

CRITICAL INSIGHT INTO THE AMENDED MOTOR VEHICLES ACT: PARENTAL LIABILITY v JUVENILE DELINQUENCY

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INTRODUCTION

The Indian Motor Vehicles Act, 1988 provides for an exhaustive list of requisites in order to drive Motor Vehicles in the country. But in a country of over a billion people, the execution of the provisions is not an easy task. In this dynamic, modern society, teenagers aren't as fickle & timid anymore as the law has been seeing them. With the ever-increasing exposure to Internet, the maturity levels of 16 to 18 year olds is the highest as it has ever been. In this modern society can the concept of Parental Liability for the Offences by Juveniles still endure and to what extent?

INDIAN MOTOR VEHICLES ACT, 1988:ⁱ

- ❖ Section 3 & 4 of the Indian Motor Vehicles Act, 1988 (herein the "MV Act") state the Necessity for Driving License & The Age Limit Prescribed for Driving Motor Vehicles which is 18.
- ❖ Section 5. Responsibility of owners of motor vehicles for contravention of sections 3 and 4
No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.
- ❖ Section 180. Allowing unauthorised persons to drive vehicles

Whenever, being the owner or person in charge of a motor vehicle, causes, or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine 1[of five thousand rupees], or with both.

- ❖ Section 199A: Where an offence under this Act has been committed by a juvenile, the guardian of such juvenile or the owner of the motor vehicle shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. Such guardian or owner shall be punishable with imprisonment for a term which may extend to three years and with a fine of twenty-five thousand rupees. Also, where an offence under this Act has been committed by a juvenile, the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months. The biggest factor to be punished under the Section however is if the Parent of the Juvenile or the Owner of the motor vehicle proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.ⁱⁱ

Although the Motor Vehicle Amendment Act, 2019 has provided some more stringent penalties to the offences under the act, the execution of them is a serious doubt. Against the population of over a billion, what chance do merely a handful of Traffic Policemen have to curb the ever-increasing vehicle accidents and a massive swarm of juveniles driving.

PARENTAL LIABILITY

The MV Act has laid down Absolute Liability for the Parents of the Juvenile in case of Offences under Section 199A i.e., the Court shall presume that the use of the motor vehicle by the juvenile was with the consent of the guardian of such juvenile or the owner of the motor vehicle, as the case may be. Under S.199A, The Parent / the owner shall be liable to pay a fine of Rs. 25,000 and may be imprisoned for a term of 3 months, and the registration of the motor vehicle used in the commission of the offence shall be cancelled for a period of twelve months.

In these times, where it's a norm to give motorcycles and other small vehicles to teenagers for menial tasks like going for tuition classes / bringing groceries in, etc, additionally, as most parents are already pre-occupied with their jobs and providing livelihood for their family, is it ethically & morally right to increase the liability of such parents, especially, when they are already having a hard time making ends meet.

The parents might allow their child to use the motor vehicle within a limited radius. Sometimes, under peer pressure or various other factors, the teenager may veer off & go for a joyride and funnily enough get away with it.

There are two problems with this, apart from the laws broken:

- (i) The Teenager who is driving without any education in driving presents himself as a danger to other drivers.
- (ii) He himself is in danger of being hit by someone.

The presence of internet and all the media resources have hyper accelerated the modern teenager's adolescence. A study done in 2017 suggests that un-filtered and Internet usage without parental supervision may result in higher levels of risk taking in Teenagersⁱⁱⁱ. The key here is un-filtered and un-supervised usage; when such a Teenager is given access to a Motor Vehicle without any driving knowledge and add to it the influence of his peers this turns into a dangerous concoction on the road not only for the teen but for every other person occupying the road. The Traffic Police may stop the odd minor driving a Motor Vehicle, but the onus of stopping this nuisance is altogether in the hands of Regulators as already numerous teens are driving on the Indian Streets.

PROPOSED LIABILITY ON JUVENILES

Many lives are shattered by underage drivers going for a joyride in the vehicles of their parents. It is noticed that many unlicensed drivers going for short drives often overlook the nature of the risks and the consequences. Teenagers have a sense that they can get away with minor transgressions – a feeling of bravado ensues having broken minor laws. This is further evident

in research stating, teens have the lowest rate of seat belt use overall. The characteristics of crashes involving young drivers differ from those involving older drivers in some important ways. For instance, speeding, road rage, etc is likely with juveniles rather than with middle-aged adults or seniors.

POTENTIAL TEENAGE THREAT ON ROADS

- Inexperience and lack of driving education.
- Predictable characteristics associated with young driver crashes, including excessive speed, not wearing seatbelts & rash driving.
- Peer Pressure inducing poor judgements.
- Unnecessary risk taking, aggressive driving behaviour and road rage.
- Smartphone & Social Media use whilst driving.
- Driving unlicensed.

Awareness of the dangers of speeding needs to be instilled in the minds of these young drivers. Smartphones brought with it the dangers of conversations, texting and driving. Distraction while driving is typical among young drivers. All these decisions taken by the teenager do not warrant a 'get out of jail free' card; such kids drive underage, use their phones while driving, and violate n-number of driving norms. Therefore, increasing the awareness as well as some sort of liability in young mind and giving them proper education would automatically decrease the liability of parents. The child being responsible for his actions should himself be made aware of the benefits and the risk of their action.

For instance, causing any damage shall lead them to pay fine by doing Community Service, Extra Hours in school, working in NGOs, non-issuance of license after turning 18 and also 1-year punishment at juvenile home depending on the nature of damage caused. Thus, this would benefit the society and thereby reduce the liability of parents. As an added bonus, this would help the society and reform the child, all at the same time.^{iv}

Once such liability of community service would be added, that it stands to act as a deterrent force for children looking to drive underage. This does not mean that the parents / guardians of such children should walk away scot free. It is the inherent duty of parents to not give away keys of motor vehicles to their underage children even for the shortest of distance.

CONCLUSION

The purpose of this paper is by no means to set-off parental liability altogether, but to extend this liability to the children, actually behind the wheel of the vehicle causing nuisance. As already discussed, the concept of the feeble-minded child not able to think rationally is a notion of the past; with the presence of internet and immense data available at the tip of the child's fingers, the modern teenager (above 16 years) has been exposed to so many things that were previously unimaginable. The exposure to so much technology has matured the adolescent brain to such an extent that, the concept of juvenile liability seems to look outdated. Even with the amendment of the Juveniles Act, only children committing heinous offences are considered to be liable as per the gruesome Nirbhaya Rape Case verdict^v. Again, in the 2016 Mercedes Hit & Run Case, the Supreme Court decided to treat the Juvenile as a Minor who was just 4 days short of turning 18 before, he ran over the 33-year-old victim^{vi}.

In a country as vast & populated as India, how many parents give their children keys to their Motor Vehicles when they turn 16 just to go for their tuition classes nearby, and how many teenagers violate their parents' instructions to stay within the specified radius of their house or their tuition class? Why is the child not liable if & when he causes damage when he jettisons away from the area he is allowed to drive in? And much worse what happens if & when such teenagers get into accidents because of their little to no training driving and no education regarding road etiquettes? Why not adopt a policy change which can in the long term provide driving licenses for teenagers of ages 16 and above, where they can properly learn to drive? Just as the Western Countries do. It is imperative to regulate this area when there are already millions of teens driving around without proper licenses. It is entirely possible to provide a regulated license to 16 & 17year olds wherein they could drive just a motorcycle in a limited radius. Wouldn't it be so much safer when such kids are put through proper driving education,

given tests & given a proper license. Now, Section 4 states that 16year olds are already allowed to drive motorcycles not exceeding 50cc in public places; but so many households already have the regular 100 or 125cc scooters at home & due to the dire economic conditions of families such scooters are what children use.

So many Western Countries already allow children above the age of 16 to drive such as Canada, United States, United Kingdom, France, etc.^{vii} We are in a dire need of new regulations wherein our teenagers can safely enjoy the pleasure of driving, and the rate of accidents finally decrease.^{viii}

SUGGESTIONS

- ❖ Offer a well-regulated license to 16year olds on a temporary basis for a year allowing to drive them motorcycles up to 150cc along with proper driving education and testing before providing license.
- ❖ Offer a provisional driving license to 17year olds for driving 4-wheelers in the supervision of adult and a full motorcycle driving license.
- ❖ To start a system where, (on offences committed by children with such driving licenses) the driver gets points deducted from his license and after 3 points deducted such license gets revoked and the license stands cancelled for a stipulated period of 6 months till he is allowed to drive again after driver re-education.
- ❖ Cancellation & Non-issuance of license for a stipulated period of 5 Years, where the child has been found guilty of committing a gruesome accident on account of his negligence wherein some other person has got grievous hurt.
- ❖ Offer a full motorcycle & 4-wheeler licence at age 18.

In the words of Winston Churchill,

“Never let a good crisis go to waste.” This is an opportunity to do things a new way, how things have never been done, a fresh approach to the age-old nuisance.^{ix}

ENDNOTES

ⁱ The Authors are 5th Year Students, B.L.S. LLB, at Dr D.Y. Patil College of Law, Navi Mumbai, India

The Indian Motor Vehicles Act, 1988, Section 3

The Indian Motor Vehicles Act, 1988, Section 4

The Indian Motor Vehicles Act, 1988, Section 5

The Indian Motor Vehicles Act, 1988, Section 180

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ⁱⁱ The Authors are 5th Year Students, B.L.S. LLB, at Dr D.Y. Patil College of Law, Navi Mumbai, India

The Indian Motor Vehicles Act, 1988, Section 199-A

ⁱⁱⁱ The Authors are 5th Year Students, B.L.S. LLB, at Dr D.Y. Patil College of Law, Navi Mumbai, India

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^{iv} The Authors are 5th Year Students, B.L.S. LLB, at Dr D.Y. Patil College of Law, Navi Mumbai, India

^v Available at <http://www.legalservicesindia.com/article/1568/Juvenile-Justice-post-the-Delhi-Gang-Rape-case.html>

<https://indiankanoon.org/doc/68696327/>

^{vi} <https://www.indiatoday.in/india/story/2016-mercedes-hit-and-run-case-accused-killed-man-4-days-before-turning-18-sc-says-he-will-be-tried-as-juvenile-1635379-2020-01-09>

^{vii} The Authors are 5th Year Students, B.L.S. LLB, at Dr D.Y. Patil College of Law, Navi Mumbai, India.

Available at

[https://en.wikipedia.org/wiki/List_of_minimum_driving_ages#:~:text=Countries%20with%20the%20lowest%20driving,14%20\(with%20parental%20supervision\)](https://en.wikipedia.org/wiki/List_of_minimum_driving_ages#:~:text=Countries%20with%20the%20lowest%20driving,14%20(with%20parental%20supervision))

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