



Protection of good Samaritans: A study in the light of Supreme Court's decision in save life foundation case

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Abstract

Good Samaritans have the fear of legal consequences, involvement in litigation and repeated visits to police station. There is urgent need to tackle these issues. There is need to establish legal framework so that Good Samaritan is empowered to act without any fear of adverse consequences or harassment. Save life must be the top priority. This research paper discuss the rights and protection of good Samratians which has decided by supreme court in case of save life foundation.

Keywords: good samaritans, bystanders, golden hour, right to life

1. Introduction

Whenever we open a newspaper we come across news of road accidents and the number of deaths caused. Not only this while travelling on a road we come across road accident incidences too and we do pray or hope the victims to be fine. But if we are a witness to such accident and find a victim in such situation, we do get into the dilemma of whether to help out the victim or not. We will rather find someone to help such victim or call an ambulance and police. By doing such we free ourselves from the burden by putting it on Police and the ambulance personal. And why so, why we can't drop such victim to a hospital or try some first aid treatments? The answer to this question is that we just don't want to get involve into the procedural hassle.

So many accidental deaths are caused because of getting delayed treatments. The bystanders are scared to help because they know that they will be detained at the hospital for long, then there will be police inquiry and they will have to attend court trials as witness. Many of the good Samaritans have to go through these hassles. This doesn't sound encouraging to others who wish to help.

Now there's good news for all those who do really wish to help such victims. An NGO called Save Life Foundation by their efforts and concern filed a PIL for the purpose of protecting the good Samaritans. For that the victims get timely help so that their lives could be saved. [Landmark judgment *Save life Foundation & Anrv. Union of India & Anr.* dated March 30, 2016].

The petitioner 'Save Life Foundation', a non-profit, non-governmental organization filed petition under Article 32 of the Constitution of India in public interest for the development of supportive legal framework to protect Samaritans i.e., bystanders and passers-by who render the help to the victims of road accidents. The petitioner aimed to create a unique network of medical responders to come to the victim's aid. The petitioner also drafted recommendations to address the critical deficiencies in the Motor Vehicles Act and other laws governing road safety.

The petitioner contended that the Department of Road Transport was responsible for framing motor vehicle legislation and evolving road safety standards in India. The WHO in its 'World Report on Road Traffic Injury Prevention, 2004' has projected that by 2020, road accidents will be one of

the biggest killers in India. People are hesitant to render immediate help to the road accident victims. The victims lay wounded on the road for some time till the arrival of police. Delay rendering medical help in such cases sometimes is fatal. Good Samaritans have the fear of legal consequences, involvement in litigation and repeated visits to police station. There is urgent need to tackle these issues. There is need to establish legal framework so that Good Samaritan is empowered to act without any fear of adverse consequences or harassment. Save life must be the top priority.

Accident cases require fastest care and rescue which could be provided by those closest to the scene of the accident. Bystanders' clear support is essential to enhance the chances of survival of victim in the 'Golden Hour' i.e., the first hour of the injury. As per the WHO India Recommendations, 50% of the victims die in the first 15 minutes due to serious cardiovascular or nervous system injuries and the rest can be saved through by providing basic life support during the 'Golden Hour'.

Right to life is enshrined under Article 21 which includes right to safety of persons while travelling on the road and the immediate medical assistance as a necessary corollary is required to be provided and also adequate legal protection and prevention from harassment to good Samaritans.

The people have the notion that touching the body could lend them liable for police interrogation. Passerby plays safe and chose to wait for the police to arrive whereas injured gradually bleeds to death.

The Court observed: "It remains undisputed before us that it is not insufficiency of law but it is implementation of law which is a matter of concern. Different guidelines including guidelines for ambulance Code, emergency care and appropriate directions to the hospitals on the highways for handling the accident trauma patients, as a top priority are stated to have been issued. And it constituted a Committee consisting of 8 members to submit the suggestions."

2. Standard Operating Procedure

The Central Government issued the following standard operating procedure, namely:

1. The Good Samaritan shall be treated respectfully and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.

2. Any person who makes a phone call to the Police Control Room or Police Station to give information about any accidental injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number etc.
3. Any police official, on arrival at the scene, shall not compel the Good Samaritan to disclose his/her name, identity, address and other such details in the Record Form or Log Register.
4. Any police official or any other person shall not force any Good Samaritan who helps an injured person to become a witness in the matter. The option of becoming a witness in the matter shall solely rest with the Good Samaritan.
5. The concerned police official(s) shall allow the Good Samaritan to leave after having informed the police about an injured person on the road, and no further questions shall be asked if the Good Samaritan does not desire to be a witness in the matter.

3. Examination of Good Samaritan by the Police

- i) In case a Good Samaritan so chooses to be a witness, he shall be examined with utmost care and respect and without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds.
- ii) In case a Good Samaritan chooses to be a witness, his examination by the investigating officer shall, as far as possible, be conducted at a time and place of his convenience such as his place of residence or business, and the investigation officer shall be dressed in plain clothes, unless the Good Samaritan chooses to visit the police station.
- iii) Where the examination of the Good Samaritan is not possible to be conducted at a time and place of his convenience and the Good Samaritan is required by the Investigation Officer to visit the police station, the reasons for the same shall be recorded by such officer in writing.
- iv) In case a Good Samaritan so chooses to visit the Police Station, he shall be examined in a single examination in a reasonable and time-bound manner, without causing any undue delay.
- v) In case the Good Samaritan speaks a language other than the language of the Investigating Officer or the local language of the respective jurisdiction, the Investigating Officer shall arrange for an interpreter.
- vi) Where a Good Samaritan declares himself to be an eye-witness, he shall be allowed to give his evidence on affidavit, in accordance with section 296 of the Code of Criminal Procedure, 1973 (2 of 1974) which refers to Evidence in Formal Character on Affidavit.
- vii) The complete statement or affidavit of such Good Samaritan shall be recorded by the Police official while conducting the investigation in a single examination.
- viii) In case the attendance of the Good Samaritan cannot be procured without delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, or his examination is unable to take place at a time and place of his convenience, the Court of Magistrate may appoint a commission for the examination of the Good Samaritan in accordance with section 284 of the Code of Criminal Procedure, 1973 (2 of 1974) on an application by the concerned.

The Superintendent of Police or Deputy Commissioner of Police or any other Police official of corresponding seniority heading the Police force of a District, as the case may be, shall be responsible to ensure that all the above mentioned procedures are implemented throughout their respective jurisdictions with immediate effect.

The Court modified para 2(vii) as: "The affidavit of Good Samaritan if filed, shall be treated as complete statement by the Police official while conducting the investigation. In case statement is to be recorded, complete statement shall be recorded in a single examination." and approved remaining guidelines.

It also directs that the court should not normally insist on appearance of Good Samaritans as that causes delay, expenses and inconvenience. The concerned court should exercise the power to appoint the Commission for examination of Good Samaritans in accordance with the provisions contained in section 284 of the Code of Criminal Procedure, 1973 *suomotu* or on an application moved for that purpose, unless for the reasons to be recorded personal presence of Good Samaritan in court is considered necessary.

However, it clarified that guidelines in relation to protection of a Good Samaritan are without prejudice to the liability of the driver of a motor vehicle involved in a road accident as specified under section 134 of the Motor Vehicles Act, 1988.

By allowing the petition the court recorded that guidelines be approved and be enforced as binding till appropriate legislative provisions are made. And directed that the scheme framed by the Central Government and the order be widely published through electronic media and print media for the benefit of public so that public is made aware and that serves as impetus to good Samaritans to extend timely help and protection conferred upon them without incurring the risk of harassment. Well if these instructions are followed with heart by the citizens then many lives will be saved. It is said that saving life of someone is the biggest good deed of all. No donation is as priceless as giving or saving someone's life.

4. References

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