

Right to Emergency Care- Supreme Court Judgment

As per the Appeal (civil) 919 of 2007 dated 23.02.2007, the Supreme Court has ruled that 'all injured persons especially in case of the road traffic accidents, assault etc. when brought to a hospital / medical centre , have to be offered first aid, stabilized and shifted to a higher centre / government centre if required. It is only after this that the hospital can demand payment or complete police formalities. In case you a bystander and wish to help someone in an accident, please go ahead and do so. Your responsibility ends as soon as you leave the person at the hospital'. The hospital bears the responsibility of informing the police, first aids etc.

HELPING ROAD ACCIDENTS VICTIMS -Supreme Court Judgment

In the case of Pt. Parmanand Katara vs Union of India in Criminal Writ Petition No.270 of 1988, D/-28.8.1989 (AIR 1989 Supreme Court 2039) the Hon'ble Supreme Court of India has observed:

"Every injured citizen brought for medical treatment should instantaneously be given medical aid to preserve life and thereafter the procedural criminal law should be allowed to operate in order to avoid negligent death. There is no legal impediment for a medical professional when he is called upon or requested to attend to an injured person needing his medical assistance immediately. The effort to save the person should be the top priority not only of the medical professional but even of the police or any other citizen who happens to be connected with that matter or who happens to notice such an incident or a situation".

"There are no provisions in the Indian Penal Code, Criminal Procedure Code, Motor Vehicles Act, which prevents doctors from promptly attending to serious injured persons and accident cases before arrival of the police and their taking into cognizance of such cases, preparation of FIR and other formalities by Police."

(Para-6)

"There can be no second opinion that preservation of human life is of paramount importance. This is so on account of the fact that once life is lost, the status quo ante cannot be restored, as resurrection is beyond the capacity of man."

(Para-7)

Professional obligation of a doctor/hospital for providing medical care to emergency cases of road accidents

"Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in status or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way"

No Legal formalities before attending to a road accident victim

"The treatment of the patient should not wait for the arrival of the police or completion of legal formalities. All hospitals and doctors are required to provide immediate medical aid to all the cases, whether medico-legal or not"

Duty of Driver in case of an Accident- Provisions of Section 134, Motor Vehicles Act 1988

Following the Supreme Court order in 1989, the Motor Vehicles Act was amended in 1994, to make it mandatory on both the driver/owner of the vehicle to take the accident victim to the nearest doctor, and the doctor to treat the victim without waiting for any formalities.

Duty of driver in case of accident and injury to a person - When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved the driver of the vehicle or other person in charge of the vehicles –

- a. Unless it is not practicable to do so on account of mob fury or any other reason beyond his control, **take all reasonable steps to secure medical attention for the injured person (by conveying him to the nearest medical practitioner or hospital, and it is shall be the duty of every registered medical practitioner or the doctor on the duty in the hospital immediately to attend the injured person and render medical aid or treatment without waiting for any procedural formalities)**, unless the injured person or his guardian, in case he is a minor, desires otherwise;
- b. Give on demand by a police officer any information required by him, or , if no police officer is present, report the circumstance of the occurrence, including the circumstances, if any, for not taking reasonable steps to secure medical attention as required under clause (a) at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence;
- c. Give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely :-
 - i. Insurance policy number and period of its validity;
 - ii. Date, time and place of accident;
 - iii. Particulars of the persons injured or killed in the accident;
 - iv. Name of the driver and the particulars of his driving licence.

Failure to comply with this action is punishable

Under Section 187 of MV Act, 1988 whoever fails to comply with the provisions of the clauses of Section 134, shall be punishable with imprisonment for a term which may extent to 3 months, or with fine which may extend to Rs.500, or with both. If it is the second time for the person concerned, then the penalty is harsher. The imprisonment may extend to 6 months, or with fine, which may extend to Rs.1000 or with both.