

PARLIAMENT OF INDIA

RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON TRANSPORT, TOURISM & CULTURE**

ONE HUNDRED AND THIRTY NINETH REPORT

ON

THE MOTOR VEHICLES AMENDMENT BILL, 2007

(PRESENTED TO THE RAJYA SABHA ON 28.04.2008)

(LAID ON THE TABLE OF THE LOK SABHA ON 28.04. 2008)

**RAJYA SABHA SECRETARIAT
NEW DELHI**

APRIL, 2008/VAISAKHA, 1930 (SAKA)

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COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON TRANSPORT, TOURISM AND CULTURE
(2007-2008)

1. **Shri Sitaram Yechury** - *Chairman*

RAJYA SABHA

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SECRETARIAT

Shrimati Agnes Momin George, Joint Secretary

Shri Jagdish Kumar, Joint Director

Shri Swarabji B., Deputy Director

Shrimati Nidhi Chaturvedi, Committee Officer

^ Ceased to be a member of the committee *w.e.f.* 2.4.2008

* Ceased to be a member of the committee *w.e.f.* 9th April, 2008

Expired on 13.11.2007

** Nominated on 1.12.2007.

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Transport, Tourism and Culture, having been authorised by the Committee to present on its behalf, do hereby present this One Hundred and Thirty Ninth Report of the Committee on the Motor Vehicles Amendment Bill, 2007 *.

2. The Bill was introduced in the Rajya Sabha on the 15th May, 2007. In pursuance of rules relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha, referred** the Bill to the Committee on the 17th May, 2007 for examination and report within three months. On the request being made by the Chairman of the Committee, Hon'ble Chairman had granted extension of time till the first day of last week of the Budget Session (second part) of the Parliament for the presentation of the report of the Committee on the aforesaid Bill.

3. The Committee took oral evidence of the Secretary and other officers of the Department of Road Transport and Highways at its meeting held on the 18th July, 2007.

4. The Committee heard the views of the representatives of various stakeholders and individuals at its meeting held on the 4th October, 2007.

5. The Committee also considered the draft Report on the subject and adopted the same on 24th April, 2008.

6. The Committee wishes to express its thanks to the Secretary and other officers of the

Department of Road Transport and Highways and Ministry of Law and Justice for the assistance and inputs provided during deliberations on the provisions of the Bill. The Committee also acknowledges the contribution of representatives of various stakeholders and individuals who submitted their valuable suggestions on the provisions of the Bill.

NEW DELHI ;
 April 24, 2008
 Vaisakha 4, 1930 (Saka)

SITARAM YECHURY
 Chairman,

*Department-related Parliamentary Standing
 Committee on Transport, Tourism & Culture.*

* Published in the Gazette of India Extraordinary Part II, Section-2, dated 15th May, 2007

** Rajya Sabha Parliamentary Bulletin Part II, No.44110 dated 17th May, 2007.

Report

The Motor Vehicles (Amendment) Bill, 2007 was introduced in the Lok Sabha on the 15th May, 2007. The Bill was referred to this Committee for examination and report. Under the mandate, the Committee has examined the Bill and finalized the Report after ascertaining the views of various stakeholders and the nodal Department *i.e.* Department of Road Transport and Highways.

2. The Motor Vehicles Act, 1988, a principal instrument for regulating motor vehicles was amended for the first time comprehensively in 1994. Then some minor amendments were carried out in 2000 and 2001. However, in recent past, Road Transport Sector had undergone many changes in terms of vehicle population, technological upgradation, increase in road accidents and vehicular pollution. Many provisions of the Act had either lost its significance or started creating more hurdles rather than making the system smooth. Moreover, there are a large number of provisions which are enforced by State Governments but they are dependant on Central Government for its approval. There was also a clamour for restructuring Second Schedule which prescribes the structured compensation formula.

3. Taking into account, all these aspects the Department endeavoured to bring out changes in the Act to make it suitable to the present day requirement. The Motor Vehicles (Amendment) Bill 2007 has undergone all stages of processes involved in the Amendment procedure *i.e.* consultation with all the stakeholders, vetting by Ministry of Law and approval of the Union Cabinet.

4. The Statement of object and reasons of the Bill states that Bill *interalia*, seeks to achieve the following:-

(i) to enhance penalties, wherever considered necessary, for violation of provisions of the

Motor Vehicles Act, 1988 with a view to ensure road safety and discipline;

(ii) to provide for civil penalty in addition to the existing criminal liability. The amount realised by way of civil penalty shall be credited to the Solatium Fund which is to be used for the accident victims;

(iii) to confer more powers to States and Union territories, to make regional transport authorities more responsive in discharge of their duties and responsibilities;

(iv) to remove anomalies and rationalize provisions for emerging new needs and requirements ;

(v) to provide for a rationale and streamlining of provisions dealing with payment of appropriate compensation to road accident victims; and

(vi) to provide for settling of the claims directly by the insurer with a view to reduce the hardships of the accident victims and accelerate disposal of cases relating to compensation claims.

5. The Department of Road Transport and Highways in their background note furnished to the Committee has brought out the reasons for the introduction of the Bill as follow:

5.1. Enhancement of penalties:

The existing penalties do not have deterrent effect as in many cases the penalty is as low as Rs.100/-. The issue of enhancement of penalties was also subject matter of High Court of Delhi in a PIL. Hence the penalties for various offences are proposed to be enhanced to make it more deterrent. The enhancement has been proposed on the principle of setting minimum and maximum punishments for the first offence and subsequent offences, and enhancement of the minimum penalties to ensure that they have a deterrent effect, without leading to evasive behaviour which over-stiff penalties often bring forth.

5.2. Delegation of Power to States:

It was felt necessary to delegate powers to the States to recognize certificates issued by Institutions/Automobiles associations for grant of learner's licences for driving non-transport vehicles and also to make Automobile Associations eligible for recognition as testing bodies for driving licences for such vehicles. Hence, powers are proposed to be delegated to States to exercise control on driving training schools to supervise construction of driving tracks and prescribe standards and fees to be charged. The State would be empowered, without waiting for the directions from the Central Government, to restrict the number of stage carriage or contract carriage permits in cities. Such powers are needed to control traffic, reduce congestion and encourage public transport. The State Governments are being empowered to frame rules for validation of special permits issued to stage/contract carriages for regions outside their area of operation to take care of special occasions/requirements. Similarly, the States are proposed to be empowered to nationalize routes including portions of inter-State

routes lying in their respective State, if the same is covered by inter-State Agreement. At present, such cases require Central Government's prior approval. The State Governments are also proposed to be empowered to frame rules regarding installation of speed-governors and fog lights. The State Governments are being proposed to be authorized to appoint auditors to audit inspection and maintenance facilities for in use vehicles.

5.3. Responsiveness of Transport authorities:

5.3.1 A number of new provisions for amendments are aimed at removing difficulties citizens face in dealing with Regional/Transport Authorities. Time limits are being proposed for disposal of appeals for non-grant/cancellation of driving licences and non-issuance of registration certificates and permit.

5.3.2 For vehicles being operated under hire-purchase financing schemes, the registering authority would be required in terms of the proposed amendments to inform the financier, original registering authority and the last registering authority by Registered Post with Acknowledgement due, in respect of many subsequent transactions. A provision for refund of pro-rata unutilized one-time tax paid on non-transport vehicles which are transferred for registration in another State is being proposed. It is also being proposed that the official checking any motor vehicle has to establish his identity and issue a standardized receipt if he wishes to seize the driving licence. The time limit to apply for transfer of insurance certificate upon purchase of a vehicle from another owner is being proposed to be increased from fourteen to thirty days.

5.4 New Requirements and Rationalization of anomalies and Enabling Provisions:

5.4.1. Various players in road transport industry are being brought under the Carriage by Road definition of "common carrier" under the Carriage by Road Act. As there are linkages between the proposed "Carriage by Road Act" and the Motor Vehicles Act, 1988, the definition of "common carrier" as contained in the former is being added to the latter. In view of the current emphasis on encouraging technologies for environment friendly vehicles, the definition of "battery operated vehicles" is being added to the Act. "Multi-axle vehicle" is being defined and "dealer" is being re-defined to remove the ambiguity in their application and interpretation in the field.

5.4.2. It is being proposed that the applicant for driving licence for transport vehicles should have a driving licence of a light motor vehicle for two years, instead of one year as at present, before applying for the driving licence. Other changes proposed include substitution of "motor cycle below 50 cc" for "motor cycles without gear" in the rule relating to driving licence to reflect the change in technology relating to vehicles without gears. It is being proposed that the driving licence of any driver found driving under the influence of alcohol as evidenced by the prescribed tests to be suspended.

5.4.3. The Central Government would have powers to make rules on design of bus and truck bodies to ensure safety and comfort of these vehicles. It has been proposed that consignor also to

be held responsible besides driver or owner of the vehicle for the overloading as overloading is mostly done with the knowledge of consignor and has emerged as a major danger to the safety of road users and longevity of the road infrastructure. The Motor Vehicle Departments officials would necessarily have to weigh the vehicles suspected to be overloaded, off-load the excess load, and not allow the overloaded vehicle to move further on payment of fine.

5.5.Third Party Insurance and compensation to road accident victims:

5.5.1. Around 1.4 million cases relating to Motor Accident Claims have piled up in the Motor Accident Claim Tribunals (MACTs) and courts. Instances have also come to notice where more than one claim has been filed under different sections of the Act. There is thus a need for a more rational and clear -cut structure for payment of compensation to road accident victims. The proposal is to provide for two alternative options for the victims or their legal heirs to either go in for a simplified and attractive Structured Compensation Formula (based on age and income profile of the victim) on a "No Fault Principle" or for full liability of vehicle-owners/insurers by proving the fault or negligence of the vehicle/driver. At present it is possible to do both giving rise to endless litigation. This is causing delay in payment of compensation to the victims and adversely affecting the insurance companies who are therefore reluctant to provide such insurance policies.

5.5.2. A number of provisions aiming at rationalization relating to payment of interest, filing of combined claims in case of multiple dependents, simplification and revision of the structured compensation formula, the solatium scheme for hit and run accidents and obligation of the insured vehicle owners to provide certain documents to the insurers are also part of the proposed Bill. An enabling provision is also being proposed to enable insurance companies with the consent of the claimant to settle the claims out of court and come to the MACT or civil court for ratification. It is expected that the proposed provisions will reduce the number of cases pending before MACTs/ Courts and benefit the victims.

5.5.3. At present, there is no provision in the Act relating to civil liability of a driver if he causes accidents. Hence, it is proposed to introduce civil liability of a driver by providing penalty upto Rs.5000/- if one drives a motor vehicle in rash or negligent manner, causing injury to a person or damages to any property. The amount so realized shall be credited to the Solatium Fund and shall be utilized for payment of compensation to the road accident victims.

6. In its meeting held on the 18th July, 2007 the Committee heard the views of Secretary, Department of Road Transport and Highways on the Bill. The Committee heard the views of stakeholders during its visit to Chennai between 25-28th July, 2007. The Committee also heard the views of various individuals/organisations/stakeholders on the Bill on 4th October, 2007.

7. The Committee in its meeting on _____ considered the Motor Vehicles (Amendment) Bill, 2007 clause-by-clause.

8.1 Clause 2 reads - "In section 2 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Principal Act),—

(i) after clause (3), the following clause shall be inserted, namely:—

‘(3A) “Carriage for persons with disability” means a motor vehicle specially designed and constructed for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;’;

(ii) after clause (4), the following clause shall be inserted, namely:—

‘(4A) “common carrier” means a person engaged in the business of collecting, storing forwarding or distributing goods to be carried by goods carriages under goods receipt or transporting for hire, of goods from place to place, by motorised transport on road, for all persons indiscriminately and includes a goods booking company, contractor, agent, broker and courier agency, but does not include the Government.

Explanation.— For the purpose of this clause, courier agency means an agency engaged in the door to door transportation of documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;’;

(iii) for clause (8), the following clause shall be substituted, namely:—

‘(8) “dealer” includes a person who is engaged—

(a) in building bodies for attachment to chassis; or

(b) in the business of hypothecation, leasing or hire purchase of motor vehicles; or

(c) in the manufacture of motor vehicles; or

(d) in the sale of motor vehicles on the authority of a motor vehicle manufacturer’;

(iv) clause (18) shall be omitted;

(v) in clause (28), after the words “twenty-five cubic centimetres”, the words “or a battery operated vehicle equipped with motor having a thirty minutes power of less than 0.25 Kilowatt” shall be inserted;

(vi) after clause (28), the following clause shall be inserted, namely:—

‘(28A) “multi-axle vehicle” means a vehicle having more than two axles.’.

8.2 *Clause 2* seeks to provide for definitions of certain terms and expressions like "Carriage for Persons with Disability", "common carrier", "dealer" and "multi-axle vehicle".

8.3 Regarding the insertion of Clause 3(A) the Department of Road Transport and Highways has stated that the definition of invalid carriage at Section 2(18) does not correctly describe the vehicle, i.e., carriage for persons with disability. The existing definition does not allow Post-Manufacturing adaptation leading to illegal use of such vehicles by the persons with disabilities. Thus the "invalid carriage" has been replaced by carriage for persons with disability.

8.4 Regarding the new Clause 4(A) the Department of Road Transport and Highways has stated that in the Motor Vehicles Act, so far as the words 'common carrier' has not been defined. This definition needs to be included since the road transport sector consists of consigner, consignee, booking company, contractor, agent, broker and goods vehicle owner, who is defined as a 'common carrier' in the Carriage by Road Bill, 2005.

8.5 Persons/organisations who are engaged in the repair of Motor Vehicles will be excluded from the definition of 'dealer' as per the amendment proposed in Clause 8 in Section 2 of the Motor Vehicles Act. The dealer under this provision is defined for the purpose of allowing handling of vehicles by a company or a person prior to registration. The manufacturers, their authorised dealers, body builders and financiers have to perform this function prior to registration of vehicle. They do so under a trade certificate. The amendment proposed now is to include the vehicle manufacturers as a dealer and exclude the repairing shops from this category, as repair shop is not supposed to handle pre-registered motor vehicle.

8.6 The amendment in Clause 28 aims at including vehicles running on electric power in the definition. The definition of motor vehicle defines engine capacity in terms of cc. In electric powered vehicles, the concept of engine capacity in cc does not arise. Since certain classes of battery operated vehicles with low speed of less than 25 kmph etc. need to be excluded after testing and verification, the same has already been prescribed under CMVR. In future, further changes as may be required due to technological requirements can also be taken care of in the rules.

8.7 The new provision proposed under Section 2 (28A) defines multi-axle vehicle as a vehicle having more than two axles. At present there is no definition of the multi-axle vehicle. It is considered essential to do so to provide appropriate regulations and incentives for such multi-axle vehicles in view of their road-friendly nature.

8.8 The Committee notes that the term 'physical defect' generally relates to a product or a thing but not to a human body. Therefore, the Committee recommends that the reference to the term 'physical defects' may be deleted from the Clause.

9.1. Clause 3 reads - "In section 7 of the Principal Act,—

- (i) in sub-section (1), for the words "one year", the words "two years" shall be substituted;
- (ii) in sub-section (2), for the words "motor cycle without gear", the words, figures and letters "motor cycle with engine capacity not exceeding 50 cubic centimeters or battery operated motor cycles equipped with a motor having a thirty minute power of less than 0.50 Kilowatt " shall be substituted."

9.2 Clause 3 seeks to amend section 7 (1) and 7 (2) of the Motor Vehicles Act (hereinafter referred to as the Act), to provide for the enhancement of period from one year to two years after which a holder of driving licence of Light Motor Vehicle may be eligible to get a learner's licence for transport vehicle. In sub-section (2) of section 7, it has been proposed to replace "Motor Cycle

without gear" with "Motor Cycle with Engine Capacity not exceeding 50 CC or Battery-operated Motor Cycle", etc., so as to make provision in line with the definitions proposed to be inserted by this Bill.

9.3 To a specific query regarding amendment in Section 7(1) the Secretary Department of Road Transport and Highways stated as under

".....It is also being proposed that applicants for driving licences for transport vehicles should have a driving licence for driving a light motor vehicle for two years, instead of one year as at present. We are thus making it more stringent to obtain a licence to drive a transport vehicle".

9.4 The Committee agrees with the view that stringent provision for commercial licence will have a positive effect on the transport sector and it will have a direct impact on reducing the rising number of road accidents. The Committee however recommends that for three wheelers and LMV Transport vehicles, the period should remain one year.

10.1. Clauses 4 and 5 of the Bill were considered together in view of divergent opinions expressed by various stakeholders and others.

10.2. Clause 4 reads - "In section 8 of the Principal Act, in sub-section (5), the following proviso shall be inserted, namely:—

“Provided that the licensing authority may exempt the applicant from the test to drive a motor vehicle (not being a transport vehicle) if the applicant possesses a driving test certificate issued by an institution or automobile association recognized in this behalf by the State Government.”.

10.3 *Clause 4* seeks to insert sub-section (5) in section 8 in the Act to include institutions/associations recognised by the State Government to test an applicant and issue driving test certificate for issuing learners' licence for driving non-transport vehicles by the licensing authority.

11.4. Clause 5 reads - "In section 9 of the Principal Act, in the second proviso to sub-section (3), after the words, “issued by any institution”, the words “or automobile association” shall be inserted;"

10.5. Clause 5 seeks to include Automobile Associations in sub-section (3) of section 9 of the Act so as to enable it to issue an applicant a driving certificate after assessing his competence to drive in respect of non-transport vehicle before he is granted driving licence by licensing authority.

10.6. The Department of Road Transport and Highways submitted to the Committee that at present the recognized automobiles associations are authorized to conduct driving tests for grant of regular driving licence. It is considered that even for Learner's licence which involves comparatively less testing requirements, such institutions/automobiles associations should be authorised to conduct the written test on the basis of which licensing authorities may issue the

learner's licence. This will help in bringing more skilled drivers even for non-transport vehicles.

10.7. As far as Clause 5 is concerned, at present, on the basis of driving test certificates issued by any institution recognized by the State Government, a driving licence can be granted for non-transport vehicles. It is proposed that "automobile associations" should also be included in this category as automobile associations are also imparting suitable driving training.

10.8. Officer's Association of the Transport Departments of various State Governments have opposed the new amendment stating that the conditions subject to which such Institution/ Automobile Association can issue driving test certificate are not specified. Many aspect such as whether they should train the applicants, conduct test themselves before issuing such driving test certificates and if so who should conduct test and what should be their qualification, infrastructure requirement are not specified and the proposal is totally silent on these aspects.

10.9. Regarding the inclusion of Automobile Association for issuing driving test certificates, the representative of the Association stated as under:

"..... The proposal is that if they produce a driving test certificate issued by an automobile association or institution, then, they shall be exempted from the test of competence to drive, and they shall be simply issued a driving licence. So, if this blanket power is given to such Institutes and Associations, without any regulatory provisions, we cannot say what would be the result, so far as road safety is concerned....."

10.10. The Government in their written submission to the Committee submitted that in order to provide smooth functioning, speedy clearance of the applications and to ensure transparency in the working of Road Transport Sector, the State Governments have been given powers under the Motor Vehicles Act, 1988 to authorize the private agencies for performing a few jobs being done by their Motor Vehicle Department. Such powers have been given keeping in view the resources of the Road Transport Departments such as manpower, equipments, population of vehicles and availability of authorized testing station in the State. Any change in these provisions may create pendency of work due to lack of infrastructure in some of the States where large number of vehicles are registered. State Governments are not bound to authorize the private sector for discharging the functions of Motor Vehicle Department and may take a decision in this regard, keeping in view the above factors. More so the exemptions are only with respect to Learner's Licence and that too for a non-transport vehicle and the move will help the common man.

10.11. Further, the Secretary in his evidence stated that certain amount of outsourcing in this sector could serve to inhibit corruption since people will not have to go to RTO office where there are large crowds. The Secretary was also of the view that outsourcing, if it is done under well-defined parameters, would be beneficial to the public though this is something that is being opposed generally by the cadre of transport officials.

10.12. The Committee notes that Clauses 4 and 5 give an option to the States where there is lack of adequate infrastructure and large number of vehicles are registered, to authorize some private entities to discharge some of the functions of Motor Vehicles Department by giving exemption to

an applicant from the test to drive a motor vehicle if the applicant possesses a driving test certificate issued by an institution or Automobile Association recognised in this behalf by the State Government.

10.13. The Committee, however, recommends that while taking further action on the basis of this Section the State Government must use abundant caution and they should go for privatization only if the Government infrastructure or the manpower are inadequate. The main motive shall be to provide speedy and efficient services to the people who are approaching the Road Transport Authorities and to provide smooth functioning, speedy clearance of the applications and to maintain the transparency in the working of Road Transport Sector. The Committee also recommends that well defined parameters regarding the qualifications, infrastructure requirements for the private agencies/associations may be laid down and clear cut regulatory provisions may be put in place before invoking the provisions of Clause 4 & 5.

11.1. Clause 6 reads - " In section 10 of the Principal Act,—

(i) in sub-section (1), for the words "such form", the words "such form, including electronic form" shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A learner's 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 with engine capacity not exceeding 50 cubic centimetres;

(b) motor cycle with engine capacity exceeding 50 cubic centimetres;

(c) battery operated motor cycles of a specified description;

(d) carriage for persons with disability;

(e) light motor vehicle non-transport;

(f) transport vehicle of either description such as three wheelers, light motor vehicles, medium goods or passenger motor vehicles, heavy goods vehicles, heavy passenger vehicles and such other categories of vehicles as may be prescribed;

(g) road-roller;

(h) any other motor vehicle of a specified description."."

11.2. Clause 6 seeks to amend section 10 so as to provide issuance of driving licence in electronic form and provides for categories of the vehicles which a holder of driving licence is entitled to drive on the driving licence itself.

11.3. One of the stakeholders submitted that the issues of theft of vehicles, use of fraudulently obtained documents, seizure by force of vehicles by financiers, etc. have reached menacing

proportions. As there is a lack of a national level database, the perpetrators of the crimes mentioned above get away from detection. In many a case there is also loss of government revenue on account of the above. The lack of scope for immediate detection/verification has contributed in this too.

11.4. The Committee notes that the Central Government has already taken various steps to create common software for use in all the motor vehicles offices of the country and has also designed a highly securitized document in the form of a "Smart Card" for use in this sector. The Committee recommends that the state governments are required to be cajoled into implementing the same in all the offices under them and also provide the outputs like the Registration Certificates, the Driving Licenses, etc. in the Smart Card format only. Further, all such computerized offices be connected electronically so that a State level real time database can be created. Further yet, all the state level databases should then be linked to create the national level database. Thereafter, creation of a central website, maintained by the MORTH, much in the manner of 'National Crime Record Bureau' through which limited query based information access to the central database can be provided to the members of public, interest groups, police and further, operational access to the central database can also be provided to all the motor vehicles offices in the country with proper authorization, will then solve this problem to a large extent.

11.5. The Committee feels the present day requirement needs involvement of IT sector in all fields. The Committee hopes that issuance of licence in electronic form will help to streamline the procedures involved.

12.1. Clause 7 reads - "In section 15 of the Principal Act,—

- (i) in the second proviso to sub-section (1), for the words "the age of forty years", the words "the age of fifty years" shall be substituted;
- (ii) in the second proviso to sub-section (4), for the words "five years after the driving licence has ceased", the words "one year after the driving licence has ceased" shall be substituted."

12.2 Clause 7 seeks to amend sub-section (1) of section 15 of the Act to increase the validity period of the driving licence in consonance with section 14 of the Act and it also seeks to reduce the time from five years to one year for submitting application for renewal of driving licence.

12.3 The Department while justifying the amendment in second proviso to sub-section (4) has stated that five years is too long a period for a person to apply for renewal of a licence after its expiry. A driving licence must be renewed, after expiry, as early as possible but in any case not later than one year.

12.4. The proposal to curtail the period of the limit in which the application for renewal of driving licence from five years to one year after the driving licence has ceased may affect a large section of the people who use to travel abroad or settle abroad for employment purposes. During their stay abroad Indian motor driving licence may lapse. The Committee, therefore, recommends that the case where the driving licence expires when the person is out of station or settled abroad,

need some kind of relaxation and in that circumstances the time limit for renewal of their licences may be extended beyond one year.

13.1. Clause 9 reads - "In section 21 of the Principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Where the authority authorised to check the driving licence of any driver, is satisfied after breath analyzer test or any other test as may be prescribed by the State Government that the driver is under the influence of alcohol, may suspend the driving licence on the spot for a period not exceeding three months.”.

13.2. Clause 9 seeks to insert sub-section (5) in section 21 of the Act which empowers the authority to suspend the driving licence on the spot for a period not exceeding three months if the authority is satisfied after breath analyzer test or any other test that the driver is under the influence of alcohol.

13.3. The Committee notes that drunken driving is a major cause of road accidents. This malady needs to be dealt with a firm hand. The Committee got suggestions from various quarters to the effect that if a drunken driver commit an accident which results in the death of persons the former should be dealt under the provisions of culpable homicide not amounting to murder under the relevant section of IPC. The Committee, therefore, recommends that the Government may amend the necessary legislations to include the deaths due to drunken driving as culpable homicide not amounting to murder.

13.4. The Committee also recommends that if the drunken driver commits an accident his action should not be construed as mere ‘negligence’ rather it should be treated as a premeditated commitment of a crime and the drunken driver should be punishable under relevant provisions of IPC depending on the consequences of the accident.

14.1 Clause 11 reads - "In section 41 of the Principal Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The registering authority shall within a period of thirty days issue to the owner of a motor vehicle registered by it a certificate of registration in such form, including electronic form and containing such particulars and information and in such manner as may be prescribed by the Central Government.”;

(ii) in sub-section (11), for the words “such amount not exceeding one hundred rupees”, the words “such amount which shall not be less than one hundred rupees and not more than five hundred rupees for motor cycle and not less than five hundred rupees and not more than one thousand rupees for all other motor vehicles” shall be substituted.

14.2 Clause 11 seeks to substitute sub-section (3) of section 41 of the Act so as to provide for a time limit of thirty days to issue certificate of registration in such form including electronic form and in such manner as the State Government may prescribe. It also provides for enhancement of

the penalties for failing to apply for registration of Motor cycle or any other motor vehicles. Presently, there is no time limit for issuance of a registration certificate. It is considered necessary to prescribe time limit.

14.3. Regarding sub-section (11) it is stated that the increase in the rate of penalty is necessary to ensure that the vehicles are registered without much delay. It has been observed that some people have the tendency to operate vehicles for quite a long time without registration and thus evade taxes. Maximum and minimum penalties have been included to facilitate rule-making in response to need and circumstances.

14.4 Given the depth of technique available in the Country for processing the requests for registration of vehicles and quantum of investment made by the owner in the purchasing of vehicle and allowing the same lying waste for one month, the period for issue of certificate by the registering authority appears on higher side. The Committee, therefore, recommends that the period of thirty days may be reduced to fifteen days as mentioned in sub-section (3) to enable the owner of vehicle to get his certificate in time and to make the registering authority responsive. The Committee is also of the view that if the period of issue of certificate is reduced it will encourage the owners to get their vehicles registered in time. However, after the reduction of the above time for issuing the certificate for registering the vehicles by registering authority, if any owner is found operating vehicles without getting the same registered, the higher quantum of penalty may be considered.

15.1. Clause 12 reads - "After section 49 of the Principal Act, the following section shall be inserted, namely:—

“49A. Where an owner of a motor vehicle (other than transport vehicle) on which one-time or long-term tax has been paid, ceases to reside at the address recorded in the certificate of registration of the vehicle on account of his transfer on official duty or shift of residence, the registering authority shall, where the vehicle was registered prior to such transfer or shift of residence, on application for no objection certificate under section 48, refund the pro-rata unutilised tax on the vehicle; and the registering authority where the vehicle is being shifted shall levy and collect pro-rata tax for the remaining valid period of registration of such vehicle.”.

15.2 Clause 12 proposes to insert section 49A in the Act to provide for pro rata refund of the unutilized one-time tax on non-transport vehicle on its transfer to another State. The registering authority receiving the vehicle on transfer can levy and collect pro rata tax for the remaining registration period of such vehicle.

15.3. It is a mandatory provision of law for the vehicle owners to record their new/present address in the "registration certificate". However, the similar provision for "driving license" is not available in the Act. The present Bill also does not cover this area. The driving license is an important document in this country and is often used as a source of identification of a person. Further, the sea changes in the demographic requirement in the country have necessitated many a

citizen to shift his residence. The Committee, therefore, recommends that provision be prescribed so that the current address of any driver is recorded in his driving license.

16.1. Clause 15 reads - "In section 52 of the Principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), any registered owner holding a vehicle under hire purchase agreement, lease or hypothecation shall not make any alteration to the vehicle except on the approval of the registering authority and with the written consent of the financier.”.

16.2 *Clause 15* seeks to substitute sub-section (5) in section 52 of the Act to limit the right of altering a vehicle by the owner except with the approval of the registering authority and with the written consent of the financier if the vehicle is held under lease or hypothecation.

16.3. The Committee feels that it is reasonable to restrict the right of altering a vehicle by the owner in case the vehicle is held under hypothecation. The Committee, however, would like the registering authority and the financier of the vehicle to be responsive and take action on the application within a specified time and the provision be prescribed in the Bill to that effect.

17.1. Clause 17 reads - " In section 58 of the Principal Act, in sub-section (3), for the proviso, the following proviso shall be substituted, namely:—

“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 for vehicles of a particular type, the Central Government may, by order in the Official Gazette direct, that the provision of this section shall apply with such conditions and modifications as may be specified in the order.”.

17.2. *Clause 17* seeks to amend sub-section (3) of section 58 of the Act to empower the Central Government to permit plying of vehicles with gross vehicle weight in excess of those specified in the rules for such vehicles subject to conditions and modifications as may be specified by the Central Government.

18.1. Clause 24 reads - "For section 93 of the Principal Act, the following section shall be substituted, namely:—

“93. (1) No person shall engage himself—

- (i) as an agent or a canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting customers for such vehicle; or
- (ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriage; or
- (iii) as a common carrier, unless he has obtained a registration from such authority and subject to such conditions as may be prescribed by the State Government.

18.2 (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 registration may be made or renewed;
- (b) the fee payable for the registration or its renewal;
- (c) the deposit of security—
 - (i) of a sum not exceeding fifty thousand rupees in the case of an agent in the business of collecting, forwarding or distributing goods carried by goods carriage,
 - (ii) of a sum not exceeding five thousand rupees in the case of any other agent or canvasser,
 - (iii) of a sum not exceeding one lakh rupees in the case of a common carrier, 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 registration may be suspended or cancelled;
- (f) such other conditions as may be prescribed by the State Government.

(3) It shall be a condition of every registration that no agent or canvasser or a common carrier to whom the registration is permitted 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 registration number, the date of expiry of the period of registration and the particulars of the authority which permitted the registration.”.”

18.3 Clause 24 seeks to substitute section 93 in the Act to provide for requirement of a Registration Certificate before any person engages himself as an agent, canvasser or Common Carrier, etc., and imposes certain conditions on him.

18.4. The Department of Road Transport and Highways has stated that the existing provision under Section 93(1)(ii) is inadequate and has enabled the major and dominant sector of road transport, viz. goods booking companies, contractor, agents, brokers, to keep itself out of the ambit Motor Vehicles Act so far. The proposed amendment is needed to bring it in harmony with the Carriage by Road Bill.

18.5. The Committee feels that this amendment is a complicated one as an agent has to register in every state where he likes to expand his business. Unless and otherwise States formulate a uniform policy for registration of agents, a lot of contradictions will be there. A uniform condition framed by the Central Government will help in simultaneous implementation of rules. The Committee adopted Clause 24 subject to the condition that any ambiguity involved in registration of agents should be well addressed by the Central Government.

19.1. Clause 26 reads - "In section 110 of the Principal Act, in sub-section (1),—

(i) for clause (f), the following clause shall be substituted, namely:—

“(f) specifications of speed governors;”;

(ii) clause (o) shall be omitted;

(iii) after clause (p), the following clauses shall be inserted, namely:—

“(q) design of the bodies for goods carriage and medium or heavy passenger vehicles and the material to be used for such bodies;

(r) cabin design on a bare chassis;

(s) the conditions for the purpose of licensing and regulating the establishments for fabrication of bus or truck bodies on bare chassis;

(t) the placement of audio-visual or radio or tape recorder type of device in the transport vehicle;

(u) seating arrangements in public service vehicles and the protection of passengers against the weather; and

(v) any matter relating to construction equipment, maintenance of motor vehicles, trailers and fitness of all categories of motor vehicle.”.

19.2. Clause 26 seeks to empower the Central Government by amending sub-section (1) in section 110 of the Act to make rules for design of the bodies for goods carriage and medium or heavy passenger vehicles and material to be used for such bodies, cabin design on a bare chassis, the conditions for the purpose of licensing and regulating the establishments for fabrication of bus or truck bodies on bare chassis, placement of audio-visual device in transport vehicles, seating arrangement in public service vehicles and the protection of passenger against the weather and any other matter relating to construction equipment, maintenance of motor vehicle and trailer, and fitness of all categories of motor vehicle.

19.3. The Department in their justification of this clause has stated that Bus bodies and truck bodies are fabricated in the country in utter disregard of the safety of the driver and the passengers. Truck/bus bodies should be undertaken by body builders who should be accredited by the Central Government on the basis of determined requirements. The implementation of this rule would certainly help in regulating the functions of the body builders. Similarly placement of audio-visual devices to ensure their non-destructiveness is to be prescribed. This provision had earlier been deleted in the year 1994. However, following road accidents involving drivers who are thus distracted, it has been decided to reintroduce this provision under Section 110.

19.4. The Government of Punjab submitted that the geographical conditions and the widths of the roads vary from State to State. Even body structure of the people living in different parts of

the country vary. Under such conditions it is felt that the powers for laying standards and design of bodies of Motor Vehicles and licensing of Motor Vehicles and licencing of body built should vests with the State Government. It is also felt that design of trailer, trolley attached with a tractor should also be standardized. The matter was taken up with the Ministry and they justified the meaning by stating that even the material used in the fabrication of the bodies of motor vehicles are substandard and sometimes it is more injurious to the passengers. Existing power to prescribe seating arrangements to put service vehicles by the States is giving rise to non-uniform standards which the manufacturers find difficult to meet. The Committee is of the view that there is no doubt that different geographical conditions are prevalent in our vast country, however, it feels that given the quantum of vehicles and their frequent movement from one state to another there is a need for having standards for manufacture and modification of the vehicles and providing for seating capacity of the vehicles at central level.

20.1. Clause 27 reads - "In section 111 of the Principal Act, in sub-section (2),—

(i) in clause (f), the word "and" shall be omitted;

(ii) after clause (f), the following clauses shall be inserted, namely:—

“(g) installation of speed governors in transport vehicles; and

(h) installation of fog lights in motor vehicles.”.

20.2. *Clause 27* seeks to amend sub-section (2) in section 111 of the Act to authorize State Governments to make rules regarding installation of speed governors in transport vehicles and fog lights in motor vehicles.

20.3. The Committee welcomes this amendment as installation of speed governors and fog lights are important safety requirements. The Committee hopes that this Clause once legislated should be implemented systematically and the violators of this provision should be punished heavily as over speeding is one of the main causes for the rising number of accidents on the roads.

21.1. Clause 28 reads - " In section 113 of the Principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) If on the basis of documents in possession of the person in charge of the vehicle at the time of checking is established that the load carried is in excess of the prescribed ceilings, the checking authorities shall presume that the offence was committed with the knowledge of or under the orders of the consignor or the common carrier whosoever has issued the said documents and in such an event the penalty shall be on such consignor or as the case may be, the common carrier:

Provided that in case the overloaded vehicle is carrying goods of more than one consignor, responsibility shall rest with the common carrier who engaged the vehicle:

Provided further that if the vehicle with such overloaded goods is operating under the

charge of the owner or the driver himself, then the responsibility shall lie with such owner or the driver, as the case may be.”.

21.2. Clause 28 seeks to insert sub-section (5) in section 113 of the Act to make 'consignor' and 'common carrier' responsible for overloading of motor vehicle.

21.3. The Department of Road Transport and Highways while justifying the amendment has stated that it is seen that sometimes the owners or consignor themselves overload the vehicles and even issue documents in support of this load. In such an event the driver, should not be held responsible at all, but in actual practice sometimes a consignor/owner tries to pass on the blame to the driver, with the amendment this lacuna will get rectified.

21.4. The Secretary, Department of Road Transport and Highways while deposing before the Committee stated:

" The Supreme Court in its judgment dated 9th November 2005 categorically held that in case the vehicle is found to be overloaded, the load has to be necessarily off loaded besides levying of fine before allowing it to proceed further. The present system is such that many pays a certain amount of compounding fee and then proceeds with the same load. Now that will no longer be permissible. It is being proposed that the consignor also has to be held responsible besides the driver or owner of the vehicle for the overloading as overloading is mostly done with the knowledge of consignor and has emerged as a major danger to the safety of road users and longevity of the road infrastructure".

21.5. In this context the Secretary stated that the Ministry should take a lead by getting the NHAI to set up stations on the key highways where they will actually create godown space as well. They will have parking space as well.

21.6. One of the stakeholders further submitted to the Committee that the Act and the rules made there under provide legislation for the manufacturers, dealers, financiers, owner's drivers, conductors, etc. But, another class of interested group has hitherto escaped attention. They are the transporters of goods.

21.7. This group in almost all the cases does not own any vehicle and simply acts as a conduit between the vehicle owners and the goods owners. It is often found that these are the people who overloads the vehicles and in the absence of any legislation escapes without any scratches. Though this bill provides some scope for punishment of their misdeeds by classifying them as "common carriers", but it is apprehended that the same will be hard to implement especially in cases of long distance goods traffic. Such transporters require to be forced into opening branches in the destination points.

21.8. In view of the above the Committee feels that the roles and responsibilities of these transporters should be defined clearly. The scope of issuance of Agents License be re-examined, so that these people can be brought to book. Scope for punishments is to be created. They should also be required to obtain sub licenses in the States where they send the goods much in the manner of Rent-a-cab-Licenses.

21.9. The Committee hopes that the proposed new Clause once legislated will be implemented in good spirit. The quantum of traffic and load decide the life of a national highway. The present scenario of national highways really presents a dismal picture. Overloaded trucks in large number curtail the longevity of the road infrastructure and are a safety hazard for other road users. The present system of payment of fine for excess load and proceeding with the overloaded trucks is not justified. The Committee feels that problem of overloading should not be restricted to the liability of the consignor only. The implementation of this Clause should include the assessment of liability of driver on such overloading, failure of officials in enforcing provision regarding overloading and approval of tonnage of vehicles. The Committee recommends that Department should draw a road map with the participation of tyre manufacturers, truck body-builders and most importantly the agencies who approve the tonnage of vehicles.

22.1. Clause 30 reads - "In section 130 of the Principal Act,—

(i) in sub-section (1), in the proviso, for the words "or other acknowledgement issued", the words "issued in a prescribed form" shall be substituted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Any police officer or an officer authorised by the Motor Vehicles Department shall display his identity card and establish his identity, before seeking any such document from the driver or owner of the motor vehicle.”.

22.2. Clause 30 seeks to amend sub-section (1) in section 130 of the Act and insert subsection (5) thereto, in the Act to prescribe the format of the receipt to be given to the person concerned for seizing the driving licence by any officer or authority. It also provides that the authorized officer or authority shall be required to display identity card before seizing a document from the driver or the owner of the motor vehicle.

22.3. The Committee suggests that the prescribed format of the receipt must contain the name and address of the authorized officer or authority who seizes the driving licence.

23.1. Clause 34 reads - "In section 149 of the Principal Act,—

(i) in sub-section (1), after the words "or may have avoided or cancelled the policy", the words, letters, figures and brackets "except where the policy is void on the grounds of non-disclosure or misrepresentation or because of non-receipt of premium as required under section 64VB of the Insurance Act, 1938 read with clause (b) of sub-section (2) and sub-section (4) of this section" shall be inserted;

(ii) in sub-section (2),—

(I) in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

(ii) “ a condition excluding driving by a named person or persons or by any person who is not duly licenced to drive the vehicle in terms of sub-section (1) of

section 3 or by any person who has been disqualified for holding or obtaining a driving license during the period of disqualification; or”;

(II) in clause (b), after the words “in some material particular”, the words, letters and figures “or because of non-receipt of premium as required under section 64VB of the Insurance Act, 1938” shall be inserted.

(III) after clause (b), the following clause shall be inserted, namely:—

“(c) that the insurer on acceptance of the policy shall have the right to contest the claim on any relevant ground including quantum.”.

(iii) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) If on the date of filing of the petition, 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 who is a respondent to the petition 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 with which company it is insured or the vehicle was not covered under any insurance on the date of accident."."

23.2. *Clause 34* seeks to modify section 149 of the Act relating to a policy becoming void on the grounds of non-disclosure or misrepresentation or non-receipt of premium as required under section 64 VB of the Insurance Act, 1938. It also provides to relieve the insurer from the liability in case the vehicle is driven by a person not having an appropriate driving licence or in case of non-receipt of premium. Proposed sub-section (2) (c) provides that the insurer may contest the claim on any relevant ground including the quantum and sub-section (8) imposes duty on the owner of the motor vehicle involved in accident to disclose full facts to Motor Accident Claims Tribunal or civil court.

23.3. An accident is an accident whether it is driven by a person having a valid driving licence or not. Therefore, giving exemption to the insurer on the ground that the vehicle was driven by a person having no driving licence is untenable and the insurer cannot escape his responsibility. The non receipt of insurance premium is a valid ground that the insurance can take umbrage. The Committee, therefore, recommends that if an insured vehicle commits an accident, the insurer may be held responsible as per the provision of the insurance policy irrespective of the fact that the vehicle was driven by a valid licence holder or not.

24.1. Clause 37 reads - "For section 161 of the Principal Act, the following section shall be substituted, namely:—

“161. (1) For the purposes of this section, section 162 and section 163—

(a) "grievous hurt" shall have the meaning assigned to it in the Indian Penal Code, 1860;

(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 inspite of reasonable efforts;

(c) "scheme" means the scheme framed under section 163;

(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) The Insurance Regulatory and Development Authority or any other agency specified by the Central Government shall manage the Solatium Fund.

(5) The Insurance Companies shall make such contribution to the Fund as the Central Government may, from time to time, by order specify.

(6) 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 fifty thousand rupees;

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of twenty-five thousand rupees.

(7) The provisions of sub-section (1) of section 166 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.”.

24.2. Clause 37 intends to substitute section 161 of the Act and provides definition of certain expressions, namely, 'grievous hurt', 'hit-and-run motor accident', 'scheme' and 'solatium fund'. The solatium fund shall be established by the Central Government and used for payment of compensation for hit-and-run motor accident and the Fund shall be managed by the IRDA or any other agency specified by the Central Government. Insurance Companies shall make such contribution to the Fund as may be specified by order by the Central Government, from time to time. Further, the amount of compensation is also proposed to be increased from Rs. 25,000/- to Rs. 50,000/- in case of death of a person from hit-and-run accident, and in case of grievous hurt, the amount of compensation is proposed to be increased from Rs. 12,500/- to Rs. 25,000/-.

24.3. The Committee recommends that every vehicle must be insured against third party liability and a fixed amount of the third party liability premium which can be worked out by the Government, must be collected by the insurance agencies towards the corpus of the solatium fund. The Committee notes that in case of hit and run accidents, the victims are common man and in many cases poor people. The Committee also notes that the amount of compensations proposed

for in case of death of a person from hit and run accident and in case of grievous hurt, is highly inadequate. The Committee, therefore, recommends that the amount of compensation may be increased to Rs. One lakh in case of death of a person from hit and run accident and Rs.50,000/- in case of grievous hurt.

24.5. The Committee also recommends that the compensation amount may be made inflation proof i.e., the amount may be revised annually in proportion to the rate of inflation.

25.1. **Clause 40 reads** - "For section 163A of the Principal Act, the following section shall be substituted, namely:—

“163A. (1) Notwithstanding anything contained in this Act or in any other law for time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer, in case a valid insurance policy subsists, as defined under section 145, shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, in the manner provided in the Second Schedule to the legal heirs or the victim, as the case may be.

Explanation.— The expression “permanent disability” shall, subject to clause (h) of section 145 have the meaning assigned to such expression and the extent as in the Workmen's Compensation Act, 1923;

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement 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 vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living, by notification in the Official Gazette, from time to time revise the amount or the multiplier specified in the Second Schedule.”.”

25.2. Clause 40 seeks to substitute section 163A of the Act providing for structured compensation formula on 'no fault principle' basis and empowering the Central Government to revise the amount specified in the Second Schedule, in view of change in prevalent cost of living.

25.3. The Committee feels that the present compensation amount prescribed in the second schedule may become insufficient over a period of time. Moreover, the Committee notes that the Clause did not fix any periodicity for increasing the amount of compensation to cope up with the prevalent cost of living. The Committee, therefore, recommends that the amount of compensation may be revised every year in proportion to the rate of inflation.

26.1. **Clause 42 reads** - "After section 163B of the Principal Act, the following section shall be inserted, namely:—

“163C. Where a person is entitled to claim compensation under section 163A and section 163B, he shall claim the relief only under one of the said sections and the option once

exercised shall be final.”.”

26.2. Clause 42 proposes to insert section 163C to restrict a person to claim compensation either under section 163A or under section 163B and option once exercised shall be final subject to the statutory protection provided to him as regards the compensation.

26.3. The Committee notes that the Bill make a distinction between compensation based on no fault basis (Section 163A) and compensation based on fault basis (Section 163 B). Further, Clause 42 specifies that a person can claim compensation under either of the two Sections or both the Sections. However, the provision suggests that a claim filed under fault basis should be treated as claim filed under no fault basis if the claimant fails to prove the fault. The Committee notes that this will encourage claimants to inevitably file the claim under no fault basis defeating the very purpose of the provision laid down. The Committee, therefore, recommends that clause 42 may be amended as follows:

“Wherein a person is entitled to claim compensation under Section 163A and 163B he can claim the relief only under one of the said Sections and the option once exercised shall be final”.

27.1. Clause 44 reads - " In section 166 of the Principal Act,—

(i) in sub-section (2), the proviso shall be omitted.

(ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Notwithstanding anything contained in the Motor Vehicles Act, 1939, or any law for the time being in force, in respect of claims for compensation under the said Act which are pending at any stage, at the date of commencement of the Motor Vehicles (Amendment) Act, 2007 in a Claims Tribunal or court, the right of an injured person to claim compensation shall upon the death of injured person be available to his legal representative, irrespective of whether the cause of death was relatable to or had any nexus with the injury or not:

Provided that in case where the cause of death is not relatable to or has no nexus with the injury, the compensation shall be restricted to the period between the date of injury and the date of death of the person so injured.

(6) No application for compensation shall be entertained unless it is made within three years of the occurrence of the accident subject to the general principles provided in the Limitation Act, 1963.”.”

27.2. Clause 44 seeks to omit the proviso to sub-section (2) of section 166, relating to application for compensation. Further, sub-sections (5) and (6) are proposed to be inserted in section 166, making enabling provisions for pending compensation cases filed under Motor Vehicles Act, 1939 and a time limit of 3 years is being prescribed for filing application from the occurrence of an accident subject to general principles provided in the Limitations Act, 1963.

27.3. The Ministry in its justification stated that similar provision regarding limitation of time was deleted in 1994 but it has been seen that due to no limitation of filing of claims the claimants are taking abnormal time and authentication of documents becomes difficult. The amended provisions provide for limitation of three years for claiming compensation under the provisions of the Motor Vehicle Act. However, the Committee feels that in simple injury cases there is no reason to wait for three years to file the claim for compensation. The Committee, therefore, recommends that in cases of simple injury wherein there is no permanent partial disability or permanent total disability, claimants should claim compensation within six months from the date of occurrence of accidents. The Committee feels that this will help victims of road accidents to get early compensation.

28.1. Clause 46 reads - "After section 167 of the Principal Act, the following section shall be inserted, namely:—

“167A. Notwithstanding anything contained in section 166 and section 168, an insurer shall endeavour to settle the claims out of the Tribunal or a civil court under section 163A and section 163B directly with the claimant either *suo motu* or on receipt of a notice within a period of three months, by mutual consent and on receipt of the compensation by the claimant, the Tribunal or the court shall, if satisfied that a lawful compromise or agreement has been arrived at by them, dispose of the application filed by the claimant in this regard.

Explanation.—An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 shall not be deemed to be lawful within the meaning of this section.”

28.2. Clause 46 propose to insert section 167A in the Act, to enable the insurer to make an endeavour to settle the claims out of a Tribunal or civil court directly with the claimant by mutual consent.

28.3. It has been brought to the notice of the Committee that the amended provision under Section 167A provides for settlement within a period of three months after the receipt of notice. General Insurance Council submitted that the same needs to be amended as otherwise there can be interpretation that the matter cannot be settled by the Insurance Company after a period of three months from the date of the receipt of the notice. The Committee, therefore, recommends that the clause may be modified to the effect that the Insurance Company may be permitted beyond three months if valid reasons exist.

29.1. Clause 47 reads - " In section 168 of the Principal Act,—

- (i) in sub-section (1), the proviso shall be omitted;
- (ii) in sub-section (3), for the words “within thirty days”, the words “within sixty days” shall be substituted."

29.2. Clause 47 seeks to omit the proviso to sub-section (1) of section 168 of the Act as it has become redundant due to proposed omission of Chapter X. Further, in sub-section (3) of section

168 of the Act, the time limit of depositing the amount of award as per the direction of Claims Tribunal has been increased from thirty days to sixty days.

29.3. The Committee does not see any merit in the proposal that the time limit of depositing the amount of award as per the direction of claims tribunal has been increased from thirty days to sixty days. The Committee, therefore, recommends that the time limit may be retained as thirty days. The appeal period under Section 173 related to appeal may be fixed as 30 days, so as to bring the section in consonance with this section.

30.1. Clause 49 reads - "After section 171 of the Principal Act, the following section shall be inserted, namely:—

“171A. Notwithstanding anything contained in this Chapter, the Claims Tribunal may award an interim compensation to the victim in respect of death or permanent disability or severe bodily injury or to the claimants against the claim, within three months from the date of filing the application with full particulars provided that such interim compensation shall not exceed:—

- (a) one lakh rupees in case of death or permanent total disablement;
- (b) fifty thousand rupees in case of permanent partial disablement resulting from loss of a limb or sight of either eye or grievous hurt leading to such disablement.”.

30.2. Clause 49 proposes to insert a section 171A to provide for interim compensation to the victim within three months from the date of filing of an application, which shall not exceed Rs. 1,00,000/- in case of death or permanent total disablement, and Rs. 50,000/- in case of permanent partial disablement, resulting from loss of a limb or sight of either eye or grievous hurt leading to such disablement.

30.3. Clause 49 empowers the claims tribunal to award interim compensation to the claimants in respect of deaths or permanent disability or permanent partial disability within three months from the date of filing the application. The representations of the General Insurance Council submitted to the Committee that the clause is silent whether the interim compensation is adjusted against the final adjudicated final compensation amount. They also raised the point if the Court does not award any type of compensation adjudicating the case finally what would be fate of the interim compensation paid. They have also submitted that interim compensation as provided under Section 171A should be subject to insurer’s acceptance of policy and the policy is not void on the ground of misrepresentation. The Committee feels that the interim compensation as the name suggests is interim in nature and needs to be adjusted from the final adjudicated compensation amount. Therefore, the Committee recommends that to bring clarity and uniformity in the provision the clause may suitably be modified.

31.1 Clause 50 reads - "For section 177 of the Principal Act, the following section shall be substituted, namely:—

“177. 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 –

(a) for the first offence with a fine of five hundred rupees; and

(b) in the event of any second or subsequent offence with fine of not less than one thousand rupees but which may extend to one thousand five hundred rupees.” ."

31.2 Clause 50 seeks to substitute section 177 of the Act relating to general provision for punishment of offences if no penalty is provided for the offence in the Act and to enhance the quantum of penalties for contravening any provision of the Act or any rule, regulation or notification made thereunder with the penalty of Rs. 500/- for first offence and of minimum of Rs. 1000/- for second or subsequent offence, subject to a maximum of Rs. 1500/-.

31.3 One of the stakeholders has suggested slab rates for over speeding since the danger increases manifold when the vehicle is driven at 90km/ph or at 120 km/hr. Thus slab may be as follows:

20% more than speed limit	Rs. 500
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50% more than speed limit	Rs. 1000
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100% and beyond	cancellation of licence and held under Section 184 of Motor vehicle Act.
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31.4 The Committee is also of the view that to restrain dangerous driving which causes human and financial loss the above slab may be suitably formulated for every offence prescribed in the Motor Vehicle Act. The Committee also recommends that the slab may be revised annually in proportion to the rate of inflation and the clause may be modified accordingly.

32.1 Clause 53 reads - "In section 183 of the Principal Act, for sub-sections (1) and (2), the following subsections shall be substituted, namely:—

“(1) Whoever drives a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with a fine of five 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 of not less than two thousand rupees but which may extend to five thousand rupees.

(2) Whoever causes any person who is employed by him or is subject to his control to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with a fine of five 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 of not less than one thousand five hundred rupees but which may extend to three thousand rupees.”."

32.2 Clause 53 seeks to enhance penalties provided in sub-section (1) in section 183 of the Act relating to "driving at excessive speed, etc.", with a minimum fine of Rs. 500/- for first offence, and of Rs. 2000/- subject to maximum of Rs. 5,000/- for subsequent offence(s). Further, it

proposes to enhance penalties under sub-section (2) of section 183 of the Act causing his employee to drive at excessive speed" with a minimum fine of Rs. 500/- for first offence, and a minimum fine of Rs. 1500/- subject to maximum of Rs. 3000/- for subsequent offence(s)."

32.3 The recommendations of the Committee against Clause 50 may be applied in this Clause also with necessary modifications.

33.1 Clause 54 reads - " In section 184 of the Principal Act,—

(a) for the words "with fine which may extend to one thousand rupees", the words, "a fine of one thousand rupees" shall be substituted;

(b) for the words, "or with fine which may extend to two thousand rupees, or with both", the words "or with fine of two thousand rupees which may extend to five thousand rupees or with both" shall be substituted."

33.2 Clause 54 seeks to enhance penalties provided in section 184 of the Act relating to "driving dangerously" with a fine of Rs. 1000/- for first offence and a minimum fine of Rs. 2000/-, subject to maximum of Rs. 5000/- for the subsequent offence(s).

33.3 The Committee notes that the Motor Vehicles Act, 1988, does not contain any provision or penalty related to the usage of mobile phones by the drivers while driving. However, through an executive order the Government prescribes the penalties for the use of mobile phones while driving. However, the executive order is silent on the following issues:-

- Should the case be booked under section 184 of the MVA?
- What does it mean 'while driving' – can one be booked while waiting on a signal?
- Can hands free-phones be used?
- Are two way radio sets allowed by taxi users and other paramilitary and police organizations?

33.4 At present, the offence of usage of mobile phones will be punishable under the category of dangerous driving vide Section 184 Motor Vehicles Act. The Committee feels that the Motor Vehicles Act being a two decade old legislation could not have envisaged the usage of mobile phones and the gravity of the situation which causes large number of accidents. The Committee, therefore, recommends that a new Section should be entrusted specifically for the usage of mobile phones while driving.

34.1 Clause 55 reads - "In section 185 of the Principal Act,—

(a) for the words, "or with fine which may extend to two thousand rupees", the words "or with a fine of two thousand rupees" shall be substituted;

(b) for the words, "or with fine which may extend to three thousand rupees," the

words “or with fine of three thousand rupees” shall be substituted.”

34.2 Clause 55 seeks to enhance penalties provided in section 185 of the Act relating to "driving by a drunken person or a person under the influence of drugs" with a minimum fine of Rs. 2000/- for the first offence and of Rs. 3000/- for subsequent offence(s). The Committee’s recommendations against Clause 9 may be applied in case of this Clause also with necessary modifications.

34.3 It was submitted to the Committee by the representative of the Institute of Road Traffic Education that the breath alcohol tests conducted on drunken drivers proved that they were having alcohol level of 30 mg to 200mg and above in 100ml of blood. The more the quantity of alcohol makes the driver more vulnerable to accidents. The danger increases manifold when he drives at 90 km/hr or 120 km/hr compared to the low speed driving. The probability of accidents increase with the increase of the speed of motor vehicle. Higher the speed would mean higher the risk of accidents and therefore should attract higher penalty. The Committee feels that a singular penalty in such cases will not serve the purpose. The Committee recommends the following slabs:

- (i) 30 -60 mg per 100ml of blood – a fine of Rs. 2000/-
- (ii) 60-150mg per 100ml of blood – a fine of Rs. 4000/- and/or imprisonment;
and
- (iii) 150mg and above per 100ml of blood a fine of Rs. 5000/- and minimum imprisonment with a provision to cancel the driving licence.

34.4 The Committee's recommendations against Clause 9 may be applied in case of this Clause also with necessary modifications.

35.1. Clause 63 reads - "After section 213 of the Principal Act, the following section shall be inserted, namely:—

“213A. (1) The State Government may, by notification in the Official Gazette, notify such experts in the field of road transport, as it thinks fit for the purpose of carrying out audit of the authorised testing stations set up under sub-section (2) of section 56.

(2) The State Government may make rules to regulate the qualifications, powers and functions of experts notified under sub-section (1).”.

35.2. Clause 63 proposes to insert section 213A in the Act empowering the State Governments to appoint officers for auditing the 'authorized testing stations' set up under sub-section (2) in section 56 of the Act which provides for regulation and control of such stations or garages, and to make rules to regulate qualifications, powers and functions of the officers notified for such auditing.

35.3. The All India Federation of Motor Vehicles Department Technical Executive Officer's Association has opposed the insertion of this new clause and has stated that the authorized testing station can be public or private. Therefore, their regulation and control should be with the Government and not in private hands. further experts in the field of Transport i.e., Transport

Management or Transport economics is not essential for control of such stations and Technical experts can satisfactorily do this job and this expertise is available in Government department and it is not necessary to bring in outside Transport experts. This would only facilitate private agencies to set up such stations in violation of rules relating to their experience training and ability of the operator of such station or garage and testing equipment and personnel as they cannot do this now since the regulation and control is with the state Government. When the stations are in private sector, their regulation also cannot be in private sector. Though in the statement of objects and reasons in clause 61 it is stated that it proposed to insert 213(A) in the Act empowering State Government to appoint officers for auditing the authorized testing stations, the words used in actual proposal in the bill at sl no. 63 is such experts in the field of Road Transport as it thinks fit. . The proposed amendment in the opinion of the Federation is at the instance of vested interests in the private sector.

35.4 One of the stakeholders in their memorandum submitted the Committee has stated that the maintenance of vehicles in good condition is a requirement of law. This area is often overlooked as the pollution levels and the numbers of road mishaps would suggest. The cut throat competition, the huge burden of repayment of loans and the inability of the administration to properly check each vehicle physically at the time of issuance of certificate of fitness are some of the reasons that can be attributed to the above. As a result accidents are on the rise resulting in loss of life and property. Further, the menace of auto pollution is on the upswing. Proper checks and control are the need of the hour.

35.5 The M.V. Act, 1988 provides scope for appointment of "Authorized Testing Stations" for proper checking and testing of all vehicles for the purpose of renewal of certificate of fitness. They are supposed to install required machinery for this purpose and also appoint qualified engineers for this purpose. But, the government has failed to implement the same in spite of the adequate manpower available at their disposal for the same job.

35.6 The Committee notes that almost all the vehicle manufacturers are having authorized dealerships and authorized workshops in almost all the cities. The Committee therefore recommends that the manufacturers themselves can be asked to set up shops for this purpose after obtaining the required licenses from the concerned authority. This will be a huge step towards safer travel and transportation in this country. This will also provide scope for additional business opportunities and scope for fresh jobs and employment opportunities. Adequate staff may be provided for testing the vehicles and the staff may be given periodical training to test the vehicles. Wherever, the Governments are unable to provide adequate staff, entrusting the work to vehicle manufacturers may be thought of. Hence, government must move in this direction immediately. The manufacturers themselves can be asked to set up shops for this purpose after obtaining the required licenses from the concerned authority. This will be a huge step towards safer travel and transportation in this country. This will also provide scope for additional business opportunities and scope for fresh jobs and employment opportunities.

35.7 The Committee recommends that the Government may reconsider Clause 63 after carefully scrutinizing the issues involved and addressing the issues raised by the stakeholders since this will authorize the State governments to have a panel of experts in the field of road transport for the purpose of carrying out audit inspection of authorized testing stations set up under section 56(2) of the Act.

36.1 Clause 65 reads - "For the Second Schedule of the Principal Act, the following Schedule shall be substituted, namely:-

“THE SECOND SCHEDULE

(see section 163A)

The multiplier applicable for different age groups:—

Age Group (in years)	Multiplier
(1)	(2)
Above 15 years but not exceeding 16	15
Above 16 years but not exceeding 20	16
Above 20 years but not exceeding 25	17
Above 25 years but not exceeding 30	18
Above 30 years but not exceeding 35	17
Above 35 years but not exceeding 40	16
Above 40 years but not exceeding 45	15
Above 45 years but not exceeding 50	13
Above 50 years but not exceeding 55	11

Above 55 years but not exceeding 60	8
Above 60 years	5

Notes:—

1. For death of non-earning persons, a fixed compensation shall be payable:—

(a) Rs. 1,00,000 for children up to 5 years of age.

(b) Rs. 1,50,000 for persons more than 5 years of age.

2. Minimum amount payable is Rs. 1,00,000.

3. Factors to be considered for working out compensation:—

(a) Age of the victim.

(b) Multiplier.

(c) Annual income up to Rs. 1,00,000 (the maximum annual income for calculation of compensation will be deemed to be Rs. 1,00,000 even if the income exceeds Rs. 1,00,000).

4. Steps for working out compensation:—

(a) The proven annual income of the victim is to be worked out.

(b) Appropriate multiplier (higher of the multiplier based on the age of the victim and the age of the surviving/dependent parents/spouse/children) to be applied.

(c) Multiply the proven annual income by the appropriate multiplier to arrive at compensation amount, subject to following, namely:—

(i) The amount of compensation payable for Permanent Total Disablement as defined in Schedule I of the Workmen's Compensation Act, 1923 (8 of 1923) shall be determined by application of appropriate multiplier to proved income, subject to maximum of Rs. 10 lakhs.

(ii) The amount of compensation so arrived shall be reduced by 1/3rd in respect of fatal accidents (reduction of 1/3rd represents living expenses for deceased person, had he been alive).

5. Compensation in case of injury to non-earning persons in non-fatal accidents:—

(a) Grievous Injury Not exceeding Rs. 50,000

(b) Non-Grievous Injury

Not exceeding Rs. 20,000

6. Disability in non-fatal accidents in cases other than non-earning persons:—

The following compensation shall be payable in case of disability to the victim arising out of non-fatal accident:—

A. Loss of income, if any, for actual period of disablement not exceeding fifty-two weeks PLUS either of the following subject to maximum of Rs. 10.00 lakhs.

(i) In case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the appropriate Multiplier applicable to the age of the victim on the date of determining the compensation.

(ii) In case of Permanent Partial disablement, the amount of compensation payable shall be arrived at by multiplying the compensation payable in case of permanent total disablement as specified under item (i) above by the percentage of loss of earning capacity caused by that injury.

B. For injuries deemed to result in permanent total disablement / permanent partial disablement as per section 145 (h), the percentage of loss of earning capacity shall be as per Schedule I of the Workmen's Compensation Act, 1923.

7. General damages in case of death:—

(i) Pain and suffering Up to Rs. 5,000

(ii) Loss of consortium, if beneficiary is the spouse Up to Rs. 10,000

(iii) Loss of estate Up to Rs. 5,000

(iv) Medical expenses – incurred before the death
duly Not exceeding Rs 50,000

supported by
bills/vouchers.

8. General damages in case of disability in non fatal accidents:—

(i) Pain and suffering – non grievous injury Up to Rs. 5,000

(ii) Pain and suffering – grievous injury Up to Rs. 20,000

(iii) Medical expenses – incurred before the death
duly supported by bills/vouchers. Not exceeding
Rs. 50,000". "

36.2 Clause 65 seeks to substitute Second Schedule to the Act under section 163A of the Act

providing for revised structured compensation formula to decide the amount of compensation to be given to the road accident victims.

36.3 The Committee recommends that the multiplier has to be worked out on the basis of real inflationary rate and the entire scheme of multiplier should be revised accordingly annually in proportion to the rate of inflation.

General

37. One of the stakeholders in their memorandum submitted to the Committee has stated that through various proposals the financiers of Motor Vehicles have been given enormous powers. In the 1994 amendment the financiers had been given too much authority which taken together with the present amendment bill almost makes them the dictators and now they possess the authority to choke some of the freedoms provided to the citizens in the constitution of India.

38. The financiers lobby now have say in all kinds of transactions that take place in the RTO offices. Every owner is required to take no objection certificates from the financiers almost every time they need to make an application to the motor vehicle administration. A few examples are renewal of permit, issue of all duplicates in cases of loss, alteration of vehicle that does not affect the type of vehicle in any way, etc. These do not affect their interests in any way. Further, all the customers are forced to sign "n" number of documents at the time of grant of loan like, blank termination of loan forms, blank transfer of ownership forms, etc. These help them in seizing the vehicles illegally, by force, even in cases where the repayment histories of the customers are exemplary, and then they use these blank forms to dispose of the vehicles to another client.

39. In view of the above, the Committee feels that the Motor Vehicle Act may be amended in such a way that does justice to both the financiers and the customers. The amendment should also give option to the motor vehicle administration to override the requirement of the no objection certificate after giving both sides a chance to present his case. The Govt. should also come forward with concrete proposals to stop the financiers from adopting the bullying tactics to recover the vehicle loans.

40. One of the stakeholders submitted to the Committee an example of the safety measures recommended by PACTS (Parliamentary Advisory Council for Transport Safety of the United Kingdom). According to PACTS road traffic law contributes to reducing casualties by providing a framework for safe road use and laying down clear standards for driver and road behaviour. Its existence also details drivers and roads from breaching those standards. To be effective as a way of preventing deaths and injuries the law must be reasonable and appropriate and it must be communicated to and understood by all road users. The Committee feels that the Road Traffic Law should, therefore, define acceptable standards and behaviours on the road and in doing so should provide guidance for road users. The Committee recommends that the Government should endeavor to implement the spirit of the suggestions made by PACTS in its report on Road Traffic Law and Enforcement.

41. Another aspect brought before the Committee by one of the stakeholders is the

insufficiency of the road signage. They have stated that the road sign has been updated by the Indian Road Congress in 2001 but the First Schedule to the Motor Vehicles Act, 1988 has not been amended to incorporate the changes. This has left a major vacuum in road user education, the driver training as well as installation of signage as per law. The Committee feels that if the signages in the schedule are obsolete or not keeping with the pace of the changing times, naturally there will remain a serious handicap in driver training and education. The Committee also notes that there is no mention of road marking or traffic signals in the first schedule. The Committee feels that this is a major shortcoming and recommends that the first schedule should be amended with comprehensive signs and symbols, road markings and signals as per the recommendations of the Indian Roads Congress.

42. One of the stakeholders brought to the notice of the Committee that the maximum, permissible load for different goods vehicles vis-à-vis overloading of vehicles is another issue that needs review. The maximum Gross Vehicle Weight of a two axle truck has been fixed at 16200 kgs. As a result the maximum load that can be legally carried in such a vehicle is found to be not in excess of 10 tonnes. Now, with the advent of new and better technology in the automobile sector, the vehicles manufactured at present are often found to be efficient enough to carry much more than the actual permissible load. This has allowed the owners a scope for overloading of their vehicles to a certain extent as this does not necessarily harm their vehicles. State Governments also loose revenue in the form of state taxes as in most states the tax is dependant on the ULW/GVW of the vehicle. Further, as the GVW, that is actually to be arrived, depends on the tyres fitted in the vehicle (as per tyres rules in the C M V Rules, 89), there are scopes for fitment of bigger tyres which in turn will mean higher ULW/GVW and therefore, higher permissible load. The matter needs to be reviewed jointly by the Government, manufacturers, CIRT and ARAI, as this will mean higher government revenues too. The Committee recommends that a high level committee needs to be formed to explore the possibilities and put forward their suggestions in this respect.

43. The Committee adopts the remaining Clauses of the Bill without any amendments.

44. The enacting formula and the title are adopted with consequential changes.

45. The Committee recommends that the Bill may be passed after incorporating the amendment additions suggested by it.

46. The Committee would like the Department to submit a note with reasons on the recommendations/suggestions, which could not be incorporated in the Bill.

OBSERVATIONS/CONCLUSIONS/RECOMMENDATIONS AT A GLANCE

CLAUSE 2

The Committee notes that the term 'physical defect' generally relates to a product or a thing but not to a human body. Therefore, the Committee recommends that the reference to the term 'physical defects' may be deleted from the Clause.

(Para 8.8)

CLAUSE 3

The Committee agrees with the view that stringent provision for commercial licence will have a positive effect on the transport sector and it will have a direct impact on reducing the rising number of road accidents The Committee however recommends that for three wheelers and LMV Transport vehicles, the period should remain one year. (Para 9.4)

CLAUSE 4 & 5

The Committee notes that Clauses 4 and 5 give an option to the States where there is lack of adequate infrastructure and large number of vehicles are registered, to authorize some private entities to discharge some of the functions of Motor Vehicles Department by giving exemption to an applicant from the test to drive a motor vehicle if the applicant posses a driving test certificate issued by an institution or Automobile Association recognised in this behalf by the State Government.

(Para 10.12)

The Committee, however, recommends that while taking further action on the basis of this Section the State Government must use abundant caution and they should go for privatization only if the Government infrastructure or the manpower are inadequate. The main motive shall be to provide speedy and efficient services to the people who are approaching the Road Transport Authorities and to provide smooth functioning, speedy clearance of the applications and to maintain the transparency in the working of Road Transport Sector. The Committee also recommends that well defined parameters regarding the qualifications, infrastructure requirements for the private agencies/associations may be laid down and clear cut regulatory provisions may be put in place before invoking the provisions of Clause 4 & 5.

(Para 10.13)

CLAUSE 6

The Committee recommends that the state governments are required to be cajoled into implementing the same in all the offices under them and also provide the outputs like the Registration Certificates, the Driving Licenses, etc. in the Smart Card format only. Further, all such computerized offices be connected electronically so that a State level real time database can be created. Further yet, all the state level databases should then be linked to create the national level database. Thereafter, creation of a central website, maintained by the MORTH, much in the manner of 'National Crime Record Bureau' through which limited query based information access to the central database can be provided to the members of public, interest groups, police and further, operational access to the central database can also be provided to all the motor vehicles offices in the country with proper authorization, will then solve this problem to a large extent.

(Para 11.4)

The Committee feels the present day requirement needs involvement of IT sector in all fields. The Committee hopes that issuance of licence in electronic form will help to streamline the procedures involved.

(Para 11.5)

CLAUSE 7

The Committee, therefore, recommends that the case where the driving licence expires when the person is out of station or settled abroad, need some kind of relaxation and in that circumstances the time limit for renewal of their licences may be extended beyond one year.

(Para 12.4)

CLAUSE 9

The Committee, therefore, recommends that the Government may amend the necessary legislations to include the deaths due to drunken driving as culpable homicide not amounting to murder.

(Para 13.3)

The Committee also recommends that if the drunken driver commits an accident his action should not be construed as mere 'negligence' rather it should be treated as a premeditated commitment of a crime and the drunken driver should be punishable under relevant provisions of IPC depending on the consequences of the accident.

(Para 13.4)

CLAUSE 11

Given the depth of technique available in the Country for processing the requests for registration of vehicles and quantum of investment made by the owner in the purchasing of vehicle and allowing the same lying waste for one month, the period for issue of certificate by the registering authority appears on higher side. The Committee, therefore, recommends that the period of thirty days may be reduced to fifteen days as mentioned in sub-section (3) to enable the owner of vehicle to get his certificate in time and to make the registering authority responsive. The Committee is also of the view that if the period of issue of certificate is reduced it will encourage the owners to get their vehicles registered in time. However, after the reduction of the above time for issuing the certificate for registering the vehicles by registering authority, if any owner is found operating vehicles without getting the same registered, the higher quantum of penalty may be considered.

(Para 14.4)

CLAUSE 12

The Committee, therefore, recommends that provision be prescribed so that the current address of any driver is recorded in his driving license.

(Para 15.3)

CLAUSE 15

The Committee feels that it is reasonable to restrict the right of altering a vehicle by the owner in case the vehicle is held under hypothecation. The Committee, however, would like the registering

authority and the financier of the vehicle to be responsive and take action on the application within a specified time and the provision be prescribed in the Bill to that effect.

(Para 16.3)

CLAUSE 24

The Committee feels that this amendment is a complicated one as an agent has to register in every state where he likes to expand his business. Unless and otherwise States formulate a uniform policy for registration of agents, a lot of contradictions will be there. A uniform condition framed by the Central Government will help in simultaneous implementation of rules. The Committee adopted Clause 24 subject to the condition that any ambiguity involved in registration of agents should be well addressed by the Central Government.

(Para 18.5)

CLAUSE 26

The Committee is of the view that there is no doubt that different geographical conditions are prevalent in our vast country, however, it feels that given the quantum of vehicles and their frequent movement from one state to another there is a need for having standards for manufacture and modification of the vehicles and providing for seating capacity of the vehicles at central level.

(Para 19.4)

CLAUSE 27

The Committee welcomes this amendment as installation of speed governors and fog lights are important safety requirements. The Committee hopes that this Clause once legislated should be implemented systematically and the violators of this provision should be punished heavily as over speeding is one of the main causes for the rising number of accidents on the roads.

(Para 20.3)

CLAUSE 28

The Committee hopes that the proposed new Clause once legislated will be implemented in good spirit. The quantum of traffic and load decide the life of a national highway. The present scenario of national highways really presents a dismal picture. Overloaded trucks in large number curtail the longevity of the road infrastructure and are a safety hazard for other road users. The present system of payment of fine for excess load and proceeding with the overloaded trucks is not justified. The Committee feels that problem of overloading should not be restricted to the liability of the consignor only. The implementation of this Clause should include the assessment of liability of driver on such overloading, failure of officials in enforcing provision regarding overloading and approval of tonnage of vehicles. The Committee recommends that Department

should draw a road map with the participation of tyre manufacturers, truck body-builders and most importantly the agencies who approve the tonnage of vehicles.

(Para 21.9)

CLAUSE 30

The Committee suggests that the prescribed format of the receipt must contain the name and address of the authorized officer or authority who seizes the driving licence.

(Para 22.3)

CLAUSE 34

An accident is an accident whether it is driven by a person having a valid driving licence or not. Therefore, giving exemption to the insurer on the ground that the vehicle was driven by a person having no driving licence is untenable and the insurer cannot escape his responsibility. The non receipt of insurance premium is a valid ground that the insurance can take umbrage. The Committee, therefore, recommends that if an insured vehicle commits an accident, the insurer may be held responsible as per the provision of the insurance policy irrespective of the fact that the vehicle was driven by a valid licence holder or not.

(Para 23.3)

CLAUSE 37

The Committee recommends that every vehicle must be insured against third party liability and a fixed amount of the third party liability premium which can be worked out by the Government, must be collected by the insurance agencies towards the corpus of the solatium fund. The Committee notes that in case of hit and run accidents, the victims are common man and in many cases poor people. The Committee also notes that the amount of compensations proposed for in case of death of a person from hit and run accident and in case of grievous hurt, is highly inadequate. The Committee, therefore, recommends that the amount of compensation may be increased to Rs. One lakh in case of death of a person from hit and run accident and Rs.50,000/- in case of grievous hurt.

(Para 24.3)

24.5. The Committee also recommends that the compensation amount may be made inflation proof i.e., the amount may be revised annually in proportion to the rate of inflation.

(Para 24.5)

CLAUSE 40

The Committee feels that the present compensation amount prescribed in the second schedule may

become insufficient over a period of time. Moreover, the Committee notes that the Clause did not fix any periodicity for increasing the amount of compensation to cope up with the prevalent cost of living. The Committee, therefore, recommends that the amount of compensation may be revised every year in proportion to the rate of inflation.

(Para 25.3)

CLAUSE 42

The Committee notes that the Bill make a distinction between compensation based on no fault basis (Section 163A) and compensation based on fault basis (Section 163 B). Further, Clause 42 specifies that a person can claim compensation under either of the two Sections or both the Sections. However, the provision suggests that a claim filed under fault basis should be treated as claim filed under no fault basis if the claimant fails to prove the fault. The Committee notes that this will encourage claimants to inevitably file the claim under no fault basis defeating the very purpose of the provision laid down. The Committee, therefore, recommends that clause 42 may be amended as follows:

“Wherein a person is entitled to claim compensation under Section 163A and 163B he can claim the relief only under one of the said Sections and the option once exercised shall be final”.

(Para 26.3)

CLAUSE 44

. The Committee, therefore, recommends that in cases of simple injury wherein there is no permanent partial disability or permanent total disability, claimants should claim compensation within six months from the date of occurrence of accidents. The Committee feels that this will help victims of road accidents to get early compensation.

(Para 27.3)

CLAUSE 46

The Committee, therefore, recommends that the clause may be modified to the effect that the Insurance Company may be permitted beyond three months if valid reasons exist.

(Para 28.3)

CLAUSE 47

The Committee does not see any merit in the proposal that the time limit of depositing the amount of award as per the direction of claims tribunal has been increased from thirty days to sixty days. The Committee, therefore, recommends that the time limit may be retained as thirty days. The appeal period under Section 173 related to appeal may be fixed as 30 days, so as to bring the

section in consonance with this section.

(Para 29.3)

CLAUSE 49

The Committee feels that the interim compensation as the name suggests is interim in nature and needs to be adjusted from the final adjudicated compensation amount. Therefore, the Committee recommends that to bring clarity and uniformity in the provision the clause may suitably be modified.

(Para 30.3)

CLAUSE 50

The Committee is also of the view that to restrain dangerous driving which causes human and financial loss the above slab may be suitably formulated for every offence prescribed in the Motor Vehicle Act. The Committee also recommends that the slab may be revised annually in proportion to the rate of inflation and the clause may be modified accordingly.

(Para 31.4)

CLAUSE 53

The recommendations of the Committee against Clause 50 may be applied in this Clause also with necessary modifications.

(Para 32.3)

CLAUSE 54

. The Committee, therefore, recommends that a new Section should be entrusted specifically for the usage of mobile phones while driving.

(Para 33.4)

CLAUSE 55

The Committee feels that a singular penalty in such cases will not serve the purpose. The Committee recommends the following slabs:

- (i) 30 -60 mg per 100ml of blood – a fine of Rs. 2000/-
- (ii) 60-150mg per 100ml of blood – a fine of Rs. 4000/- and/or imprisonment;
and
- (iii) 150mg and above per 100ml of blood a fine of Rs. 5000/- and minimum imprisonment with a provision to cancel the driving licence.

The Committee's recommendations against Clause 9 may be applied in case of this Clause also with necessary modifications.

CLAUSE 63

The Committee notes that almost all the vehicle manufacturers are having authorized dealerships and authorized workshops in almost all the cities. The Committee therefore recommends that the manufacturers themselves can be asked to set up shops for this purpose after obtaining the required licenses from the concerned authority. This will be a huge step towards safer travel and transportation in this country. This will also provide scope for additional business opportunities and scope for fresh jobs and employment opportunities. Adequate staff may be provided for testing the vehicles and the staff may be given periodical training to test the vehicles. Wherever, the Governments are unable to provide adequate staff, entrusting the work to vehicle manufacturers may be thought of. Hence, government must move in this direction immediately. The manufacturers themselves can be asked to set up shops for this purpose after obtaining the required licenses from the concerned authority. This will be a huge step towards safer travel and transportation in this country. This will also provide scope for additional business opportunities and scope for fresh jobs and employment opportunities.

35.7 The Committee recommends that the Government may reconsider Clause 63 after carefully scrutinizing the issues involved and addressing the issues raised by the stakeholders since this will authorize the State governments to have a panel of experts in the field of road transport for the purpose of carrying out audit inspection of authorized testing stations set up under section 56(2) of the Act.

(Para 35.6 & 35.7)

CLAUSE 65

The Committee recommends that the multiplier has to be worked out on the basis of real inflationary rate and the entire scheme of multiplier should be revised accordingly annually in proportion to the rate of inflation.

(Para 65)

General

In view of the above, the Committee feels that the Motor Vehicle Act may be amended in such a way that does justice to both the financiers and the customers. The amendment should also give option to the motor vehicle administration to overrides the requirement of the no objection certificate after giving both sides a chance to present his case. The Govt. should also come forward with concrete proposals to stop the financiers from adopting the bullying tactics to

recover the vehicle loans.

The Committee feels that the Road Traffic Law should, therefore, define acceptable standards and behaviours on the road and in doing so should provide guidance for road users. The Committee recommends that the Government should endeavor to implement the spirit of the suggestions made by PACTS in its report on Road Traffic Law and Enforcement.

Another aspect brought before the Committee by one of the stakeholders is the insufficiency of the road signage. They have stated that the road sign has been updated by the Indian Road Congress in 2001 but the First Schedule to the Motor Vehicles Act, 1988 has not been amended to incorporate the changes. This has left a major vacuum in road user education, the driver training as well as installation of signage as per law. The Committee feels that if the signages in the schedule are obsolete or not keeping with the pace of the changing times, naturally there will remain a serious handicap in driver training and education. The Committee also notes that there is no mention of road marking or traffic signals in the first schedule. The Committee feels that this is a major shortcoming and recommends that the first schedule should be amended with comprehensive signs and symbols, road markings and signals as per the recommendations of the Indian Roads Congress.

The Committee recommends that a high level committee needs to be formed to explore the possibilities and put forward their suggestions in this respect.

(Para 39,40,41,42)
