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FORUM



Newsletter from Department of Forensic medicine & Toxicology



**Good Samaritans Don't Help Accident Victims
Fearing that the Law Won't Back Them**

Over the last 30 years, Suraj Prakash Vaid, a Delhi-based tours and taxi operator, has transported over 70 road accident victims to hospital. For his good deeds, he has had to face court hearings on more than one occasion since he was made a witness in several of the cases.

Now, people like him will no longer have to worry about harassment at hospitals, police stations and courts. The Supreme Court on Wednesday approved the guidelines issued by the Centre for the protection of Good Samaritans at the hands of the police or any other authority.

A bench comprising justices V. Gopala Gowda and Arun Mishra directed the Centre to give wide publicity to the guidelines, which clearly stipulate that people who help victims of road accidents or other calamities are not harassed in any way. According to a study by the Save LIFE Foundation, this is expected to greatly change the attitude of bystanders in assisting road accident victims – and thus should result in saving many more lives.

The Law Commission of India observes that 50% of those killed in road accidents could have been saved had timely assistance been rendered to them. And a World Health Organisation report claims that “skilled and empowered bystanders play a crucial role in saving lives” and “in order to enable bystanders to come forward and help injured persons, a supportive legal and ethical environment is needed” .

It was Save LIFE Foundation that filed the original PIL and triggered these developments. On the basis of a national study of past cases conducted by it, the foundation submits that three out of four people in India hesitated to come forward and help road accident victims, and that 88% of them had attributed this hesitation to fear of legal and procedural hassles. “These hassles include intimidation by police, unnecessary detention at hospitals and prolonged legal formalities,” it elaborates.

The panel, appointed by the apex court in 2014, made 12 major recommendations in all, including setting up of State Road Safety Councils, evolving a protocol for the identification and removal of “blackspots,” monitoring to gauge the effectiveness of the action taken, and strengthening of enforcement relating to drunken driving, over-speeding, red light jumping, and helmet and seat belt laws.

The decision of the Supreme Court granting legal teeth to the guidelines assumes significance because the Centre has always claimed that it has found it difficult to enforce guidelines in the absence of any statutory backing. With the court order, the guidelines and standard operating procedures have become binding in all states and union territories.

A crucial step

Hailing the apex court’s decision, Piyush Tewari, the founder and CEO of Save LIFE Foundation, said: “This is a big day for India. Until now most states were treating the guidelines merely as an advisory. But now, non-compliance will be treated as contempt of court, making these guidelines as reliable as laws. The onus is now on the state governments and union territories to ensure the implementation of these guidelines.”

The guidelines are an interim measure to deal with the issue till the Centre enacts appropriate legislation –but are also a crucial step in that direction. “In order to ensure the effective implementation of the guidelines and SOPs, it is imperative that a comprehensive Good Samaritan law is enacted at the Central and state level,” the foundation said. Such legislation, it added, would give legal backing to the guidelines, address the concerns of the Good Samaritans and protect them from all forms of harassment.

Tewari concluded, “The next challenge is to get this information to the last mile. Lives will get saved only when people on the road are aware of these new rights they have.”

The nitty-gritty

The guidelines lay down the following:

1. The Good Samaritan will be treated respectfully and without any discrimination on the grounds of gender, religion, nationality and caste.
2. Any individual, except an eyewitness, who calls the police to inform them of an accidental injury or death need not reveal his or her personal details such as full name, address or phone number.
3. The police will not compel the Good Samaritan to disclose his or her name, identity, address and other such details in the police record form or log register.
4. The police will not force any Good Samaritan in procuring information or anything else.
5. The police will allow the Good Samaritan to leave after having provided the information available to him or her, and no further questions will be asked of him or her if he or she does not desire to be a witness.

Even when Good Samaritans agree to become witnesses, the guidelines accord them protection and comfort. They ensure that:

1. If a Good Samaritan chooses to be a witness, he/she will be examined with utmost care and respect.
2. The examination will be conducted at a time and place of the Good Samaritan’s convenience and the investigation officer will be dressed in plain clothes.

1. If the Good Samaritan is required by the investigation officer to visit the police station, the reasons for the requirement shall be recorded by the officer in writing.
2. In a police station, the Good Samaritan will be examined in a single examination in a reasonable and time-bound manner, without causing any undue delay.
3. If a Good Samaritan declares himself to be an eyewitness, she will be allowed to give her evidence in the form of an affidavit.

The guidelines also specify that the concerned Superintendent or Deputy Commissioner of Police are responsible in ensuring that all the above-mentioned procedures are implemented throughout their respective jurisdictions.

Timeline of developments

2012: PIL filed by Save LIFE Foundation.

October 29, 2014: The Supreme Court directed the Centre to issue the necessary guidelines with regard to the protection of Good Samaritans until appropriate legislation was not made by the Union Legislature.

May 13, 2015: In a gazette notification, Ministry of Road Transport and Highways (MoRTH) notified the said guidelines. As per the guidelines, the disclosure of personal information by a Good Samaritan who brings an injured person to the hospital was made voluntary. They also provided that a Good Samaritan would not be liable for any civil or criminal liability.

January 22, 2016: MoRTH issued Standard Operating Procedures (SOPs) for the examination of Good Samaritans by the police or during trial.

March 4, 2016: The Supreme Court reserved the judgment making the guidelines and SOPs binding on all states and union territories of India.

March 30, 2016: The Supreme Court approved the guidelines issued by the Centre.

PUBLICATIONS

1. Vijay KAG. Epidemiology and Outcome of Burns Cases in Karad. Medico-Legal Update. 2016;16(2):163-165.
2. Vijay KAG. Facial Bone Fractures in Road Traffic Accident: A Post Mortem Study. Medico-Legal Update. 2016;16(2):217-219.

CONFERENCES ATTENDED

1. Dr MG Shivaramu, DR Satish NT, DR Vijay kumar AG has attended the KAMLSCON-2016, state level forensic medicine conference held at SDUAHER, Kolar on 21,22,23rd December.

PAPER PRESENTED

1. DR Satish NT has presented paper titled “**Bee Sting Envenomation: Rare Fatality**” at KAMLSCON-2016, state level forensic medicine conference held at SDUAHER, Kolar on 21,22,23rd December.
2. DR Vijay kumar AG has presented paper titled “**Subarachnoid Hemorrhage In Preterm Infant**” at KAMLSCON-2016, state level forensic medicine conference held at SDUAHER, Kolar on 21,22,23rd December.

Department of Forensic Medicine & Toxicology conducted a guest lecture on 8.11.2016

TOPIC-MEDICAL NEGLIGENCE- A RECENT UPDATE

Speaker: Dr. S.V. JOGA RAO. M. L., M.Phil., Ph.D.,

Advocate, Eminent Medico-legal expert and Health care consultant

Max-Planck Fellowship (MPI, Freiburg, Germany)

Formerly Additional Professor, National Law School of India University, Bengaluru



Inauguration



Invocation song



welcome speech-Dr Satish



Lighting of lamp



Presidential address –
Dr MG Shivaramu



Honoring of Speaker



Scientific session



Scientific session



Scientific session