

## Good Samaritan and Victims of Accidents Vis-À-Vis Right to Life: A Study

Prof (Dr) Mukund Sarda

Corresponding Author: Prof (Dr) Mukund Sarda

---

**ABSTRACT:** *As per the report of UNO, road accidents will be the biggest killers in India by 2020. By the help of bystanders and Good Samaritans, the life of the victims could be saved. However, there is considerable resistance on their part to extend help due to the fear of involvement in Police cases and interrogation by Police and questioning in court trials.*

*This article relying on Judgments of courts makes an attempt to highlight the need for suitable enactment to protect the bystanders and good Samaritans so that timely assistance be given to the victims. A good number of suggestions have been made in this regard.*

**KEY-WORDS**

---

Date of Submission: 20-02-2018

Date of acceptance: 07-03-2018

---

- i) Bystanders and good Samaritans
- ii) Ambulance based rescue system
- iii) Supportive legal frame-work
- iv) Golden hour
- v) Voluntary and optional disclosures
- vi) Standard Operating Procedures
- vii) Effective care system
- viii) Road safety standards

### I. INTRODUCTION

Road accidents resulting in the death of good number of people are on the increase. Due to timely help of bystanders and good Samaritans, some of the lives have been saved. It is however, seen that there is considerable reluctance on their part to come to the aid of victims due to the fear of involvement in Police cases and interrogation by Police to secure their assistance, it is felt that a suitable law be enacted on the lines of existing laws in foreign Countries to accord protection to them and to confer immunity from civil and criminal liabilities. This research study points out several other deficiencies.

### II. TEXT OF THE ARTICLE

i) There has been increasing reports of death of the people who are victims of road accidents. Had there been timely help of bystanders and good Samaritans, the lives of such people might have been saved. The right to life guaranteed under Art 21 of the Constitution could have secured and realized, if the bystanders and good Samaritans volunteered to help such victims by bringing the victims to the nearby hospitals without delay and the hospital staff with all readiness to treat them in order to save lives of such victims. According to the report of WHO (World Health Organisation), “it has been projected that by 2020 road accidents will be the biggest killers in India. It has been also emphasized that in low income Countries, the common desisting factor restraining the public from coming forward to help victims, is the apparent fear of being involved in Police cases”.<sup>1</sup>

ii) The responsibility of framing suitable legislation dealing with Motor Vehicles and also of evolving road safety standards in India lies with the Ministry of Road Transport with active co-ordination with Department of Health & Family Welfare as well as of Law Ministry, there has been a lack of suitable legislation dealing with protection of Samaritans and also of bystanders who render help to the victims of road accidents, who play a significant role in order to save the lives of the victims. In a way, there is a serious violation of ‘right to life’ on account of lack of support from Good Samaritans and bystanders.

---

<sup>1</sup> See report of WHO on ‘Road Traffic Injury Prevention’ 2004.

iii) In Countries like England and Wales, legislation has been enacted such as social action, responsibility and Heroism Act 2015 to protect Good Samaritans from legal liability. In Ireland, Civil (Miscellaneous Provisions Act, 2011), provision has been made 'not to make liable good Samaritans in helping persons in serious and imminent danger,'<sup>2</sup> and Civil Liability Act, 1958 in Victoria. In USA several States have enacted laws to protect from civil liability for emergency assistance rendered in good faith by Good Samaritans.

### **III. WHO IN ITS REPORT<sup>3</sup> POINTED OUT THUS:-**

"while in high income Countries, there is reasonably well-organised ambulance based rescue system, in middle and low income Countries assistance by bystanders is most common".

iv) According to a communication of the Union Government<sup>4</sup> it has been stated thus:-

"In our Country, while organizing of trauma care, apart from intervention is also required, there is another factor namely relative ignorance on the part of public to come forward to help the road crash victims, for apparent fear that they might be involved in Police cases.

Research shows that a number of the accident victims can be saved, if they receive immediate medical attention. Due to fear of harassment, people do not come forward to help them".

v) In a recent case,<sup>5</sup> the Supreme Court stressed the need for 'development of supportive legal frame-work to protect Samaritans i.e., bystanders and passerby who render help to the victims of road accidents'. The court further observed thus:-<sup>6</sup>

a) Accident cases required fastest care and rescue which could be provided by those closest to the scene of accidents;

b) Bystanders clear support is essential to enhance the chances of survival of victims in the 'Golden hour' – first hour of the injury;

c) Right to life enshrined under Art 21 which includes right to safety of persons while travelling on road and the immediate medical assistance as a necessary corollary is required to be provided and also to adequate legal protection and prevention from harassment to good Samaritans;

d) Quoting WHO India recommendation,<sup>7</sup> the Supreme Court further observed: "50% of the victims die in the first 15 minutes due to serious cardiovascular or nervous system injuries and the rest can be saved through by providing basic life support during the Golden hour."<sup>8</sup>

vi) The Union Government through another communication<sup>9</sup> to all State Governments and Union Territories, while sending a copy of letter issued by Police authorities in Delhi, stated thus:-

a) ;in order to build confidence in the public for helping road accident victims, persons who bring victims to the hospitals need not be required to give their particulars and it should not be insisted;

b) Such persons should not be detained in the hospitals for interrogation. However, voluntary disclosures may be encouraged. The content of this communication should be widely publicized in mass media particularly through TV to create public awareness.

vii) The Supreme Court also observed thus:-<sup>10</sup>

i) It remains undisputed before us that it is not insufficiency of law but it is implementation of law which is a matter of concern;

ii) Different guidelines including guidelines for ambulance code, emergency care and appropriate directions to the hospitals on the high-ways for handling the accident trauma patients as a top priority are stated to have been issued".

viii) Credit goes to the Supreme Court for the most timely initiative taken to appoint a committee<sup>11</sup> to submit suggestions in the matter of assistance to be rendered by bystanders and Samaritans, so that suitable

---

<sup>2</sup> See for details of Sec 51D of the Act.

<sup>3</sup> See Note 1.

<sup>4</sup> Letter dated 9.9.2004 from Joint-Secretary, Department of Road Transport and Highways adhered to all State Governments and Union Territory.

<sup>5</sup> Save Life Foundation Vs. Union of India, AIR 2016 SC P.167.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Letter dated 9.9.2004 of Joint-Secretary, Ministry of Road Transport and High-ways, Govt. of India.

<sup>10</sup> See Note 5.

guidelines could be framed, which could serve as the basic material on which suitable legislative frame-work could be enacted by the Government. In the reference made to the committee the following issues have been identified:-

- a) To identify the root causes for fear of harassment and legal hassles in general public regarding helping injured victims; and
- b) Deliberate and develop a set of guidelines for protecting Good Samaritans from Police harassment and legal hassles.

2.1. The Committee made the following recommendations:-<sup>12</sup>

i) **Treating bystanders or Good Samaritans**

A bystander or good Samaritan including an eye-witness of a road accident may take an injured person to the nearest hospital. They should be allowed to leave immediately except after furnishing address by the eye-witness only and no question shall be asked to such bystanders or good Samaritans.

ii) **Reward or Compensation to bystanders or Good Samaritans**

A bystander or good Samaritan shall be suitably rewarded or compensated to encourage other citizens to come forward to help the road accident victims by the authorities in the manner as may be specified by the State Governments.

iii) **Immunity from liability**

A bystander or good Samaritan should not be liable for any civil and criminal liability.

**IV. NO COMPULSION TO BE MADE TO REVEAL NAME OR PERSONAL DETAILS**

A bystander or good Samaritans, who makes a phone call to inform the Police or emergency services for the person lying on the road, shall not be compelled to reveal his name and personal details on the phone or in person.

iv) **Voluntary and optional disclosures**

The disclosure of personal information, such as name and contact details of the good Samaritan shall be made voluntary and optional including in the medico-legal cases (MLC) Form provided by the hospital.

v) **Disciplinary action against public officials for coercing or intimidating Samaritans**

Disciplinary or departmental action shall be initiated by the Government concerned against public officials who coerce or intimidate a bystander or good Samaritan for revealing his name or personal details.

vi) **Examination by Police or during trial of bystanders or Good Samaritans**

In case of bystander or good Samaritan who has voluntarily stated that he is also an eye-witness to the accident and is required to be examined for the purposes of investigation by the Police or during the trial such as bystanders or good Samaritan shall be examined on a single occasion and the State Governments shall develop standard operating procedures to ensure that bystanders or good Samaritan is not harassed or intimidated.

vii) **Methods of Examination of bystanders / good Samaritans**

The methods of examination may either be by way of a commission under Section 284 of Criminal Procedure Code, 1973 or formally an affidavit as per Section 296 of the said code and standard operating procedures shall be developed within a period of 30 days from the date when this notification is issued.

viii) **Video Conferencing**

Video Conferencing may be used extensively during examination of bystander or good Samaritan including the persons referred to in guideline (1) above, who are eye-witnesses in order to prevent harassment and inconvenience to good Samaritans.

ix) **Detention and demand for payment of hospital expenses**

The Ministry of Health and Family Welfare shall issue guidelines stating that all registered public or private hospitals are not to detain bystanders or good Samaritans or demand payment for registration and admission costs, unless the good Samaritan is a family member or relative of the injured and the injured should be treated immediately as laid down in Pt. Parmanand Katara.<sup>13</sup>

x) **Lack of response by Doctors and Professional misconduct**

---

<sup>11</sup> See the Supreme Court order dated 11-12-2012.

<sup>12</sup> See Note 5.

<sup>13</sup> Pt. Parmanand Katara Vs. Union of India AIR 1989 SC P.2039.

Lack of response by a doctor in an emergency situation pertaining to road accidents, when he is expected to provide care shall constitute “professional misconduct”<sup>14</sup> and disciplinary action should be taken against such doctors under Chapter 8 of the said regulations.<sup>15</sup>

**xi) Publication of Charter**

All hospitals shall publish a charter in Hindi, English and Vernacular language of the State or UT at the entrance to the effect that they shall not detain bystanders or good Samaritans or ask depositing of money from them for the treatment of the victim.

**xii) Issue of acknowledgement**

In case a bystander or good Samaritan so desires, the hospitals shall provide an acknowledgement to such bystanders or good Samaritans confirming that an injured person was brought to the hospital at the time and place of such occurrence and the acknowledgement may be prepared in a standard format by the Statement Government and disseminated to all hospitals in the State for incentivising the bystander or good Samaritans as deemed fit by the Statement Government.

**xiii) Implementation of the guidelines**

All private and public hospitals shall implement the guidelines from (i) to (xiii) stated above immediately and in case of non-compliance or violation of these guidelines appropriate action shall be taken by the concerned authorities.

It has been made clear that protection given by bystanders or good Samaritans shall be without prejudice to the liability of the driver of a motor vehicle in the road accident, as specified in Sec 134 of the Motor Vehicle Act, 1988.

3. The guidelines recommended by the Committee set up by the Supreme Court have been accepted by the Ministry of Road Transport & Highways and also by the Ministry of Law in the form of Standard Operating Procedure<sup>16</sup> and to be given statutory status to the Standard Operating Procedure.<sup>17</sup>

4. Suitable steps may be required to be taken to prevent the culprits involved in the accidents coming forward in the guise of a bystander or good Samaritan to escape legal liability. The proposed legislation should take adequate care of this aspect.

## **V. RECOMMENDATIONS AND SUGGESTIONS**

In the light of the aforesaid study and taking into consideration suggestions made by the Supreme Court, the following suggestions and recommendations are made:-

- i) There is an emergent need to develop supportive legal frame-work to protect bystanders and Good Samaritans;
- ii) Bystanders and Good Samaritans play a useful role in protecting the lives of the victims of road accidents and thus help in affording good assistance to give effect to ‘right to life’ guaranteed under Art 21 of the Constitution of India;
- iii) There is a need to create a unique network of medical responders to come to victims aid;
- iv) Critical deficiencies in the existing laws such as Motor Vehicles Act and other laws governing road safety require immediate rectification;
- v) The guidelines framed by the committee set up by the Supreme Court should be the basis for enacting an effective law to protect the interests of bystanders and good Samaritans;
- vi) There is a need to create an effective care system with ethical and legal principles;
- vii) No compulsion or detention should be made in respect of bystanders or good Samaritans and any type of examination should be in accordance with Standard Operative Procedure;
- viii) Hospitals should be taken it as a legal obligation to treat victims brought to the hospital and any lack of care in this regard should be considered as ‘professional misconduct’ attracting suitable disciplinary action. In serious cases of death, they should be made liable for criminal liability besides ‘professional misconduct’;
- ix) Guidelines issued and accepted must be given wide publicity in the media to create public awareness, so that timely help can be rendered by bystanders and good Samaritans to serve the lives of the victims;
- x) Suitable rewards and compensation should be provided to bystanders and good Samaritans;

---

<sup>14</sup> Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulation 2002, (See chapter 7).

<sup>15</sup> Ibid Chapter 8

<sup>16</sup> See Notification dated 21-1-2016 issued by the Govt. of India (Ministry of Road Transport & Highways).

<sup>17</sup> This was also directed by the Supreme Court.

- xi) Care should be taken to prevent abuse of legal provisions by those who are offenders responsible for accidents in the garb of bystanders and Good Samaritans;
- xii) In no case drivers of a motor vehicle responsible for the accidents should be spared and strict legal action should be taken against them.  
Suitable provision be made to determine whether the bystanders and good Samaritans are acting for the benefit of the society or to protect themselves from their criminal acts resulting in the accident and injury to the victims.

International Journal of Humanities and Social Science Invention (IJHSSI) is UGC approved Journal with Sl. No. 4593, Journal no. 47449.

Prof (Dr) Mukund Sarda.' Good Samaritan and Victims of Accidents Vis-À-Vis Right to Life: A Study" International Journal of Humanities and Social Science Invention (IJHSSI) 7.3 (2018): PP 34-38