

**Recommendations for taking immediate actions to amend the Notification for levying composite fees under the Motor Vehicles Act, 1988 and the Rules framed thereunder and for controlling vehicular road accidents in the State of Gujarat.**

[ I ]

**INTRODUCTION**

1. It is common knowledge that there is tremendous increase in the road accidents all over the country and State of Gujarat is not an exception. For reduction of road accidents, hue and cry is raised from all corners.

Therefore, without waiting for long, for amendment of the Acts and/or the Rules of the Central Government, immediate steps should be taken by the State Government for controlling vehicular accidents and loss of human life.

2. In the case of **M. C. Mehta v/s. Union of India [(1997) 8 SCC 770]**, the Apex Court has made it crystal clear that,

“... ..

**[3]** *In our opinion, the provisions of the Motor Vehicles Act, 1988, in addition to the provisions in the existing laws, for example, the Police Act and the Code of Criminal Procedure, confer ample powers on the authorities to take the necessary steps to control and regulate the road traffic and to suspend/cancel the registration or permit of a motor vehicle if it poses threat or hazard to public safety. It need hardly be added that the claim of any right by an individual or even a few persons cannot override and must be subordinate to the larger public interest and this is how all provisions conferring any individual right have to be construed. ... ..”*

Further, the Court has observed that,

**[6]** *... .. Section 53 permits suspension of registration by the registering authority or other prescribed authority if it has reason to believe that any motor vehicle is in such a condition that its use in a public place would constitute a danger to the public or that it fails to comply with the requirement of this Act or of the rules made thereunder. It is significant that this power to suspend the registration is available to*

*the authority even if the condition of the motor vehicle is found to be such that its use in a public place would constitute a danger to the public, irrespective of whether that is a specific requirement of the Act or the rules. The conferment of this power is for the obvious reason that a motor vehicle which is considered to be unsafe or which poses a danger to the public in a public place, if driven, should not be permitted to ply at a public place since the paramount need is public safety. It is, therefore, clear that even if speed governors are not prescribed for a particular class of motor vehicles by any requirement of the Act or the rules made thereunder, it is permissible for the concerned authority to require the fitting of the speed governors in such motor vehicles for the purpose of ensuring that there is no danger to the public by the use of such a motor vehicle in a public place. The power under Section 53 to this extent is wider. Section 53 read with Section 45 leaves no doubt about the amplitude of power of the concerned authorities whose duty it is to control and regulate the traffic in public places. The basic test to be applied by them for exercise of this power is the need to ensure that there is no danger to the public by use of any motor vehicle in a public place.”*

In addition, the Court has observed that,

*“[13]... .. No doubt, it is for the Government to make a realistic assessment of the strength of police force and Transport Department force to meet the felt need in this behalf but we consider it expedient to add that to overcome that deficiency/inaction, this order is to be construed as empowering the existing authorities to delegate their authority, wherever permissible under the law, to responsible persons in the manner they deem fit in the circumstances.....”*

3. Further, in the case of **Suo Motu V/s. State of Gujarat & Ors. [(2006) 3 GLR 1960]**, the Hon'ble High Court of Gujarat had suggested various measures to be taken for controlling road accidents in the State of Gujarat. Some observations thereof are as under:-

*“With the growing number of vehicular accidents in the city of Ahmedabad and other parts of the State, it has become a matter of grave concern of not only the Government, law enforcement authority but also of every citizen. Safety of the citizen is of paramount interest. Unfortunately the same is being overlooked by all concerned and the provisions relating to vehicular traffic are being flagrantly violated. For*

*example the Sarkhej Gandhinagar Highway was not having heavy vehicular traffic some years back but with the lifting of ban on construction on the green belt, number of commercial buildings, restaurants, clubs, religious temples and educational institutions have come up, not to ignore this Court. That has increased the vehicular traffic especially in the form of two wheelers and private cars substantially. This is over and above the continuous flow of heavy vehicles since this road serves link between South Gujarat and North Gujarat and further also State of Maharashtra in south and Rajasthan and onwards in the north. This road which was formerly known as highway has now become S.G. Road and it has become one of the busiest roads of the city. Judicial notice can also be taken of the fact that on this road vehicular accidents at the rate of once a week or even more are taking place and many of them fatal. Similar is the situation of different areas in the city since the number of vehicles has increased by leaps and bounds during the recent years and with the sophistication in the machinery, both in two wheelers as well as four wheelers, to drive the vehicle with excessive speed has become craze with vehicle owners. In the process safety of the citizens is being completely disregarded. Almost every day there is news reporting of fatal accident having occurred in the city as well as in the other parts of the State*

*including the Highways. This Court by judgment rendered in the case of Suo Moto v. Secretary Home Department dated 22/02/1999 in Special Civil Application No.9988 of 1995 and cognate matter has given its anxious consideration to this grave problem.”*

**Keeping the aforesaid law in mind and tremendous increase in motor vehicles, observations and suggestions hereinafter are made.**

**OBSERVATIONS OF THE SUPREME COURT  
IN THE CASE OF S. RAJASEEKARAN V/S.  
UNION OF INDIA & ORS. [JT 2014 (5) SC 287]**

1. In the aforesaid Judgment, the Court considered various aspects including the Reports of the Working Groups set up by the Ministry of Road Transport and Highways (MoRTH) and an article authored by Justice A. R. Lakshmanan (Retd.). The said Working Groups were required to go into four 'Es' of road safety, namely, Engineering, Enforcement, Education and Emergency.
2. The Working Group on Engineering has observed that the road network in the country is historically developed with a view to providing accessibility rather than mobility. In the said report, it was also noted that the available funding for maintenance and repairs of National Highways Network is only 35-40% of the estimated fund requirement.
3. In the report of the Working Group on Road Safety Education, it has been observed as under:-

*“On an average, 20% of all people killed in road accidents in developing countries are under the age of fifteen. This is twice as high as in the developed world. **In India, there is one road accident every minute, and one fatal accident every fourth minute.** There are as many as thirty five accidents per thousand vehicles, and the drivers involved in road crashes are in the age group 20–40 years. Two wheelers and cars contribute to 50 percent of the total accidents. Road crashes cost approximately one to three percent of a country’s GDP. Other than road engineering issues, most of the accidents are caused by the drivers’ fault. While some experts say it is around 50 percent, the MoRTH said that it was around 80 percent. Whatever be the exact figure, we do need to focus on education and enforcement for improving driver performance.*

*Road Safety Education should not remain a matter of words. Students must be educated in a way that brings them alive to the issues of road safety.*

*... **Enforcement has a key role in encouraging improved road users behavior. The general deterrence provided by enforcement authorities will promote public perception that “compliance everywhere all the time” is the best way of avoiding penalties and improving safety. Often fear of the stick works better than the stick itself.***



4. In the aforesaid Judgment, reference was also made on the report submitted by Shri S. Sundar [Former Secretary in the Ministry of Surface Transport and Distinguished Fellow of The Energy and Resources Institute (TERI)] under whom a Committee was constituted in the year 2005. The said Committee submitted its report in February, 2007 which *inter-alia* recommended a draft National Road Safety Policy which was approved by the Cabinet in its meeting dated 15.03.2010.

The major initiatives under the said Policy are as follows:-

- (a) To promote awareness about road safety issues.
- (b) To ensure safer road infrastructure by way of designing safer road, **encouraging application of Intelligent Transport System etc.**
- (c) To ensure fitment of safety features at the stage of designing, manufacture, usage, operation and maintenance.
- (d) To strengthen the system of driving licensing and training to improve the competence of drivers.
- (e) To take measures to ensure safety of vulnerable road users.

- (f) To take appropriate measures for enforcement of safety laws.
- (g) To ensure medical attention for road accident victims.
- (h) To encourage human resource development and R&D for road safety.
- (i) To strengthen the enabling legal, institutional and financial environment for promoting road safety culture in the Country.

5. Further, the article of Justice A. R. Lakshmanan (Retd.) was also referred to in the aforesaid Judgment wherein it has been observed as under:-

*“(a) For ensuring the safer use of roads, it has been suggested that all State Governments notify rules in their respective states for the following:-*

- *the removal and the safe custody of the vehicles including their loads which have broken down or which have been left standing or have been abandoned on a highway;*
- *the determination, maintenance and management of parking places for the use of vehicles and animals and the fees, if any, which may be charged for their use;*

- *prohibiting the use of footpaths or pavements by vehicles or animals;*
- *prohibiting or restricting the use of audible signals at certain times or in certain places;*
- *regulating the loading of vehicles and in particular, limiting the loads carried in relation to the size and nature of the tyres fitted;*
- *a right of way for ambulances and fire brigade vehicles;*
- *the control of animals likely to frighten other animals or pedestrians;*
- *the control of children on highways;*
- *prohibiting the riding by more than two persons at the same time on cycles other than cycles designed for the purpose;*
- *prohibiting the riding of more than two cycles abreast;*
- *limiting the age of drivers of vehicles;*
- *regulating the driving of vehicles and animals at night; and*
- *regulating the use of highways by pedestrians.*

(b) *For ensuring safer public vehicles, it has been suggested that the State Governments notify the following rules.*

- *the width, height and length of vehicles;*
- *the size, nature and condition of wheels and tyres;*
- *brakes;*
- *lamps and reflectors;*
- *warning devices;*
- ***the inspection of vehicles by prescribed authorities;***
- *regulating the particulars exhibited on vehicles and the manner in which such particulars shall be exhibited.*

(c) *It has been suggested that the State Governments notify rules for regulating the use of public vehicles in the following manner:–*

- *the documents, plates and marks to be carried by public vehicles, the manner in which they are to be carried and the language in which such documents are to be expressed;*
- *the badges and uniforms to be worn by drivers;*

- *the fees to be paid for permits, driving licences, duplicate copies of permits or driving licences, plates, badges, and appeals preferred before statutory authorities;*
- ***the limiting of the number of public vehicles or public vehicles of any specified class or description, for which permits may be granted in any specified area, or on any specified route or routes;***
- *the fixing of maximum or minimum fares or freights;*
- ***the maximum number of passengers or the maximum quantity of goods that may be carried in a public vehicles;***
- *the conditions subject to which passengers, luggage or goods may be carried in a public vehicle;*
- *the construction and fittings or and the equipment to be carried by public vehicles, whether generally or in specified areas or on specified routes; and*
- *the safe custody and disposal of property left behind in public vehicles;*

(d) *It has been suggested that the State Governments notify the following Regulations for Traffic Personnel to enforce discipline in regard to:-*

- *Non-observance of traffic rules;*
- *Jumping the red light;*
- *Crossing the red light;*
- *Driving without valid licence;*
- *Driving under the influence of liquor/ drugs;*
- *Driving while talking on the mobile;*
- *Driving without helmet;*
- *Overloading of passengers in autos. In shared auto-rickshaws, the driver's seat is often occupied by three persons;*
- *An entire family (minimum four persons) riding a scooter/motorcycle without realizing that this is a traffic offence and such travel is at the risk of their lives;*
- *Haphazard parking of auto-rickshaws, vehicles and government buses;*
- *Over-speeding, crossing the yellow line or violating traffic rules by scooter/motorcycle;*

- *Violation of traffic signals on a one-way road or complete violation of the traffic signal;*
- *“Jam-packed” or extremely crowded stage carriages;*
- *Confiscation of Vehicles fitted with LPG cylinders which are meant for home kitchen, and arrest and prosecution the owners/drivers of such vehicles;*
- *Installation of weigh bridges at all entry and exist points to and from a city as well as toll collection centres to keep overloading of vehicles under check;*
- *Round-the-clock mobile court/mobile policing of roads, not limited to peak hours;*
- *Digging of roads by various public utility agencies, like Telephone or Electricity Corporations, causing inconvenience to road-users;*
- *Common traffic violations such as driving in the wrong direction, breaching speed limits, and jumping traffic lights.”*

6. Finally, the Court appointed a Committee consisting of following persons, for undertaking the process of monitoring on behalf of it:-

(a) Hon'ble Mr. Justice K. S. Radhakrishnan,  
Judge, Supreme Court of India

... **Chairperson**

(b) Mr. S. Sundar,  
Distinguished Fellow, TERI  
Former Secretary,  
Ministry of Surface Transport,  
Government of India

... **Member**

(c) Dr. (Mrs.) Nishi Mittal,  
Ex. Chief Scientist, CRRI,  
Formerly HoD,  
Traffic Engineering and Safety (TES),  
Central Road Research Institute

... **Member**

The Court, thereafter, *inter-alia* directed as under:-

“... ..

(IV) *All State Governments as well as different Ministries/Departments/Wings of the Central Government who are currently looking after the multi-dimensional issues pertaining to road safety will submit their first report to the Committee within three months from today indicating the state of implementation and enforcement of all laws pertaining to:-*



- (i) *licensing;*
  - (ii) *certification of fitness of vehicles;*
  - (iii) *limits of use of vehicles i.e. passenger carrying capacity, weight carrying capacity etc.;*
  - (iv) *use of road safety devices;*
  - (v) *adherence to norms including user of roads, and*
  - (vi) *deployment of adequate manpower for enforcement of the existing provisions of law.*
- ... ..”

**ARTICLES PUBLISHED IN DAILY NEWSPAPERS**

1. **Article titled as “21% rise in fatal accidents in Ahmedabad this year” published in Times of India, Ahmedabad Edition dated 04.06.2014:—**

*“Union minister and BJP leader Gopinath Munde’s death in a road accident in New Delhi on Tuesday morning has brought the issue of vehicular accidents and subsequent fatalities to focus in the city. In Ahmedabad, death due to road accidents is a major concern and the latest data shows that the city has reported 21% rise in number of fatal accidents in the first four months this year as compared to the corresponding period last year.*

*According to traffic police officials, a number of factors – either individually or collectively – cause a fatal accident. The key factors are the place (city streets or highway), vehicle (heavy or lightweight, two-wheeler or four-wheeler) and its condition, weather and time of the day (foggy, rainy, dark), road condition (smooth or bumpy and uneven without proper markings), and the driver’s condition (sleepy, not keeping well, having eyesight issue, angry or excited).*

*“Ahmedabad is among the top five cities in India having the highest per capita vehicles. Coupled with issue such as inadequate infrastructure, the city also faces the problem of not-so-good traffic sense of people,” said a senior traffic police official, adding that the city just battles to keep the number of deaths on the roads low.*

*In 2013, the city had witnessed 1,888 road accidents out of which 227 were fatal. In 2012, the figures were 1,850 and 245 respectively. Last year, 188 men and 42 women had lost their lives in accidents. “It was the focal point when the ‘World Day for Remembrance of Road Accident Victims’ was observed last year,” he said.*

*Harekrishna Patel, additional commissioner of police (traffic), said that a number of initiatives have been implemented to keep the incidents in check. “Apart from taking on-the-ground steps, we have started recording at the spot several details such as make of vehicle, time of accident and road condition that would help the analysts later to ascertain why the accident took place,” he said.*

*Patel said this would also help what factors need to be addressed in order to prevent accidents from taking place at the same spot. “The traffic constables have been entrusted with the initiative and they visit the accident sites and document the details,” he said.”*

**2. Translated version of relevant part of the News Focus titled as “Death of Munde in accident: do blood donation but not on the roads” published in Gujarat Samachar, Ahmedabad Edition dated 04.06.2014:—**

“... ..

*While analyzing the reasons behind road accidents, it was come to the knowledge of the World Health Organization and International Road Federation that 77.5% accidents in India occur due to the negligence of the driver. 5% accidents occur due to passersby or cyclists. Therefore, number of accidents can certainly be reduced, if attention is concentrated on drivers’ pre-cautions. Five matters are notable in the countries which have got control over accidents. Speed Control; strict action on the driver, if found intoxicated; compulsory use of helmet-seat belt and control over movement of vehicles where children are maximum (e.g. school). As per the report of WHO and IRF for the year 2008, India’s control over these five matters had been absolutely poor. ... In India, 70% two-wheelers do not wear helmet and 50% car-drivers do not wear belt. ... Whenever figures come regarding people in large number died due to road accident in India, situation occurs as if it is a national concern. Reports have also been publishing that roads in India are fatal. But the fact is – people in India used to drive in such a manner that none can prevent them from death on any road in the world. Use of mobile has been increasing and with that, accidents are also increasing because drivers don’t want to leave the bad habit of talking on mobile.*

*Some parents in India feel proud by giving cars to their teenagers and then, they drive illegally. Whether roads or traffic are responsible or negligence of parents, in case their children meet with accidents? ... .. Until mentality of people about driving is not changed, pool of blood on roads cannot be prevented.”*

**3. Article titled as “Roads of Ruin — India has appalling road safety — but smart planning can correct highways from hell” published in Times of India, Ahmedabad Edition dated 05.06.2014:—**

*“The tragic loss of Union rural development minister Gopinath Munde in a car accident emphasises the abysmal state of road safety in India. A World Health Organisation 2011 report found India topping a global list of fatalities caused by road accidents. That situation has worsened with 1.4 million serious road accidents occurring in India annually, more than 300 people reportedly losing their lives daily in crashes. That means one person dies in a road accident every three minutes.*

*Many of these losses are completely avoidable. The accident involving Munde was caused by bad road design, the minister’s car hit at an intersection where a road connecting at a tangent obscures*

*approaching vehicles from view. Within the capital itself, traffic experts have identified at least 10 such crossings where traffic density meets design flaw producing a toxic mix. This can be immediately corrected by placing warning signs and well-located reflector mirrors enabling holistic views. But Munde's accident emphasises how no authority has begun implementing road safety with the seriousness this needs.*

*This lack of concern is greatly worrying for progress cannot be achieved without proper planning. The newly-elected NDA government promised to spread 100 smart cities and new infrastructure across India. One could begin this process by designing smart roadways, inclusive of better traffic enforcement, in India's existing cities. That would cut down not only on the appalling human cost of road accidents but also the estimated 3% GDP loss stemming from them. Intelligently planned roads that can absorb India's growing vehicular flows, well-placed pedestrian crossings and footbridges and modernised traffic monitoring — accomplished by hiring enough traffic police and giving them speed cameras, breathalysers and comprehensive post-accident assistance systems — can help India minimise losses caused by dangerous roads.*

*Alongside, there are vital steps citizens too must take. Traffic rules — like wearing helmets and seat belts and not using phones during driving — exist only to keep people safe. By flippantly rejecting these, citizens seriously harm themselves and others. A sense of entitlement pushes some to break regulations like red light stops. Undermining rules and thinking some are above these cause clearly avoidable road tragedies. Along with focussed government action and tough enforcement norms, thorough training programmes for road safety from school level up are urgently required. It's high time more intelligent moves by both government and citizens corrected India's hellish highways.”*

**INCREASE IN ROAD ACCIDENTS IN THE STATE OF GUJARAT**

1. After the accidental death of Shri Gopinath Munde, Cabinet Minister of the Central Government, it is reported that the Central Government also intends to amend the Motor Vehicles Act, 1988 and Motor Vehicles Rules, 1989.

Therefore, without considering in detail the existing Rules and Regulations which are likely to be amended, the existing law is required to be implemented strictly by amending existing Notifications issued by the State of Gujarat with regard to levy of penalty and composite fee.

2. Hence, short-term planning for the time-being is the necessity.

In the year 2000-01, in the State of Gujarat, there were about 52 lakhs vehicles plying on the road. There was tremendous rise in registration of new vehicles to the tune of 1.71 crores, during the year 2001-2013, which indicates 328% hike in the number of vehicles in Gujarat only. On an average, about 9 lakhs driving licenses are being issued.



There is significant improvement in the quality of the road of State, National and Express highways in last 15 years. However, there is no improvement in the defensive driving qualities/skills among experienced drivers. Not only this, new motor vehicles are driven easily at a high speed without any concern for their safety as well as for the safety of passerby or vehicles coming from the opposite direction. As such, persons (youngsters) owning costly motor vehicles are enjoying driving vehicles with high speed which on occasions, result in a fatal accident. They also enjoy driving vehicles by talking on mobile, which is also dangerous for safe driving.

It is well-known fact that the major distraction now-a-days is talking on mobile phone while driving. Act of talking on phone occupies major portion of brain and the smaller part handles the driving skills. This division of brain hampers reaction time and ability of judgment. This becomes one of the reasons of crashes.

Recently, it is reported that by rough driving, police constable who was on duty was injured and dragged for more than 150 mtrs. which resulted into death. Similar incidences occur because of non-implementation of the Rules and Regulations rigorously.

### 3. OVER SPEEDING:—

Over speeding is the most common behavior of drivers, as found by the researchers, which leads to accidents and in most of the cases, it results into fatal accidents.

There is tremendous increase in new brand of faster vehicles (cars), rather there is competition for increasing maximum speed of such vehicles.

Faster vehicles are more prone to accident than the slower one and the severity of accident will also be more in case of faster the severity of accident will also be more in case of faster vehicles. Higher the speed, greater the risk. At high speed, the vehicle needs greater distance to stop i.e. braking distance. A slower vehicle comes to halt immediately, while faster one takes long way to stop and also skids a long distance due to law of motion. A vehicle moving on high speed will have greater impact during the crash and hence, will cause more injuries. The ability to judge the forthcoming events also gets reduced, while driving at faster speed which causes error in judgment and finally a crash.

Based on the information received with regard to accidental cases and persons killed therein, it is apparent that in the State of Gujarat, there is tremendous increase in such cases and persons killed from the year 2008 to 2013. The year-wise details thereof are shown in following Table.

<b>Year</b>	<b>Number of cases</b>	<b>Number of persons killed</b>
2008	21,027	6,386
2009	20,101	6,914
2010	20,498	7,384
2011	30,199	8,006
2012	27,267	7,855
2013	25,035	7,458
<b>Total</b>	<b>1,44,127</b>	<b>44,003</b>

**CAUSES OF ROAD ACCIDENTS**

From various reports, it appears that some of the common behaviours of human-beings which result into accidents are in some cases, fatal; in some cases causing injuries and in some cases resulting into damage to the vehicles. In short, they are:-

- (a)** Over-speeding;
- (b)** Drunken driving;
- (c)** Distractions to driver (Use of mobile while driving);
- (d)** Red light jumping;
- (e)** Avoiding safety gears like seat belts and helmets;
- (f)** Air Pollution; and
- (g)** Movement of animal/s on the road.

For the above-mentioned causes, necessary actions are required to be taken at the earliest. The same are discussed in detail hereinafter.

**(a) OVER SPEEDING:—**

It is known fact that because of increase in high speed vehicles – costly/attractive cars – the drivers/youngsters are tempted to drive the same at the higher/maximum speed which is dangerous to even on lookers/passersby. Now-a-days, there are number of such instances wherein even minor having no license are driving such vehicles. In cities of Gujarat State like Ahmedabad, accidents by such motor vehicle are increasing day-by-day unabatedly.

**Suggestion:—**

**For controlling this, maximum speed limit should be notified for cities & towns and violation thereof should be made punishable, by issuing statutory notification.**

In addition, Rule 21(9) of the Central Motor Vehicles Rules, 1989 specifically empowers the licensing authority to disqualify the holder of a driving license, if he is driving at speed exceeding the specified limit.

**(b) DRUNKEN DRIVING:—**

This is also well-known fact that many accidents take place because the driver is under influence of alcohol. The Gujarat Prohibition Act is in force. Yet, the same is not properly implemented and a number of persons are driving vehicles after consumption of alcohol. For this purpose, Prohibition Act is required to be strictly implemented.

Now-a-days, a new trend of consumption of alcohol to celebrate any occasion has been common even in cities of Gujarat. It is established that driving after consumption of alcohol, turns celebration into a misfortune of the person using the vehicle or passerby and in many cases, persons sleeping on footpath or in their huts. The reason is that alcohol reduces concentration. It decreases reaction time of a human body. Limbs take more to react to the instructions of brain. It hampers vision due to dizziness. Alcohol dampens fear and incites human-beings to take risks. For every increase of 0.05 blood alcohol concentration, the risk of accident doubles.

**All the above factors, while driving, cause accidents and many a times, they prove to be fatal.**

**Suggestion:—**

**For appropriately dealing with such cases, blood examination of the driver should be on the spot.**

Rule 21(16) of the Central Motor Vehicles Rules, 1989 empowers the licensing authority to disqualify holder of a driving license, if he is driving a vehicle under the influence of drink or drugs. This violation constitutes nuisance or danger to the public.

Section 19(f), *inter-alia*, provides that if a licensing authority is satisfied, after giving the holder of a driving license an opportunity of being heard, that he has committed any such act which is likely to cause nuisance or danger to the public having regard to the objects of the Motor Vehicles Act, then his license can be cancelled/revoked.

**The aforesaid provisions require strict implementation because such accidents are increasing.**

**(c) DISTRACTIONS TO DRIVER  
(USE OF MOBILE WHILE DRIVING):—**

Known distraction to the driver is use of mobile phones, while driving the vehicle. The same remains uncontrolled. For such use, Rule 21 (25) of the Central Motor Vehicles Rules, 1989 specifically provides that using mobile phone, while driving a vehicle, constitutes nuisance or danger to the public.

For using mobile phone while driving, license can be revoked or to disqualify the person for holding the driving license.

For controlling the use of mobile phone, the Ministry of Road, Transport & Highways (MVI Section), Government of India has issued directions to the Principal Secretaries/ Secretaries/ Commissioners (Transports) of all the States/UTs, by letter dated 03<sup>rd</sup> July, 2009. Paras: 3 and 4 of the said letter are reproduced as under:—

*“3. Recently, the Committee on the Petitions of Rajya Sabha has taken a very serious view of the fact that use of mobile phone in motor vehicles is on the increase and this leads to many Accidents. The Committee has strongly recommended that the use of mobile phone while driving motor vehicles should be banned in any form or in any manner.*



4. *You are, therefore, requested to gear up the enforcement machinery in your State/ UT to implement the provisions of law in true spirit to eliminate the chances of accident due to use of mobile phone while driving motor vehicles. It may be clarified here that use of mobile phone in any form would include hand held or hands free mobile or operated with the help of blue tooth or permanently installed and integrated into the wiring of motor vehicles. Also, the use of mobile phone in any manner would include making or receiving calls, sending messages, playing games, listening to music and taking photos or making videos. You would also appreciate that a stationary vehicle in the traffic jam or a traffic signal is a part of driving and in such conditions also, the use of mobile phone cannot be allowed.”*

**Suggestion:-**

- (i) **In view of the above, there is no justifiable reason for not implementing the above directions and also no reason for not punishing the license holder under Section 19 of the said Act.**
- (ii) **In any case, mobile phone used by the driver while driving should be seized and deposited in the specified office for atleast a day and can be released only after payment of fixed composite fee.**

**(d) RED LIGHT JUMPING:—**

It is a common sight at road intersections that vehicles cross without caring for the light. The main motive behind red light jumping is saving time or so called hurry to reach the destination. The common conception is that stopping at red signal is wastage of time and fuel. Studies have shown that traffic signals followed properly by all drivers save time and commuters reach destination safely and timely. A red light jumper not only jeopardizes his life but also the safety of other road users. This act by one driver incites other driver to attempt it and finally causes chaos at crossing. This chaos at intersection is the main cause of traffic jams. Eventually, everybody gets late to their destinations. It has also been seen that the red light jumper crosses the intersection with greater speed to avoid crash and challan but it hampers his ability to judge the ongoing traffic and quite often crashes.

Not only this, it is also danger to the public, particularly pedestrians.

**Suggestions:—**

**Red light jumping is required to be controlled by imposing maximum prescribed fines for “Composite Fee (Fine)”.**

**(e) AVOIDING SAFETY GEARS LIKE SEAT BELTS AND HELMETS:—**

Use of seat belt in four-wheeler is now mandatory and not wearing seat belt invites penalty, same in the case of helmets for two wheeler drivers. Wearing seat belts and helmet has been brought under law after proven studies that these two things reduce the severity of injury during accidents. Wearing seat belts and helmets doubles the chances of survival in a serious accident. Safety Gears keep you intact and safe in case of accidents.

**Suggestion:—**

**The person who violates by not using safety gears namely, seat belts or helmets, should be stopped on the spot and penalty should be recovered.**

**There should be a rule in Government offices, schools and other such institutions that the employee who do not use the seat belt/helmet, would not be permitted to park the vehicle in the premises.**

**(f) AIR POLLUTION:—**

Pollution / Emission of smoke by the vehicles remain unnoticed / uncontrolled, particularly, by two/three-wheelers. Pollution Under Control (PUC) conditions are required to be strictly implemented. Rule 115 provides for “Emission of smoke, vapour, etc. from motor vehicles” which, *inter-alia*, reads as under:—

“... ..

(2) On and after 01.10.2004, every motor vehicle operating on,—

(i) Petrol/CNG/LPG shall comply with the idling emission standards for Carbon monoxide (CO) and Hydrocarbon (HC) given in the Table below:—

Table

*Petrol/CNG/LPG driven vehicles*

Sl. No.	Vehicle Type	Co %	* HC (n-hexane equivalent) ppm
1	2 and 3-Wheelers (2/4-stroke) (Vehicles manufactured on and before 31.03.2000)	4.5	9000
2	2 and 3-Wheelers (2-stroke) (Vehicles manufactured after 31.03.2000)	3.5	6000
3	2 and 3-Wheelers (4-stroke) (Vehicles manufactured after 31.03.2000)	3.5	4500
1/4	4 Wheelers manufactured as per Bharat Stage-II norms	3.0	1500
5	4-Wheelers manufactured as per Bharat Stage-II, Bharat Stage-III or subsequent norms	0.5	750]

**1. Subs. by G.S.R. 207(E), dated 10<sup>th</sup> April, 2007 for Serial Nos.4 and 5 (w.e.f. 10.04.2007)**

... ..

(ii) *Smoke density for all diesel-driven vehicles shall be as follows:—*

<i>Method of Test</i>	<i>Maximum Smoke Density</i>	
	<i>Light absorption coefficient (1/m)</i>	<i>Hartidge Units</i>
<i>Free acceleration test for turbo charged engine and naturally aspirated engine</i>	2.45	65

... ...”

**Suggestion:—**

**Nobody thinks about controlling air pollution by some vehicles, particularly, rickshaws and two-wheelers. The guideline prescribed by the afore-quoted Rule 115 requires to be strictly implemented.**

**(g) MOVEMENT OF ANIMAL/S ON THE ROAD:—**

Many of the times, it has been observed that accidents take place due to movement of animal/s on the road. Hence, movement of animals on the road should be restricted. For this purpose, effective control should be there.

**In addition, in The Times of India (Ahmedabad Edition) dated 25.08.2014, it has been reported that the draft proposal has been prepared for increasing fines for traffic offences. The said news item is reproduced as under:—**

*“Struggling to curb at least 380 daily road fatalities, the government is likely to steeply increase fines for traffic offences and introduce penalty points in the proposed new motor vehicle law. Once a driver accumulates 12 negative points, his/her licence would be suspended for a year.*

*If a driver whose licence has been suspended still commits offences and accumulates 12 more points, the licence would be cancelled for five years. Violation of traffic signals, triple driving on two-wheelers, drunk driving, using unregistered vehicles, driving in unsafe conditions may attract three negative points per case.*

*Modeled on the lines of countries like the UK, the US, Australia and China (which has the world’s second highest road deaths after India), the proposed law is likely to push the penalty for jumping traffic light to Rs.5,000 and maximum penalty point since every such violation is a “potential accident”.*

**NORMS TO CURB ROAD MENACE**

<b>Offence</b>	<b>Penalty</b>	<b>Penalty Points</b>
<i>Violation of traffic signal</i>	<i>Rs.5,000</i>	<i>3</i>
<i>Not wearing seatbelt / helmet</i>	<i>Rs.2,500</i>	<i>2</i>
<i>Over-speeding</i>	<i>Rs.5,000* / 10,000** / 25,000***</i>	<i>2* / 3**</i>
<i>Racing</i>	<i>Rs.10,000*/ 15,000** / 25,000***</i>	<i>2</i>
<i>Second driving licence</i>	<i>Rs.25,000 / 3 months jail or both</i>	<i>NA</i>
<i>Unauthorized driving</i>	<i>Rs.10,000</i>	<i>NA</i>
<i>Causing obstruction to free traffic flow</i>	<i>Rs.1,000 per hour</i>	<i>NA</i>
<i>Using vehicle without registration</i>	<i>Rs.1 lakh</i>	<i>3</i>
<b>DRINK DRIVING</b>		
<i>30–80 and 81–150 mg per 100 ml breath</i>	<i>Rs.25,000 / 6 months jail or both</i>	<i>3</i>
<i>Above 107 mg per 100 ml urine</i>	<i>Rs.50,000 / 6 months – 1 year jail or both</i>	<i>3</i>
<i>Second offence</i>	<i>Cancellation of licence</i>	<i>NA</i>
<p>— A driver's licence to be suspended for 1 year, if he/she earns 12 points. If he again accumulates 12 points, his licence would be cancelled for 5 yrs.</p> <p>* for first offence      ** for second offence and *** third offence</p>		

However, the said proposed amendment would take its own time.

Therefore, the suggestions made in this report be implemented at the earliest and Schedule prescribed (Annexure: A) for Composite Fees u/s. 200 of the Motor Vehicles Act, 1988 be revised. Considering the inflation and present day's money value, it would be worthwhile to immediately revise the Schedule by prescribing maximum composite fees provided under the said Act for all the offences mentioned therein. Further, the speed-limit for the vehicles in the cities and towns be prescribed and violators of speed-limit should be appropriately penalized.

Date : August, 2014

Place: Ahmedabad

JUSTICE M. B. SHAH

Former Judge, Supreme Court of India

AND

Chairman, Gujarat State Law Commission