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LEGAL AID for Licensing of Driver of Motor Vehicle in National Perspective

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Abstract

This paper describes the development of legal Assistance belong to the licensing of drivers of Motor Vehicles Laws and Rules in National perspective regarding to the person who have lack of knowledge about licensing of drivers of Motor Vehicles.

Object of this paper to ensure equal justice cum social justice for all the citizens of India.

This paper attempts to review legal assistance in regarding the driving licence for the driver who belongs to the poor, illiterate, indigent person, weaker section of the society and literate person.

Art. 39A of the constitution provides that the state shall secure that the operation of the legal system promotes justice on a basis of equal opportunity.

Legal assistance regarding the licensing of drivers of Motor Vehicles should be available to the poor, illiterate, indigent, weaker section of the society, who do not have any legal awarness about the Motor Vehicle laws and Rules.

Keywords: Legal Aid, Driving Licence, Indigent Person, illiterate, poor persons

Introduction

In order to cope up with the pace of part moving world, we all wish to own fast moving vehicles. A driving licence is a legal document that serves as proof that an individual is allowed to drive motorized vehicles on Public road.

Chapter II, Sec 3 to 28 of the Motor vehicle Act, 1988 deals about the licensing of drivers of Motor vehicles.

The Motor vehicle Act, 1988 is social welfare legislation. It was appropriate to apply a more realistic, pragmatic and liberal approach in case of driving licence and owner of motor vehicle who is related to illiterate and weaker section of the society. This act protect to the interest of the innocent driver, owner of motor vehicle who is related to illiterate and weaker section of the society. This act protect to the interest of the innocent driver, owner of motor vehicle and users of the road.

The driving licence is a valid and very issential identity proofs recognized by the government of India this document certifies that the individual holding which is authorized and qualified to drive in India also it mandatory to have driving licence in India.

In Indian Government, with the ministry of Road Transport also High ways has enable computerization of thousands of driving permits across many states in the country.

A driver's license is an official document permitting a specific individual to operate one or more types of motorized vehicles such as a motorcycle, car, truck or bus on public road.

The law relating to the licensing of drivers vary between jurisdictions. In some jurisdiction a license is issued after the recipient has passed a driving test, while in others, a person acquires a license before beginning to drive. Different categories of license often exist for different types of motor vehicles, particularly large trucks and passengers vehicles. The difficulty of the driving test varies considerably between jurisdiction as do factor such age and the required level of practice.

Legal aid provide free legal help for the driver of motor who are convicted of drunk or drug driving, dangerous driving, or driving licence is cancelled there are max driver belong to Heavy motor vehicle or light motor vehicles, illiterate, who have lack of legal awareness and

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ignorance of traffic rules and regulation. Legal aid advice provide free legal help to such driver for increase legal awarness to know traffic laws and rules.

Statutory Provision under the Motor Vehicle Act, 1988

The motor vehicle Act, 1988 governs the law relating to the driving licence, including the provisions relating to the obtaining of learner's of permit, Age limit in connection with driving of motor vehicles, necessity for driving licence, Restriction on the holding of driving licences, Grant of learner's licence, Grant of driving licence, Addition to driving licence, Renewal of driving licences, Revocation of driving licence on grounds of disease or disability, suspension of driving licence in certain cases, suspension or cancellation of driving licence on conviction. Chapter II and sec 3 to 28 deals about licensing of drivers of motor vehicle.

Sec 3 of the motor vehicle Act, 1988 read with Rles 3 of the central Motor vehicle Rule, 1989.

Sec 3 of the Motor vehicle Act, 1988 deals about the necessity for driving licence, sec 3(1) says that the any person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to himself authorising him to drive the vehicle and no person shall so drive a transport vehicle unless his driving licence specially entitle him to do so.

Sec 3(1) of the motor vehicle act, 1988 shall not apply to a person receiving instructions in during a motor vehicle shall be such as may be prescribed by the central Government. Rule 3 of the central motor vehicle Rules, 1989 deals the General rules for lencensing of drivers of Motor vehicles sec 3(1) of the motor vehicle Act, 1988 shall not apply to a person while reciving instructions or gaining experience in driving with the object of presenting himself for a test of competence to drive, so long as-

- a. Such person is the holders of an effective learner's licence issued to him in form 3 to drive the vehicle.
- b. Such person is accompanied by an instructor holding an effective driving licence to drive the vehicle and such instructor is sitting in such a position to control or stop the vehicle, and
- c. There is a painted, in the front and the rear of the vehicle or on a plate or card affixed to the front and the rear, the letter LF in red on a white background.

However a person shall not carry any other person on the motor cycle except for the purpose and in the manner referred to in clause (b), while receiving instructions or gaining experience in the driving a motor cycle (with or without a ride car attached).

Sec. 4 of the Motor vehicle Act, 1988 deals about the age limit in connection with driving of motor vehicles. The person who has under the age of 18 years shall not drive a motor vehicle in any public place.

However the person who has attain the age below 18 and above 16 years may be driven motor cycle with engine capacity not exceeding 50CC

It is the duty on the driver of the vehicle to hold a driving licence effective to the certain category of vehicle which he is found driving. The Act of driving without a licence constitute district offence under sec. 8 of the motor vehicle Act, 1988. there are other provision like sec 177, 134 and 197 which enjoin some specific duties on a driver of a motor vehicle.

Sec 6 of the motor vehicle act, 1988 deals about the

Restriction on the holding of driving licences. It say that no person shall hold any other driving licence except a learner's licence or a driving licence issued in accordance with the provisions of sec 18 or a document authorising the person specified there in to drive a motor vehicle in accordance with the rules made under sec 139. While he holds any driving licence for the time being in force.

sec 9 of the motor vehicle Act, 1988 dealing the grant of driving licence. It say that any person who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area –

1. In which he ordinarily resides or carries on business, or
2. In which the school or establishment referred to in sec. 12 from where he is receiving or has received instruction in driving a motor vehicle is situated, for the issue to him of a driving licence.

Every application under sec. 9(1) shall be in such form and shall be in such form and shall be accompanied by such fee and such document as may be prescribed by the central government

Sec. 15 of the motor vehicle Act, 1988 deals about the renewal of driving licences of vehicles. It says that any licensing authority may renew a driving licence issued under the provisions of this Act with effect from the date of its expiry on application to it

However in any case where the application for the renewal of a licence is made more than thirty day after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal

However where the application is for the renewal of a licence to drive a transport vehicle on where in any other case the applicant has attained the age of 40 years, the same shall be accompanied by a medical certificate in same form and in the same manner as is referred to in sec. 8(3) and the provisions of sec 8(4) shall apply in relation to a learner's licence

An application for the renewal of a driving licence shall be made in such form and accompanied by such documents as may be prescribed by the central government. Rule 18 of the central motor vehicles rules 1989 deals about the renewal of driving licence of the motor vehicle. An application for the renewal of a driving licence shall be made in Form 9 to the licensing authority having jurisdiction over the area in which the applicant ordinarily resides or carrier on business and shall be accompanied by

- a. Appropriate fee as specified in Rule 32.
- b. Three copies of the applicant's recent (Passport size photograph), if renewal is to be made in Form 6.
- c. The driving licence.
- d. The medical certificate (Form 1-A).

Where the driving licence authorities the holder of such licence to drive a transport vehicle as well as any other vehicle, then the licence for the appropriate period as sec. 14(2) subject to the production of medical certificate

Where, the licensing authority renewing the diriving licence is not the licensing authority who issued the driving licence the fact of the renewal shall be intimated to the licensing authority who issued the driving licence. However in case the application is for issuance of a duplicate driving licence which has been lost, torn or mutilated such that identification authenticity of the

document can not be reasonably established the licensing authority receiving such application shall on confirmation from the original issuing authority, issue the duplicate driving licence.

However, if such confirmation is not received within 60 days, duplicate licence shall be issued, without waiting for the confirmation.

There are many drivers who drive the heavy motor vehicle and light motor vehicle. They belong to illiterate, literate, poor, indigent and weaker section of the society. They have lack of knowledge about the motor vehicle laws and rules related to grant of driving licence, revocation of driving licence and suspension or cancellation of driving licence. The state should provide free legal assistance to such driver who has no legal awareness about motor vehicle laws and rules.

Judicial Approach

Legal aid has a close relationship with the welfare state.

The motor vehicle Act is social welfare legislation.

The supreme court and high court made legal aid belong to motor vehicle easier for the people of middle class, person belong to poor, indigent and weaker section of the society and lower income groups to approach it to available legal aid.

Branch Manager, National Insurance Co. Ltd. Vs Aslam Ali Baig, 2002 (1) ALJ (705) Karn. In this case where the driver as on the date of accident had licence for a heavy passenger vehicle whereas the vehicle which was involved in the accident and which was being driven by him, was a heavy goods vehicle, held, as there are two types of vehicles belong to different type of classes, driving licence which is applicable to one class of such vehicles could not be said to apply to other class. Hence, there was a clear violation of the terms of the insurance policy and the insurance company could not be made liable to pay the compensation.

In another case Madras High Court said that a person having a licence to drive a heavy passenger vehicle can drive a heavy goods vehicle without a specific endorsement to that effect.

Ashabai Vs Moti Lal, (2000) 2 ACC 578(MP) (DB)

In this case where the driver, who had a licence for driving light motor vehicle, was driving a truck, a heavy motor vehicle, at the time of accident, held, to was not having a valid and effective licence and thus, there being violation of terms and conditions of the insurance policy, the Tribunal rightly exonerated the insurance company.

Ashok Gangadhar Maratha Vs Oriental Insurance Co. Ltd, AIR 1999 SC 3181.

In this case where the vehicle in question was a light motor vehicle weighing less than 6,000 Kg and the insurance company repudiated its liability on the ground that driver of the vehicle had a driving licence to drive light motor vehicle only and as the vehicle in question was a light goods vehicle and, hence, a transport vehicle, the insured had committed breach of the terms of the policy, held, when no permit had been granted to the insured for plying the vehicle as a transport vehicle or good carrier, it could not be so held on account of the statutory prohibition contained in sec. 66 of the MV Act, 1988. Thus the driver was holding effective valid licence on the date of accident to drive light motor vehicle and, there insurance company was liable.

Suggestion

Supreme Court legal aid committee provides legal aid to citizens of India where total income from all sources does not exceed Rs. 12000/- per annum.

- The Government should establish a legal aid cell belong to motor vehicle in each state.
- The Government should establish toll free number for legal assistance belong to driving licence and registration of motor vehicle.

Conclusion

Legal aid is intended for the benefit of driver or owner of motor vehicle who is related to illiterate, poor, literate, indigent and weaker section of the society who can not afford to engage a leading lawyer or legal assistance on their terms. S.C. Legal aid committee provides free legal aid to such applicant who are citizens of India whose total income from all sources does not exceed Rs.12000/- per annum.

Legal aid belongs to motor vehicle encourage the legal awareness related to driving licence.

Motor vehicle Act, 1988 is a social welfare legislation. It is closely relationship with welfare state. Legal aid is an obligation of state and right of the citizens. The prime object of the state should be provide equal justice cum social justice for all.

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