India's new hit-and-run law

Why in news?

Transporters and commercial drivers from States like Maharashtra, Chhattisgarh, West Bengal, and Punjab have staged protests against the recent legislation concerning hit-and-run incidents.

What is the new law?

Road Accidents in India in 2022
• India witnessed a year-on-year increase of 12% in road accidents and ***9.4% in fatalities*** in the same year while there is a 5% global decrease in road crash deaths. • It registered the highest count of road crash fatalities, ***exceeding 1.68 lakh deaths***. • An average of 462 deaths daily and 19 deaths every hour which amounts to nearly ***1 death every 3 and a half minutes***. • Over 50% of all road fatalities occurred on national and State highways, which form less than 5% of the total road network. • With only 1% of the world's vehicles, India accounts for ***about 10% of crash-related deaths*** and incurs an economic loss of ***5-7% of its GDP*** annually due to road crashes.

- **Principle underlying the law** – It wants to prevent drivers from engaging in rash and negligent driving that may lead to death.

  The National Crime Records Bureau (NCRB) recorded 47,806 hit and run incidents which resulted in the deaths of 50,815 people in 2022.

- It creates a *positive obligation* on part of the offender to report such an incident to the police or magistrate
- *It enforces moral responsibility on the part of the offender towards the victim of a road accident.*
- *Such conversion of moral responsibility into a legal duty is* not new to cases pertaining to motor vehicle accidents.
    - For instance, *Section 134 of the Motor Vehicles Act, 1988*, requires the driver to take all reasonable steps to secure medical attention for the injured person unless it is not practicable on account of mob fury.

  In the case of ***Rajesh Tyagi versus Jaibir Singh (2021),*** *Delhi High Court had formulated that the offender fleeing from the spot as a significant factor for motor accidents claim.*

- **Provision** – Section 106 (2) of the Bharatiya Nyaya Sanhita, 2023.
- **Hit and Run** – It is an offence for fleeing an accident spot and failing to report the incident to a police officer or a magistrate.

Section 304A of the Indian Penal Code, 1860 *also covers provision on causing of death due to rash or negligent acts under*

- **Penalty** – It is up to 10 years in jail and Rs 7 lakh fine.
    - Section 106 (1) of the BNS applies to rash or negligent driving where if the driver reports the matter to the police, they shall incur a punishment of up to 5 years with a fine.

What are the concerns with the new law?

- **Primary concern** – Severe punishment of imprisonment and a fine for the drivers.
- **Not aligned with the realities of road transport** – It fails to consider
    - Driver's *challenging work conditions*, including long driving hours and *difficult roads*.
    - The factors beyond the driver's control, such as *poor visibility due to fog*.
    - The *scenario of mob violence against drivers* in the event that they stop to assist the injured at accident sites.
- It may be abused by law enforcement agencies to their detriment.
- **Against the principles of equality**– An exception under 106 (1) of the BNS ***for doctors***, where the punishment will be up to 2 years with a fine.
- **Other issues** – There is no actual mention in the BNS about the fine being Rs 7 lakh.
- Despite increase in the quantum of punishment, the offence has not been made *non-bailable.*
- **Mismatch with existing provision** – Section 161 of the Motor Vehicles (Amendment) Act, 2019, provides Rs 2 lakh compensation for victims of hit-and-run accidents 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.

What lies ahead?

- **Moderate and grade the liabilities** - The liability of a wide variety of people working in different sectors needs to be moderated as done with doctors.
- It needs to provide a separate punishment for the acts of rash driving and negligent driving.
    - For road accidents resulting in minor injuries, measures like community service or revoking of driving licences or mandatory driving retests etc. could be imposed.
- **Consider contributory factors in negligent acts** – The behaviour of commuters, road conditions, lighting on the road, etc. must be considered.

References

1. The Hindu| India's New Hit and Run Law
2. The Indian Express| Need for reforms in new law

