropriate Government. Explanation: For the purposes of this sub-section, "appropriate Government" means the Central Government or a State Government, as the case may be, and - (i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government; (ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government; (iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that undertaking or authority. Case Law 1: Responsibility to renew insurance policy towards borrower. Supreme Court *HDFC Bank Ltd. v. Kumari Reshma and Others*; AIR 2015 SC 290 : 2015 (3) SCC 679 Vehicle under hypothecation agreement with the Bank -- Borrower not insuring vehicle -- In the absence of valid insurance policy, whether Bank liable to indemnify a claim in case of motor accident -- As per S.2(30) of the Act, under hypothecation agreement, person in possession of vehicle is the owner -- Since the vehicle was under the possession and control of the borrower, there is absolute fault on him for not getting the vehicle insured, hence, it is the borrower who is liable and not the financier, to indemnify the claim. Case Law 2: Third party risk - Legality. Supreme Court *Uttar Pradesh SRTC v. Kulsum and Others*; 2011 KHC 4635 : 2011 (8) SCC 142 Compulsory insurance is meant for benefit of third parties -- S.146 of the Act gives complete protection to Third Party in respect of death or bodily injury or damage to the property while using the vehicle in public place -- For that purpose, insurance of the vehicle has been made compulsory to the vehicles or to the owners -- This would further reflect that compulsory insurance is obviously for the benefit of Third Parties. Case Law 3: Central & State Government vehicles. Supreme Court *State of Maharashtra v. Shirke*; 1995 KHC 476 : 1995 (5) SCC 659 : AIR 1995 SC 2499 A policy of insurance must provide insurance against any liability to third parties incurred by the person using the vehicle -- No such requirement so far the vehicles owned by the Central or State Government are concerned -- Courts while judging the liability of

the Central or State Government or local authorities or transport undertakings have to be more cautious, while recording a finding as to whether in the facts and circumstances of a particular case the Central or the State Government or the local authority or the transport undertaking in question can be held vicariously liable for any act of its employee in the course of employment.

Corresponding Law :S. 94 of Act IV of 1939: 94. 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. Explanation. - A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that, there is no such policy in force. [(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. (3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities. namely:- (a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise; (b) any local authority; (c) any State transport undertaking within the meaning of section 68A Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties. [Explanation. - For the purposes of this sub-section, appropriate Government means the Central Government or the State Government, as the case may be, and- (i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government; (ii) in relation to any corporation or company owned by the Central

Government and one or more State Governments, means the Central Government; (iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that Undertaking or authority.]]

## **Section 147**

### **Requirements of policies and limits of liability.**

(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which - is issued by a person who is an authorised insurer; and insures the person or classes of persons specified in the policy to the extent specified in sub-section (2) - (i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person including owner of the goods or his authorised representative carried in the motor vehicle or damage to any property of a third party caused by or arising out of the use of the motor vehicle in a public place; (ii) against the death of or bodily injury to any passenger of a transport vehicle, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle in a public place. Explanation: For the removal of doubts, it is hereby clarified that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place, notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place. (2) Notwithstanding anything contained under any other law for the time being in force, for the purposes of third party insurance related to either death of a person or grievous hurt to a person, the Central Government shall prescribe a base premium and the liability of an insurer in relation to such premium for an insurance policy under sub-section (1) in consultation with the Insurance Regulatory and Development Authority. (3) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected, a certificate of insurance in the prescribed form and containing the prescribed particulars of any condition subject to which the policy is issued

and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases. (4) Notwithstanding anything contained in this Act, a policy of Insurance issued before the commencement of the Motor Vehicles (Amendment) Act, 2019 shall be continued on the existing terms under the contract and the provisions of this Act shall apply as if this Act had not been amended by the said Act. (5) Where a cover note issued by the insurer under the provisions of this Chapter or the rules or regulations made thereunder is not followed by a policy of insurance within the specified time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority or to such other authority as the State Government may prescribe. (6) Notwithstanding anything contained in any other law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.

Case Law 1: Insurance liability - Hire agreement Supreme Court Managing Director, KSRTC v. New India Assurance Co. Ltd. and Another; 2015 KHC 4725 : 2016 (2) SCC 382 Hire agreement -- Liability to make payment to claimants -- Definition of 'owner' -- Where agreement on hire purchase or an agreement of hypothecation or lease agreement has been entered into, person in possession of vehicle is treated as an owner -- An agreement for lease on hire cannot be said to be contract envisaged for exclusion under contractual liability in Second Proviso to S.147(1) of the Act -- In case of hiring of vehicle, intimation is not required to be given to Insurance Company. Case Law 2: Purpose and object of insurance. Supreme Court New India Assurance Company Ltd. v. Sadanand Mukhi and Others; 2009 (2) SCC 417 : AIR 2009 SC 1788 Where third party risk is involved, insurance policy is required to be mandatorily taken out -- Act provides for two types of insurance -- One is statutory and the other contractual in nature -- By taking an "Act policy", owner of a vehicle fulfils his statutory obligation as contained in S.147 of the Act -- For additional risks to be covered, additional premium has to be paid -- Insurance company is bound to compensate the owner or



the driver of the motor vehicle in case any person dies or suffers injury as a result of an accident. Case Law 3: Liability of insurer against third party. Supreme Court New India Assurance Co. Ltd v. Shanti Bopanna and Others; AIR 2017 SC 2857 : 2018 (12) SCC 540 Liability of insurer -- 'Third party' -- Insurance policy including all occupants except those carried for hire or reward -- Compensation claim made by widow and adopted son of deceased, covered by clause in insurance policy -- Deceased being employee falls in category of third party -- Insurance company, liable to pay compensation. Case Law 4: Motor insurance - Passenger risk. Madhya Pradesh High Court National Insurance Co. Ltd. v. Dilip Kumar Jain and Others; 2020 KHC 3093 Jeep overturned and a passenger was injured -- Though Act policy does not cover the risk of occupants in private vehicle but additional premium of Rs. 450 for 9 passengers with liability up to Rs. 1,00,000 as per GR 36 had been paid -Held insurance company is jointly and severally liable to pay compensation subject to maximum liability up to Rs. 1,00,000.

Corresponding Law :S. 95 of Act IV of 1939: 95. Requirements of policies and limits of liability. - (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which- (a) is issued by a person who is an authorised insurer [or by a co-operative society allowed under section 108 to transact the business of an insurer], and [(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)- (i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place; (ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or, arising out of the use of the vehicle in a public place] Provided that a policy shall not [\* \* \*] be required- (i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment [other than a liability arising under the Workmen's Compensation Act, 1923,] in respect of the death of, or bodily injury to, any such employee- (a) engaged in driving the vehicle, or (b) if it is a public

service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or (c) if it is a goods vehicle, being carried in the vehicle, or (ii) except where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, to cover liability in respect of the death of or bodily injury to persons being carried in or upon or entering or mounting or alighting from the vehicle at the time of the occurrence of the event 'out of which a claim arises, or (iii) to cover any contractual liability.

[Explanation. - For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage, to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.] (2)

Subject to the proviso to sub-section (1), a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely:- [(a) where the vehicle is a goods vehicle, a limit of [one lakh and fifty thousand rupees] in all, including the liabilities, if any, arising under the Workmen's Compensation Act, 1923, (8 of 1923) in respect of the death of, or bodily injury to, employees, (other than the driver), not exceeding six in number, being carried in the vehicle;] [(b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment,- (i) in respect of persons other than passengers carried for hire or reward, a limit of fifty thousand rupees in all [(ii) in respect of passengers, a limit of fifteen thousand rupees for each individual passenger;] (c) save as provided in clause (d), where the vehicle is a vehicle of any other class, the amount of liability incurred;] (d) irrespective of the class of the vehicle, a limit of rupees [six thousand] in all in respect of damage to any property of a third party. [(3) \* \* \* \* \*] (4) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance [\* \* \* \* \*] in the prescribed form containing the prescribed particulars of any, conditions subject which the policy is issued and

of any other prescribed matters different forms, particulars and matters may be prescribed in different cases. [(4A) Where a cover note issued by the insurer under the provisions of this Chapter or the rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the vehicle to which the cover note relates has been registered or to such other authority as the State Government may prescribe.] (5) Notwithstanding anything elsewhere contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of person, specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person.

## **Section 148**

### **Validity of policies of insurance issued in reciprocating countries.**

Where, in pursuance of an arrangement between India and any reciprocating country, the motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance for the time being in force in that country, then, notwithstanding anything contained in section 147 but subject to any rules which may be made under section 164B such policy of insurance shall be effective throughout the route or area in respect of which the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter. Corresponding Law :S. 95-A of Act IV of 1939: [95A. Validity of policies of insurance issued in reciprocating countries. - Where, in pursuance of an arrangement between India and any reciprocating country, any motor vehicle registered in the reciprocating country operates on any route or within any area common to the two Countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance in force in that country, then, notwithstanding anything contained in section 95 but

subject to any rules which may be made under section 111, such policy of insurance shall be effective throughout the route or area in respect of which the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.]

## **Section 149**

### **Settlement by insurance company and procedure therefor.**

(1) The insurance company shall, upon receiving information of the accident, either from claimant or through accident information report or otherwise, designate an officer to settle the claims relating to such accident. (2) An officer designated by the insurance company for processing the settlement of claim of compensation may make an offer to the claimant for settlement before the Claims Tribunal giving such details, within thirty days and after following such procedure as may be prescribed by the Central Government. (3) If, the claimant to whom the offer is made under sub-section (2), - accepts such offer, - (i) the Claims Tribunal shall make a record of such settlement, and such claim shall be deemed to be settled by consent; and (ii) the payment shall be made by the insurance company within a maximum period of thirty days from the date of receipt of such record of settlement; rejects such offer, a date of hearing shall be fixed by the Claims Tribunal to adjudicate such claim on merits.

## **Section 150**

### **Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks.**

(1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) or under the provisions of section 164 is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the

insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the award any sum not exceeding the sum assured payable thereunder, as if that person were the decree holder, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments. (2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as its execution is stayed pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto, and to defend the action on any of the following grounds, namely: - (a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely: - a condition excluding the use of the vehicle - (A) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward; or (B) for organised racing and speed testing; or (C) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle; or (D) without side-car being attached where the vehicle is a two-wheeled vehicle; or a condition excluding driving by a named person or by any person who is not duly licenced or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification or driving under the influence of alcohol or drugs as laid down in section 185; or a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or (b) that the policy is void on the ground that it was obtained by nondisclosure of any material fact or by representation of any fact which was false in some material particular; or (c) that there is non-receipt of premium as required under section 64VB of the Insurance Act, 1938. (3) Where any such judgment or award as is referred to in sub-section (1) is obtained from a court in a reciprocating country and in the case of a foreign judgment is, by virtue of the

provisions of section 13 of the Code of Civil Procedure, 1908 conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 and whether or not that person is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment or award were given by a court in India: Provided that no sum shall be payable by the insurer in respect of any such judgment or award unless, before the commencement of the proceedings in which the judgment or award is given, the insurer had notice through the court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2). (4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby, by reference to any condition other than those in sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect. (5) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be. (6) If on the date of filing of any claim, the claimant is not aware of the insurance company with which the vehicle had been insured, it shall be the duty of the owner of the vehicle to furnish to the tribunal or court the information as to whether the vehicle had been insured on the date of the accident, and if so, the name of the insurance company with which it is insured. Explanation: For the purposes of this section, - (a) "award" means an award made by the Claims Tribunal under section 168; (b) "Claims Tribunal" means a Claims Tribunal constituted under section 165; (c) "liability covered by the terms of the policy"

means the liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy; and (d) "material fact" and "material particular" mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he shall take the risk and, if so, at what premium and on what conditions. Corresponding Law :S. 96 of Act IV of 1939:

96. Duty of insurers to satisfy. - (1) If, after a certificate of insurance [\* \* \*] has been issued under sub-section (4) of section 95 in favour of the person by whom judgments against persons insured in respect of third party risks, a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 95 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments. (2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment unless before or after the commencement of the proceedings in which the judgment is given the insurer had notice through the Court of the bringing of the proceedings, or in respect of any judgment so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:- (a) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability, and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening

of the accident the insurer has commenced proceedings for cancellation of the certificate after compliance with the provisions of section 105; or (b) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:- (i) a condition excluding the use of the vehicle- (a) for hire or reward where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or (b) for organised racing and speed testing, or 114A (c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is [a transport vehicle], or (d) without side-car being attached, where the vehicle is a motor cycle; or (ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or (iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or (c) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular. [(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court [\* \* \*] in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908, (5 of 1908) conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance 1 Act, 1938, (4 of 1938) and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the, person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a, Court in India. Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court Concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law [\* \* \*] of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).] (3) Where a certificate of insurance [\* \* \*] has been issued



under sub-section (4) of section 95 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 95, be of no effect: Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person. (4) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person. (5) In this section the expressions "material fact" and "material particular" mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so,, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy. (6) No insurer to whom the notice referred to in sub-section (2) [or sub-section (2A)] has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment as is referred to in sub-section (1) [or sub-section (2A)] otherwise than in the manner provided for in sub-section (2) [or in the corresponding law [\* \* \*] of the reciprocating country, as the case may be].

## **Section 151**

### **Rights of third party against insurers on insolvency of insured.**

(1) Where under any contract of insurance effected in accordance with the provisions of this Chapter, a person is insured against liabilities which he may incur to third party, then - in the event of the person becoming insolvent or making a composition or arrangement with his creditors; or where the insured person is a company, in the event of a winding-up order being

made or a resolution for a voluntary winding-up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge, if, either before or after that event, any such liability is incurred by the insured person his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred. (2)

Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing. (3) Any condition in a policy issued for the purposes of this Chapter purporting, either directly or indirectly, to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency, shall be of no effect. (4) Upon a transfer under sub-section (1) or sub-section (2), the insurer shall be under the same liability to the third party as he would have been to the insured person, but - if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess amount; and if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance amount. Corresponding Law :S. 97 of Act IV of 1939: 97. Rights of third parties against insurers on insolvency of the insured. - (1) Where under any contract of insurance effected in

accordance with the provisions of this Chapter a person is insured against liabilities which he may incur to third parties then- (a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or (b) where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge, if, either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred. (2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing. (3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect. 115 (4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but- (a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and (b) if the liability of the insurer to the insured person is less than the liability of the insured person to the

third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

## **Section 152**

### **Duty to give information as to insurance.**

(1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 147 shall, on demand by or on behalf of the person making the claim, refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof. (2) In the event of any person becoming insolvent or making an arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give, on the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provision of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 151 and for the purpose of enforcing such rights, if any, and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the

events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect. (3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supporting that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned. (4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken. Corresponding Law :S. 98 of Act IV of 1939: 98. Duty to give information as to insurance. - (1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 95 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof. (2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under

such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 97, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the 116 contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect. (3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned. (4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

## **Section 153**

### **Settlement between insurers and insured persons.**

(1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 147 shall be valid unless such third party is a party to the settlement. (2) The Claims Tribunal shall ensure that the settlement is bona fide and was not made under undue influence and the compensation is made in accordance with the payment schedule referred to in sub-section (1) of section 164. (3) Where a person who is insured under a policy issued for the purpose of this Chapter has become insolvent, or where, if such insured person is a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured person after the liability has been incurred to a third party and after the commencement of the insolvency or winding-up,

as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid, shall be effective to defeat the rights transferred to the third party under this Chapter; but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made. Corresponding Law :S. 99 of Act IV of 1939: 99. Settlement between insurers and insured persons. - (1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 95 shall be valid unless such third party is a party to the settlement. (2) Where a person who is insured under a policy issued for the purposes of this Chapter has become insolvent, or where, if such insured person is a company, a winding up order has been made or a resolution for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

## **Section 154**

### **Saving in respect of sections 151, 152 and 153.**

(1) For the purposes of sections 151, 152 and 153, a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance. (2) The provisions of sections 151, 152 and 153 shall not apply where a company is wound-up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company. Corresponding Law :S. 100 of Act IV of 1939: 100. Saving in respect of sections, 97, 98 and 99. - (1) For the purposes of sections 97, 98 and 99, a reference to "liabilities to third

parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance. (2) The provisions of sections 97, 98 and 99 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

## **Section 155**

### **Effect of death on certain causes of action.**

Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of such event against his estate or against the insurer. Corresponding Law :S. 102 of Act IV of 1939: 102. Effect of death on certain of insurance. - Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, (39 of 1925) the death of a person in whose favour a certificate of insurance [\* \* \*] had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

## **Section 156**

### **Effect of certificate of insurance.**

When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then - if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and if the insurer has issued to the insured the policy described in the



certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate. Corresponding Law :S. 103 of Act IV of 1939: 103. Effect of certificate of insurance. - When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then- (a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and (b) if the insurer has issued to the insured the policy described in the certificate but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with, the particulars stated in the said certificate.

## **Section 157**

### **Transfer of certificate of insurance.**

(1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer. Explanation: For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance. (2) The transferee shall apply within

fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour, and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance. Corresponding Law :S. 103-A of Act IV of 1939: [103A. Transfer of certificate of insurance. - (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter proposes to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within fifteen days of the receipt of such application by the insurer, the insurer has not intimated the insured and such other person his refusal to transfer the certificate and the policy to the other person the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person, to whom the motor vehicle is transferred with effect from the date of its transfer. (2) The insurer to Whom any application has been made under sub-section (1) may refuse to transfer to the other person the certificate of insurance and the policy described in that certificate if he considers it necessary so to do, having regard to- (a) the previous conduct of the other person,- (i) as a driver of motor vehicles; or (ii) as a holder of the policy of insurance in respect of any motor vehicle; or (b) any conditions which may have been imposed in relation to any such policy held by the applicant; or (c) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him. (3) Where the insurer has refused to transfer, in favour of the person to whom the motor vehicle has been transferred, the certificate of insurance and the policy described in that certificate, he shall refund to such transferee the amount, if any, which, under the terms of the policy, he would have had to refund to the insured for the unexpired term of such policy.]

## **Section 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 - the certificate of insurance; the certificate of registration; the pollution under control certificate; the driving licence; in the case of a transport vehicle, also the certificate of fitness referred to in section 56, and the permit; and any certificate or authorisation of exemption that has been granted under this Act, relating to the use of the vehicle. (2) Where, owing to the presence of a motor vehicle in a public place, an accident occurs involving death or bodily injury to another person, if the driver of the vehicle does not at that time produce the required certificate, driving licence and permit referred to in sub-section (1) to a police officer, he or the owner shall produce the said certificates, licence and permit at the police station at which the driver makes the report required by section 134. (3) No person shall be liable to conviction for offences under sub-section (1) or sub-section (2) by reason of the failure to produce the required certificate if, within seven days from the date on which its production was required under sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer-in-charge of the police station at which he reported the accident: Provided that except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle. (4) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the State Government for the purpose of determining whether the vehicle was or was not being driven in contravention of section 146 and on any occasion when the driver was required under this section to produce the certificate of insurance. (5) In this section, the expression "produce the certificate of insurance" means production for examination the relevant certificate of insurance or such other evidence as

may be prescribed to prove that the vehicle was not being driven in contravention of section 146.

Corresponding Law :S. 106 of Act IV of 1939: 106. Production of certificate of insurance. - (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 the certificate of insurance relating to the use of the vehicle. (2) If, where owing to the presence of a motor vehicle, in a public place an accident occurs involving bodily injury to another person, the driver of the vehicle does not at the time produce the certificate of insurance to a police officer, he shall produce the certificate of insurance at the police station at which he makes the report required by section 89. [(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance a if, within seven days from the date on which its production was required under sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident: Provided that except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.] (3) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the [State Government] to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 94 and on any occasion when the driver was required under this section to produce his certificate of insurance. (4) In this section the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 94.

## **Section 159**

**Information to be given regarding accident.**

The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.

## **Section 160**

### **Duty to furnish particulars of vehicle involved in accident.**

A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

## **Section 161**

### **Special provisions as to compensation in case of hit and run motor accident.**

(1) Notwithstanding anything contained in any other law for the time being in force or any instrument having the force of law, the Central Government shall provide for paying in accordance with the provisions of this Act and the scheme made under sub-section (3), compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents. (2) Subject to the provisions of this Act and the scheme made under sub-section (3), there shall be paid as compensation, - in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of two lakh rupees or such higher amount as may be prescribed by the Central Government; in respect of grievous hurt to any

person resulting from a hit and run motor accident, a fixed sum of fifty thousand rupees or such higher amount as may be prescribed by the Central Government. (3) The Central Government may, by notification in the Official Gazette, make a scheme specifying the manner in which the scheme shall be administered by the Central Government or General Insurance Council, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation under this section. (4) A scheme made under sub-section (3) may provide that, - a payment of such sum as may be prescribed by the Central Government as interim relief to any claimant under such scheme; a contravention of any provision thereof shall be punishable with imprisonment which may extend to two years, or with fine which shall not be less than twenty-five thousand rupees but may extend to five lakh rupees or with both; the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of Central Government, by such officer or authority to any other officer or authority. Corresponding Law :S. 109-A of Act IV of 1939: [109A. Special provisions as to compensation in cases of hit and rust motor accidents. - (1) For the purposes of this section, section 109B and section 109C,- (a) "grievous hurt" shall have the same meaning as in the Indian Pena! Code; (b) "hit and run motor accident" means 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; (c) "scheme" means the scheme framed under section 109C; (d) "Solatium Fund" means the Fund established under sub-section (2). (2) The Central Government may, by notification in the Official Gazette establish a Fund to be known as the Solatium Fund. (3) The Solatium Fund shall be utilised for paying in accordance with the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents. (4) Notwithstanding anything contained in

the General Insurance Business (Nationalisation) Act, 1972 or any other law for the time being in force or any instrument having the force of law, the General Insurance Corporation of India formed under section 9 of the said Act and the insurance companies for the time being carrying on general insurance business in India shall make to the Solatium Fund such contributions as the Central Government may from time to time by order in writing specify, and in addition to such contributions, the said Fund shall consist of- (a) such sums as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from time to time; (b) such sums as the State Governments may from time to time contribute; and (c) such other sums as may be received (whether by way of refund, gift, donation or in any other manner) for being credited to the Fund. (5) Subject to the provisions of this Act and the scheme, there shall be paid as compensation out of the Solatium Fund,- (a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of five thousand rupees; (b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of one thousand rupees; Provided that where the sum standing to the credit of the Solarium Fund is not adequate for meeting any claim for compensation under this section, such claim may be kept pending for payment till such time as the sum necessary for meeting it becomes available in the Fund. (6) The provisions of sub-section (1) of section 110A shall apply for the purpose of making applications for compensation under this section as they apply for the purpose of making applications for compensation referred to in that sub-section.

## **Section 162**

### **Scheme for golden hour.**

(1) Notwithstanding anything contained in the General Insurance Companies (Nationalisation) Act, 1972 or any other law for the time being in force or any instrument having the force of law, the insurance companies for the time being carrying on general insurance business in India shall provide in accordance with the provisions of this Act and the schemes made under this Act for treatment of road accident victims, including during the golden hour. (2) The Central

Government shall make a scheme for the cashless treatment of victims of the accident during the golden hour and such scheme may contain provisions for creation of a fund for such treatment.

## **Section 163**

### **Refund in certain cases of compensation paid under section 161.**

(1) The payment of compensation in respect of the death of, or grievous hurt to, any person under section 161 shall be subject to the condition that if any compensation (hereafter in this sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law for the time being in force or otherwise, so much of the other compensation or other amount aforesaid as is equal to the compensation paid under section 161, shall be refunded to the insurer. (2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle under any provision of this Act other than section 161 or any other law for the time being in force, the Claims Tribunal, court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 161 or an application for payment of compensation is pending under that section, and such Tribunal, court or other authority shall - if compensation has already been paid under section 161, direct the person liable to pay the compensation awarded by it to refund to the insurer, so much thereof as is required to be refunded in accordance with the provisions of sub-section (1); if an application for payment of compensation is pending under section 161 forward the particulars as to the compensation awarded by it to the insurer. Explanation: For the purpose of this sub-section, an application for compensation under section 161 shall be deemed to be pending - (i) if such application has been rejected, till the date of the rejection of the application; and (ii) in any other case, till the date of payment of compensation in pursuance of the application. Corresponding Law :S. 109-B of Act



IV of 1939: 109B. Refund in certain cases of compensation paid under section 109A. - (1) The payment of compensation in respect of the death of, or grievous hurt to, any person under section 109A shall be subject to the condition that if any compensation (hereafter in this subsection referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law or otherwise, so much of the other compensation or other amount aforesaid as is equal to the compensation paid under section 109A shall be credited to the Solatium Fund by way of refund. (2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle or motor vehicles under any provision of this Act (other than section 109A) or any other law, the tribunal, court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 109A or an application for payment of compensation is pending under that section, and such tribunal, court or other authority shall,- (a) if compensation has already been paid under section 109A, direct the person liable to pay the compensation awarded by it to pay into the Solatium Fund so much thereof as is required to be credited to that Fund in accordance with the provisions of sub-section (1); (b) if an application for payment of compensation is pending under section 109A, forward the particulars as to the compensation awarded by it to the authority in which the Solatium Fund vests. Explanation. - For the purposes of this sub-section, an application for compensation under section 109A shall be deemed to be pending- (i) if such application has been rejected, till the date of the rejection of the application, and (ii) in any other case, till the date of payment of compensation in pursuance of the application.

## **Section 164**

### **Payment of compensation in case of death or greivous hurt, etc.**

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force

or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be. (2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person. (3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

## **Section 164A**

### **Scheme for interim relief for claimants.**

(1) The Central Government, may make schemes for the provision of interim relief to claimants praying for compensation under this Chapter. (2) A scheme made under sub-section (1) shall also provide for procedure to recover funds disbursed under such scheme from the owner of the motor vehicle, where the claim arises out of the use of such motor vehicle or other sources as may be prescribed by the Central Government.

## **Section 164B**

### **Motor Vehicle Accident Fund.**

(1) The Central Government shall constitute a Fund to be called the Motor Vehicle Accident Fund and thereto shall be credited - payment of a nature notified and approved by the Central Government; any grant or loan made to the Fund by the Central Government; the balance of the Fund created under scheme framed under section 163, as it stood immediately before the commencement of the Motor Vehicles (Amendment) Act, 2019; and any other source of income

as may be prescribed by the Central Government. (2) The Fund shall be constituted for the purpose of providing compulsory insurance cover to all road users in the territory of India. (3) The Fund shall be utilised for the following, namely: - (a) treatment of the persons injured in road accidents in accordance with the scheme framed by the Central Government under section 162; (b) compensation to representatives of a person who died in hit and run motor accident in accordance with schemes framed under section 161; (c) compensation to a person grievously hurt in a hit and run motor accident in accordance with schemes framed under section 161; and (d) compensation to such persons as may be prescribed by the Central Government. (4) The maximum liability amount that shall be paid in each case shall be such as may be prescribed by the Central Government. (5) In all cases specified in clause (a) of sub-section (3), when the claim of such person becomes payable, where amount has been paid out of this Fund to any person, the same amount shall be deductible from the claim received by such person from the insurance company. (6) The Fund shall be managed by such authority or agency as the Central Government may specify having regard to the following: - knowledge of insurance business of the agency; capability of the agency to manage funds; and any other criteria as may be prescribed by the Central Government. (7) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Fund in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. (8) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him. (9) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Fund under this Act shall have the same rights, privileges and authority in connection with such audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority. (10) The accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in

this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of the Parliament. (11) Any scheme framed under sub-section (3) of section 161, as it stood immediately before the commencement of the Motor Vehicles (Amendment) Act, 2019, shall be discontinued and all rights and liabilities accruing thereunder shall be met out of the Fund with effect from the date of commencement of this Act.

## **Section 164C**

### **Power of Central Government to make rules.**

(1) The Central Government may make rules for the purposes of carrying into effect, the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for - the forms to be used for the purposes of this Chapter including, - (i) the form of the insurance policy and the particulars it shall contain as referred to in sub-section (3) of section 147; (ii) the form for making changes in regard to the fact of transfer in the certificate of insurance under sub-section (2) of section 157; (iii) the form in which the accident information report may be prepared, the particulars it shall contain, the manner and the time for submitting the report to the Claims Tribunal and the other agency under section 159; (iv) the form for furnishing information under section 160; and (v) the form of the annual statement of accounts for the Motor Vehicle Accident Fund under sub-section (7) of section 164B; the making of applications for and the issue of certificates of insurance; the issue of duplicates to replace certificates of insurance lost, destroyed or mutilated; the custody, production, cancellation and surrender of certificates of insurance; the records to be maintained by insurers of policies of insurance issued under this Chapter; the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter; the furnishing of information respecting policies of insurance by insurers; adopting the provisions of this Chapter to vehicles brought into India by persons making only a temporary stay therein or to vehicles registered in a reciprocating country and operating on any route or within any area in India by applying those

provisions with prescribed modifications; the requirements which a certificate of insurance is required to comply with as referred to in clause (b) of section 145; administration of the Fund established under sub-section (3) of section 146; Corresponding Law :S. 111 of Act IV of 1939: 111. Powers to make rules. - (1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such rules may provide for- (a) the forms to be used for the purposes of this Chapter; (b) the making of applications for and the issue of certificates of insurance; (c) the issue of duplicates to replace certificates of insurance [lost, destroyed or mutilated]; (d) the custody, production, cancellation and surrender of certificates of insurance; (e) the records to be maintained by insurers of policies of insurance issued under this Chapter; (f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter; (g) the furnishing of information respecting policies of insurance by insurers; (h) the carrying into effect of the provisions of section 108; (i) adapting the provisions of this Chapter to vehicles brought into [India] by persons making only a temporary stay therein [or to vehicles registered in the State of Jammu and Kashmir or in a reciprocating country and operating on any route or within any area in India] by applying those provisions with prescribed modifications; and (j) any other matter which is to be or may be prescribed.

## **Section 164D**

### **Power of State Government to make rules.**

(1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter other than the matters specified in section 164C. (2) Without prejudice to the generality of the foregoing power, such rules may provide for - the other authority under sub-section (5) of section 147; and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.] Corresponding Law :S. 111-A of Act IV of 1939: [111A. Power of State Government to make rules. - A State Government may make rules for the purpose of carrying into effect the provisions of sections 110 to 110E, and in particular,

such rules may provide for all or any of the following matters, namely:- (a) the form of application for claims for compensation and the, particulars it may contain; and the fees, if any, to be paid in respect of such applications; (b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter; (c) the, powers vested in a Civil Court which may be exercised by a Claims Tribunal; (d) the form and the manner in which [and the fees (if any) on payment of which] an appeal may be preferred against an award of a Claims Tribunal; and (e) any other matter which is to be, or maybe, prescribed.]

## **Chapter XII**

### **CLAIMS TRIBUNALS**

Section 165 to 176

#### **Section 165**

##### **Claims Tribunals.**

(1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both. Explanation: For the removal of doubts, it is hereby declared that the expression claims for compensation in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles includes claims for compensation under section 164. (2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof. (3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he is, or has been, a Judge of a High Court, or is, or has been, a District Judge, or is qualified for appointment as a High Court Judge or as a District Judge. (4) Where two or

more Claims Tribunals are constituted for any area, the State Government, may by general or special order, regulate the distribution of business among them. Case Law 1: Subject matter of claim. Jammu and Kashmir High Court Kamal Kusha v. Kirpal Singh, AIR 1988 J&K 11. In this case the Hon'ble Court directed the bodily injury or damage to property arising out of a motor accident or both could be made subject-matter of claim before the Claims Tribunal. That would mean that in respect of both injuries whether it be to property or to person claim can be preferred under the provisions of Section 110, Motor Vehicles Act (Section 165 of new Act). Cause of accident. The Court also observed that where it is alleged that motor vehicle driver was solely responsible for causing accidental injuries giving rise to the claims for compensation, it is the Claims Tribunal alone which can entertain such claims under Section 110(1) of the Act [Section 165 of new Act]. Where the accident is caused solely on account of the negligence of any other person who may not have used any motor vehicle at the relevant time in causing the accident, the claim petition would not be maintainable before Claims Tribunal. Where composite negligence is alleged both against the driver of the motor vehicle as well as driver of any other vehicle, or any other outside agency such claim petition would be maintainable before the Tribunal on the principle that outside parties are allowed to be joined as tortfeasors who have contributed to the causing of the accident and, their inter se liability can be adjudicated upon by the Tribunal. Case Law 2: Cause of accident. Gujarat High Court Gujarat S.R.T.C v. Union of India, AIR 1988 Guj 13. The accident has been caused on account of composite negligence of the driver of the motor vehicle and driver of any other vehicle or outside agency application for claim would be maintainable by the Claims Tribunal but ultimately, if after hearing the parties, the tribunal comes to the conclusion that the accident has been caused not on account of the rash and negligent driving by the driver of the motor vehicle but solely on account of rashness and negligence of other person who might have driven the vehicle other than motor vehicle like railway engine, horse cart or camel cart etc., or solely on account of negligence of outside agencies, then on the said finding, the case would get out of provision of Section 110(1) [Section

165 of new Act]. Case Law 3: Uninsured vehicles. Patna High Court Parmanand Thakur v. Commissioner Coal Mines, AIR 1988 Pat 156. In this case the Hon'ble Court observed that uninsured vehicles are also within the scope of Section 110 [Section 165 of new Act]. Case Law 4: MACT- Scope. Kerala High Court ICICI Lombard General Insurance Company v. M. D. Davasia Jose; ILR 2019 (3) Ker. 539 :AIR 2020 Ker. 8 Motor Accidents Claims Tribunals (MACT), though it has some trappings of a 'Court', is not a 'Court', and therefore, its constitution is not governed by any legislation applicable to Civil Courts. Case Law 5: Claim application. Bombay High Court Divisional Manager, United India Insurance Co. Ltd. v. Subhash and Others; 2018 KHC 7449 : 2018 ACJ 1663 Jeep was damaged in accident with a truck -- Claims Tribunal constituted under S.165 has jurisdiction to adjudicate own damage claim filed under S.166 -- Claims Tribunal constituted under S.165 has jurisdiction to entertain claim application with respect to damage to the property of a third party but claim for own damage does not fall within the purview of the Claims Tribunal. Case Law 6: Jurisdiction. Kerala High Court Sugunan E. I. v. P. M. Riyas and Others; 2015 (1) KHC 666 : ILR 2015 (1) Ker. 754 : 2015 ACJ 2436 Motor Accident Claims Tribunal within whose jurisdiction the insurer has issued the policy of insurance would also have jurisdiction to entertain a claim petition -- Fact that the claimants or other respondents do not reside within the jurisdiction of the said Tribunal is of no consequence -- Claimant has an option to choose or elect an appropriate Tribunal. Case Law 7: Revisional Jurisdiction. Jammu and Kashmir High Court Hans Raj Bhagat v. State and Others; 2013 KHC 2043 : AIR 2013 J&K 15 Civil Procedure Code, 1908, S.115 -- Claims Tribunal is not a Civil Court subordinate to the High Court, so is not subject to the revisional jurisdiction of the High Court. Corresponding Law :S. 110 of Act IV of 1939: [110. Claims Tribunals. - (1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereinafter referred to as Claims Tribunals) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of [motor



vehicles, or damages to any property of a third party so arising, or both]: Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees two thousand, the claimant may, at his option, refer the claim to a civil court for adjudication, and where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim. [Explanation. - For the removal of doubts, it is hereby declared that the expression "claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles" includes claims for compensation under section 92A.] (2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof. (3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he- (a) is, or has been, a Judge of a High Court, or (b) is, or has been, a District Judge, or (c) is qualified for appointment as a Judge of the High Court. (4) Where two or more Claims Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

## **Section 166**

### **Application for compensation.**

(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made by the person who has sustained the injury; or by the owner of the property; or where death has resulted from the accident, by all or any of the legal representatives of the deceased; or by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be: Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application. [Provided further that where a person accepts

compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.] (2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed: [x x x x] (3) [No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.] (4) [The Claims Tribunal shall treat any report of accidents forwarded to it under [section 159] as an application for compensation under this Act.] (5) [Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.] OLD LAW : Prior its substitution, Sub-Section (2) & (4) read as under:- (2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed: Provided that where any claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant. (4) Where a police officer has filed a copy of the report regarding an accident to a Claims Tribunal under this Act, the Claims Tribunal may, if it thinks necessary so to do, treat report as it where an application for compensation under this Act. Case Law 1: Nature and Scope. Supreme Court Gujarat SRTC v. Ramanbhai Prabhatbhai, (1987) 3 SCC 234: 1987 SCC (Cri) 482. In this case the Hon'ble Court directed that Sections 110-A and 110-B [Sections 166 and 168 of new Act] override corresponding provisions of Section 1-A of Fatal Accidents Act, 1855 (13 of 1855)}—Hence legal representatives including brothers of the deceased victim of motor accident entitled to maintain application for compensation under Section 110-A. Case Law

2: Cases over ruled. Supreme Court Gujarat SRTC v. Ramanbhai Prabhatbhai, (1987) 3 SCC 234: 1987 SCC (Cri) 482. The following cases are overruled with the judgement of Gujarat SRTC v. Ramanbhai Prabhatbhai, (1987) 3 SCC 234: 1987 SCC (Cri) 482. Budha v. Union of India, AIR 1981 MP 151 : 1981 MPLJ 30; P.B. Kader v. Thatchamma, AIR 1970 Ker 241 : 1969 Ker LJ 491 : ILR (1969) 2 Ker 307 : 1970 Lab IC 1273 and Dewan Han Chand v. Municipal Corporation of Dethi, AiR 1973 Del 67 : (1972) 74 Pun LR (D) 177 : 1973 ACJ 87, overruled.) Minu B. Mehta v. Balkrishna Ramchandra Nayan, (1977) 2 SCC 441: (1977) 2 SCR 886 : AIR 1977 SC 1248, (obiter observations overruled) Case Law 3: Compensation. Supreme Court Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683 : (2012) 1 SCC (L&S) 422 : (2012) 1 SCC (Cri) 82 : (2012) 3 SCC (Civ) 1082. In this case the Hon'ble Court interpreted the term "compensation" which would include not only expenses incurred for immediate treatment, but also expenses likely to be incurred for future medical treatment/care necessary for particular injury or disability caused by an accident. Case Law 4: Lumpsum Compensation. Supreme Court Anant v. Pratap, (2018) 9 SCC 450. In this case the Hon'ble Court decided that the award of lump sum compensation without following multiplier method is not permissible. Compensation has to be just compensation. Mode of award in cases of permanent disability has to be based on functional disability or actual loss of income/income-earning capacity. Due to changed scenario in view of cost of living and current rate of inflation, Second Schedule provided under Motor Vehicles Act became redundant. Case Law 5: Heads to determine compensation. Supreme Court Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Cri) 1002 : (2009) 2 SCC (Civ) 770. In this case the Hon'ble Court observed that other than the detailed calculation required to calculate the loss of dependency, certain lump sums may be awarded under heads of (i) loss of estate, (ii) loss of consortium, and (iii) funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred). The Court also observed that the assessment of compensation, though involves, certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in

treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision-making process and the decisions. Hence, expressing grave concern over lack of uniformity and consistency among the decisions of Tribunals, when the factors/inputs as well as the formula/legal principles are the same, consistency and uniformity, and not divergence and freakiness, should be the result of adjudication to arrive at just compensation. To arrive at uniformity and consistency in determination of compensation in cases of death, Tribunals directed to follow the well-settled steps. Case Law 6: Consortium is right of spouse. Supreme Court Bhogireddi Varalakshmi v. Mani Muthupandi, (2017) 3 SCC 802 : (2017) 2 SCC (Cri) 1. In this case the Hon'ble Court observed that Consortium is right of spouse to company, care, help, comfort, guidance, society, solace, affection and sexual relations with his/her mate. Even children of deceased are entitled to award of compensation for loss of love, care and guidance. This emotional aspect has nothing to do with expected lifespan. Case Law 7: Permanent disability. Supreme Court Mohan Soni v. Ram Avtar Tomar, (2012) 2 SCC 267 : (2012) 1 SCC (Cri) 641 : (2012) 1 SCC (Civ) 747. In this case the Hon'ble Court observed that Impact/Effect of permanent disability on work/earning capacity, is to be judged with reference to nature of work being performed by person suffering the disability. Case Law 8: Permanent total disability - Compensation. Supreme Court Jagdish v. Mohan, (2018) 4 SCC 571. In this case the Hon'ble Court observed that the measure of compensation must reflect a genuine attempt of law to restore dignity of being. Yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. It must provide a realistic recompense for pain of loss and trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of individual to an assertion of enforceable rights as intrinsic to human dignity. The Court also observed in assessing the compensation payable, the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation

must cover among others, the following aspects: (i) Pain, suffering and trauma; (ii) Loss of income including future income; (iii) Inability of the victim to lead a normal life together with its amenities; (iv) Medical expenses including those that the victim may be required to undertake in future; and (v) Loss of expectation of life. Case Law 9: Permanent or Total disability. Supreme Court *Afnees v. Oriental Insurance Co. Ltd.*, (2018) 13 SCC 119. In this case the Hon'ble Court observed that just compensation for permanent or total disability includes not only expenses incurred for immediate treatment, but also amount likely to be incurred for future medical treatment/care necessary for a particular injury or disability caused by an accident. Case Law 10: Permanent partial disability. Supreme Court *Ankur Kapoor v. Oriental Insurance Co. Ltd.*, (2018) 1 SCC 136. When accident resulted in permanent disability to extent of 50% to right arm of 22-year-old appellant trainee in a Merchant Navy Company, award of compensation without considering important heads, held, not proper. Case Law 11: Right to claim. Jammu and Kashmir High Court *Kamal Kusha v. Kripal Singh*, AIR 1988 J&K 11. In this case the Hon'ble Court observed that Section 110-A [Section 166 of 1988 Act] only says that claim can be made by the person who has sustained the injury. The injury would not mean that it would be the bodily injury alone and not injury to the property. Case Law 12: Maintainability of claim. Supreme Court *National Insurance Co. Ltd. v. Ashalata Bhowmik*, (2018) 9 SCC 801. In this case the Hon'ble Court observed that when death of owner-cum-driver of motor vehicle has been caused due to his own negligence, claim for compensation is not maintainable. Case Law 13: Legal representative. Supreme Court *Gujarat SRTC v. Ramanbhai Prabhatbhai*, (1987) 3 SCC 234, 247, 248: 1987 SCC (Cri) 482. In this case the Hon'ble Court observed that a legal representative ordinarily means a person who in law represents the estate of a deceased person or a person on whom the estate devolves on the death of an individual. A legal representative in a given case need not necessarily be a wife, husband, parent and child. Case Law 14: Basis of liability. Supreme Court *Oriental Insurance Co. Ltd. v. Meena Vanyal*, (2007) 5 SCC 428 : (2007) 2 SCC (Cri) 527. In this case the Hon'ble Court decided that the basis of liability under this

section is still tortious liability. Case Law 15: Determination of compensation. Supreme Court Reliance General Insurance Co. Ltd. v. Shashi Sharma, (2016) 9 SCC 627 : (2016) 3 SCC (Cn) 713. In this case the Hon'ble Court observed that general principles under common law for estimating damages cannot be applicable for determination of compensation under Motor Vehicles Act. "Pecuniary advantage" from whatever source must correlate to injury or death arising out of motorvehicle accident. In this case the Court also interpreted the word "Compensation" which means to recompense claimants for possible loss suffered or likely to be suffered due to sudden and untimely death of their family member as a result of motor accident. Principles for determination of compensation are (i) measure of compensation must be just and adequate, and (ii) no double benefits to be passed on to claimants in awarding compensation — "Just" means fair, adequate and reasonable. "Just" has been derived from Latin word "justus" connoting right and fair. It denotes that amount must be equitable, fair, reasonable and not arbitrary. However, compensation is not intended to be bonanza, largesse or source of profit. Compensation either under Motor Vehicles Act or under Workmen's Compensation Act.—As per Section 167 of MV Act, dependants of deceased entitled to claim compensation either under Motor Vehicles Act or under Workmen's Compensation Act but cannot claim under both laws. This kind of statutory exclusion is not found in another law like Haryana Rules, 2006. That does not mean MACT should be ignorant of such fact. Generally claimants are legally entitled to claim under 'loss of pay and wages' of deceased government employee against tortfeasor or insurance company. However, dependants of deceased employee of Government of Haryana are not entitled to claim under such head as they receive "pay and allowance" under Rule 5(1) of Haryana payable under MV Act must exclude amount received under Haryana Rules, 2006 under head "loss of pay and allowances. Case Law 16: Law clarified on the following aspects. Supreme Court National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680. In this case the Hon'ble Court clarified the following points Deduction of personal and living expenses to determine multiplicand; Selection of multiplier depending on age of deceased; Age of deceased

as basis for applying multiplier; Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation; Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

Case Law 17: Multiplier method. Supreme Court Sandeep Khanuja v. Atul Dande, (2017) 3 SCC 351. Multiplier method is to calculate net pecuniary loss upon an annual basis, involving ascertainment of loss of dependency or multiplicand having regard to circumstances of case and capitalising multiplicand by an appropriate multiplier, as determined by age of deceased or that of claimant, as case may be. In injury cases, description of nature of injury and permanent disablement are relevant factors and it has to be seen as to what would be impact of such injury/disablement on earning capacity of injured. There should be no departure from multiplier method on ground of 'just' compensation since multiplier method is accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of awards made all over country. Multiplier system is based on doctrine of equity, equality and necessity. A departure therefrom is to be done only in rare and exceptional cases.

Case Law 18: Limitation period for filing claims. Supreme Court Purohit & Co. v. Khatoonbee, (2017) 4 SCC 783. In this case the Hon'ble Court decided that the deletion of Section 166(3) does not revive stale or dead claims. A claim raised before the Motor Accidents Claims Tribunal can be considered to be genuine, so long as it is a live and surviving claim. Individual concerned must approach the Tribunal within a reasonable time. Further, reasonability would depend on the facts and circumstances of each case.

Case Law 19: Benefit of amendment. Supreme Court Dhannalal v. D.P. Vijayavargiya, (1996) 4 SCC 652. In this case the Hon'ble Court observed where the claim petition was pending beyond limitation, the benefit of amendment of sub-section (3) of Section 166 of Motor Vehicles Act should be extended.

Case Law 20: Quantum that may be awarded towards future prospects. Supreme Court Sureshchandra Bagmal Doshi v. New India Assurance Co. Ltd., (2018) 15 SCC 649. In this case the Hon'ble Court observed where the assessment is based on actual evidence led to the satisfaction of the Tribunal/Court,

increase in income that can be granted as future prospects can be taken at a higher level than the standard percentage. Case Law 21: Non-exhibition of documents. Supreme Court Vimla Devi v. National Insurance Co. Ltd., (2019) 2 SCC 186. Non exhibition of documents i.e. a procedural lapse -- If the Court did not exhibit the documents despite the appellants referring them at the time of recording evidence then in such event, the appellants cannot be denied of their right to claim the compensation on such ground -- It was nothing but a procedural lapse, which could not be made basis to reject the claim petition -- It was more so when the appellants adduced oral and documentary evidence to prove their case and the respondents did nothing to counter them -- Not to disentitle a claim, when otherwise sufficient evidence is adduced and documents established the identity of the offending vehicle. Case Law 22: Liability of registered owner. Supreme Court Prakash Chand Daga v. Saveta Sharma, (2019) 2 SCC 747. Liability of registered owner of vehicle to pay compensation in case of accident is not absolved, even when such vehicle stands transferred and accident occurs prior to expiry of period prescribed under Section 50(1)(b) to report transfer. Case Law 23: Multiplier. Supreme Court Royal Sundaram Alliance Insurance Co. Ltd. v. Mandala Yadagari Goud, (2019) 5 SCC 554. In case of death of a bachelor computation of compensation is to be based on age of deceased and not age of parents. This position of law has been settled by three three-Judge Bench decisions which have then affirmed by a five-Judge Bench. Case Law 24: Expression "use of vehicle" attracts stationary/static. Supreme Court Kalim Khan and Others v. Fimidabee and Others; 2018 (7) SCC 687 : AIR 2018 SC 3209 : 2018 (4) KHC 690 Battery of tractor used for digging of well (by blasting) in a field used for agricultural purpose -- Stone falling on deceased due to blasting operation -- Claim for compensation under MV Act -- Whether sustainable -- Held, in the present case, there is a causal relationship with the vehicular accident which had resulted in death of claimant -- Expression 'use of the vehicle' under certain circumstances can be attracted when the vehicle is stationary or static-- Claimant is entitled for compensation. Case Law 25: Amounts for future prospects. Supreme Court Pappu Deo Yadav v. Naresh Kumar and Others; AIR 2020



SC 4424 : 2020 (11) SCALE 192 Permanent disablement incurred as a result of a motor accident -- Claimant can seek, apart from compensation for future loss of income, amounts for future prospects too. Case Law 26: Consortium Supreme Court New India Assurance Company Ltd. and Others v. Somwati and Others; 2020 KHC 6530 : 2020 (9) SCC 644 Fatal accident -- In legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium' -- The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family -- It is certainly not the law that consortium is only payable as a spousal consortium and consortium is not payable to children and parents -- Apart from spousal consortium, parental and filial consortium, held, are payable in fatal accident claim. Also held, expression 'consortium' to include spousal consortium, parental consortium as well as filial consortium -- 'Loss of love and affection' is comprehended in 'loss of consortium' -- Hence, held, there is no justification to award compensation towards "loss of love and affection" as a separate head. Case Law 27: Abroad proof of income should be attest by Indian Embassy. Supreme Court United India Insurance Co. Ltd. v. Satinder Kaur Satwinder Kaur and Others; ILR 2020 (3) Ker. 334 : AIR 2020 SC 3076 Deceased employed abroad -- Proof of income -- Letter issued as proof of income not attested by Indian Embassy at Doha, as per the Diplomatic & Consular Offices Oaths and Fees Act -- Held, said letter cannot be taken as proof of income. Case Law 28: Determination of compensation. Supreme Court Parminder Singh v. New India Assurance Company Limited and Others; AIR 2019 SC 3128 : 2019 (7) SCC 217 Insurance Company is absolved of the liability to bear the compensation, as evidence has been produced from the office of the Regional Transport Office to prove that the drivers of the two offending trucks were driving on the basis of invalid driving licenses. Case Law 29: Standard of proof to be borne. Supreme Court Sunita and Others v. Rajasthan SRTC and Another; 2019 KHC 6169 : AIR 2019 SC 994 Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of

proof beyond all reasonable doubts which is followed in criminal cases. Case Law 30: Just compensation. Supreme Court Sebastiani Lakra and Others v. National Insurance Company Ltd. and Another; 2018 KHC 6809 : AIR 2018 SC 5034 Just compensation -- The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to a kin of the deceased -- As far as any amount paid under any insurance policy is concerned whatever is added to the estate of the deceased or his dependents is not because of the death of the deceased but because of the contract entered into between the deceased and the insurance company from where he took out the policy -- These amounts are also payable on death, whatever be the cause of death -- Therefore, applying the same principles, the said amount cannot be deducted. Case Law 31: Manner of filing petitions. Supreme Court Jai Prakash v. National Insurance Co. Ltd. and Others; 2010 (2) SCC 607 : 2010 (1) KHC 401 Motor accident -- Manner of filing claim petitions -- Directions by Supreme Court -- All High Courts directed to instruct Motor Accidents Claims Tribunal within their jurisdiction to register reports of accidents received under S.158(6) of the Act as applications for compensation under S.166(4), without waiting for claim petitions -- Tribunals directed to dispose of such applications by way of summary procedure unlike regular civil suits. Corresponding Law :S. 110-A of Act IV of 1939: 110A. Application for compensation. - (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 110 may be made- (a) by the person who has sustained the injury; or [(aa) by the owner of the property; or] (b) where death has resulted from the accident, [by all or any of the legal representatives] of the deceased; or (c) by any agent duly authorised by the person injured [or all or any of the legal representatives] of the deceased, as the case may be: [Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.]

(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particular as may be prescribed: [Provided that where any claim for compensation under Section 92A is made in such-application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.] (3) No application for [for such compensation] shall be entertained unless it is made within [six months] of the occurrence of the accident: Provided that the Claims Tribunal may entertain the application after the expiry of the said period of [six months] if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.]

## **Section 167**

### **Option regarding claims for compensation in certain cases.**

Notwithstanding anything contained in the Workmens Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmens Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both. Case Law 1: Interpretation for Compensation. Gujarath High Court Hanvadan Maneklal Modi v. Chandrasinh Chhatrasinh Parmar, AIR 1988 Guj 69. In this case the Hon'ble Court interpreted the words 'may claim' in Section 119-AA [Section 167 of new Act] make it clear that the option is left to the person entitled to compensation to choose whether he would seek the remedy available under the Motor Vehicles Act or the Workmen's Compensation Act. He has to choose either of these two remedies but not both. Corresponding Law :S. 110-AA of Act IV of 1939: 110AA. Option regarding claims for compensation in certain cases. - Notwithstanding anything contained in the Workmen's Compensation Act, 1923, where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation [may, without prejudice to the provisions of Chapter VIIA, claim

such compensation] under either of those Act but not under both.

## **Section 168**

### **Award of the Claims Tribunal.**

(1) On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 163 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be: [x x x x] (2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award. (3) When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct. OLD LAW : Provided that where such application makes a claim for compensation under section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X. Case Law 1: Grant of compensation. Karnataka High Court Basavaraj v. Shekhar, AIR 1988 Kant 105. In this case the Hon'ble Court observed that even in the absence of appropriate proof the Tribunal would still be required to compensate an injured person under head "medical treatment" by awarding a reasonable sum adequate to reimburse the claimant as regards expenses incurred. In granting compensation for personal injuries the victim has to be compensated for pain and suffering; for loss of amenities; shortened expectation of life if any; loss of earnings or loss of earning capacity

or in some cases for both; and medical treatment and other special damages. Case Law 2: Just compensation. Supreme Court Kerala, SRTC v. Susamma Thomas, (1994) 2 SCC 176 : 1994 SCC (Cri) 335. In this case the Hon'ble Court observed that Compensation must be just, fair and reasonable. Multiplier method of computation, is the proper, logically sound and well-established method for determining first compensation. Departure from it is justified only in rare and extraordinary circumstances and very exceptional cases. Case Law 3: Just compensation. Supreme Court National Insurance Co. Ltd. v. Indira Srivastava, (2008) 2 SCC 763 : (2008) 1 SCC (Cri) 550. In this case the Hon'ble Court observed that just compensation means an amount which is just and equitable rather than a bonanza or source of profit. Income of an employee of private sector employment where pension is avoided by granting other benefits is not confined to pay-package only. Benefits meant for family, as distinguished from personal benefits like conveyance allowance, etc. also form part of income. However, tax payable is to be deducted. Medical allowance is payable subject to production of bills. Case Law 4: Determination of damages. Supreme Court Kaushlya Devi v. Karan Arora, (2007) 11 SCC 120 : (2007) 56 AIC 76 (SC). Determination of damages for loss of human life is an extremely difficult task and it becomes all the more baffling when the deceased is a child and/or a non-earning person. The future of a child is uncertain. Where the deceased was a child, he was earning nothing but has a prospect to earn. Figure of compensation in such cases involves a good deal of guesswork. In cases, where parents are claimants, relevant factor would be age of parents, in cases of young children of tender age, in view of uncertainties abound, neither their income at the time of death nor the prospects of the future increase in their income nor chances of advancement of their career are capable of proper determination on estimated basis. Case Law 5: Interpretation/Construction. Supreme Court United India Insurance Co. Ltd. v. Shila Datta, (2011) 10 SCC 509 : (2012) 1 SCC (Cn) 328 : (2012) 3 SCC (Civ) 798. In this case the Hon'ble Court interpreted the words "receipt of an application for compensation" in Section 168 refer not only to such application filed by claimants but also to suo moto registration of application for

compensation under Section 166(4) on the basis of report of an accident under Section 158(6).

Case Law 6: Dying in harness. Supreme Court Vimal Kanwar v. Kishore Dan, (2013) 7 SCC 476.

"Compassionate appointment' can be one of the conditions of service of an employee, if a scheme to that effect is framed by the employer. In case the employee dies in harness i.e. while in service leaving behind the dependants, one of the dependants may request for compassionate appointment to maintain the family of the deceased employee who dies in harness. This cannot be stated to be an advantage receivable by the heirs on account of one's death and have no correlation with the amount receivable under a statute occasioned on account of accidental death. Compassionate appointment may have nexus with the death of an employee while in service but it is not necessary that it should have a correlation with the accidental death. An employee dies in harness even in normal course, due to illness and to maintain the family of the deceased one of the dependants may be entitled for compassionate appointment but that cannot be termed as "pecuniary advantage" that comes under the periphery of the Motor Vehicles Act and any amount received on such appointment is not liable for deduction for determination of compensation under the Motor Vehicles Act. Case Law 7: Liability to pay compensation. Supreme Court Karnataka SRTC v. New India Assurance Co. Ltd., (2016) 2 SCC 382 : (2016) 1 SCC (Cri) 493 : (2016) 2 SCC (Civ) 85. Bus was given on hire to State Road Transport Corporation (SRTC) by its registered owner under a lease agreement. Accident occurs while it was being driven under control of SRTC pursuant to said agreement, it was liability of owner to provide comprehensive insurance cover for all kinds of accidental risks. Owner was under liability to: (a) provide bus regularly, (b) employ a driver, who was to be duly licensed and not disqualified as provided in agreement, and (c) make payment of salary to driver. Further, bus was to be plied on routes as specified by SRTC and hiring charges were to be paid to registered owner. As per the agreement, owner of bus was to be solely liable for any claim arising out of any accident met by bus, however, if SRTC had to pay compensation arising out of any such accident, SRTC could recover that amount from owner out of the amount

payable by it to owner or from the amount payable by insurer to owner. As (i) hiring of public service vehicles is not prohibited under any law, and (ii) lease agreement in question was not illegal or opposed to public policy or contrary to any provision in Contract Act or MV Act or violative of any provision in insurance policy, having regard to terms and conditions of lease agreement, held, registered owner of vehicle (i.e. insured) had owned liability under the agreement to pay compensation in accident matters. Insurer could not escape that liability. Further, in terms of Section 2(30) of MV Act, SRTC could also be treated as owner of vehicle during the period the vehicle was on hire with it. Thus, SRTC being in actual control of vehicle would also liable to pay compensation but, in such a case, since by virtue of Section 157 of MV Act the insurance policy must be deemed to have been transferred in favour of SRTC, the insurer would be liable to indemnify SRTC for the liability so incurred by SRTC. In this way, registered owner, insurer as well as SRTC, held, jointly and severally liable to pay compensation to claimants. However, SRTC in terms of lease agreement could recover the amount paid by it from registered owner or insurer, as the case may be. Case Law 8: Compensation for death in accident. Supreme Court Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130. In this case the Hon'ble Court observed that parents losing their minor child or unmarried son/daughter in motor accident-Entitled to be awarded loss of consortium under the head of filial consortium. Case Law 9: Compensation. Gujarat High Court Urmila J. Sangani (Dr. ) v. Pragjibhai Mohanlal Luvana and Others; 2000 KHC 3426 : AIR 2000 Guj. 211 Compensation -- If the claimant has not resorted to the remedy of amending the claim petition even at any stage, the Tribunal on its own or the First Appellate Court on its own, would not be justified in enhancing the amount of compensation because according to the Tribunal or Court, the amount awardable is higher than the amount claimed by the claimant. Corresponding Law :S. 110-B of Act IV of 1939: 110B. Award of the Claims Tribunal. - On receipt of an application for compensation made under section 110A, the Claims Tribunal shall, after giving the parties an opportunity of being heard [hold an inquiry into the claim or, as the case may be, each of the

claims and, subject to the provisions of section 109B, may make an award] determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid; and in making the award the Claims Tribunal, shall specify the amount which shall be paid by the insurer [or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be]: [Provided that where such application makes a claim for compensation under section 92A in respect of 'the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter VIIA.]

## **Section 169**

### **Procedure and powers of Claims Tribunals.**

(1) In holding any inquiry under section 168, the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit. (2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. (3) Subject to any rules that may be made in this behalf, the Claims Tribunal may, for the purpose of adjudicating upon any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry. (4) [For the purpose of enforcement of its award, the Claims Tribunal shall also have all the powers of a Civil Court in the execution of a decree under the Code of Civil Procedure, 1908, as if the award were a decree for the payment of money passed by such court in a civil suit.] Case Law 1: Grant of interest. Supreme Court *Chameli Wati v. Municipal Corpn. of Delhi*, (1986) 4 SCC 503: 1986 SCC (Cri) 533. In this case the Hon'ble Court observed that while enhancing amount of compensation, High Court should



award interest thereon from the date of application for compensation. Case Law 2: Insurance company can recover compensation. Supreme Court *Oriental Insurance Co. Ltd. v. Nanjappan*, (2004) 13 SCC 224 : 2005 SCC (Cn) 148. In this case the Hon'ble Court observed where Insurance company has been held to be not liable but court ordered it to pay the compensation insurance company could recover the same from the insured by initiating a proceeding before the executing court without being required to file a separate suit. Case Law 3: Claim tribunals have no power to review its award. Chattisgarh High Court *Oriental Insurance Company Limited v. Amol Singh and Others*; 2019 KHC 5515 : 2019 ACJ 3189 Power of review is inherent in Claims Tribunal to rectify procedural, arithmetical or clerical error but no power is conferred on Claims Tribunal to review its award on merits. Case Law 4: Claim tribunals have no power to review its award. Allahabad High Court *Oriental Insurance Co. Ltd. v. Dharmendra and Another*; 2015 KHC 5089 : AIR 2015 NOC 1246 Award of Motor Accident Claims Tribunal -- Review -- There is no dispute about the fact that the against the award of Motor Accident Claim Tribunal, Insurance company can file an appeal under S.173 of the Act -- Moreover, there is no provision of review in the Motor Vehicles Act and the Tribunal has become functus officio after declaration of the award. Case Law 5: Claim for compensation. Rajasthan High Court *Rajasthan SRTC v. Nand Kishore and Others*; 2001 KHC 3894 : AIR 2001 Raj. 334 Strict provisions of Evidence Act are not to be insisted by the Tribunal on limited Jurisdiction -- The Tribunals while dealing the cases for compensation arising out of Motor Vehicle accident are to follow such summary procedure as it thought fit -- Certified copy of the FIR, Inspection Map and Site Inspection Memo, Panch Nama, Injury Report or the Post Mortem Report, as the case may be, and, other relevant documents prepared by the police or the doctor while discharging official duty are admissible in evidence without there being a formal proof. Case Law 6: Fraudulent claim. Madras High Court *Pushparani E. and Others v. A. R. Iyyappan and Another*; 2015 KHC 2293 : AIR 2015 NOC 515 Claim that accident occurred due to dash by autorickshaw to two wheeler carrying deceased persons -- Report of private investigator of insurance company showing that

accident occurred due to dash by unknown heavy vehicle to two wheeler on which deceased persons were riding -- Detailed investigation conducted by CBCID showing that there was clear nexus between claimants, driver and owner of Auto Rickshaw and then Investigating Police Officer -- Claimants played fraud on court -- Order of Tribunal fastening liability on insurance company, not proper. Corresponding Law :S. 110-C of Act IV of 1939: 110C. Procedure and powers of Claims Tribunals. - (1) In holding any inquiry under section 110B, the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary-procedure as it thinks fit. (2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of [section 195 and Chapter-XXVI of the Code of Criminal Procedure, 1973.] [(2A) Where in the course of any inquiry, the Claims Tribunal satisfied that- (i) there is collusion between the person making the claim and the person against whom the claim is made, or (ii) the person against whom the claim is made has failed to contest the claim, it may, for reasons to be recorded by it in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall there upon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.] (3) Subject to any rules that may be made in this behalf, the Claims Tribunal may, for the purpose of adjudicating upon any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

## **Section 170**

### **Impleading insurer in certain cases.**

Where in the course of any inquiry, the Claims Tribunal is satisfied that there is collusion between the person making the claim and the person against whom the claim is made, or the

person against whom the claim is made has failed to contest the claim, it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in sub-section (2) of section 150, the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made. Case Law 1: Claims Tribunal - Procedure & Powers. Supreme Court Shankarayya v. United India Insurance Co. Ltd., (1998) 3 SCC 140. The Insurance Company when impleaded as a party by the Court can be permitted to contest the proceedings on merits only if the conditions precedent mentioned in Section 170 are found to be satisfied and for that purpose the Insurance Company has to obtain an order in writing from the Tribunal and which should be a reasoned order by the Tribunal. Unless that procedure is followed, the Insurance Company cannot have a wider defence on merits than what is available to it by way of statutory defence. Case Law 2: Right to contest. Supreme Court Jagdish Prasad Pandey v. Darshan Singh, (2002) 9 SCC 527. It is clear from provisions of Section 170 that the insurer has no right to contest the claim unless Claims Tribunal expressly records its satisfaction as to collusion or failure to contest mentioned in Section 170. Case Law 6: Appeal by insurer. Supreme Court United India Insurance Co. Ltd. v. Shila Datta and Others; 2011 (10) SCC 509 : AIR 2012 SC 86 Held, where award is adverse to the interest of the insurer, the insurer has a right to file an appeal challenging the quantum of compensation or negligence or contributory negligence of the offending vehicle even if the insured has not filed any appeal against the quantum of compensation. Case Law 3: Appeal without permission is not maintainable. Gauhati High Court National Insurance Co. Ltd. v. Lalnunpari and Others; 2020 KHC 5426 : 2020 ACJ 2243 Appeal -- Motor insurance -- Appeal by insurance company contending that claimant failed to establish any dependency so as to be awarded compensation -- Unless the insurer had obtained permission from the Tribunal to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made under S.170 of the MV Act, the grounds of

appeal by the insurance company will only be limited to those provided under S.149(2) of the MV Act -- Held appeal by insurance company challenging the award of the Tribunal on merits without having obtained permission under S.170 is not maintainable. Case Law 4: Appeal by insurer- Conditions. Kerala High Court Sheela O. K. and Others v. New India Insurance Company Ltd. Aluva; 2016 (5) KHC 427 Where conditions precedent embodied in S.170 of the Act are satisfied and award is adverse to the interest of the insurer, insurer has a right to file an appeal challenging quantum of compensation or negligence or contributory negligence of the offending vehicle even if insured has not filed any appeal against the quantum of compensation -- Thus, in a situation where there is collusion between the claimants and the insured or the insured does not contest the claim and, further, the Tribunal does not implead the insurer to contest the claim, it is open to insurer to seek permission of the Tribunal to contest the claim on the ground available to the insured or to a person against whom a claim has been made -- If permission is granted and the insurer is allowed to contest the claim on merits, it is open to the insurer to file an appeal against an award on merits, if aggrieved. Case Law 5: Claim petition. Meghalaya High Court Divisional Manager, Oriental Insurance Co. Ltd. , Shillong v. Gaybreanath Khongwir and Another; AIR 2014 Meg. 28 It is clear from the record that the appellant- Insurance Company did not obtain the leave under S.170 of the Motor Vehicle Act to take the defenses on all grounds -- However, the appellant-Insurance Company may raise all grounds of defence without being restricted to the grounds available to S.149 of the Motor Vehicles Act, 1988.

## **Section 171**

### **Award of interest where any claim is allowed.**

Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf. Case Law 1: Grant of interest. Supreme Court Supe Dei v. National Insurance Co. Ltd., (2009) 4 SCC 513 : (2009) 2 SCC (Cri) 528 : (2009) 2 SCC (Civ) 244. In this case the

Hon'ble Court observed that 9% is appropriate rate of interest in motor accident compensation cases. Case Law 2: Applicability of interest. Supreme Court Abati Bezbaruah v. Geological Survey of India, (2003) 3 SCC 148 : 2003 SCC (Cri) 746. In this case the Hon'ble Court observed that interest can be granted even if a claimant does not specifically plead for the same. Corresponding Law :S. 110-CC of Act IV of 1939: [110CC. Award of interest where any claims is allowed. - Where any Court or Claims Tribunal allows a claim for compensation made under this [Act], such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

## **Section 172**

### **Award of compensatory costs in certain cases.**

(1) Any Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or any party or insurer has put forward a false or vexatious claim or defence, such Tribunal may make an order for the payment, by the party who is guilty of mis-representation or by whom such claim or defence has been put forward of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward. (2) No Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding one thousand rupees. (3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such mis-representation, claim or defence as is referred to in sub-section (1). (4) Any amount awarded by way of compensation under this section in respect of any mis-representation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such mis-representation, claim or defence .

Corresponding Law :S. 110-CCC of Act IV of 1939: 110CCC. Award of compensatory costs in

certain cases. - (1) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that- (i) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or (ii) any party or insurer has put forward a false or vexatious claim or defence, such Court or Tribunal may make an order for the payment, by the party who is guilty of misrepresentation or by whom such claim or defence has been put forward, of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has, been put forward. (2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand. (3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such misrepresentation, claim or defence as is referred to in sub-section (1). (4) Any amount awarded by way of compensation under this section in respect of any misrepresentation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such misrepresentation, claim or defence.]

## **Section 173**

### **Appeals.**

(1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court: Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court, unless he has deposited with it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court: Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. (2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than one lakh rupees. Case Law 1:

Appeal by Government. Supreme Court S. Vedantacharya v. Highways Deptt. of South Arcot, (1987) 3 SCC 400: 1987 SCC (Cri) 559. In this case the Hon'ble Court observed that in genuine cases State Government should not file appeal against award of compensation by Claims Tribunal. Case Law 2: Precondition of deposit. Supreme Court Ramesh Singh v. Cinta Devi, (1996) 3 SCC 142 : 1996 SCC (Cri) 467. Proviso to Section 173 of 1988 Act making deposit of the requisite amount a precondition for entertaining the appeal whereas Section 110-D of the 1939 Act contained no such precondition. Claim application was filed under 1939 Act, the same disposed of under 1988 Act when it came into force but appeal preferred without depositing the amount required under the proviso to Section 173 of 1988 Act. Held, appeal maintainable without requiring the appellant to make the requisite deposit, 1988 Act by its repealing clause in sub-section (4) of Section 217 preserved the general application of Section 6 of General Clauses Act. It does not expressly or by necessary implication make the proviso to Section 173 retrospective in operation. In such a situation right to appeal will crystallise in the appellant on the institution of the application in Claims Tribunal and vested right of appeal would not be dislodged by the proviso to Section 173. Ramesh Singh v. Cinta Devi, (1996) 3 SCC 142 : 1996 SCC (Cri) 467, approving Oriental Insurance Co. Ltd. v. Dhanram Singh, AIR 1990 All 104 : 1990 All LJ 133. Case Law 3: Limitation. Supreme Court United India Insurance Co. Ltd. v. Rajendra Singh, (2000) 3 SCC 581 : 2000 SCC (Cri) 726. In this case the Hon'ble Court observed that if after expiry of the limitation period of 90 days from the date of passing of the award for filing appeal, it comes to the knowledge of the insurance company (who had to make the payment pursuant to the award) that the award was obtained by practicing fraud or misrepresentation, appeal against the award would not be maintainable not only because of bar of limitation but also because the appeal would be limited to the issues formulated from the pleadings made till then. Remedy of review is then open. Case Law 4: Compensation. Supreme Court Sudarsan Puhan v. Jayanta Mohanty, (2018) 10 SCC 552. In this case the Hon'ble Court observed that Reduction of compensation in appeal without adverting to factual and legal issues

involved, not permissible. Full and fair and independent consideration of the evidence at the appellate stage, is necessary. Case Law 5: Challenge to quantum of compensation. Supreme Court *Ranjana Prakash v. Divl. Manager*, (2011) 14 SCC 639 : (2012) 4 SCC (Civ) 994. Order 41 Rule 33 CPC enables an appellate court to pass any order which ought to have been passed by the trial court and to make such further or other order as the case may require, even if the respondent had not filed any appeal or cross-objections. This power is entrusted to the appellate court to enable it to do complete justice between the parties. Order 41 Rule 33 CPC can be pressed into service to make the award more effective or maintain the award on other grounds or to make the other parties to litigation to share the benefits or the liability, but cannot be invoked to get a larger or higher relief. For example, where the claimants seek compensation against the owner and the insurer of the vehicle and the Tribunal makes the award only against the owner, on an appeal by the owner challenging the quantum, the appellate court can make the insurer jointly and severally liable to pay the compensation, along with the owner, even though the claimants had not challenged the non-grant of relief against the insurer. Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation. If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it is by the owner/insurer. Similarly, if the compensation determined by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by the owner/insurer for reduction. The High Court cannot obviously increase the compensation in an appeal by the owner/insurer for reducing the compensation nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation. Case Law 6: Aggrieved person. Supreme Court *United India Insurance Co. Ltd. v. Shila Datta*, (2011) 10 SCC 509 : (2012) 1 SCC (Cri) 328 : (2012) 3 SCC (Civ) 798. In this case the Hon'ble Court observed that



the 1998 Act does not say that insurer is not “person aggrieved” with reference to compensation amount awarded against him. Case Law 7: Defences available to insurer on appeal. Allahabad High Court United India Insurance Co. Ltd v. Shashi Prabha Sharma and Others; 2015 KHC 3718 : AIR 2015 All. 167 Where insurer has been impleaded as a party to claim petition and on account of a breach of an insurance policy, the owner of offending vehicle is held liable to pay compensation (the insurer having been held not to be liable) but a direction is issued to the insurer to pay the compensation awarded to the claimant and to recover it from the owner of the offending vehicle -- Insurer has a right to appeal under S.173 -- Appeal challenging award, by insurer, is maintainable -- Insurer not restricted to contest award only on basis of statutory defences available under S.149(2). Case Law 3: Appeal against award of compensation. Meghalaya High Court Divisional Manager, Oriental Insurance Co. Ltd. , Shillong v. Gaybreanath Khongwir and Another; AIR 2014 Meg. 28 Appeal by insurance company on ground of involvement of two other vehicles in accident -- In the absence of pleadings, the appellant-Insurance Company can not take this ground in the present appeal, inasmuch as the grounds could be taken only on the basis of pleaded pleadings and in the absence of pleaded pleadings the appellant could not make out new case in the appeal-- Ground of involvement of two other vehicles in accident, not acceptable. Corresponding Law :S. 110-D of Act IV of 1939: 110D. Appeals. - (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal, to the High Court: Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. (2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than two thousand rupees.

## **Section 174**

### **Recovery of money from insurer as arrear of land revenue.**

Where any amount is due from any person under an award, the Claims Tribunal may, on an

application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue. Corresponding Law :S. 110-E of Act IV of 1939: 110E. Recovery of money from insurer as arrear of land revenue. - Where any money is due from [any person] under an award, the Claims Tribunal may, on an application made to it by the person entitled to the money, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

## **Section 175**

### **Bar on jurisdiction of Civil Courts.**

Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court. Corresponding Law :S. 110-F of Act IV of 1939: 110F. Bar of jurisdiction of Civil Courts. - Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.]

## **Section 176**

### **Power of State Government to make rules.**

A State Government may make rules for the purpose of carrying into effect the provisions of sections 165 to 174, and in particular, such rules may provide for all or any of the following matters, namely: the form of application for claims for compensation and the particulars it may contain, and the fees, if any, to be paid in respect of such applications; the procedure to be

followed by a Claims Tribunal in holding an inquiry under this Chapter; the powers vested in a Civil Court which may be exercised by a Claims Tribunal; the form and the manner in which and the fees (if any) on payment of which an appeal may be preferred against an award of a Claims Tribunal; and any other matter which is to be, or may be, prescribed. Corresponding Law :S.

111-A of Act IV of 1939: [111A. Power of State Government to make rules. - A State Government may make rules for the purpose of carrying into effect the provisions of sections 110 to 110E, and in particular, such rules may provide for all or any of the following matters, namely:- (a) the form of application for claims for compensation and the, particulars it may contain; and the fees, if any, to be paid in respect of such applications; (b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter; (c) the, powers vested in a Civil Court which may be exercised by a Claims Tribunal; (d) the form and the manner in which [and the fees (if any) on payment of which] an appeal may be preferred against an award of a Claims Tribunal; and (e) any other matter which is to be, or maybe, prescribed.]

## **Chapter XIII**

### **OFFENCES, PENALTIES AND PROCEDURE**

Section 177 to 210D

#### **Section 177**

##### **General provision for punishment of offences.**

Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence, be punishable for the first offence, with fine which may extend to [five hundred rupees], and for any second or subsequent offence with fine which may extend to [one thousand and five hundred rupees]. Corresponding Law :S. 112 of Act IV of 1939: 112. General provision for punishment of offences. - Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to [one hundred rupees] or, if having been

previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to [three hundred rupees]

## **Section 177A**

### **Penalty for contravention of regulations under section 118.**

Whoever contravenes the regulations made under section 118, shall be punishable with fine which shall not be less than five hundred rupees, but may extend to one thousand rupees.

## **Section 178**

### **Penalty for travelling without pass or ticket and for dereliction of duty on the part of conductor and refusal to ply contract carriage, etc.**

(1) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on a requisition being made therefor, shall be punishable with fine which may extend to five hundred rupees. Explanation: In this section, pass and ticket have the meanings respectively assigned to them in section 124. (2) If the conductor of a stage carriage, or the driver of a stage carriage performing the functions of a conductor in such stage carriage, whose duty is to supply a ticket to a person travelling in a stage carriage on payment of fare by such person, either wilfully or negligently, (i) fails or refuses to accept the fare when tendered, or (ii) fails or refuses to supply a ticket, or (iii) supplies an invalid ticket, or (iv) supplies a ticket of a lesser value, or to check any pass or ticket, either wilfully or negligently fails or refuses to do so, he shall be punishable with fine which may extend to five hundred rupees. (3) If the holder of a permit or the driver of a contract carriage refuses, in contravention of the provisions of this Act or rules made thereunder, to ply the contract carriage or to carry the passengers, he shall, in the case of two-wheeled or three-wheeled motor vehicles, be punishable with fine which may extend to fifty rupees; and in any other case, be punishable with fine which may extend to [five hundred rupees]. Corresponding Law :S. 112-A of Act IV of 1939:

[112A. Penalty for travelling without pass or ticket and for dereliction of duty on the part of conductor. - (1) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor, he shall be punishable with fine which may extend to five hundred rupees. Explanation. - In this section, "pass" and "ticket" have the meanings respectively assigned to them in section 82A. (2) If the conductor of a stage carriage, or the driver of a stage carriage where such driver discharges the functions of a conductor in such stage carriage, whose duty is- (a) to supply a ticket to a person travelling in a stage carriage on payment of fare by such person, either wilfully or negligently,- (i) fails or refuses to accept the fare when tendered, or (ii) fails or refuses to supply a ticket, or (iii) supplies an invalid ticket, or (iv) supplies a ticket of lesser value, or (b) to check any pass or ticket, either wilfully or negligently fails or refuses to do so, he shall be punishable with fine which may extend to five hundred rupees. (3) The offence under this section may be compounded if the person referred to in sub-section (1) or the conductor or the driver referred to in sub-section (2), pays, on the spot on demand by such authority as the State Government may, by notification in the Official Gazette, specify,- (a) ten times the actual fare payable by such person or realisable by such conductor or driver; or (b) rupees five hundred, whichever is less. (4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 112.]

## **Section 179**

### **Disobedience of orders, obstruction and refusal of information.**

(1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall, if no other penalty is provided for the offence, be punishable with fine which may extend to [two thousand rupees]. (2) Whoever, being required by or under this Act to supply any

information, wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to [two thousand rupees], or with both. Corresponding Law :S. 113 of Act IV of 1939: [113. Disobedience of orders, obstruction and refusal of information. - (1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall, if no other penalty is provided for the, offence, be punishable with fine which may extend to five hundred rupees. (2) Whoever, being required by or under this Act to supply any information, wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.]

## **Section 180**

### **Allowing unauthorised persons to drive vehicles.**

Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine [of five thousand rupees], or with both. Case Law 1: Punishment under this Section. Supreme Court United India Insurance Co. Ltd. v. Lehu, (2003) 3 SCC 338.:2003 SCC (Cri) 614. In this case the Hon'ble Court decided that punishment under Section 180 can be imposed only if the owner or person in charge of the vehicle causes or permits driving by a person not duly licensed but not otherwise. Section 149(2)(a)(i/) recognizes this position and absolves the insurer only where there is a breach by the insured. Case Law 2: Driving vehicle without licence. Supreme Court United India Insurance Co. Ltd. v. Lehu; 2003 (3) SCC 338 : AIR 2003 SC 1292 The condition

put in S.180 that the owner or person in charge of a vehicle causes or permits driving by a person not duly licensed, for punishment, is recognised by S.149(2)(a)(ii) -- Therefore if absolves the insurance company only where, there is a breach of this condition by the owner/insured -- Even in such case of breach by the insured, the insurance company would continue to remain liable to the innocent third party, which may be recovered from the insured. Case Law 3: Tripple riding. Madras High Court Tamil Nadu State Transport Corporation v. Abdul Salam; 2003 KHC 1409 : 2003 (3) KLT SN 157 Accidental death while three persons travelling on a motor cycle which is meant for two persons -- Such persons were liable for contributory negligence, especially when their action was contrary to statute. Corresponding Law :S. 113-A of Act IV of 1939: [113A. Allowing unauthorised persons to drive vehicles. - Whoever, being the owner or person charge of a motor vehicle, causes, or permits, any person who does not satisfy the provisions of section 3 or section 4, to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to [one thousand rupees] or with both.]

## **Section 181**

### **Driving vehicles in contravention of section 3 or section 4.**

Whoever drives a motor vehicle in contravention of section 3 or section 4 shall be punishable with imprisonment for a term which may extend to three months, or with fine [of five thousand rupees], or with both. Corresponding Law :S. 113-B of Act IV of 1939: [113B. Driving vehicles in contravention of section 3 or section 4. - Whoever drives a motor vehicle in contravention of section 3 or section 4 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.]

## **Section 182**

### **Offences relating to licences.**

(1) Whoever, being disqualified under this Act for holding or obtaining a driving licence, drives a

motor vehicle in a public place or in any other place, or applies for or obtains a driving licence or, not being entitled to have a driving licence issued to him free of endorsement, applies for or obtains a driving licence without disclosing the endorsement made on a driving licence previously held by him shall be punishable with imprisonment for a term which may extend to three months, or with fine [of ten thousand rupees] or with both, and any driving licence so obtained by him shall be of no effect. (2) Whoever, being disqualified under this Act for holding or obtaining a conductors licence, acts as a conductor of a stage carriage in a public place or applies for or obtains a conductors licence or, not being entitled to have a conductors licence issued to him free of endorsement, applies for or obtains a conductors licence without disclosing the endorsements made on a conductors licence previously held by him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to [ten thousand rupees], or with both, and any conductors licence so obtained by him shall be of no effect. Corresponding Law :S. 114 of Act IV of 1939: 114. Offences relating to licences. - [(1)] Whoever, being disqualified under this Act for holding or obtaining a [driving licence], drives a motor vehicle in a public place or applies for or obtains a [driving licence] or, not being entitled to have a [driving licence] issued to him free of endorsement, applies for or obtains a [driving licence] without disclosing the endorsements made on a [driving licence] previously held by him or, being disqualified under this Act for holding or obtaining a [driving licence], uses in [India] a [driving licence] such as is referred to in sub-section (2) of section 9, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to [five hundred rupees], or with both, and any [driving licence] so obtained by him shall be of no effect. [(2) Whoever, being disqualified under this Act, for holding or obtaining a conductor's licence, acts as a conductor of a stage carriage in a public place or applies for or obtains a conductor's licence or, not being entitled to have a conductor's licence issued to him free of endorsement, applies for or obtains a conductor's licence' without disclosing the endorsements made on a conductors licence previously held by him shall be punishable with imprisonment for



a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both, and any conductor's licence so obtained by him shall be of no effect.]

## **Section 182A**

### **Punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components.**

[\* \* \*] (1) Whoever, being a manufacturer, importer or dealer of motor vehicles, sells or delivers or alters or offers to sell or deliver or alter, a motor vehicle that is in contravention of the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine of one lakh rupees per such motor vehicle or with both: Provided that no person shall be convicted under this section if he proves that, at the time of sale or delivery or alteration or offer of sale or delivery or alteration of such motor vehicle, he had disclosed to the other party the manner in which such motor vehicle was in contravention of the provisions of Chapter VII or the rules and regulations made thereunder. (2) Whoever, being a manufacturer of motor vehicles, fails to comply with the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one hundred crore rupees or with both. (3) Whoever, sells or offers to sell, or permits the sale of any component of a motor vehicle which has been notified as a critical safety component by the Central Government and which does not comply with Chapter VII or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine of one lakh rupees per such component or with both. (4) Whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both.

## **Section 182B**

### **Punishment for contravention of section 62A.**

[\* \* \*] Whoever contravenes the provisions of section 62A, shall be punishable with fine which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

## **Section 183**

### **Driving at excessive speed, etc.**

(1) Whoever drives or causes any person who is employed by him or subjects someone under his control to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable [in the following manner, namely:- where such motor vehicle is a light motor vehicle with fine which shall not be less than one thousand rupees but may extend to two thousand rupees; where such motor vehicle is a medium goods vehicle or a medium passenger vehicle or a heavy goods vehicle or a heavy passenger vehicle with fine which shall not be less than two thousand rupees, but may extend to four thousand rupees; and for the second or any subsequent offence under this sub-section the driving licence of such driver shall be impounded as per the provisions of the sub-section (4) of section 206.] (2) [x x x x] (3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical [or electronic] device. (4) The publication of a time table under which, or the giving of any direction that any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112 be prima facie evidence that the person who published the time table or gave the direction has committed an offence punishable under [sub-section (1)]. OLD LAW : Prior to its omission, Sub Section (2) read as under:- (2) Whoever, causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention

of the speed limits referred to in section 112 shall be punishable with fine which may extend to three hundred rupees, or, if having been previously convicted of an offence under this sub-section, is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees Corresponding Law :S. 115 of Act IV of 1939: 115. Driving at excessive speed. - (1) Whoever drives a motor vehicle in contravention of section 71 shall be punishable with fine which may extend to [four hundred rupees] or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to [one thousand rupees]] (2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of section 71 shall be punishable with fine which may extend to [three hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees]. (3) No person shall be Convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to, the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical [\* \* \*] device. (4) The publication of a time table under which, or the giving of any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without infringing the provisions of section 71, be prima-facie evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (2).

## **Section 184**

### **Driving dangerously.**

Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public or which causes a sense of alarm or distress to the occupants of the vehicle, other road users, and persons near roads, having regard to all the circumstances of the case including the nature,

condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable for the first offence with imprisonment for a term which may extend to one year but shall not be less than six months or with fine which shall not be less than one thousand rupees but may extend to five thousand rupees, or with both, and for any second or subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine [of ten thousand rupees], or with both. Explanation: For the purpose of this section,- jumping a red light; violating a stop sign; use of handheld communications devices while driving; passing or overtaking other vehicles in a manner contrary to law; driving against the authorised flow of traffic; or driving in any manner that falls far below what would be expected of a competent and careful driver and where it would be obvious to a competent and careful driver that driving in that manner would be dangerous, shall amount to driving in such manner which is dangerous to the public.] Case Law 1: S.184 must be read with S.209 of Act. Supreme Court State of Arunachal Pradesh and Another v. Ramchandra Rabidas Ratan Rabidas and Another; 2019 (10) SCC 75 : AIR 2019 SC 4954 S.183, S.184 must be read with S.209 of the Act, which provides that a warning, notice or summons, is mandatorily required to be given for an offence punishable under S.183 or 184. Case Law 2: Causing death by negligence. Supreme Court Abdul Sharif v. State of Haryana; 2016 KHC 7005 : 2016 (15) SCC 204 Motor vehicles accidents -- Use of mobile phones while driving vehicles -- Prosecution under S.184 of Motor Vehicles Act, 1988 -- Provision not sufficient for adequate handling of the situation in praesenti -- Competent authorities to have a revisit of the relevant provisions. Case Law 3: Offence under S.184, S.185- Non cognizable. Kerala High Court Sagimon alias Prakash v. State of Kerala; 2014 (3) KHC 586 : 2014 (3) KLT 782 Offence punishable under S.184, S.185 or 197 are not cognizable -- Even though a Police Officer in uniform may arrest without warrant a person who commits such offence in his presence, he has to follow procedure prescribed under S.155 CrPC and cannot investigate without an order of

Magistrate having power to try such case. Case Law 4: Dangerous driving should be proved. Kerala High Court Abdul Jaleel v. Station House Officer, Kozhikode and Another; 2020 KHC 175 : 2020 (2) KLT 226 While alleging dangerous driving under S.184 of the MV Act, all these relevant matters and factors on the basis of which the alleged driving can be assessed and adjudged as dangerous, will have to be furnished by the detecting officer in the petty case charge sheet. Simply alleging dangerous driving will not constitute the offence made punishable under S.184 of the M.V. Act. Corresponding Law :S. 116 of Act IV of 1939: 116. Driving recklessly or dangerously. - Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable on a first conviction for the offence with imprisonment for a term which may extend to six months, or, with fine which may extend to [one thousand rupees] and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to [two thousand rupees] or with both.

## **Section 185**

### **Driving by a drunken person or by a person under the influence of drugs.**

Whoever, while driving, or attempting to drive, a motor vehicle, has, in his blood, alcohol exceeding 30 mg. per 100 ml. of blood detected in a test by a breath analyser, or in any other test including a laboratory test, or is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine [of ten thousand rupees], or with both; and for a second or subsequent offence, [x x x], with imprisonment for a term which may extend to two years, or with fine [of fifteen thousand rupees], or with both.

[Explanation: For the purposes of this section, the expression "drug" means any intoxicant other

than alcohol, natural or synthetic, or any natural material or any salt, or preparation of such substance or material as may be notified by the Central Government under this Act and includes a narcotic drug and psychotropic substance as defined in clause (xiv) and clause (xxiii) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985.] OLD LAW : Prior to its substitution, Clause (a) read as under:- (a) has, in his blood, alcohol in any quantity, howsoever small the quantity may be, or. Prior to its substitution, Explanation Clause read as under:-

Explanation.--For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle. Case Law 1: Drunken driving. Supreme Court State v. Sanjeev Nanda, (2012) 8 SCC 450 : (2012) 3 SCC (Cri) 899 : (2012) 4 SCC (Civ) 487. Drunken driving has become a menace to Indian society. Everyday drunken driving results in accidents and several human lives are lost, pedestrians in many of the cities are not safe. Late night parties among the urban elite have not become a way of life followed by drunken driving. Alcohol consumption impairs consciousness and vision and it becomes impossible to judge accurately how far away the objects are. When depth perception deteriorates, the eye muscles lose their precision causing inability to focus on the objects. In more unfavourable conditions like fog, mist, rain, etc., whether it is night or day, it can reduce the visibility of an object to the point of being below the limit of discernibility. Alcohol leads to loss of coordination, poor judgment, slowing down of reflexes and distortion of vision. Punishment meted out to a drunken driver is at least a deterrent for other such persons getting away with minor punishment and fine. Such incidents are bound to increase with no safety for pedestrians on the roads. Case Law 2: Breath analyser test. Supreme Court State v. Sanjeev Nanda, (2012) 8 SCC 450 : (2012) 3 SCC (Cri) 899 : (2012) 4 SCC (Civ) 487. In this case the Hon'ble Court observed the breath analyser test has a different purpose and object. The language of the Sections 185, 203 and 205 would indicate that the said test is required to be carried out only when the person is driving or attempting to drive the vehicle. The expressions "while driving" and

“attempting to drive” in the above sections have a meaning “in praesenti”. In such situations, the presence of alcohol in the blood has to be determined instantly so that the offender may be prosecuted for drunken driving. A breath analyser test is applied in such situations so that the alcohol content in the blood can be detected. Case Law 3: Offence under S.184, S.185- Non cognizable. Kerala High Court Sagimon alias Prakash v. State of Kerala; 2014 (3) KHC 586 : 2014 (3) KLT 782 Offence punishable under S.184, S.185 or 197 are not cognizable -- Even though a Police Officer in uniform may arrest without warrant a person who commits such offence in his presence, he has to follow procedure prescribed under S.155 CrPC and cannot investigate without an order of Magistrate having power to try such case. Case Law 4: Allegation of drunken driving should be proved. Kerala High Court Oriental Insurance Company Ltd. , Mattancherry v. Vineetha Nair and Others; 2016 (4) KHC 392 : ILR 2016 (4) Ker. 371 Only because there is alcoholic smell, it cannot be held that the Driver of the vehicle was under the influence of alcohol -- Even in a prosecution under S.185, there should be a clear allegation to the effect that the alcohol content is 30 mg per 100 ml of blood -- Thus, a mere consumption of alcohol is not a defence available under S.149(2) of MV Act. Case Law 5: Driving of drunken person. Bombay High Court Sandeep Indravadan Sagar v. State of Maharashtra and Others; 2013 KHC 2343 : 2013 CriLJ 1147 Even if the power to arrest with respect to a certain offence is given, or is limited to any particular category of police officers, still such offence has been held to be cognizable -- If the offence under S.185 of the M.V. Act is to be treated as cognizable on the basis of such limited and circumscribed power to arrest for such offence, then it would result into anomalous situations -- Limited power to arrest such person without warrant given to police officer in uniform did not make offence under S.185 cognizable offence. Corresponding Law :S. 117 of Act IV of 1939: [117. Driving by a drunken person or by a person under the influence of drugs. - Whoever, while driving, or attempting to drive, a motor vehicle or riding or attempting to ride, a motor cycle,- (a) has, in his blood, alcohol in any quantity, howsoever small the quantity may be, or (b) is under the influence of a drug to such an extent as to be incapable of exercising

proper control over the vehicle, shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both. Explanation. - For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.]

## **Section 186**

### **Driving when mentally or physically unfit to drive.**

Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source of danger to the public, shall be punishable for the first offence with fine which may extend to [one thousand rupees] and for a second or subsequent offence with fine which may extend to [two thousand rupees]. Corresponding Law :S. 118 of Act IV of 1939: 118. Driving when mentally or physically unfit to drive. - Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving, of the vehicle to be a source of danger to the public, shall be punishable for a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may, extend to five hundred rupees.

## **Section 187**

### **Punishment for offences relating to accident.**

Whoever fails to comply with the provisions of clause (a) of sub-section (1) of section 132 or of section 133 or section 134 shall be punishable with imprisonment for a term which may extend to [six months], or with fine [of five thousand rupees], or with both or, if having been previously



convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to [one year], or with fine [of ten thousand rupees], or with both. Corresponding Law :S. 118-A of Act IV of 1939: [118A.

Punishment for offences relating to accident. - Whoever fails to comply with the Provisions of clause (c) of sub-section (1) of section 87 or of section 88 or section 89 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both or, if having been previously convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

## **Section 188**

### **Punishment for abetment of certain offences.**

Whoever abets the commission of an offence under section 184 or section 185 or section 186 shall be punishable with the punishment provided for the offence. Corresponding Law :S. 119 of Act IV of 1939: 119. Punishment for abetment of certain offences. - Whoever abets the commission of an offence under section 116, 117 or 118, shall be punishable with the punishment provided for the offence.

## **Section 189**

### **Racing and trials of speed.**

Whoever without the written consent of the State Government permits or takes part in a race or trial of speed of any kind between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to [three months], or with a fine [of five thousand rupees], or with both [and for a subsequent offence shall be punishable with imprisonment for a term which may extend to one year, or with fine of ten thousand rupees; or with both.]

Corresponding Law :S. 119 of Act IV of 1939: 120. Racing and trials of speed. - Whoever without

the written consent of the [State Government] permits or takes part in a race or trial of speed between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to [five hundred rupees] or with both.

## **Section 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 [of one thousand five hundred 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 [of five thousand rupees], or with both [and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property] (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 [imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months] and for any second or subsequent offence with [imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both] (3) Any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence [with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months], or with imprisonment for a term which may extend

to one year, or with both, and for any second or subsequent offence with fine [of twenty thousand rupees], or with imprisonment for a term which may extend to three years, or with both. Corresponding Law :S. 121 of Act IV of 1939: 121. Using vehicle in unsafe condition. - 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].

## **Section 191**

### **Sale of vehicle in or alteration of vehicle to condition contravening this Act.**

[x x x x] OLD LAW : Prior to its omission, Section 191 read as under:- 191. Sale of vehicle in or alteration of vehicle to condition contravening this Act. - Whoever being an importer of or dealer in motor vehicles, sells or delivers or offers to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter VII or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter VII or any rule made thereunder shall be punishable with fine which may extend to five hundred rupees: Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

## **Section 192**

### **Using vehicles without registration.**

[\* \* \*] (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in

contravention of the provisions of section 39 shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees for a second or subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both. Provided that the Court may, for reasons to be recorded, impose a lesser punishment. (2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injuries or for the transport of food or materials to relieve distress or of medical supplies for a like purpose: Provided that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use. (3) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1), may set aside or vary any order made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made. [Explanation: Use of a motor vehicle in contravention of the provisions of section 56 shall be deemed to be a contravention of the provisions of section 39 and shall be punishable in the same manner as provided in sub-section (1).] STATE AMENDMENTS : State - Rajasthan. In its application to the State of Rajasthan, in Section 192, (a) in sub-S. (1), for the expression with fine which may extend to two thousand rupees as occurring between the expression punishable for the first offence and expression and for any second or subsequent offence the expression with fine which shall not be less than five thousand rupees and for the expression with fine which may extend to three thousand rupees as occurring between the expression which may extend to six months or and the expression or with both the expression with fine which shall not be less than ten thousand rupees shall be substituted, and (b) After sub-S. (1), the following proviso shall be inserted, namely: Provided that, in a case of contravention of the provision of section 39 or of any condition of the permit relating to the maximum number of passengers or maximum weight of luggage that may be carried on the vehicle, the Court may for any adequate or special reason to be mentioned in the judgment,

impose a fine less than that laid down in this sub-section. Rajasthan Act 2 of 1993, Section 2 (w.e.f. 30-1-1993).

## Section 192A

### Using vehicles without permit.

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of sub-section (1) of section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with ~@[imprisonment for a term which may extend to six months and]~@[Inserted by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@[ a fine ]~@[of ten thousand rupees, or with both]~@[Substituted for "and a fine of ten thousand rupees" by The Jan Vishwas (Amendment of Provisions) Act, 2023, Act No. 18 of 2023, dated 11-08-2023 (w.e.f. 11/08/2023)[Download Act 18 of 2023]~@[ and for any subsequent offence with imprisonment which may extend to one year but shall not be less than ]~@[six months]~@[Substituted for "three months" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@[ ]~@[ of ten thousand rupees ]~@[ Substituted for "which thousand rupees but shall not less than five thousand rupees" by Act No. 32 of 2019, dated 09-08-2019 [w.e.f. 01/09/2019 by SO 3110(E)]]~@[ or with both. ~@[x x x]~@[Proviso omitted by The Jan Vishwas (Amendment of Provisions) Act, 2023, Act No. 18 of 2023, dated 11-08-2023 (w.e.f. 11/08/2023)[Download Act 18 of 2023]~@[ (2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose: Provided that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use. (3) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1), may set aside or vary any order, made

by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made. OLD LAW : Prior to the omission of proviso, it was read as under

Provided that the Court may for reasons to be recorded, impose a lesser punishment. Prior to its substitution, Section 192 read as under:- 192. Using vehicle without registration or permit.- (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle, shall be punishable for the first offence with fine which may extend to two thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to three thousand rupees, or with both. (2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of material for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose: Provided that the person using the vehicle reports such use to the Regional Transport Authority within seven days from such use. (3) Where a person is convicted of an offence under this section the Court by which such person is convicted may, in addition to any sentence which may be passed under sub-section (1) by order:- (a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months; (b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it. (4) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order of suspension or cancellation made under sub-section (3) by the Court below and the Court, to which appeals ordinarily lie from the Court below, may set aside or vary any such order of suspension or cancellation made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made." Case Law 1: Compensation for

authorised running. Supreme Court Shwar Singh Bagga v. State of Rajasthan, (1987) 1 SCC 101, 115. Prima facie the Corporation is not entitled to be paid any compensation under Section 357 CrPC, 1973 by orders of Magistrates in cases of unauthorised running of motor vehicles on the notified routes. It can be paid such compensation only when it is open to the Corporation to file a suit and recover damages in law for such unauthorised operation of stage carriages. The question whether such unauthorised running will give rise to a claim for damages in a Civil Court is not free from doubt. However, no opinion is expressed on this question. Case Law 2: Stage carriage operation by contract carriage. Gujarat High Court Bhavesh Nandlal Kabra v. State of Gujarat; 2019 KHC 5139 : AIR 2019 Guj. 180 Contract carriage -- Use of vehicle without valid permit -- Vehicle permitted to ply as contract carriage but in contravention thereto it was found with passengers which did not belong to one group -- Driver failed to produce any passengers list -- Prima facie vehicle used as Stage Carriage -- Breach of permit conditions -- Nature of report recorded and the breach in the permit, the action can be undertaken only under S.192A of the Act and as S.192A of the Act is not an offence which is compoundable, the department was not within its authority to compound such offence under S.200 of the Act -- Levy of compounding fine, erroneous. Case Law 3: Use of non transport vehicles for election. Madras High Court Balan M. S. v. Chief Election Commissioner, Election Commission of India, New Delhi and Others; AIR 2016 NOC 542 Use of nontransportation vehicles for transportation of public for election meeting or other similar meetings -- The petitioner is given liberty to make complaint to the Election Commission as well as to the other statutory authorities including the respondents, in case it is found that the school buses and Nonpassenger vehicles like trucks are used for transportation of public for election meetings or any other similar meetings -- In case any such complaint is made, necessarily, the Police, the authorities under the Motor Vehicles Act and the Elections officers must take prompt action and show that Acts and Regulations are meant for obedience and not for violation. Case Law 4: Driving vehicle in contravention of terms of permit is criminal offence. Delhi High Court Delhi Autorikshaw Sangh and Others v. Govt. of NCT of

Delhi and Others; AIR 2014 NOC 101 Driving of a vehicle in contravention of the terms of a permit is a criminal offence -- Can be prosecuted -- Prosecution does not preclude authority from impounding the vehicle or initiating action for cancellation and suspension of permit -- Both proceedings are independent. Case Law 5: RTO has no jurisdiction to impose fine for permit violation. Karnataka High Court Chandraprakash S. v. Regional Transport Officer, Bangalore Central; AIR 2005 Kar. 162 Violation of conditions of permit -- Court has jurisdiction to impose fine and consequently the Regional Transport Officer has no jurisdiction to impose fine -- Before imposing fine for the offence under S.192A, the erring permit holder has to be prosecuted in accordance with law in the Court of law and only after finding him guilty, the Court may impose fine -- Against such conviction and imposition of fine, the appeal lies to the Appellate Court as is clear from sub-s. (3) of S.192A of the "Act" -- Impugned endorsement dated 29/10/2004 cannot be sustained and the same is liable to be quashed. Corresponding Law :S. 123 of Act IV of 1939: [123. Using vehicle without registration or permit. - (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 22 or without the permit required by sub-section (1) of section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used [or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle], shall, be punishable for a first offence with fine which may extend to [two thousand rupees] and for [any second or subsequent offence] with imprisonment which may extend to six months or with fine which may extend to [three thousand rupees] or with both. Provided that no Court shall, except for reasons to be stated in writing, impose a fine of less than five hundred rupees for any such [second or] subsequent offence. (2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or of food or materials to relieve distress or of medical supplies for a like purpose: Provided that the person using the vehicle reports such use to the Regional Transport Authority



within seven days. (3) Where a person is convicted of an offence under this section, the Court by which such person is convicted may, in addition to any sentence which may be passed under sub-section (1), by order- (a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months; (b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it. (4) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order of suspension or cancellation made under sub-section (3) by the Court below and the Court, to which appeals ordinarily lie from the Court below, may set aside or vary any such order of suspension or cancellation made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.]

## **Section 192B**

### **Offences relating to registration.**

(1) Whoever, being the owner of a motor vehicle, fails to make an application for registration of such motor vehicle under sub-section (1) of section 41 shall be punishable with fine of five times the annual road tax or one-third of the lifetime tax of the motor vehicle whichever is higher. (2)

Whoever, being a dealer, fails to make an application for the registration of a new motor vehicle under the second proviso to sub-section (1) of section 41 shall be punishable with fine of fifteen times the annual road tax or the lifetime tax of the motor vehicle whichever is higher. (3)

Whoever, being the owner of a motor vehicle, obtains a certificate of registration for such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration shall be punishable with imprisonment for a term which shall not be less than six months but may extend to one year and with fine equal to ten times the amount of the annual road tax or two-third the lifetime tax of the motor vehicle, whichever is higher. (4) Whoever, being a dealer, obtains a certificate of registration for

such vehicle on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration shall be punishable with imprisonment for a term which shall not be less than six months but may extend to one year and with fine equal to ten times the amount of annual road tax or two-third the lifetime tax of the motor vehicle, whichever is higher.]

## **Section 193**

### **Punishment of agents, canvassers and aggregators without proper authority.**

(1) Whoever engages himself as an agent or canvasser in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable for the first offence with fine [of one thousand rupees] and for any second or subsequent offence with imprisonment which may extend to six months, or with fine [of two thousand rupees], or with both. (2) [Whoever engages himself as an aggregator in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable with fine up to one lakh rupees but shall not be less than twenty-five thousand rupees. (3) Whoever, while operating as an aggregator contravenes a condition of the licence granted under sub-section (1) of section 93, not designated by the State Government as a material condition, shall be punishable with fine of five thousand rupees.]

Corresponding Law :S. 123-A of Act IV of 1939: [123A. Punishment of agents and canvassers without proper authority. - Whoever engages himself as an agent or canvasser in contravention of the provisions of section 66A or any rules made thereunder shall. be punishable for the first offence with fine which may extend to one thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both: Provided that no court shall, except for reasons to be recorded by it in writing, impose a fine of less than five hundred rupees for any such second or subsequent offence.]

## Section 194

### **Driving vehicle exceeding permissible weight.**

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or section 114 or section 115 shall be punishable with [x x x] fine [of twenty thousand rupees and an additional amount of two thousand rupees per tonne of excess load], together with the liability to pay charges for off-loading of the excess load [Provided that such motor vehicle shall not be allowed to move before such excess load is removed or is caused or allowed to be removed by the person in control of such motor vehicle.]

(1A) [Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven when such motor vehicle is loaded in such a manner that the load or any part thereof or anything extends laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit shall be punishable with a fine of twenty thousand rupees, together with the liability to pay charges for off-loading of such load: Provided that such motor vehicle shall not be allowed to move before such load is arranged in a manner such that there is no extension of the load laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit: Provided further that nothing in this sub-section shall apply when such motor vehicle has been given an exemption by the competent authority authorised in this behalf, by the State Government or the Central Government, allowing the carriage of a particular load.] (2) Any driver of a vehicle who refuses to stop and submit his vehicle to weighing after being directed to do so by an officer authorised in this behalf under section 114 or removes or causes the removal of the load or part of it prior to weighing shall be punishable with fine [of forty thousand rupees].

OLD LAW : Prior to its substitution, sub-Section (1) read as under:- (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provision of section 113 or of the conditions prescribed under that section or in contravention of any prohibition or restriction imposed under section 113 or section 115 shall be punishable for the first offence with fine which may extend to two thousand rupees, and for any second or

subsequent offence with fine which may extend to five thousand rupees. Case Law 1:

Compounding of offence. Supreme Court P. Ratnakar Rao v. Govt. of A.P., (1996) 5 SCC 359. In

this case the Hon'ble Court observed for violation of Sections 113 to 115, Section 194 accords

penal sanction and on conviction for violation thereof, the section sanctions punishment with

fine. Section 194 would give guidance to the State Government as a delegate under the statute

to specify the amount for compounding the offence enumerated under sub-section (1) of Section

200. It is not mandatory that the authorised officer would always compound the offence. Case

Law 2: Executive power of State. Supreme Court Jantia Hill Truck Owners Association and

Others v. Shailang Area Coal Dealer and Truck Owner Association and Others; 2009 (8) SCC

492 : AIR 2009 SC 3041 Executive power of State -- Executive power of State extends to

matters required to be prescribed by framing rules under the Act concerned -- Motor Vehicles

Act, 1988 mandating determination of laden as well unladen weight of transport vehicles, for the

purpose whereof rules had to be framed under the said Act for installation and use of weighing

devices and regarding fee to be levied in relation to said operation -- Held, the State for giving

effect to provisions of statute may take upon itself the burden of providing for weighbridges and

collection of fee, etc. in exercise of its power under Art.162 or 298 of the Constitution - It may

permit private parties to install weighbridges, subject to regulations. Case Law 3: Take stringent

action against overloading. Thelenghana High Court Raju Katravath v. State of Telangana and

Others; 2020 KHC 3761 : AIR 2020 NOC 595 Prevention of Damage to Public Property Act,

1984, S.2(a), S.2(b), S.3 -- Motor vehicles -- Having regard to large public interest of preventing

road accidents due to greediness of transport owners vehicles, to carry excess load than

permissible, it is desirable to impose higher penalties, take stringent action and also launch

prosecution against them -- It would act as deterrent against commission of repeated offences.

Case Law 4: Imposing fine against overloading. Orissa High Court IRC Natural Resources

Private Ltd. v. State of Orissa and Another; 2019 KHC 3349 : AIR 2019 Ori. 81 Overloading

transport vehicles -- Fine can only be imposed by a competent court after a person has

undergone trial before a competent court and not otherwise -- Therefore before imposing fine on the ground of overloading, the petitioner in its erstwhile incarnation should have been put to trial in accordance with procedure of 'the Act' as well as the 'Cr.P.C.' -- This having not been done, the imposition of fine by an administrative authority under Annexure 3 was clearly not permissible. Case Law 5: Suspension of licence for overloading- Legality Hyderabad High Court Narsimha Vadlakonda v. State of Telangana; 2016 KHC 4065 : AIR 2016 Hyd. 197 Suspension of license -- Ground of transportation of goods exceeding permissible weight -- Offence of transportation of goods exceeding permissible limit is compoundable -- When stringent punishment and strict interpretation of the guidelines are required to be made, the authorities ought not to have invited or entertained an application for compounding the offence, knowing that offences of this nature would fall within the recommendations of the Hon'ble Supreme Court Committee on road safety -- Having regard to the above, this Court is of the view that suspension of license for a period of three months, even after compounding the offence under S.200 of the Act 1988, is illegal and the same is liable to be set aside. Case Law 6: Vehicles exceeds permissible weight. Gujarat High Court Transport Services v. Inspector of Motor Vehicles, Songadh and Others; 2005 KHC 5449 : AIR 2005 Guj. 51 Vehicles exceeding permissible weight --- No discrepancy in contents of certificate of Registration -- Detention of vehicle of imposition of penalty on basis that vehicles were carrying goods more than gross carrying capacity assigned by manufacture of by circular of State Government is not proper -- Plea that such overloaded vehicles cause more wear and tear and more vehicular pollution and are prone to accident is not tenable. Case Law 7: Procedural lapse- Overloading of vehicle. Telangana High Court Raju Katravath v. State of Telangana and Others; 2020 KHC 3761 : AIR 2020 NOC 595 Release of vehicles -- Seized for carrying load in excess of permissible limit -- After seizure of vehicle, Competent Authority has to launch prosecution and if guilt of vehicle owner is proved, penalty envisaged under S.194 can be imposed by Magistrate -- Power of Competent Authority to seize offending vehicle is very limited -- By interim order of High Court,

Competent Authority directed to exercise power not vested in it by collecting fine leviable under S.194 and release vehicle even before owner is found guilty -- In effect, interim directions issued are amounting to directing the officer competent to seize the vehicle to release the vehicle, whereas, he is not competent to release the vehicle unless proviso appended to S.207(1) is attracted and not competent to collect fine even before prosecution is launched or the owner or driver of the vehicle requests for compounding of the offence under S.200 -- Interim order of High Court directing to release vehicle, erroneous. Corresponding Law :S. 124 of Act IV of 1939: 124. Driving vehicle exceeding permissible weight. - Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of [section 72 or of the conditions prescribed under that section, or in contravention of any prohibition or restriction imposed under section 72 or section 74, shall be punishable] for a first offence with fine which may extend to [two hundred rupees], and for a second or subsequent offence with fine which may extend to, [one thousand rupees].

## **Section 194A**

### **Carriage of excess passengers.**

[\* \* \*] Whoever drives a transport vehicle or causes or allows a transport vehicle to be driven while carrying more passengers than is authorised in the registration certificate of such transport vehicle or the permit conditions applicable to such transport vehicle shall be punishable with a fine of two hundred rupees per excess passenger: Provided that such transport vehicle shall not be allowed to move before the excess passengers are off-loaded and an alternative transport is arranged for such passengers.]

## **Section 194B**

### **Use of safety belts and the seating of children.**

[\* \* \*] (1) Whoever drives a motor vehicle without wearing a safety belt or carries passengers not wearing seat belts shall be punishable with a fine of one thousand rupees: Provided that the

State Government, may by notification in the Official Gazette, exclude the application of this sub-section to transport vehicles to carry standing passengers or other specified classes of transport vehicles. (2) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven with a child who, not having attained the age of fourteen years, is not secured by a safety belt or a child restraint system shall be punishable with a fine of one thousand rupees.]

## **Section 194C**

### **Penalty for violation of safety measures for motor cycle drivers and pillion riders.**

[\* \* \*] Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 128 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.] Case Law 1: Tripple riding. Madras High Court Tamil Nadu State Transport Corporation v. Abdul Salam; 2003 KHC 1409 : 2003 (3) KLT SN 157 Accidental death while three persons travelling on a motor cycle which is meant for two persons -- Such persons were liable for contributory negligence, especially when their action was contrary to statute.

## **Section 194D**

### **Penalty for not wearing protective headgear.**

[\* \* \*] Whoever drives a motor cycle or causes or allows a motor cycle to be driven in contravention of the provisions of section 129 or the rules or regulations made thereunder shall be punishable with a fine of one thousand rupees and he shall be disqualified for holding licence for a period of three months.]

## **Section 194E**

### **Failure to allow free passage to emergency vehicles.**

[\* \* \*] Whoever while driving a motor vehicle fails to draw to the side of the road, on the approach of a fire service vehicle or of an ambulance or other emergency vehicle as may be specified by the State Government, shall be punishable with imprisonment for a term which may

extend to six months, or with a fine of ten thousand rupees or with both.

## **Section 194F**

### **Use of horns and silence zones.**

[\* \* \*] Whoever - (a) while driving a motor vehicle - sounds the horn needlessly or continuously or more than necessary to ensure safety, or sounds the horn in an area with a traffic sign prohibiting the use of a horn, or (b) drives a motor vehicle which makes use of a cut-out by which exhaust gases are released other than through the silencer, shall be punishable with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.]

## **Section 195**

### **Imposition of minimum fine under certain circumstances.**

[x x x x] OLD LAW : Prior to its omission, Section 195 read as under:- 195. Imposition of minimum fine under certain circumstances. - (1) Whoever having been convicted of an offence under this Act or the rules made thereunder commits a similar offence on a second or subsequent occasion within three years of the commission of the previous offence, no Court shall, except for reasons to be recorded by it in writing, impose on him a fine of less than one-fourth of the maximum amount of the fine imposable for such offence. (2) Nothing in sub-section (1) shall be construed as restricting the power of the Court from awarding such imprisonment as it considers necessary in the circumstances of the case not exceeding the maximum specified in this Act in respect of that offence.

## **Section 196**

### **Driving uninsured vehicle.**

Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 146 shall be punishable [for the first offence] with imprisonment which may extend to three months, or with fine [of two thousand rupees], or with both [and for a subsequent offence shall be punishable with imprisonment for a term which may extend to three



months, or with fine of four thousand rupees, or with both.] Corresponding Law :S. 125 of Act IV of 1939: 125. Driving uninsured vehicle. - Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 94 shall be punishable with imprisonment which may extend to three months or with fine which may extend to [one thousand rupees], or with both.

## **Section 197**

### **Taking vehicle without authority.**

(1) Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine [of five thousand rupees], or with both: Provided that no person shall be convicted under this section, if the Court is satisfied that such person acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor . (2)

Whoever, unlawfully by force or threat of force or by any other form of intimidation, seizes or exercises control of a motor vehicle, shall be punishable with imprisonment which may extend to three months, or with fine [of five thousand rupees], or with both. (3) Whoever attempts to commit any of the acts referred to in sub-section (1) or sub-section (2) in relation to any motor vehicle, or abets the commission of any such act, shall also be deemed to have committed an offence under sub-section (1) or, as the case may be, sub-section (2). Corresponding Law :S. 126 of Act IV of 1939: 126. Taking vehicle without authority. - Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both: Provided that no accused person shall be convicted under this section if the Court is satisfied that the accused acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor.

## **Section 198**

### **Unauthorised interference with vehicle.**

Whoever otherwise than with lawful authority or reasonable excuse enters or moves any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable [with fine of one thousand rupees] Corresponding Law :S. 127 of Act IV of 1939: 127. Unauthorised interference with vehicle. - Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

## **Section 198A**

### **Failure to comply with standards for road design, construction and maintenance.**

[\* \* \*] (1) Any designated authority, contractor, consultant or concessionaire responsible for the design or construction or maintenance of the safety standards of the road shall follow such design, construction and maintenance standards, as may be prescribed by the Central Government from time to time. (2) Where failure on the part of the designated authority, contractor, consultant or concessionaire responsible under sub-section (1) to comply with standards for road design, construction and maintenance, results in death or disability, such authority or contractor or concessionaire shall be punishable with a fine which may extend to one lakh rupees and the same shall be paid to the Fund constituted under section 164B. (3) For the purposes of sub-section (2), the court shall in particular have regard to the following matters, namely: - the characteristics of the road, and the nature and type of traffic which was reasonably expected to use it as per the design of road; the standard of maintenance norms applicable for a road of that character and use by such traffic; the state of repair in which road users would have expected to find the road; whether the designated authority responsible for the maintenance of the road knew, or could reasonably have been expected to know, that the condition of the part of the road to which the action relates was likely to cause danger to the road users; whether the

designated authority responsible for the maintenance of the road could not reasonably have been expected to repair that part of the road before the cause of action arose; whether adequate warning notices through road signs, of its condition had been displayed; and such other matters as may be prescribed by the Central Government. Explanation: For the purposes of this section, the term "contractor" shall include sub-contractors and all such persons who are responsible for any stage in the design, construction and maintenance of a stretch of road.]

## **Section 199**

### **Offences by companies.**

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section company means any body corporate and includes a firm or other association of individuals; and director, in relation to a firm, means a partner in the firm. Corresponding Law :S. 127-A of Act IV of 1939: [127A. Offences by companies. - (1) If the person contravening any provision of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the

contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section,- (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.]

## **Section 199A**

### **Offences by juveniles.**

(1) Where an offence under this Act has been committed by a juvenile, the guardian of such juvenile or the owner of the motor vehicle shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render such guardian or owner liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. Explanation: For the purposes of this section, the Court shall presume that the use of the motor vehicle by the juvenile was with the consent of the guardian of such juvenile or the owner of the motor vehicle, as the case may be. (2) In addition to the penalty under sub-section (1), such guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees. (3) The provisions of sub-section (1) and sub-section (2) shall not apply to such guardian or owner if the juvenile committing the offence had been granted a learner's

licence under section 8 or a driving licence and was operating a motor vehicle which such juvenile was licensed to operate. (4) Where an offence under this Act has been committed by a juvenile, the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months. (5) Where an offence under this Act has been committed by a juvenile, then, notwithstanding section 4 or section 7, such juvenile shall not be eligible to be granted a driving licence under section 9 or a learner's licence under section 8 until such juvenile has attained the age of twenty-five years. (6) Where an offence under this Act has been committed by a juvenile, then such juvenile shall be punishable with such fines as provided in the Act while any custodial sentence may be modified as per the provisions of the Juvenile Justice Act, 2000.]

## **Section 199B**

### **Revision of fines.**

The fines as provided in this Act shall be increased by such amount not exceeding ten per cent. in value of the existing fines, on an annual basis on 1st day of April of each year from the date of commencement of the Motor Vehicles (Amendment) Act, 2019, as may be notified by the Central Government.

## **Section 200**

### **Composition of certain offences.**

(1) ~@[Any offence whether committed before or after the commencement of this Act punishable under section 177, section 177A, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, clause (c) of the Explanation to section 184, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, sub-section (3) of section 192B, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198 and section 201, may, either before or after

the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.]~@Substituted by The Jan Vishwas (Amendment of Provisions) Act, 2023, Act No. 18 of 2023, dated 11-08-2023 (w.e.f. 11/08/2023)[Download Act 18 of 2023]~@ (2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence. [Provided that notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed: Provided further that compounding of an offence will not discharge the offender from proceedings under sub-section (4) of section 206 or the obligation to complete a driver refresher training course, or the obligation to complete community service, if applicable.]

OLD LAW Prior to the substitution Sub-Section (1) read as under Any offence whether committed before or after the commencement of this Act [punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 only to the extent of use of handheld communication devices, section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198,]may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf. [Provided that the State Government may, in addition to such amount, require the offender to undertake a period of community service.] Case Law 1: Compounding of offence. Supreme Court P. Ratnakar Rao v. Govt. of A.P., (1996) 5 SCC 359. It is a matter of volition or willingness on the part of the accused either to accept compounding of the offence or to face the prosecution in the appropriate Court. It is not necessary that Section 200 itself should contain details of fees etc. So long as the compounding fee does not exceed

the fine prescribed by the penal section the same cannot be declared to be either exorbitant, irrational or bereft of guidance. Case Law 2: Carriage of excess weight after compounding. Supreme Court *Paramjit Bhasin v. Union of India*, (2005) 12 SCC 642. In this case the Hon'ble Court decided though the power of compounding vests with the State Government but the same does not authorize continuation of the offence permitted to be compounded. If permitted to be continued it would amount to fresh commission of offence. Hence, State Governments directed to withdraw notifications issued by various State Governments permitting carriage of excess weight after compounding and to counter the practical difficulties highlighted without overstepping statutory prescriptions. Issuance of green cards/golden passes purportedly on the basis of power of composition also to be discontinued as advised by the Central Government.

Case Law 3: Levy of compounding fine, erroneous. Gujarat High Court *Bhavesh Nandlal Kabra v. State of Gujarat*; 2019 KHC 5139 : AIR 2019 Guj. 180 Contract carriage -- Use of vehicle without valid permit -- Vehicle permitted to ply as contract carriage but in contravention thereto it was found with passengers which did not belong to one group -- Driver failed to produce any passengers list -- Prima facie vehicle used as Stage Carriage -- Breach of permit conditions -- Nature of report recorded and the breach in the permit, the action can be undertaken only under S.192A of the Act and as S.192A of the Act is not an offence which is compoundable, the department was not within its authority to compound such offence under S.200 of the Act -- Levy of compounding fine, erroneous.

Case Law 4: Quashing of penalty. Gujarat High Court *Jain Transport Services v. Inspector of Motor Vehicles, Songadh and Others*; 2005 KHC 5449 : AIR 2005 Guj. 51 Quashing of penalty -- Vehicle exceeding permissible weight -- Authority compounded offence and discharged vehicle on payment of penalty by driver if vehicle -- No further proceedings was taken against driver or representative of vehicle -- Prayer made with regard to quashing of penalty and collection of fine is liable to be rejected.

Case Law 5: Levy of fine. Kerala High Court *Santhosh P. K. and Others v. State of Kerala and Others*; 2019 KHC 759 Contravention of provisions of the Act -- Levy of fine -- It cannot be said that levying of spot fines

would cause irreparable loss and hardship to the owners of the vehicles. Case Law 6: Levy of spot fine. Madras High Court Punitha N. v. State of T. N. and Others; 2008 KHC 7945 : AIR 2008 Mad. 229 Compounding of offence and levying of spot fines had been introduced in order to avoid more serious consequences, they may arise as a result of the offences committed by the drivers and the persons incharge of the vehicles -- The contentions that the powers vested in the respondents and their subordinates could be misused cannot be countenanced -- General charge or complaint that powers vested in concerned officials are being misused -- Based on such charge or complaint it cannot be held that the powers or the source of such powers is ultra vires and unsustainable in eye of law. Corresponding Law :S. 127-B of Act IV of 1939: [127B. Composition of certain offences. - (1) Any offence [whether committed before or after the commencement of section 26 of the Motor Vehicles (Amendment) Act, 1982] punishable under section 112, section 113, section 113A, section 113B, section 114, sub-section (1) and (2) of section 115, section 116, section 118, section 120, section 122, section 123, section 124, section 125 or section 127 may, either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf. (2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.]

## **Section 201**

### **Penalty for causing obstruction to free flow of traffic.**

(1) Whoever keeps a [x x x] vehicle on any public place, in such a manner, so as to cause impediment to the free flow of traffic, shall be liable for penalty up to [five hundred rupees], so long as it remains in that position: Provided that the vehicle involved in accidents shall be liable for penalty only from the time of completion of inspection formalities under the law: Provided further that where the vehicle is removed by an agency authorised by the Central Government or State Government, removal charges shall be recovered from the vehicle owner or person



in-charge of such vehicle. (2) Penalties or removal charges under this section shall be recovered by such officer or authority as the State Government may, by notification in the Official Gazette, authorise. (3) [Sub-section (1) shall not apply where the motor vehicle has suffered an unforeseen breakdown and is in the process of being removed.] Explanation: For the purposes of this section, "removal charges" includes any costs involved in the removal of the motor vehicle from one location to another and also includes any costs related to storage of such motor vehicle.] OLD LAW : Prior to its substitution, sub-Section (2) read as under:- (2) The penalties under this section shall be recoverable by the prescribed officers or authorities.

## **Section 202**

### **Power to arrest without warrant.**

(1) A police officer in uniform may arrest without warrant any person who in his presence commits an offence punishable under section 184 or section 185 or section 197: Provided that any person so arrested in connection with an offence punishable under section 185 shall, within two hours of his arrest, be subjected to a medical examination referred to in sections 203 and 204 by a registered medical practitioner failing which he shall be released from custody. (2) [A police officer in uniform may arrest without warrant any person, who has committed an offence under this Act, if such person refuses to give his name and address.] (3) A police officer arresting without warrant the driver of a motor vehicle shall if the circumstances so require take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

OLD LAW : Prior to its substitution, sub-Section (2) read as under:- (2) A police officer in uniform may arrest without warrant:- (a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or (b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons. Corresponding Law :S. 128 of Act IV of 1939: 128. Power of arrest without warrant. - (1) A police officer in uniform

may arrest without warrant any person who commits in his view an offence punishable under section 116 or section 117 or section 126: Provided that any person so arrested in connection with an offence punishable under section 117 shall be subjected to a medical examination by a registered medical practitioner within two hours of his arrest or shall then be released from custody. (2) A police officer in uniform may arrest without warrant- (a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or (b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned if the police officer has reason to believe that he will abscond or otherwise void the service of a summons. (3) A police officer arresting without warrant the 'driver of a' motor vehicle shall, if the circumstances so require, take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

## **Section 203**

### **Breath tests.**

(1) [A police officer in uniform or an officer of the Motor Vehicles Department, as may be authorised in this behalf by that Department, may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if such police officer or officer has any reasonable cause to suspect him of having committed an offence under section 185: Provided that requirement for breath test shall be made (unless it is made) as soon as reasonably practicable after the commission of such offence.] (2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving the motor vehicle at the time of the accident had alcohol in his blood or that he was driving under the influence of a drug referred to in section 185 he may require the person so driving the motor vehicle, to provide a specimen of his breath for a breath test in the case of a person who is at a hospital as an indoor patient, at the hospital, in the case of any other person, either at or near the place where

the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer: Provided that a person shall not be required to provide such a specimen while at a hospital as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient. (3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under sub-section (1) or sub-section (2), that the device by means of which the test has been carried out indicates the presence of alcohol in the persons blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient. (4) If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient. (5) A person arrested under this section shall while at a police station, be given an opportunity to provide a specimen of breath for a breath test there. (6) The results of a breath test made in pursuance of the provisions of this section shall be admissible in evidence. Explanation: For the purposes of this section breath test, means a test for the purpose of obtaining an indication of the presence of alcohol in a persons blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test. OLD LAW : Prior its substitution, sub-Section (1) read as under:- (1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause to suspect him of having committed an offence punishable under section 185: Provided that no requirement for breath test shall be made unless it is made as soon as reasonably practicable after the commission of such offence.

Corresponding Law :S. 128-A of Act IV of 1939: [128A. Breath tests. - (1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause- (a) to suspect him of having alcohol in any quantity in his body, or (b) to suspect him of having committed an offence punishable under section 117: Provided that no requirement for breath test shall be made unless it is made as soon as reasonably practicable after the commission of such offence. (2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving or attempting to drive the motor vehicle at the time of the accident, had alcohol in his blood or urine or that he was driving under the influence of a drug referred to in section 117, he may require the person so driving or attempting to drive the motor vehicle, to provide a specimen of his breath for a breath test- (a) in the case of a person who is at a hospital as an indoor patient, at the hospital, (b) in the case of any other person, either at or near the place where the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer: Provided that a person shall not be required to provide such a specimen while at a hospital as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient, (3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under sub-section (1) or sub-section (2), that the device by means of which the test has been carried out indicates the presence of alcohol in the person's blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient. (4) If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood or urine, the police officer may arrest him without warrant except

while he is at a hospital as an indoor patient. (5) A person arrested under this section shall, while at a police station, be given an opportunity to provide a specimen of breath for a breath test there. (6) The results of a breath test made in pursuance of the provisions of this section shall be admissible in evidence. Explanation. - For the purposes of this section, "breath test" means a test for the purpose of obtaining an indication of the presence of alcohol in a person's blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test.

## **Section 204**

### **Laboratory test.**

(1) A person, who has been arrested under section 203 may, while at a police station, be required by a police officer to provide to such registered medical practitioner as may be produced by such police officer, a specimen of his blood for a laboratory test if, it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so: Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police officer is a male medical practitioner, the specimen shall be taken only in the presence of a female, whether a medical practitioner or not. (2) A person while at a hospital as an indoor patient may be required by a police officer to provide at the hospital a specimen of his blood for a laboratory test if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person indicates the presence of alcohol in the blood of such person, or if the person having been required, whether at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood: Provided that a person shall not be required to provide a specimen of his blood for a

laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of such specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient. (3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence. Explanation : For the purposes of this section, laboratory test means the analysis of a specimen of blood made at a laboratory established, maintained or recognised by the Central Government or a State Government.

Corresponding Law :S. 128-B of Act IV of 1939: 128B. Laboratory test. - (1) A person, who has been arrested under section 128A, may, while at a police station, be required by a police officer to provide, to such registered medical practitioner as may be produced by such police officer, a specimen of his blood or urine for a laboratory test if,- (a) it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or (b) such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so: Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police officer is a male medical practitioner, the specimen shall be taken only in the presence of a female whether a medical practitioner or not. (2) A person while at a hospital as an indoor patient may be required by a police officer to provide at the hospital a specimen of his blood or urine for a laboratory test- (a) if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person indicates the presence of alcohol in the blood of such person, or (b) if that person having been required, whether, at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood: Provided that a person shall not be required to provide a specimen of his blood or urine for a laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the

requirement or objects to the provision of such specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient. (3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence. Explanation. - For the purposes of this section, "laboratory first" means the analysis of a specimen of blood or of urine made a laboratory established, maintained or recognised by the Central Government or a State Government.

## **Section 205**

### **Presumption of unfitness to drive.**

In any proceeding for an offence punishable under section 185 if it is proved that the accused, when requested by a police officer at any time so to do, had refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a specimen of his blood for a laboratory test, his refusal, omission or failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the prosecution, or rebutting any evidence given on behalf of the defence, with respect to his condition at that time. Corresponding Law :S. 128-C of Act IV of 1939: 128C. Presumption of unfitness to drive. - In any proceeding for an offence punishable under section 117, if it is proved that the accused, when requested by a police officer at any time so to do, had refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a omission or failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the defence, with respect to his condition at that time.]

## **Section 206**

### **Power of police officer to impound document.**

(1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence,

permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of section 464 of the Indian Penal Code (45 of 1860) seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document. (2) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under sub-section (3). (3) A police officer or other person seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified by the police officer or other person in the acknowledgement, whichever is earlier: Provided that if any Magistrate, police officer or other person authorised by the State Government in this behalf is, on an application made to him, satisfied that the licence cannot be, or has not been, returned to the holder thereof before the date specified in the acknowledgement for any reason for which the holder is not responsible, the Magistrate, police officer or other person, as the case may be, may extend the period of authorization to drive to such date as may be specified in the acknowledgement. (4) [A police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of sections 183, 184, 185, 189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under section 19: Provided that the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been



returned to him.] Corresponding Law :S. 129 of Act IV of 1939: 129. Power of police officer to impound document. - (1) Any police officer authorised in this behalf or other person authorised in this behalf by the [State Government] may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of section 464 of the Indian Penal Code, (45 of 1860) seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document. (2) Any police officer authorised in this behalf [or other person authorised in this behalf] by the [State Government] may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to, the Court taking cognizance of the offence [and the said Court shall, on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgement given under sub-section (3)]. (3) [A police officer or other person] seizing a licence under subsection (2) shall give to the person surrendering the licence a temporary acknowledgement therefor and such acknowledgement shall authorise the holder to drive until the licence has been returned to him [or until such date as may be specified by the police officer or other person in the acknowledgement, whichever is earlier: Provided that if any Magistrate, police officer or other person authorised by the State Government in this behalf is, on an application made to him, satisfied that the licence cannot be, or has not been, returned to the holder thereof before the date specified in the acknowledgement for any reason for which the holder is not responsible, the Magistrate, police officer or other person, as the case may be, may extend the period of authorisation to drive to such date as may be specified in the acknowledgement.]

## **Section 207**

**Power to detain vehicles used without certificate of registration permit, etc.**

(1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of section 3 or section 4 or section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle: Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of section 3 or section 4 or without the permit required by sub-section (1) of section 66 he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof. (2) Where a motor vehicle has been seized and detained under sub-section (1), the owner or person in charge of the motor vehicle may apply to the transport authority or any officer authorised in this behalf by the State Government together with the relevant documents for the release of the vehicle and such authority or officer may, after verification of such documents, by order, release the vehicle subject to such conditions as the authority or officer may deem fit to impose. STATE

AMENDMENTS: Rajasthan. In its application to the State of Rajasthan, in Section 207, in the proviso to sub-S. (1), the expression or without the permit required by sub-section (1) of section 66 as occurring between the expression section 3 or section 4 and the expression he may shall be deleted. Rajasthan Act 2 of 1993, Section 3 ( w.e.f . 30-1-1993). Case Law 1: Power to detain vehicle. Supreme Court Ishwar Singh Bagga v. State of Rajasthan, (1987) 1 SCC 101. The contravention of either Section 22 or Section 42(1) of the Act [Section 39 or Section 66(/) of the new Act] or any of the conditions mentioned in the permit would entitle an officer empowered under Section 129-A of the Act [Section 207 of new Act] to seize and detain the vehicle in question and also to provide for its temporary safe custody. A report or complaint, as the case may be, also may be filed by him before the Magistrate for taking action against the owner of the

vehicle for violation of any of the provisions of the Act referred to above. Case Law 2: Power to detain & seize vehicles. Gujarat High Court Ashokbhai Ramjibhai Lathiya v. State of Gujarat. 2019 KHC 3403 : AIR 2019 NOC 282 Petitioner, owner of seized Truck seeking its release on ground that respondent has no power to seize and detain his vehicle under S.207 -- If the seizure memo produced on record is carefully examined, it is revealed that the petitioner has not contravened any of the provisions contained in S.3, S.4, S.39, S.66(1) of the Act -- Learned Assistant Government Pleader has failed to point out the violation of S.3, S.4, S.29, S.66(1) of the Act from the grounds mentioned in the seizure memo -- Respondent no.4 is not empowered to seize the vehicle in question under S.207 of the Act -- Thus, the seizure of the vehicle itself is illegal -- Respondent directed to release vehicle. Case Law 3: Officers of SRTC cannot exercise powers of police. Supreme Court A. Hashmatullah v. State of U.P., 1987 Supp SCC 525. In this case the Hon'ble Court decided that the officers of SRTC cannot be appointed to exercise powers of police officers under Section 129. Case Law 4: Variation of Powers. Supreme Court U.P. SRTC v. Commr. of Police (Traffic), (2009) 3 SCC 634 : (2009) 2 SCC (Cri) 164. In this case the Hon'ble Court decided that power of seizure and detention of vehicle by police for contravention of conditions of permit did not include a power directing the owner of a bus to produce the offending vehicle for the purpose suspension/cancellation of the permit and impounding of the vehicle. Case Law 5: Interpretation. Supreme Court Shwar Singh Bagga v. State of Rajasthan, (1987) 1 SCC 101. In this case the Hon'ble Court interpreted the expression 'other person' in Section 129-A [Section 207 of new Act], comprehends officers of Government and not those of SRTC. Hence notification issued by State Government empowering certain officers of the SRTC to exercise powers of police officers under Section 129-A invalid. Case Law 6: Seizure on ground of overloading, display fare chart- Legality. Andhra Pradesh High Court Uma Reddy J. C. v. State of Andhra Pradesh; 2020 KHC 4661 : AIR 2020 AP 134 Public carriage vehicles -- Seizure on ground of not employing spare driver, overloading vehicle, not displaying fare chart etc. -- Whether these violation, even assumed to be true, comes under S.207(1) --

Held, these violation cannot be treated as the violation or contravention as envisaged in S.207(1) -- All vehicles were duly covered with permits and no deviations as alleged were committed -- Violations does not form as contravention to authorize police officer to seize and detain the vehicle under S.207(1) -- Such a violation may be dealt with under relevant provision but the vehicle cannot be seized and detained under S.207(1) of MV Act -- Seizure of vehicle held to be illegal -- Hence direction given to authorities to release vehicles. Case Law 7: Release of seized vehicle after launching of prosecution. Madras High Court Raju Katravath v. State of Telangana and Others; 2020 KHC 3761 : AIR 2020 NOC 595 Release of vehicles -- Seized for carrying load in excess of permissible limit -- After seizure of vehicle, Competent Authority has to launch prosecution and if guilt of vehicle owner is proved, penalty envisaged under S.194 can be imposed by Magistrate -- Power of Competent Authority to seize offending vehicle is very limited -- By interim order of High Court, Competent Authority directed to exercise power not vested in it by collecting fine leviable under S.194 and release vehicle even before owner is found guilty -- In effect, interim directions issued are amounting to directing the officer competent to seize the vehicle to release the vehicle, whereas, he is not competent to release the vehicle unless proviso appended to S.207(1) is attracted and not competent to collect fine even before prosecution is launched or the owner or driver of the vehicle requests for compounding of the offence under S.200 -- Interim order of High Court directing to release vehicle, erroneous. Case Law 8: Illegal seizure. Gujarat High Court Ashokbhai Ramjibhai Lathiya v. State of Gujarat; 2019 KHC 3403 : AIR 2019 NOC 282 Power to detain and seize vehicles -- Petitioner, owner of seized Truck seeking its release on ground that respondent has no power to seize and detain his vehicle under S.207 -- If the seizure memo produced on record is carefully examined, it is revealed that the petitioner has not contravened any of the provisions contained in S.3, S.4, S.39, S.66(1) of the Act -- Learned Assistant Government Pleader has failed to point out the violation of S.3, S.4, S.29, S.66(1) of the Act from the grounds mentioned in the seizure memo -- Respondent no.4 is not empowered to seize the vehicle in question under S.207 of the Act --

Thus, the seizure of the vehicle itself is illegal -- Respondent directed to release vehicle. Case Law 9: Proceedings of prosecution & impounding vehicle are independent. Delhi High Court Delhi Autorikshaw Sangh and Others v. Govt. of NCT of Delhi and Others; AIR 2014 NOC 101 Driving of a vehicle in contravention of the terms of a permit is a criminal offence -- Can be prosecuted -- Prosecution does not preclude authority from impounding the vehicle or initiating action for cancellation and suspension of permit -- Both proceedings are independent. Case Law 10: Seizure on ground of permit violation. Andhra Pradesh High Court Uma Reddy J. C. v. State of Andhra Pradesh; 2020 KHC 4661 : AIR 2020 AP 134 Seizure of vehicles for violation of permit -- Vehicle seized under S.207 should not be detained for unduly long time and on application filed by the vehicle operator the vehicle ought to be released with expedition subject to stipulation of conditions -- Competent authority refusing to release vehicles within reasonable time -- If the competent authority refuses to release the vehicle within a reasonable time, within three days after application is made in this behalf, or imposes onerous conditions, remedy under Art.226 is available to the aggrieved persons -- Seizure and detention of vehicles per se illegal -- Writ petition maintainable without taking statutory recourse under MV Act and Rules. Case Law 11: Release of seized vehicle. Madras High Court Manthiramoorthy C. v. RDO, Kovilpatti, Thoothukudi and Others; 2020 KHC 3347 : AIR 2020 NOC 430 Seizure of vehicle due to its plying without valid papers for transporting sand -- As the vehicle is under the custody of the respondents having been seized on 25/08/2018 and considering the fact that if the same is allowed to be kept idle by exposing the same to sun and rain, it would certainly diminish its value -- Therefore, pending proceedings before the respondents, this Court is of the view that the vehicle can be released by imposing certain conditions on the petitioner for release of the aforesaid vehicle -- Directions issued to release said vehicle to petitioner on condition to produce ownership documents and after depositing sum of Rs.1,25,000/- with concerned authorities. Case Law 12: Seizure of uninsured vehicle - Illegal. Madras High Court Indirani G. and Others v. Deivasilai and Others; 2018 KHC 7563 : 2018 ACJ 2395 Uninsured vehicle -- Statutory duty

under S.146 to insure vehicle and consequences of its breach are owner or user- centric -- No power in a Registering Authority to resort to any coercive steps against those who violate S.146 -- No provision to disqualify a driver for driving an uninsured vehicle -- Even a policeman on the road cannot seize a vehicle under S.207 of the Act for want of an insurance cover, for the power of seizure is granted to deal only with violations involving driving without licence, using motor vehicles without registration or permit, all of which can be brought under the regulatory aspect of MV Act. Case Law 13: Power of detention of vehicle. Kerala High Court Shemeer V. K. and Others v. Joint RTO, Perumbavoor; 2018 (2) KHC 631 : 2018 (2) KLT 692 Held, can be exercised only for a limited purpose -- Such a power cannot include a power directing owner of a bus to produce offending vehicle for the purposes mentioned in the notice, i.e., for the purpose of suspension or cancellation of the permit and for impounding of the vehicle. Corresponding Law :S. 128-B of Act IV of 1939: [129A. Power to detain vehicles used without certificate of registration or permit. - Any police officer authorised in this behalf or other person authorised in this behalf by the [State Government] may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of [section 22] or without the permit required by sub-section (1) of section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle:] [Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-section (1) of section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof.] [Provided further that where a motor vehicle has been seized and detained under this section for contravention of the provisions of section 22, such vehicle shall not be released to the owner unless and until he produces a valid certificate of registration under this Act in respect of that vehicle.]

## Section 208

### Summary disposal of cases.

(1) The Court taking cognizance of any offence (other than an offence which the Central Government may by rules specify in this behalf) under this Act, may, if the offence is an offence punishable with imprisonment under this Act; and shall, in any other case, state upon the summons to be served on the accused person that he (a) may appear by pleader or in person; or (b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge and remit to the Court, by money order, such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify, and the plea of guilt indicated in the money order coupon itself: Provided that the Court shall, in the case of any of the offences referred to in sub-section (2), state upon the summons that the accused person, if he pleads guilty, shall so plead in the manner specified in clause (b) and shall forward his driving licence to the Court with his letter containing such plea. (2) Where the offence dealt with in accordance with sub-section (1) is an offence specified by the Central Government by rules for the purposes of this sub-section, the Court shall, if the accused person pleads guilty to the charge and forward his driving licence to the Court with the letter containing his plea, make an endorsement of such conviction on his driving licence . (3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (1), or as the case may be, sub-sections (1) and (2), no further proceedings in respect of the offence shall be taken against him nor shall he be liable, notwithstanding anything to the contrary contained in this Act, to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

Corresponding Law :S. 130 of Act IV of 1939: 130. Summary disposal of cases. - [(1) The Court taking cognizance of an offence under this Act,- (i) may, if the offence is an offence punishable with imprisonment under this Act, and (ii) shall, in, any other case, state upon the summons to be served on the accused person that he- (a) may appear by pleader and not in person, or (b) may, by a specified date prior to the hearing of the charge plead guilty to the charge by

registered letter and remit to the Court such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify : Provided that nothing in this sub-section shall apply to any offence specified in Part A of the Fifth Schedule.] (2) Where the offence dealt with in accordance with sub-section (1) is an offence specified in Part B of the Fifth Schedule, the accused person shall, if he pleads guilty to the charge, forward his licence to the Court with the letter containing his plea in order that the conviction may be endorsed on the licence. (3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (2), no further proceedings in respect of the offence shall be taken against, him, nor shall he be liable to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

## **Section 209**

### **Restriction on conviction.**

No person prosecuted for an offence punishable under section 183 or section 184 shall be convicted unless he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or within twenty-eight days of the commission of the offence, a summons for the offence was served on him: Provided that nothing, in this section shall apply where the Court is satisfied that the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or such failure was brought about by the conduct of the accused. Corresponding Law :S. 131 of Act IV of 1939: 131.

Restriction on conviction. - No person prosecuted for an offence punishable under section 115 or section 116 shall be convicted unless- (a) he was warned at the time the offence was committed



that the question of prosecuting him would be taken into consideration, or (b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or (c) within twenty-eight days of the commission of the offence, a summons for the offence was served on him : Provided that nothing in this section shall apply where the Court is satisfied that- (a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or (b) such failure was brought about by the conduct of the accused.

## **Section 210**

### **Courts to send intimation about conviction.**

Every Court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to the licensing authority which issued the driving licence, and the licensing authority by whom the licence was last renewed, and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed. Corresponding Law :S. 131-A of Act IV of 1939: [131A. Courts to send intimations about conviction. - Every Court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to- (a) the licensing authority which issued the driving licence, and (b) the licensing authority by whom the licence was last renewed, and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed.]

## **Section 210A**

### **Power of State Government to increase penalties.**

[Subject to conditions made by the Central Government, a State Government, shall, by notification in the Official Gazette, specify a multiplier, not less than one and not greater than ten, to be applied to each fine under this Act and such modified fine, shall be in force in such State and different multipliers may be applied to different classes of motor vehicles as may be classified by the State Government for the purpose of this section.]

## **Section 210B**

### **Penalty for offence committed by an enforcing authority.**

[Any authority that is empowered to enforce the provisions of this Act shall, if such authority commits an offence under this Act, shall be liable for twice the penalty corresponding to that offence under this Act.]

## **Section 210C**

### **Power of Central Government to make rules.**

[The Central Government may make rules for- design, construction and maintenance standards for National highways; such other factors as may be taken into account by the Court under sub-section (3) of section 198A; any other matter which is, or has to be, prescribed by the Central Government.]

## **Section 210D**

### **Power of State Government to make rules.**

[The State Government may make rules for design, construction and maintenance standards for roads other than national highways, and for any other matter which is, or may be, prescribed by the State Government.]

## **Chapter XIV**

## **MISCELLANEOUS**

Section 211 to 217-A

### **Section 211**

#### **Power to levy fee.**

Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, countersignatures, authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary: Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full. Case Law 1: Charges for rendering services. Supreme Court Jantia Hill Truck Owners Assn. v. Shailang Area Coal Dealer & Truck Owner Assn., (2009) 8 SCC 492. In this case the Hon'ble Court observed that right to levy fee/charges for rendering services of weighbridges required by drivers/owners of transport vehicles for fulfilment of their statutory obligations under Motor Vehicle Act, 1988 cannot be obtained free of charge/State/State-controlled agencies [including private parties authorised by Government] rendering said services entitled to charge a reasonable amount in respect thereof. Case Law 1: Power of State Govt. to charge specific fee for registration mark. Supreme Court State of M. P. and Others v. Rakesh Sethi and Another; 2020 KHC 6505 : AIR 2020 SC 4156 Allotment of registration mark -- Power of State Government -- The existence of specific provisions empowering the State (such as S.41(13), S.47(7), S.49(4) and S.50(5)), means that the power of the State to claim or charge amounts is specifically recognized by express provisions -- R.55A is not therefore, in excess of the powers conferred upon the State, by the Act or the Central Rules -- Assignment of 'distinctive marks' i.e. registration numbers to motor vehicles (which includes

the power to reserve and allocate them, for a specific fee) is a distinct service for which States or their authorities (such as the registering authorities, in this case) are entitled to charge a prescribed fee -- R.55A of the M. P. Rules is not therefore, in excess of the powers conferred upon the State, by the Act or the Central Rules -- Thus, the impugned rule was within the ambit of the powers delegated to the State, and directly related to performance of its functions under S.41(6), for which it could legitimately claim a fee. Case Law 1: Conditions for levying fees differ from State to State. Orissa High Court Balasore Bus Association and Others v. State of Orissa and Another; 2006 KHC 3935 : AIR 2006 Ori. 163 Unlike tax there is an element of quid pro quo (Give and Take) in fee. It is a charge for the special service rendered to a class of citizens by the Government or Governmental agency and is generally based on the expenses incurred in rendering service. The rate of fees also depends upon the service rendered -- Rate of application and permit fee of other States cannot necessarily be a guiding factor for other States. Corresponding Law :S. 132-A of Act IV of 1939: [132A. Power to levy fee. - Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures, authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary,": Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.]

## **Section 211A**

### **Use of electronic forms and documents.**

(1) [Where any provision of this Act or the rules and regulations made thereunder provide for the filing of any form, application or any other document with any office, authority, body or

agency owned or controlled by the Central Government or the State Government in a particular manner; the issue or grant of any licence, permit, sanction, approval or endorsement, by whatever name called in a particular manner; or the receipt or payment of money in a particular manner, then notwithstanding anything contained in such provision, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the Central Government or the State Government, as the case may be. (2) The Central Government or the State Government shall, for the purpose of sub-section (1), prescribe- the manner and format in which such electronic forms and documents shall be filed, created or issued; and the manner or method of payment of any fee or charges for filing, creation or issue of any electronic document under clause (a).]

## **Section 212**

### **Publication, commencement and laying of rules and notifications.**

(1) The power to make rules under this Act is subject to the condition of the rules being made after previous publication. (2) All rules made under this Act shall be published in the Official Gazette, and shall unless some later date is appointed, come into force on the date of such publication. (3) Every rule made by any State Government shall be laid, as soon as may be after it is made, before the State Legislature. (4) Every rule made by the Central Government under this Act, every scheme made by the Central Government under sub-section (1) of section 75 and sub-section (1) of section 163 and every notification issued by the Central Government under sub-section (4) of section 41, sub-section (1) of section 58, sub-section (1) of section 59, the proviso to sub-section (1) of section 112, section 118, sub-section (4) of section 163A, section 164, section 177A and sub-section (4) of section 213 shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

aforesaid, both Houses agree in making any modification in the rule, scheme or notification or both Houses agree that the rule or scheme should not be made or the notification should not be issued, the rule, scheme or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, scheme or notification. (5) [Every notification issued by the State Government under section 210A shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees or both Houses agree, as the case may be, in making any modification in the notification or the House agrees or both Houses agree, as the case may be, that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.] Corresponding Law :S. 133 of Act IV of 1939: 133. Publication of and commencement of rules. - (1) Every power to make rules given by this Act is subject to the condition of the rules being made after previous publication. (2) All rules made under this Act shall be published in the Official Gazette, and shall, unless some later date is appointed, come into force on the date of such publication. (3) All rules made under this Act [\* \*] by any [State Government] shall be laid for not less than fourteen days before [\* \*] [the State Legislature], [\* \*] as soon as possible after they are made, and shall be subject to such modifications [as [\* \*] such Legislature] may make during the session in which they are so laid. [(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if,

before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

## **Section 213**

### **Appointment of motor vehicles officers.**

(1) The State Government may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit. (2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860). (3) The State Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers. (4) The Central Government may, having regard to the objects of the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such. (5) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to, make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed; with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept: Provided that, (i) any such search without a warrant shall be made

only by an officer of the rank of a Gazetted Officer; (ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise; (iii) where the search is made without a warrant, the Gazetted Officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made; examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act; seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed; launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any Court; exercise such other powers as may be prescribed: Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself. (6) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under section 94 of the Code.

Corresponding Law :S. 133-A of Act IV of 1939: [133A. Appointment of motor vehicles officer. -

(1) The [State Government] may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit. (2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code. (3) The [State Government] may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.] [(4) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be



empowered by the State Government in this behalf shall also have the power to,- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed; (b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept : Provided that- (i) any such search without a warrant shall be made only, by an officer of the rank of a gazetted officer; (ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise; (iii) where the search is made without a warrant, the gazetted officer concerned shall record in writing, the grounds for not obtaining a warrant and report to his immediate superior that such search has been made; (c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act; (d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed; (e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any Court; (f) exercise such other powers as may be prescribed: Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself. (5) The provisions of the [Code of Criminal Procedure, 1973] so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under [section 94] of that Code.]

## **Section 214**

### **Effect of appeal and revision on orders passed by original authority.**

(1) Where an appeal has been preferred or an application for revision has been made against any order passed by an original authority under this Act, the appeal or the application for revision

shall not operate as a stay of the order passed by the original authority and such order shall remain in force pending the disposal of the appeal or the application for revision, as the case may be, unless the prescribed appellate authority or revisional authority otherwise directs. (2) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of. (3) No order made by a competent authority under this Act shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the proceedings, unless it appears to the prescribed appellate authority or revisional authority, as the case may be, that such error, omission or irregularity has, in fact, occasioned a failure of justice. Corresponding Law :S. 134 of Act IV of 1939: [134. Effect of appeal and revision on orders passed by original authority. - (1) Where an appeal has been preferred or an application for revision has been made against any order passed by an original authority under this Act, the appeal or the application for revision shall not operate as a stay of the order passed by the original authority and such order shall remain in force pending the disposal of the appeal or the application for revision, as the case may be, unless the prescribed appellate authority or revisional authority otherwise directs. [(1A) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of pen-net has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of.] (2) No order made by competent authority under this Act shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the

proceedings, unless it appears to the prescribed appellate authority or revisional authority, as the case may be, that such error, omission or irregularity has, in fact, occasioned a failure of justice.]

## **Section 215**

### **Road Safety Councils and Committees.**

(1) The Central Government may, by notification in the Official Gazette, constitute for the country a National Road Safety Council consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine. (2) A State Government may, by notification in the Official Gazette, constitute for the State a State Road Safety Council consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine. (3) A State Government may, by notification in the Official Gazette, constitute District Road Safety Committee for each district in the State consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine. ~@[Provided that where a State Government has not constituted the District Road Safety Committee, the Central Government may, by notification in the Official Gazette, constitute a Committee for such District, consisting of a Chairman and such other members as it considers necessary and on such terms and conditions as it may determine.]~@Inserted by The Jan Vishwas (Amendment of Provisions) Act, 2023, Act No. 18 of 2023, dated 11-08-2023 (w.e.f. 11/08/2023)[Download Act 18 of 2023]~@ (4) The Councils and Committees referred to in this section shall discharge such functions relating to the road safety programmes as the Central Government or the State Government, as the case may be, may, having regard to the objects of the Act, specify.

## **Section 215A**

### **Power of Central Government and State Government to delegate.**

[\* \* \*] [Notwithstanding anything contained in this Act,- the Central Government shall have the

power to delegate any power or functions that have been conferred upon it by the Act to any public servant or public authority and authorise such public servant or public authority to discharge any of its powers, functions and duties under this Act; the State Government shall have the power to delegate any power or functions that have been conferred upon it by the Act to any public servant or public authority and authorise such public servant or public authority to discharge any of its powers, functions and duties under this Act.]

## **Section 215B**

### **National Road Safety Baord.**

[\* \* \*] (1) The Central Government shall, by notification in the Official Gazette, constitute a National Road Safety Board consisting of a Chairman, such number of representatives from the State Governments, and such other members as it may consider necessary and on such terms and conditions as may be prescribed by the Central Government. (2) The National Board shall render advice to the Central Government or State Government, as the case may be, on all aspects pertaining to road safety and traffic management including, but not limited to,- the standards of design, weight, construction, manufacturing process, operation and maintenance of motor vehicles and of safety equipment; the registration and licensing of motor vehicles; the formulation of standards for road safety, road infrastructure and control of traffic; the facilitation of safe and sustainable utilisation of road transport ecosystem; the promotion of new vehicle technology; the safety of vulnerable road users; programmes for educating and sensitising drivers and other road users; and such other functions as may be prescribed by the Central Government from time to time.]

## **Section 215C**

### **Power of Central Government to make rules.**

[\* \* \*] (1) The Central Government may make rules for the purposes of carrying into effect the provisions of this Chapter. (2) Without prejudice to the generality of the foregoing power, such

rules may provide for - the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A; the minimum qualifications which the Motor Vehicles Department officers or any class thereof shall be required to possess for appointment as such, as referred to in sub-section (4) of section 213; the terms and conditions of appointment of Chairman and Members of the National Road Safety Board under sub-section (1) of section 215B; the other functions of the National Road Safety Board under sub-section (2) of section 215B; and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules by the Central Government.]

## **Section 215D**

### **Power of State Government to make rules.**

[\* \* \*] (1) The State Government may make rules for the purposes of carrying into effect, the provisions of this Chapter, other than the matters specified in section 215C. (2) Without prejudice to the generality of the foregoing power, such rules may provide for - the use of electronic forms and means for the filing of documents, issue or grant of licence, permit, sanction, approval or endorsements and the receipt or payment of money as referred to in section 211A; the duties and functions of the officers of the Motor Vehicle Department, the powers to be exercised by such officers (including the powers exercisable by police officers under this Act) and the conditions governing the exercise of such powers, the uniform to be worn by them, the authorities to which they shall be subordinate as referred to in sub-section (3) of section 213; such other powers as may be exercised by officers of the Motor Vehicles Department as referred to in clause (f) of sub-section (5) of section 213; and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules by the State Government.]

## **Section 216**

**Power to remove difficulties.**

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act. (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**Section 217****Repeal and savings.**

(1) The Motor Vehicles Act, 1939 (4 of 1939) and any law corresponding to that Act in force in any State immediately before the commencement of this Act in that State (hereafter in this section referred to as the repealed enactments) are hereby repealed. (2) Notwithstanding the repeal by sub-section (1) of the repealed enactments, any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or exemption granted or any confiscation made, or any penalty or fine imposed, any forfeiture, cancellation or any other thing done or any other action taken under the repealed enactments, and in force immediately before such commencement shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued, made, granted, done or taken under the corresponding provision of this Act; any certificate of fitness or registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act had not been passed; any document referring to any of the repealed enactments or the provisions thereof, shall be construed as referring to this Act or to the corresponding provision of this Act; the assignment of distinguishing marks by the registering authority and the manner of display on motor vehicles in accordance with the provision of the repealed enactments shall, after the commencement of this Act, continue to remain in force until a notification under sub-section (6) of section 41 of this Act is issued; any scheme made under

section 68-C of the Motor Vehicles Act, 1939 (4 of 1939) or under the corresponding law, if any, in force in any State and pending immediately before the commencement of this Act shall be disposed of in accordance with the provisions of section 100 of this Act; the permits issued under sub-section (1-A) of section 68-F of the Motor Vehicles Act, 1939 (4 of 1939), or under the corresponding provisions, if any, in force in any State immediately before the commencement of this Act shall continue to remain in force until the approved scheme under Chapter VI of this Act is published. (3) Any penalty payable under any of the repealed enactments may be recovered in the manner provided by or under this Act, but without prejudice to any action already taken for the recovery of such penalty under the repealed enactments. (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals. Corresponding Law :S. 135 of Act IV of 1939: [135. Repeal and savings. - (1) The enactments specified in the Twelfth Schedule are hereby repealed to the extent mentioned therein. (2) Notwithstanding the repeal of any enactment by this section,- (a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or any licence, permission or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act; (b) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provision of this Act. (3) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment. (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.]

## **Section 217A**

### **Renewal of permits, driving licences and registration granted under the Motor Vehicles Act, 1939.**

[Notwithstanding the repeal by sub-section (1) of section 217 of the enactments referred to in that sub-section, any certificate of fitness or registration licence or permit issued or granted under the said enactments may be renewed under this Act.] Case Law 1: Renewal of stage carriage permit. Supreme Court Gajraj Singh v. STAT, (1997) 1 SCC 650. The grant of renewal of stage carriage permit granted under M.V. Act of 1939 should necessarily be preceded by a grant of stage carriage permit under Section 72 of the 1988 Act in accordance with the procedure laid down in Sections 70 and 71 of the 1988 Act as the permit under the 1939 Act is not served by Section 272(2)(a) of new Act and Section 6 of General Clauses Act. Case Law 2: Validity after commencement of new Act. Supreme Court Quilon Distt. Motor Transport Workers' Coop. Society Ltd. v. RTA, 1994 Supp (3) SCC 210. The stage carriage permit granted under the old M.V. Act of 1939 continues, after commencement of the new Act to be operative till the expiry of its period as if the new Act had not been passed and the repealed Act continues to be in operation. Right to renewal of permit under old Act stands repealed with the expiry of its period of permit under old Act. Case Law 3: Schemes proposed under the Act. Supreme Court Krishan Kumar v. State of Rajasthan, (1991) 4 SCC 258. By Section 217(2)(e) of the new Act the schemes proposed under Section 68-C of the old Act pending on the date of commencement of the new Act were saved and the same were to be finalised within one year as contemplated by Section 100(4) of the new Act. Section 100(4) lays down that if the proposed scheme is not finalised within one year from the date of its publication in the Official Gazette, it shall be deemed to have lapsed. If, however, the period of one year from the date of the publication of the proposed scheme is applied to the pending schemes under Section 68-C of the old Act, the purpose and object of saving the old schemes under clause (e) of Section 217(2) of the new Act would be frustrated. Krishan Kumar v. State of Rajasthan, (1991) 4 SCC 258, overruling Santosh



Kumar v. Regional Transport Authority, C.M.W.P. No. 21773 of 1989, decided on 16-3-1990 (All).

Case Law 4: Validity. Supreme Court Ram Krishna Verma v. State of U.P., (1992) 2 SCC 620.

Draft scheme published under Section 68-C of the repealed Act would stand lapsed only if it is not approved within one year from the date when the new Act came into force i.e. July 1.

## **Schedules**

No content available

### **First Schedule**

No content available

### **Part A**

#### **Mandatory signs.**

FIRST SCHEDULE OF MOTOR VEHICLES ACT, 1988 PART A - MANDATORY SIGNS M.1  
STOP SIGN M.2 GIVE WAY M.3 STRAIGHT PROHIBITED OR NO ENTRY M.4-A VEHICLES  
PROHIBITED IN ONE DIRECTION M.4-B VEHICLES PROHIBITED IN ONE DIRECTION  
M.5 VEHICLES PROHIBITED IN BOTH DIRECTIONS M.6 ALL MOTOR VEHICLES  
PROHIBITED M.7 TRUCKS PROHIBITED M.8 BULLOCK CARTS AND HAND CARTS  
PROHIBITED M.9 BULLOCK CARTS PROHIBITED M.10 TONGAS PROHIBITED M.11 HAND  
CARTS PROHIBITED M.12 CYCLES PROHIBITED M.13 PEDESTRIANS PROHIBITED M.14  
RIGHT TURN PROHIBITED M.15 LEFT TURN PROHIBITED M.16 U - TURN PROHIBITED  
M.17 OVERTAKING PROHIBITED M.18 HORNS PROHIBITED M.19 NO PARKING M.20 NO  
STOPPING OR STANDING M.21 SPEED LIMIT M.22 WIDTH LIMIT M.23 HEIGHT LIMIT M.24  
LENGTH LIMIT M.25 WEIGHT LIMIT M.26 AXLE WEIGHT LIMIT M.27 RESTRICTION ENDS  
SIGN M.28A COMPULSORY TURN LEFT M.28-B COMPULSORY TURN RIGHT M.29  
COMPULSORY STRAIGHT AHEAD M.30-A COMPULSORY TURN LEFT AHEAD M.30-B  
COMPULSORY TURN RIGHT AHEAD M.31 COMPULSORY AHEAD OR TURN LEFT M.32  
COMPULSORY AHEAD OR TURN RIGHT M.33 COMPULSORY KEEP LEFT M.34

COMPULSORY CYCLE TRACK M.35 COMPULSORY SOUND HORN M.36 COMPULSORY  
BUS STOP

## **Part B**

### **Cautionary signs.**

FIRST SCHEDULE OF MOTOR VEHICLES ACT, 1988 PART B - CAUTIONARY SIGNS C.1  
GENERAL DESIGN C.2 RIGHT HAND CURVE C.3 LEFT HAND CURVE C.4 RIGHT HAIR PIN  
BEND C.5 LEFT HAIR PIN BEND C.6 RIGHT REVERSE BEND C.7 LEFT REVERSE BEND  
C.8 STEEP ASCENT C.9 STEEP DESCENT C.10 NARROW ROAD AHEAD C.11 ROAD  
WIDENS AHEAD C.12 NARROW BRIDGE C.13 SLIPPERY ROAD C.14 LOOSE GRAVEL C.15  
CYCLE CROSSING C.16 PEDESTRAIN CROSSING C.17 SCHOOL AHEAD C.18 MEN AT  
WORK C.19 CATTLE C.20 FALLING ROCKS C.21 FERRY C.22 CROSS ROAD C.23 GAP IN  
MEDIAN C.24 SIDE ROAD RIGHT C.25 SIDE ROAD LEFT C.26-A Y - INTERSECTION C.26-B  
Y - INTERSECTION C.27 T - INTERSECTION C.28-A STAGGERED - INTERSECTION C.28-B  
STAGGERED - INTERSECTION C.29 MAJOR ROAD AHEAD C.30 ROUND ABOUT C.31  
DANGEROUS DIP C.32 HUMP OR ROUGH ROAD C.33 BARRIER AHEAD C.34  
UNGUARDED LEVEL CROSSING (300 METERS) C.35 UNGUARDED LEVEL CROSSING (50  
- 100 METERS) C.36 GUARDED LEVEL CROSSING (200 METERS)

## **Part C**

### **Informatory signs.**

FIRST SCHEDULE OF MOTOR VEHICLES ACT, 1988 PART C - INFORMATORY SIGNS E.1  
ADVANCE DIRECTION SIGN E.2 DESTINATION SIGN E.3 DIRECTION SIGN E.4 RE-  
ASSURANCE SIGN E.5 PLACE IDENTIFICATION SIGN E.6 PUBLIC TELEPHONE E.7  
PETROL PUMP E.8 HOSPITAL E.9 FIRST AID POST E.10 EATING PLACE E.11 LIGHT  
REFRESHMENT E.12 RESTING PLACE E.13 NO THROUGH ROAD E.14 NO THROUGH  
SIDE ROAD E.15 PARKING THIS SIDE E.16 PARK BOTH SIDE E.17 PARKING LOT -

SCOOTERS AND MOTOR CYCLES E.18 PARKING LOT CYCLES E.19 PARKING LOT -TAXIS  
E.20 PARKING LOT AUTORICKSHAWS E.21 FLOOD GUAGE