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# **“EXPLORING HIT AND RUN INCIDENTS IN INDIA: LEGISLATIVE FRAMEWORK AND JUDICIAL RESPONSE”**

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## **ABSTRACT**

Hit-and-run incidents in India pose a huge societal and legal concern, affecting victims' rights and road safety. This research paper looks at the prevalence, legal structure, and societal ramifications of hit-and-run episodes in the country. It investigates the legislative landscape around hit-and-run accidents, concentrating on the evolution of legislation and their efficiency in addressing the intricacies of such situations. In India, hit-and-run occurrences frequently result in serious repercussions, ranging from bodily injuries to fatalities, which are aggravated by the lack of quick medical treatment for victims. The study looks into the socioeconomic and legal consequences for victims and their families, emphasising the importance of comprehensive legislative measures to address these issues.

The study shows into the historical evolution of hit-and-run laws in India, from early provisions to current statutes. It examines significant legislative acts and changes aimed at increasing victim compensation, improving road safety, and holding perpetrators accountable. The Motor Vehicles Act and its revisions receive special attention, as they play a critical role in establishing responsibilities, liabilities, and punishments for hit-and-run accidents.

Furthermore, the article investigates the implementation obstacles and enforcement issues associated with existing legislation. It analyses legal inadequacies, such as delays in justice delivery, insufficient reparation mechanisms, and the societal consequences of perpetrators' impunity. The study also looks at significant judicial decisions that have affected the understanding and application of hit and run<sup>1</sup>.

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<sup>1</sup> Cahyani, M.P.L. and Kurniasari, E., 2024. Legal Analysis of the Decision on a Hit-and-Run Traffic Accident Case in Semarang: Case Study of District Court Decision No. 386/Pid. Sus/2023/PN. Smg. *Arkus*, 10(3), pp.561-565.

To address these challenges, the study suggests legislative solutions to strengthen the legal framework and improve victim assistance channels. These ideas include improving emergency response systems, enforcing stiffer fines for violators, and raising public knowledge about road safety and legal duties. Furthermore, the report examines international best practices and comparative legislative frameworks from other jurisdictions to draw lessons for improving India's approach to addressing hit-and-run incidents. It emphasises the significance of matching legal laws with global norms while taking into account the socioeconomic environment and infrastructure challenges unique to India<sup>2</sup>.

**KEYWORDS:** Hit and run cases, legislation, Motor Vehicles Act, victim compensation, road safety

## INTRODUCTION

In today's society, technology dominates our daily lives, including at home, work, and school. Today's world is characterised by unprecedented innovation in technology. New inventions attempt to improve and simplify our daily lives. Vehicles were among the most innovative innovations that inspired generations and changed their lifestyles. Today, automobiles are the primary mode of transportation. It has undoubtedly had an impact on the economic, cultural, and social aspects of daily life.

Hit-and-run incidents occurred throughout the country and have become commonplace in India. Some high-profile instances involve prominent individuals, such as the Mercedes hit-and-run in 2016, the BMW case involving Bollywood star Salman Khan in 2002, and the Reliance lawyer hit-and-run in 2012. In this case, police were able to trace the offenders and hold them accountable under the Indian Penal Code 1860. In contrast, Section 161 of the Motor Vehicle Act defines hit-and-run as an accident involving a motor vehicle where the culprit's identity cannot be determined.

The hit-and-run case involving Salman Khan, which occurred in 2002, gained widespread attention. He was accused of hitting a gathering of homeless persons with his car while driving on the footpath. There have been many high-profile instances in India, but only a few have received notice. Hit-and-run accidents are typically caused by hasty driving or driving under the influence. Victims receive low compensation. However, a measure is currently in parliament to boost the amount from 25,000 to 2 lakhs.

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<sup>2</sup> *Ibid.*

India's new hit-and-run law, the Bharatiya Nyay Sanhita, establishes stiffer punishments for drivers who abandon accident scenes. A driver who flees the scene of a hit-and-run accident can face up to 10 years in jail and a ₹7 lakh punishment. This law also affects private car owners. The new regulation intends to reduce the frequency of hit-and-run accidents, which cause approximately 50,000 lives in India annually.

Recently, India implemented a new law regarding the Hit and Run under BNS that is Bhartiya Nyay Sanhita<sup>3</sup>, which aims to address and solve the significant issue of hit and run accidents and the leading consequences after that. Under this law there are strict penalties for the drivers who flee from the spot of the accident so that the main objective of the act for promoting safer roads and minimizing the accidents. But the truck drivers have opposed this new law as they are of the view that this new law is very harsh and severe.

### **Role of Judiciary in Hit and run cases: CASE LAWS**

- 1. Mercedes Hit-and-Run case<sup>4</sup>:** the Mercedes Hit and Run case is infamously famous case of Shilpa Mittal vs. State of NCT of Delhi 2020. In this case 32-year-old man died due to the accident caused by a juvenile. In this case 4 days short of 18 years committed an offence under Section 304 of Indian Penal Code by hitting Mr. Siddharth Sharma a 32 years old business advisor and consultant by Mercedes in Civil Lines North Delhi. The JJB ordered that the minor should be treated as an adult as he has committed a heinous crime. Further, the sessions court of Delhi agreed and supported the order of the Juvenile Justice Board, but later the High Court of Delhi overruled the decision of the Juvenile Justice Board in the year 2019. The sister of Mr. Siddharth Sharma appealed to the Honourable Supreme Court against the order passed by the High Court of Delhi. The Honourable Supreme Court agreed with the decision of the High Court of the Delhi. Section 2 (33) of the Juvenile Justice Act, 2015 which provides that the offence committed by the person whose punishment is more than seven years falls under the category of heinous offence and the juveniles can be charged and tried under this section. According to Section 304 of Indian Penal Code mentions for the maximum imprisonment of ten years and there is no reference made for the minimum imprisonment in this section. The Honourable Supreme Court of India observed that the Juvenile Justice Act, 2015 does not contain any provision for the 4<sup>th</sup> Category of offences that are offences for which the

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<sup>3</sup> Bhartiya Nyay Sanhita, 2023 (No. 45 of 2023).

<sup>4</sup> Shilpa Mittal vs. State of NCT of Delhi (2020).

maximum imprisonment is more than seven years. Further the supreme court held the children committing such heinous offences should not be treated as adult but as juvenile and instructed the parliament to make the provisions for the offences falling in the 4<sup>th</sup> Category offences under Juvenile Justice Act, 2015.

2. **Ravi Kapur v. State of Rajasthan:** In *Ravi Kapur v. State of Rajasthan* (2012)<sup>5</sup>, the Supreme Court decided that determining reckless or negligent driving necessitates a careful assessment of the specific facts and circumstances involved. The driver of a vehicle might be held accountable for both their conduct and the results. The court emphasised that excessive speed does not always constitute negligence. Instead, the doctrine of reasonable care determines whether a driver took appropriate precautions. Furthermore, the court used the principle of *res ipsa loquitur*, which means "the thing speaks for itself," to infer carelessness from the circumstances of the accident when direct evidence was unavailable. These concepts are used differently in each circumstance, depending on the details provided.
3. **BMW Delhi Hit and Run Case<sup>6</sup>:** Sanjeev Nanda vs. State is one of the most famous case of the Indian history regarding hit-and-run matters. In this case Sanjeev Nanda drove a black BMW car in seven people in January 1999. Due to this 6 people were died and 1 was injured severely. The High Court of Bombay found that Mr. Nanda was guilty for Culpable Homicide not amounting to murder under Section 304 of Indian Penal Code. Later an appeal was filed by the accused for claiming the right of speedy trial and challenging the order passed by the High Court of Bombay. After hearing the appeal, the honourable Supreme Court overruled the judgement passed by the High Court of Bombay by changing Nanda's conviction from Section 304 of Indian Penal Code to Section 304A of the same act, and supreme court ordered 2 years of imprisonment to Sanjeev Nanda. Further with the dissatisfactory judgement by the Supreme Court in 2012, the Delhi Police filled an appeal to increase the sentence of imprisonment of Sanjeev Nanda as he was drunk while driving and was not having the licence for the same. The Police appealed to change the conviction from Section 304A to Section 304 of Indian Penal Code. The honourable Supreme Court quashed the appeal for the same.

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<sup>5</sup> *Ravi Kapur v. State of Rajasthan* (2012)

<sup>6</sup> *Sanjeev Nanda vs. State* (2009)

**4. Alister Anthony Pareira vs. State of Maharashtra<sup>7</sup>:** in this case the supreme court was of the view that Section 304 and 337 of Indian Penal Code can legally co-exist. In the morning of November 2006, a 21-year-old Alister Anthony drove his car over the labourers who were sleeping outside their huts, this led to the death of 7 people and 8 of them were injured severely at Bandra, Mumbai. When the police started their investigation, they found some alcohol traces in the body of the Anthony. Later the honourable high court of Bombay found Anthony guilty for death and causing injuries to the labourers under Section 304 Part II and section 337 of Indian Penal Code. Thereafter this judgement Anthony, Alister appealed against this decision in the Honourable Supreme Court of India. The Supreme court agreed with the order of the Bombay High Court that the accused Alister Anthony drove the car over labourers at a high speed while he was in the drunk state even, he was aware that labourer use to sleep outside their huts as he belongs to the same locality were those labour use to work. On behalf of the Anthony the counsel argued that the accused had already spent two months in jail and paid Rs. 8,50,000 as the compensation and ready to pay more. The council also urged to lower down the sentence ordered to the accused. But, the honourable Supreme Court refused to accept the contentions forwarded by the accused and said that there can be no changes in the punishment for the causing such an aggravated offence of killing seven precious lives of the people who were the bread earner for their family. Further, the Supreme Court upheld the decision of the Bombay High Court and held that the punishment of such serious offences cannot be reduced on the grounds of good conduct by the accused. Further, the Honourable Supreme Court held that Alister Anthony is liable to go under the punishment given by the High Court of Bombay.

**5. Theethi vs. Motor Accidents Claims Tribunal (1996):** In the case of Theethi vs. Motor Accidents Claims Tribunal (1996)<sup>8</sup>, it made the comparison between the Section 140 and Section 161<sup>9</sup>. It was held that to claim under section 161 of the Motor Vehicle Act, claimant must proof that the identity of the vehicle cannot be ascertained inspite of the various efforts for finding out same.

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<sup>7</sup> Alister Anthony Pareira vs. State of Maharashtra (2012).

<sup>8</sup> Theethi vs. Motor Accidents Claims Tribunal, 1996 (1) ACJ 609

<sup>9</sup> The Motor Vehicles Act, 1988.

6. **Pawan Kumar Sharma v. State of UP (1995):** In the case of Pawan Kumar Sharma v. State of UP (1995)<sup>10</sup>, Pawan Kumar, commonly known as Papoo, was convicted under Sections 279 (rash driving or riding on a public way), 304A (causing death by negligence), and 429 (mischief by killing or maiming animals) of the Indian Penal Code (IPC). He drove carelessly, crashing with a bullock cart from behind, killing both the cartman and a buffalo. The Allahabad High Court ruled that the conviction under Section 429 could not stand because there was no criminal intent (mens rea) to hurt or injure the humans or cattle in the cart. However, the court upheld the convictions under Sections 279 and 304A since the act fulfilled the legal conditions.

### **Insurance Companies and their Role in Compensating in Hit-and- Run Case**

As per the latest amendment in the Motor Vehicles (Amendment) Act, 2019 it mandated the third-party insurance of the motor vehicle both four wheelers and two wheelers. Basically, there three parties involved in the insurance policy- the insured, the insurance company and the third party<sup>11</sup>. If the person who is insured causes any injury to the third party with the motor vehicle, the insurance company will compensate the third party, but the insurance scheme will not provide any benefit or compensation to the insured for the loss that occurred in the course of the collision or the accident, between the two vehicles.

The insurance company can provide compensation for only those damages that are covered in the insurance policy on which both the parties agreed and the premium is paid. For example if the driver of a car is found under the influence of alcohol or was not in a good state to drive the vehicle in this case the company will not provide any compensation to the insured or the third party.

## **NAVIGATING THE LEGISLATION**

### **Bhartiya Nyay Sanhita**

For decades, India battled with the tragic consequences of hit-and-run cases, which were governed by Section 304A (causing death by negligence) of the Indian Penal Code (IPC), which imposed a maximum jail sentence of two years, a fine, or both. The charge is bailable and does not address the 'run' part of hit-and-run incidents. This deficiency in the IPC appears to be directly related to increased fatalities and injuries caused by hit-and-run accidents. As a result, a strong and

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<sup>10</sup> Pawan Kumar Sharma v. State of UP (1995)

<sup>11</sup> Majumder, A., A Critical Analysis of the Concept of No-Fault Liability in a Welfare State in Accordance with the Motor Vehicles Act, 1988.

comprehensive legal framework that takes into account all aspects of hit-and-run incidents became necessary.

The Bharatiya Nyay Sanhita is a significant step forward in India's legal system, representing a trend away from punitive tactics and towards justice and rehabilitation.

The Bharatiya Nyay Sanhita sanctions up to ten years in prison for deadly hit-and-run cases, a significant increase from the previous maximum of two years under the old Indian Penal Code. Drivers who report accidents promptly or aid victims are excluded from the harsh penalties, encouraging responsible behaviour and early reporting. The public outcry, particularly among truckers, has been significant, prompting rallies against the increasing harshness of sanctions. Comparisons with global norms reveal that, while the new law is consistent with international attempts to reduce road accidents through severe measures, it also exposes particular obstacles in the Indian setting. Future modifications to the law may focus on improving enforcement techniques and raising public knowledge in order to assure greater compliance and effectiveness.

### **MOTOR VECHICAL ACT**

Section 161 of the [Motor Vehicles \(Amendment\) Act, 2019](#), provides compensation for victims of hit-and-run accidents.- The compensation for death is Rs 2 lakh and for grievous hurt, it is Rs 50,000. Unlike Section 106 (2) of BNS, the compensation in this case is not recoverable from the drivers<sup>12</sup>.

To prevent such accidents, the Indian Penal Code, 1860, and the Motor Vehicles Act, 2019, both have stringent punishment and compensation measures for hit-and-run instances. Punishment under the Indian Penal Code, 1860, includes rules that address all aspects of accidents, making it hard for the guilty to avoid punishment. The revisions to the Motor Vehicle (Amendment) Act, 2019, such as mandatory third-party insurance for motor vehicles, cashless treatment in the golden hour, and increased compensation for victims of hit-and-run accidents, are tremendously advantageous in terms of improved medical care and other losses.

### **Indian Penal Code<sup>13</sup>**

Before implementing of Bhartiya Naya Sanhita The Indian Penal Code makes reference to the

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<sup>12</sup> Motor Vehicles Amendment ACT,2019

<sup>13</sup> Indian Penal Code,1856

punishment for driving the motor vehicle negligently and recklessly that causes threat and danger to the public safety. It's very common that majority of the hit-and-run cases are caused by driving negligently, recklessly and irresponsibly by the drivers of the motor vehicles. Following are the various provisions mentioned in the Indian Penal Code:-

1. Section 279: - This section talks about rash and negligent driving. Which states that any person driving a vehicle in a public place in a rash and negligent way causing or likely to cause injury or endanger the life of any person will be liable under this section<sup>14</sup>. Under this section if the person commits this offence, he or she will be liable for the imprisonment for a term of one year or a fine which, may extend up to Rs. 1000/- or both. The punishment and fine may differ on the basis of circumstances and cases. Offences under this section are bailable, cognizable and non-compoundable<sup>15</sup>.
2. Section 337: - This section deals with the hurt caused by a rash or negligent act that endangers the life or personal safety of people. The Court held that under section 279 rash or negligent driving is likely to result in the injury, but Section 337 is invoked when the act already results in the injury of the victim. For the commission of an offence under this section the person is punishable with the imprisonment for a term that may extend up to 6 months or liable with a fine of Rs. 500/- or both and the offence under this Section is bailable, cognizable and compoundable.
3. Section 338: - this section of Indian Penal Code states about the act done rashly and negligently which causes grievous hurt or endangers the life of the human beings. Grievous hurt refers as a serious kind of hurt, where a person is not able to perform his or her daily and ordinary tasks. For instance, if a vehicle met's with an accident and which results into a fracture or disfiguration of the face or privation of joint, sight or hearing problem permanently, the driver will be punished and charged under Section 338 of Indian Penal Code.
4. Section 304: States about the culpable homicide not amounting to murder. This provision of Indian Penal Code explains that of any person who commits any act that results into death of a person will be liable for imprisonment for a period of ten years or will be liable for fine or for both. The essential ingredient of this section is the person doing an act have the knowledge of the consequences after that accident. For instance if a person drives the vehicle at a high speed knowing the consequences of driving a vehicle at a high speed will result into the accident which may cause hurt or grievous hurt to the other person. In this section the offender has no intention to cause the hurt or grievous hurt to the other person.

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<sup>14</sup> Section 279, Indian Penal Code 1862.

<sup>15</sup> *Ibid.*

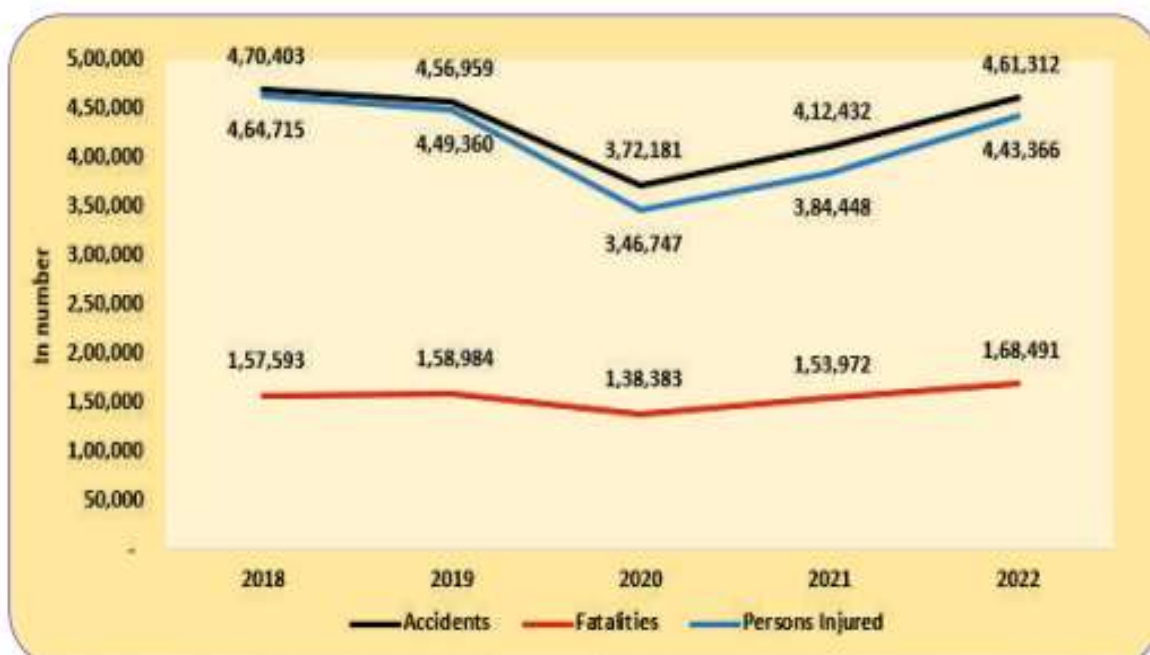
## STATISTICS

The [National Crime Records Bureau](#) recorded 47,806 hit-and-run incidents which resulted in the deaths of 50,815 people in 2022<sup>16</sup>.

**Table 1.1: Total number of Accidents, Fatalities and Persons Injured during 2018 to 2022**

Year	Accidents	% change over previous period	Fatalities	% change over previous period	Persons Injured	% change over previous period
2018	4,70,403	0.2	1,57,593	5.1	4,64,715	-0.6
2019	4,56,959	-2.9	1,58,984	0.9	4,49,360	-3.3
2020	3,72,181	-18.6	1,38,383	-13.0	3,46,747	-22.8
2021	4,12,432	10.8	1,53,972	11.3	3,84,448	10.9
2022	4,61,312	11.9	1,68,491	9.4	4,43,366	15.3

**Chart 1.1: Trends in number of Accidents, Fatalities and Persons Injured: 2018 to 2022**



<sup>16</sup> Report by National Crime Record Bureau.

**Table 1.2: Major Parameters of Road Accidents- 2022 vis-à-vis 2021**

Parameter	2021	2022	% Change
Number of Accidents	4,12,432	4,61,312	11.9
Number of Persons killed	1,53,972	1,68,491	9.4
Number of Injury	3,84,448	4,43,366	15.3
Accident Severity (Persons killed per 100 accidents)	37.3	36.5	2.14

### **CONCLUSION AND SUGGESTIONS**

Hit-and-run offences are strictly prohibited in a number of nations. Eventually, such countries developed a culture of pausing and contacting authorities and support networks during the golden hour, saving many lives. While the new hit-and-run law in the BNS will face controversy, its benefits cannot be overstated. While transporters and commercial drivers have legitimate concerns, steps can be put in place to protect their interests, such as public awareness campaigns and actions to address the core causes of accidents. Finally, the new law demonstrates a commitment to making roadways safer and a more fearless environment for all stakeholders. The proposed methods to improve road safety in India include the state-wide use of speed detection equipment such as Radar (Radio Detection and Ranging), with fines ranging from Rs. 1000 to Rs. 2000 for breaching speed restrictions. This project tries to reduce the leading cause of accidents, over speeding.

Furthermore, the government must prioritise and distribute adequate funding for road safety research programmes, identifying essential areas for development. Effective driver awareness training programmes should be implemented in all Indian states to teach and encourage safe driving practices. Finally, to protect the constitutional right to live with dignity, the Hit and Run Motor Accident Scheme-2022 must be implemented uniformly across the country, assuring compensation for victims of such accidents. These combined steps can make India a safe place and avoiding hit and run cases across the country,

The hit-and-run case became widely known following the Salman Khan hit-and-run in 2002. In one case, he was charged with driving his automobile into a group of homeless individuals on the

footpath. There have been many high-profile instances in India, but only a few have received notice. The most common causes of hit-and-run accidents are rash driving, driving while intoxicated, and so on. Victims receive extremely low compensation. However, a measure is currently in parliament to boost the amount from 25 thousand to 2 lakhs.

