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THE EXTENT OF GOVERNANCE OF GOODS TRANSPORTATION UNDER THE MOTOR VEHICLES ACT, 1988

Vedika Agarwal¹

ABSTRACT

The Motor Vehicles Act, 1988 is a comprehensive legislation that governs various aspects of transportation, including the transportation of goods. It provides a legal framework for regulating and controlling motor vehicles involved in the movement of goods across different jurisdictions. The Act establishes rules and provisions that cover several key areas related to the transportation of goods, such as licensing, permits, vehicle standards, and penalties for non-compliance. Under the Motor Vehicles Act, individuals or entities engaged in the transportation of goods are required to obtain the necessary licenses and permits. This ensures that only authorized and qualified operators transport goods, promoting safety and professionalism. The Act sets forth guidelines for issuing permits for goods carriage vehicles, specifying the conditions, routes, and durations for which these permits are valid. Moreover, the Act, 1988 establishes regulations concerning the standards and specifications for goods carriage vehicles, including their size, weight, and load capacity. These regulations aim to ensure that vehicles used for transporting goods are designed and maintained to minimize risks and maximize efficiency. The Act, 1988 also outlines provisions related to enforcing vehicle standards, including periodic inspections and imposing penalties for non-compliance. In addition to licensing and vehicle standards, the Act, 1988 addresses various other aspects relevant to transporting goods. It covers regulations regarding the documentation and record-keeping requirements for goods carriers, including maintaining logbooks and records of goods transported. The Act,

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1988 also includes provisions related to liability, insurance, and claims arising from the transportation of goods, offering legal protection to both the transporters and the consignees. Overall, the Act, 1988 plays a significant role in governing the transportation of goods in India. It provides a legal framework that regulates various aspects of goods carriage, ensuring compliance, safety, and efficiency in the transportation industry. The Act's provisions regarding licensing, permits, vehicle standards, and penalties for non-compliance establish a robust system for the management and control of the transportation of goods, promoting accountability and safeguarding the interests of all stakeholders involved.

KEYWORD: Goods, Transportation, Carriage, Motor Vehicles.

INTRODUCTION

The Indian Road transportation environment is regulated under the Motor Vehicle Act, 1988 (hereinafter referred as 'Act, 1988'). The same Act also contains provisions for awarding licenses, insurance, liability, offenses, and associated penalties for anybody using the roadways. The legality of these new business models has been questioned several times. Still, they allowed commuters to have additional mobility alternatives throughout the course of the previous year, thanks to rising technology.

The Act, 1988 and the 2019 bill that updated it are steps in the right direction toward improving the viability and safety of these business models for the pedestals on the road. The central government is more concerned with vehicle registration and permits for intended use, while the state government is more concerned with issuing licenses and permits for their operation. It is stated that both the central and state governments play roles in the governance of road transport-related authorities. Vehicle types can vary, including those used for public, private, and non-transportation services. The owner must get permission

to use it for a business purpose, which makes ride-sharing models a little more challenging.

There are four categories of permissions: contract carriage permits, stage carriage permits, goods carriage permits, and tourism permits. A vehicle with contract carriage may pick up passengers from one location and drop them off at another established one; however, it may not pick up passengers' mid-journey and must charge a set or predetermined fee. On the other hand, a stage coach may pick up and drop off people as it travels to its destination while still charging each passenger a different price. These licenses have various insurance requirements as well.

The Motor Vehicles (Amendment) Bill of 2016 allows state governments more freedom to create policies to reduce congestion, improve last-mile connectivity, and better use their transportation resources. The new on-demand taxis have several effects on driving responsibility and road safety. Aggregators, as described in Sec. 93² of the Act, 1988, are similar to agents in that they do not own the vehicle or employ drivers; instead, they link a commuter to the driver. State radio taxi schemes traditionally revolved around the concept of ownership and attachment of these vehicles with one operator of company.

Nevertheless, in this evolving environment, aggregators are much more than simply agents and require a more precise set of compliance and liability considerations. The definition of agents now only encompasses travel agents that sell bus or train tickets.

KEY LIABILITIES TO BE CONSIDERED FOR LEGALIZING ANY TRANSPORT BUSINESS

When it comes to legalizing any transport business, key liabilities need to be considered to ensure that the business operates within the confines

² Motor Vehicles Act 1988, s 93.

of the law.³ These liabilities may vary depending on the nature of the transport business, but generally include the following:

1. **Liability Insurance:** Liability insurance is critical to any transport business. It covers the business in the event of accidents or other incidents that may cause damage to third-party property or injury to third-party persons. Transport businesses should carry liability insurance that covers the maximum damages the business could be liable for.
2. **Compliance with Regulations:** Transport businesses must comply with a range of regulations, including those related to safety, environmental impact, and licensing. Failure to comply with these regulations can result in penalties, fines, and damage to the business's reputation.
3. **Employee Liability:** Transport businesses are often liable for the actions of their employees. This means businesses must ensure that their employees are properly trained and follow all relevant safety regulations. Businesses must also have clear policies in place regarding employee conduct, such as drug and alcohol use while on the job.
4. **Maintenance and Upkeep:** Transport businesses must maintain their vehicles in good condition to ensure safety on the road. This includes regular inspections, repairs, and maintenance of all vehicles in the fleet. Neglecting vehicle maintenance can lead to accidents and potential liability for the business.
5. **Contractual Liability:** Transport businesses may contract with customers or other parties. These contracts can create liability for the business if they are not properly executed or if the business

³ Robert Cervero & Aaron Golub, 'Informal transport: A global perspective' (2007) 14 Transport Policy 445-457.

fails to meet its contractual obligations.

6. **Data Privacy:** Transport businesses may collect and store sensitive data, such as customer information and payment details. These businesses are legally obligated to protect this data from theft or misuse. Failure to do so can result in legal liability and damage to the business's reputation.
7. **Environmental Liability:** Transport businesses can significantly impact the environment, particularly in terms of emissions and waste. Businesses must comply with environmental regulations and take steps to minimize their impact on the environment.

Legalizing any transport business requires careful consideration of the liabilities involved. By ensuring compliance with regulations, maintaining liability insurance, properly training employees, and taking steps to protect sensitive data, businesses can minimize their liability and operate within the confines of the law.

SCOPE OF DRIVERS AND REGISTRATION OF VEHICLES

Drivers and vehicle registration are critical components of the transport industry. These two elements ensure that vehicles are safe to operate on public roads and that drivers are qualified and licensed to operate them. Here is a closer look at the scope of drivers and registration of vehicles.

- **Scope of Drivers**

The scope of drivers in the transport industry is vast. It includes individuals operating various vehicles, including cars, trucks, buses, and motorcycles. Drivers are responsible for the safe operation of their vehicles, ensuring the safety of passengers, cargo, and other road users.⁴ The scope of drivers also includes individuals who work in the

⁴ Henok Girma Abebe, 'Road Safety Policy in Addis Ababa: A Vision Zero Perspective' (2022) 14 Sustainability 5318.

transport industry but may not necessarily operate vehicles, such as dispatchers, managers, and administrative staff. Drivers must meet certain qualifications to operate vehicles on public roads. These qualifications vary depending on the type of vehicle being operated and the jurisdiction in which the driver is operating. In most cases, drivers must hold a valid driver's license, pass a driving test, and meet certain medical and physical requirements.

- **Registration of Vehicles**

Vehicle registration is another critical component of the transport industry. It involves registering a vehicle with the relevant authorities and obtaining the necessary permits and licenses to operate the vehicle on public roads. The registration process typically involves providing detailed information about the vehicle, such as its make, model, year, and identification number. Owners must also provide proof of ownership, insurance, and other relevant documentation, such as emissions testing results.⁵ Once a vehicle is registered, it is issued with a license plate that must be displayed on the vehicle at all times. Vehicle registration must be renewed periodically, typically on an annual basis, to ensure that the vehicle remains in compliance with relevant regulations.

The scope of drivers and registration of vehicles are critical components of the transport industry. Drivers must meet certain qualifications to operate vehicles on public roads, while vehicles must be registered and maintained in compliance with relevant regulations. These measures ensure the safety of drivers, passengers, and other road users, and help maintain the integrity and safety of the transport industry.

⁵ Andrea Revell, David Stokes & Hsin Chen, 'Small businesses and the environment: turning over a new leaf?' (2010) 5 Business Strategy and the Environment 273-288.

LICENSING OF DRIVERS OF MOTOR VEHICLES

Licensing of drivers of motor vehicles is a crucial aspect of road safety, and various legal provisions in different jurisdictions around the world govern it. In this article, we will examine the relevant legal provisions related to the licensing of drivers of motor vehicles. *Firstly*, most jurisdictions require drivers of motor vehicles to obtain a valid driver's license before operating a vehicle on public roads. The requirements for obtaining a driver's license vary from jurisdiction to jurisdiction but typically include a minimum age requirement, completion of a driver's education course, and passing a written and practical driving test. *Secondly*, most jurisdictions require drivers to hold a specific license type depending on the vehicle type they intend to operate.

In many jurisdictions, drivers must hold a separate license to operate a motorcycle or commercial vehicle. The requirements for each license type vary and may include additional training, testing, and medical examinations. *Thirdly*, drivers are subject to certain restrictions in many jurisdictions based on their age or driving experience. For example, new drivers may be required to display a "learner" or "provisional" license and may be subject to certain restrictions, such as a curfew or passenger limitations.

Many jurisdictions also have provisions for suspending or revoking a driver's license in cases where the driver has violated traffic laws or engaged in dangerous driving practices. The suspension or revocation may be temporary or permanent, depending on the severity of the offense and the jurisdiction in which it occurred. In addition to these provisions, there are also provisions for the renewal and expiration of driver's licenses. Drivers are typically required to renew their license periodically, and the requirements for renewal may include additional testing or proof of continued competence. The licensing of drivers of motor vehicles is a critical aspect of road safety, and a range of legal provisions in different

jurisdictions governs it.⁶ These provisions ensure that drivers meet certain requirements and are subject to restrictions and penalties when necessary, helping to ensure the safety of all road users.

PERMIT FOR CONTRACT CARRIAGE

A permit for contract carriage is a legal document that allows a vehicle to operate as a contract carriage, i.e., for the purpose of transporting passengers or goods as part of a contract between the operator and the customer. In this article, we will examine the relevant legal provisions related to the permit for contract carriage. In India, the permit for contract carriage is governed by the Act, 1988, which lays down the rules and regulations for the operation of motor vehicles in the country. Sec. 66 of the Act provides for the grant of permits for contract carriage, and Sec. 74⁷ provides for the cancellation or suspension of such permits.

According to Sec. 66⁸, no person can use a motor vehicle as a contract carriage for the carriage of passengers or goods for hire or reward unless a permit has been granted by the State Transport Authority (STA) or Regional Transport Authority (RTA) having jurisdiction over the area in which the vehicle is to be operated. The permit can be granted for a specific period, not exceeding five years, and may be renewed for further periods not exceeding five years at a time.

The permit for contract carriage can be granted only if the operator satisfies certain conditions, such as being of good character, possessing adequate financial resources, and having the necessary infrastructure to operate the vehicle. The permit will also specify the area or route on which the vehicle can operate, the number of passengers or quantity of goods that can be carried, and the fare or rate of hire that can be charged.

⁶ Y. Noy, David Shinar & William J. Horrey, 'Automated driving: Safety blind spots' (2018) 102 Safety Science 68-78.

⁷ Motor Vehicles Act 1988, s 74.

⁸ Motor Vehicles Act 1988, s 66.

According to Sec. 74⁹ of the Act, 1988 provides for the cancellation or suspension of the permit for contract carriage in cases where the operator has violated any of the conditions of the permit or any of the provisions of the Act. The STA or RTA may also cancel or suspend the permit if it is satisfied that the operator is no longer a fit and proper person to operate the vehicle. The permit for contract carriage is a legal requirement for the operation of motor vehicles as contract carriages in India. It is governed by the Act, 1988, and is granted by the STA or RTA subject to certain conditions. The cancellation or suspension of the permit may occur if the operator violates any of the conditions of the permit or provisions of the Act or is no longer deemed fit and proper to operate the vehicle.¹⁰

DURATION AND RENEWAL OF PERMITS

The duration and renewal of permits for various types of transportation services are essential to regulatory compliance. Let's discuss about the provisions related to the duration and renewal of permits for different transport services.

1. Contract Carriage Permits:

In many jurisdictions, including India, permits for contract carriage have a maximum duration of five years. After the initial grant, the permit can be renewed for additional periods, at most five years at a time. The specific duration may vary depending on the local regulations and the discretion of the transport authority. Renewing a contract carriage permit typically requires the operator to apply to the appropriate transport authority before the expiry of the existing permit. The authority will assess the operator's compliance with the permit conditions, financial stability, and any other relevant criteria.

⁹ Motor Vehicles Act 1988, s 74.

¹⁰ Wayland H. Elsbree, 'Compulsory Insurance against Motor Vehicle Accidents' (1928) 76 University of Pennsylvania Law Review 690-703.

The permit can be renewed for the specified period if the operator meets the requirements.

2. Public Service Vehicle (PSV) Permits:

PSV permits, which cover services like taxis, buses, and other public transportation vehicles, also have specific provisions for duration and renewal. The duration of a PSV permit can vary depending on the jurisdiction, but it is usually shorter than contract carriage permits. Renewal requirements for PSV permits often involve a comprehensive assessment of the vehicle's roadworthiness, including mechanical inspections and compliance with safety standards.¹¹ In addition, the driver's qualifications, background checks, and insurance coverage may be evaluated during renewal.

3. Goods Carriage Permits:

Permits for goods carriage, which cover the transportation of goods, also have their own duration and renewal provisions. The duration of goods carriage permits can vary depending on the jurisdiction, but they typically align with the business's operational needs. The renewal process for goods carriage permits typically involves an assessment of the operator's compliance with safety regulations, vehicle condition, and financial stability. The transport authority may also review the operator's adherence to environmental standards and any specific requirements for transporting hazardous materials.

It's important to note that the duration and renewal provisions may differ from one jurisdiction to another. Therefore, transport service providers must familiarize themselves with their respective regions' specific legal provisions and requirements.

¹¹ Roger Behrens, Dorothy McCormick, Risper Orero & Marilyn Ommeh, 'Improving paratransit service: Lessons from inter-city matatu cooperatives in Kenya' (2017) 53 Transport Policy 79-88.

The duration and renewal of permits for transport services depend on the type of service and the local regulations. Contract carriage permits can typically be renewed for up to five years at a time, subject to compliance with conditions. PSV permits and goods carriage permits may have different durations and renewal criteria, including vehicle roadworthiness assessments, driver qualifications, and adherence to safety and environmental standards.¹² Operators need to stay updated on the specific provisions applicable in their jurisdiction to ensure compliance and uninterrupted operation of their transport services.

VERIFICATION OF PERMITS FOR OPERATION OUTSIDE THE GRANTED AREA

Verification of permits for operation outside the granted area is a critical process that ensures compliance with legal provisions and promotes the safe and legal operation of transportation services. Transport operators must be verified to obtain the necessary permissions when they intend to conduct operations beyond the area specified in their permits. This process involves complying with relevant legal provisions and obtaining the appropriate approvals from the regulatory authorities. In many jurisdictions, the verification of permits for operation outside the granted area is governed by specific provisions within the applicable transport laws and regulations. For instance, in India, the Act, 1988, provides provisions related to verifying permits for interstate transport. According to Sec. 88(9)¹³ of the Act, 1988; a permit granted for a vehicle in one state is only valid for operations in another state if it has been verified and countersigned by the state's authority where the vehicle intends to operate.

The verification process typically requires the transport operator to submit an application to the regulatory authority of the state or region

¹² *Id.*

¹³ Motor Vehicles Act 1988, s 88 cl. 9.

where they wish to operate. The application is accompanied by the necessary documents, including the existing permit, proof of payment of required fees, and any other documents specified by the authority. The regulatory authority then verifies the authenticity and validity of the permit and ensures that the operator meets the necessary requirements for conducting operations in their jurisdiction.

Upon successful verification, the regulatory authority may issue a counter-signed permit or authorization allowing the transport operator to operate their vehicles outside the granted area legally. Transport operators need to comply with the conditions and restrictions specified in the counter-signed permit, such as adhering to the designated routes, passenger or goods capacity, and any other relevant provisions. Non-compliance with the verification process and operating outside the granted area without the necessary permissions can lead to legal consequences, including penalties, fines, or even permit suspension. It is, therefore, imperative for transport operators to ensure proper verification of permits when conducting operations beyond the authorized area.

The verification of permits for operation outside the granted area is a crucial process to ensure compliance with legal provisions and promote safe and legal transportation services. Transport operators must follow the specific verification procedures outlined in the relevant transport laws and regulations, obtain the necessary approvals from the regulatory authorities, and comply with the conditions specified in the counter-signed permits. By doing so, they can conduct operations outside the granted area while remaining within the confines of the law.

OFFENCES, PENALTIES AND PROCEDURE

Offences, penalties, and the corresponding procedures are essential components of any legal system to enforce compliance and deter

violations within the transport industry. The offenses may include violations related to driving, permits, vehicle maintenance, and other regulatory requirements. Penalties are imposed to ensure accountability, while the procedures outline the steps to address these offenses.¹⁴ In many jurisdictions, the offenses, penalties, and procedures related to the transport industry are outlined in specific legislation. For instance, in India, the Act, 1988, provides provisions related to offenses, penalties, and procedures for violations within the transport sector.

The Act, 1988 specifies various offenses that can be committed by drivers, operators, or vehicle owners. These offenses may include driving without a valid license, over-speeding, dangerous driving, operating a vehicle without a valid permit, violating traffic rules and regulations, and driving under the influence of alcohol or drugs, among others.

The Act, 1988 also establishes penalties for these offenses. The penalties vary depending on the severity of the offense and may include fines, imprisonment, suspension or cancellation of licenses or permits, and impoundment or confiscation of vehicles. The Act further outlines the procedures to follow in case of offenses.¹⁵ It outlines the roles and powers of traffic police officers and other authorities responsible for enforcing the law. The procedures include the issuance of challans (traffic tickets) for minor offenses, conducting inquiries and investigations for more serious offenses, and presenting evidence in a court of law.

In case of an offense, the concerned authority initiates the appropriate legal proceedings. The offender may be given an opportunity to present their case and defend themselves during the hearing. The court or adjudicating officer evaluates the evidence and arguments presented

¹⁴ Albert W. Alschuler, 'Two Ways to Think about the Punishment of Corporations' (2009) 46 Am. Crim. L. Rev. 1359.

¹⁵ Kashish Grover & Monesh Mehndiratta, 'Cognizable Offences under Code of Criminal Procedure' (*Ipleaders*, 23 Jan. 2023) <<https://blog.ipleaders.in/cognizable-offences-under-code-of-criminal-procedure/>> accessed 17 May 2023.

and, based on the findings, determines the penalty to be imposed. It is important to note that the specific offenses, penalties, and procedures may vary from one jurisdiction to another.¹⁶ Transport operators, drivers, and other stakeholders must familiarize themselves with the relevant legislation and regulations applicable in their area of operation.

Offenses, penalties, and procedures play a crucial role in maintaining compliance and ensuring the safety and integrity of the transport industry. The offenses and corresponding penalties are established by legislation, such as the Act, 1988; while the procedures outline the steps to address these offenses. All stakeholders must understand and adhere to these provisions to promote responsible and lawful conduct within the transport sector.

1. Offense: Driving without a valid license

Penalty: Fine of up to ₹5,000, and/or imprisonment for up to 3 months.

Sec. 181¹⁷: Driving without a license.

2. Offense: Over-speeding

Penalty: Fine of up to ₹1,000, and/or imprisonment for up to 3 months for the first offense; and fine of up to ₹2,000, and/or imprisonment for up to 6 months for subsequent offenses.

Sec. 183¹⁸: Driving at an excessive speed.

3. Offense: Drunk driving

¹⁶ Ojmarrh Mitchell, 'A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies' (2005) 21 *Journal of Quantitative Criminology* 439-466.

¹⁷ Motor Vehicles Act 1988, s 181.

¹⁸ Motor Vehicles Act 1988, s 183.

Penalty: Fine of up to ₹10,000, and/or imprisonment for up to 6 months for the first offense; and fine of up to ₹15,000, and/or imprisonment for up to 2 years for subsequent offenses.

Sec. 185¹⁹: Driving by a drunken person or under the influence of drugs.

- 4. Offense:** Violation of traffic rules (e.g., jumping red lights, using a mobile phone while driving)

Penalty: Fine ranging from ₹500 to ₹1,500 for different offenses.

Sec. 177²⁰: General provision for offenses by the owner of the vehicle.

- 5. Offense:** Not wearing a seatbelt or helmet

Penalty: Fine of ₹1,000 for each offense.

Sec. 194B²¹: Wearing a helmet, and Sec. 194D: Wearing a seat belt.

- 6. Offense:** Driving without insurance

Penalty: Fine of up to ₹2,000, and/or imprisonment for up to 3 months for the first offense; and fine of up to ₹4,000, and/or imprisonment for up to 3 months for subsequent offenses.

Sec. 146²²: Using a vehicle without insurance.

- 7. Offense:** Overloading of goods or passengers

¹⁹ Motor Vehicles Act 1988, s 185.

²⁰ Motor Vehicles Act 1988, s 177.

²¹ Motor Vehicles Act 1988, s 194 cl. b.

²² Motor Vehicles Act 1988, s 146.

Penalty: Fine of ₹2,000 and an additional ₹1,000 per extra ton of overload, and/or imprisonment for up to 3 months.

Sec. 194²³: Overloading a vehicle.

8. Offense: Using a vehicle without a valid permit

Penalty: Fine of up to ₹10,000 for the first offense; and fine of up to ₹25,000 for subsequent offenses.

Sec. 192²⁴: Using a vehicle without a permit.

9. Offense: Unauthorized alteration of a vehicle

Penalty: Fine of up to ₹5,000, and/or imprisonment for up to 3 months.

Sec. 52²⁵: Unauthorized alteration of a vehicle.

10. Offense: Negligent driving causing death or grievous hurt

Penalty: Imprisonment for up to 2 years, and/or fine of up to ₹5,000.

Sec. 304A²⁶: Causing death by negligence.

CONCLUSION

The Act, 1988 holds significant jurisdiction over the transportation of goods, establishing a comprehensive legal framework for its regulation. The Act, 1988 covers a wide range of aspects pertaining to the movement of goods, including licensing, permits, vehicle standards, and penalties for non-compliance. By mandating the obtainment of licenses and permits, the Act ensures that only authorized and qualified individuals

²³ Motor Vehicles Act 1988, s 194.

²⁴ Motor Vehicles Act 1988, s 192.

²⁵ Motor Vehicles Act 1988, s 152.

²⁶ Motor Vehicles Act 1988, s 304 cl. a.

or entities are engaged in the transportation of goods, promoting safety and professionalism in the industry. Moreover, the Act lays down guidelines for issuing permits for goods carriage vehicles, specifying the conditions, routes, and durations for which they are valid. This promotes efficient and regulated transportation operations. The Act also sets standards and specifications for goods carriage vehicles, ensuring they are designed and maintained to minimize risks and maximize efficiency. Compliance with these standards is enforced through periodic inspections and penalties for non-compliance, further emphasizing safety and quality. Furthermore, the Motor Vehicles Act addresses documentation and record-keeping requirements for goods carriers, enabling effective monitoring and accountability. It also includes provisions related to liability, insurance, and claims arising from the transportation of goods, offering legal protection to all parties involved. These measures ensure that the interests of transporters and consignees are safeguarded, fostering a fair and transparent environment within the transportation industry. The Motor Vehicles Act plays a crucial role in governing the transportation of goods, providing a robust and comprehensive regulatory framework. By encompassing licensing, permits, vehicle standards, and penalties for non-compliance, the Act ensures that the transportation of goods operates within legal boundaries, promoting safety, efficiency, and accountability. It serves as a vital tool in maintaining order, protecting the interests of stakeholders, and facilitating the smooth and reliable movement of goods across the country.