

AS INTRODUCED IN THE RAJYA SABHA
ON THE 24TH NOVEMBER, 2006.

Bill No. LXXXIX of 2006.

THE ACCIDENT VICTIMS (COMPULSORY EMERGENCY MEDICAL
AID BY PRIVATE HOSPITALS AND MEDICAL PRACTITIONERS)
BILL, 2006

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BILL

to provide for compulsory emergency medical aid to the victims of accidents by private hospitals and medical practitioners and for building confidence amongst the members of the public to come forward and help the accident victims and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Accident Victims (Compulsory Emergency Medical Aid by Private Hospitals and Medical Practitioners) Act, 2006.

Short title,
extent and
commencement.

5 (2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "medical practitioner" means person holding medical qualification recognized under the Indian Medical Council Act, 1956;

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(c) "medico legal case" means an accident case requiring compulsory information to the police for the purpose of taking cognizance and other formalities of registration of FIR, etc;

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(d) "private hospital" includes private nursing homes and clinics being run by a medical practitioner or a group of medical practitioners or a trust or society;

(e) words and expressions used in this Act and not defined but defined in the Indian Medical Council Act, 1956 shall have the same meaning assigned to them in that Act.

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Compulsory medical aid to accident victims.

3. (1) No private hospital or medical practitioner shall refuse to provide emergency medical aid to the victims of accidents on the ground that the victims have been injured in a medico legal case.

(2) The appropriate Government shall ensure that no private hospital or medical practitioner refuses to provide emergency medical aid to the victim of accidents by issuing such directions as may be necessary and prescribed.

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Hospital and Medical Practitioner to conduct initial examination and stabilize the condition of the victim.

4. (1) It shall be the duty of every private hospital or medical practitioner, to conduct an initial examination of the victim and decide about the requirement of emergency treatment whenever any accident victim is taken to them.

(2) In case it is required, the private hospital or the medical practitioner shall make all necessary efforts to stabilize the condition of the victim.

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(3) If the private hospital or the medical practitioner does not have the facilities for examination, and stabilizing the condition of the victim or emergency medical aid, the victim shall be immediately transferred to the nearby hospital having all these facilities.

(4) The private hospital or the medical practitioner, providing emergency treatment to the accident victim shall, in such form as may be prescribed, send to the appropriate Government, a claim for reimbursement of the expenditure incurred on the emergency medical treatment of the accident victims.

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(5) The private hospital or the medical practitioner shall, within twenty-four hours of providing the emergency medical aid to the victim inform to the police station having jurisdiction of that area about the details of the accident victim.

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Appropriate Government to frame scheme for reimbursement to the Private hospital or the medical practitioner.

5. The appropriate Government shall, by notification in the Official Gazette, publish a scheme for reimbursement of the expenditure incurred by any private hospital or medical practitioner in providing emergency medical aid to the accident victims.

Members of the public helping the accident victim not to be questioned unnecessarily and detained.

6. (1) The appropriate Government shall ensure that the members of the public or the medical practitioners who help the accident victim are not unnecessarily questioned or detained at police stations:

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Provided that if such a person does not want to disclose his identity he shall not Compelled be to do so.

(2) **The appropriate Government shall ensure that the member of the public who takes the accident victim to any hospital or to any medical practitioner is paid transportation charges then and there in such manner as may be prescribed.**

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7. The appropriate Government shall through seminars, conferences, etc. undertake such confidence building measures as may be necessary to encourage members of the public to come forward to help the accident victims. Appropriate Government to build confidence in members of the public.
- 5 **8. The Central Government shall, after due appropriation made in this behalf, provide such sums of money as it may think fit for being utilized for the purposes of this Act.** Central Government to provide funds.
9. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act shall be punishable with imprisonment for a term, which may extend to three years or with fine, which may extend to five lakh rupees or with both. Penalty.
- 10 **10.** Where a person committing a contravention of any of the provisions of this Act or of any rule made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Offence by companies.
- 15 Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.
- Explanation.*—For the purpose of this section:—
- (i) "company" means anybody corporate and include a firm or other association of individuals; and
- 20 (ii) "director", in relation to a firm, means a partner in the firm.
- 11.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.
- 25 Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.
- 12.** The provisions of this Act shall be in addition to, and not in derogation of the provisions in any other law, for the time being in force, relating to accident victims. Overriding effect of the Act.
- 30 **13.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Accidents are unfortunate and can happen with anybody at any time. But, the more unfortunate and sad part of it is the indifferent attitude of the people and medical practitioners towards the accident victims. Ironically, accident site attracts instant crowd but the victim who needs immediate attention is ignored due to fear of getting entangled in police case. Even if a fortunate victim is picked up by some good samaritan, he is stuck up at the private hospital or the medical practitioner who refuses to provide emergency medical aid stating it to be a medico legal case. As a result of this refusal by hospital and medical practitioner, the precious time available with them to save the life of the victim is lost leading to loss of life of the individual. In a civilized society, such an act by these hospitals and doctors goes against the ethics of their profession besides being against the morality. It becomes the duty of a person in the medical profession to save a precious life without going into the legality of the accident. The people and the medical professionals do not come forward to help the victim mainly due to fear of harassment. At time, it has also been seen that private hospitals and medical practitioners refuse to provide treatment as the victims are not in a position to make payment for immediate medical care or have no medical insurance which would entitle them to reimbursement.

Besides being victims of accidents at construction site or in public violence, these victims mainly belong to road accidents. According to the World Report on Road Traffic Injury Prevention released by WHO in 2004, 12 lakh people die each year in road accidents. The report highlighted that while in high income countries, there is reasonably well organized ambulance based rescue system, in middle and low income countries, assistance of bystander is most common (which is devoid of in our country). Further, it is a proven fact that a number of accident victims can be saved if they receive immediate medical attention.

In *Pt. Parmanand Katara vs Union of India* AIR 1989, the Hon'ble Supreme Court had observed as under.

"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 and requested to attend to an injured person needing his medical assistance immediately. The effort to save the person should be a top priority not only of the medical professional but of the police and other citizens, There are no provisions in the Indian Penal Code/Code of Criminal Procedure/Motor Vehicles Act which prevents doctors from promptly attending to seriously injured persons and accident cases before the arrival of the police and taking into cognizance of such cases, preparation of FIR and other formalities by Police."

Following the Supreme Court Judgement in 1989, the Motor Vehicles Act was amended in 1994 and under section 134, it was made mandatory for the driver and the owner of the vehicle to take the accident victim to the nearest doctor and for the doctor to treat the victim without waiting for any formality. But, even after all this, the situation has not improved.

In addition to this, in view of the dubious distinction of maximum road accident in our country, there is an urgent need for confidence building amongst the public and the medical practitioners so that they come forward and help the accident victims in time to save their lives. In many countries, there are laws making it compulsory for hospitals and medical practitioners to provide treatment to accident victims and these laws provided for punishment if they refuse to do so.

In view of the above, legislation on this subject is long overdue.

Hence this Bill.

MAHENDRA MOHAN

FINANCIAL MEMORANDUM

Clause 5, of the Bill provides that the appropriate Government shall frame scheme for reimbursement of the expenditure incurred by the private hospital or the medical practitioner in providing emergency medical aid to the accident victims. Clause 6 provides that appropriate Government shall ensure that the member of the public who takes the accident victim to the hospital or to the medical practitioner will be paid transportation charges. The expenditure on this account for Union Territories shall be borne by the Central Government. Further, Clause 8 provides that the Central Government shall make the funds available for being utilized for the purpose of this Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of rupees twenty crore per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause **13** of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of legislative powers is of normal character.

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(Shri Mahendra Mohan, M.P.)