

INTHE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. OF 2018  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:-

Rakesh Kumar Singhal  
R/o B-4/107, Paschim Vihar  
New Delhi

...Petitioner

Versus

Union of India  
Through the Secretary,  
Ministry of Road Transport and Highways  
Transport Bhawan  
1, Parliament Street  
New Delhi-110001.

...Respondent

AND IN THE MATTER OF:

A Petition (PIL) Under Article 32 of the Constitution of India to secure the right to life guaranteed under Art. 21 of the Constitution, for the injured victims of road accidents.

AND IN THE MATTER OF:

An appropriate Writ, Order or Direction upon the Respondent to universally extend 'cashless treatment' to all injured victims of road accident in country and to direct them to issue appropriate orders/directions to all hospitals/medical institutions to provide free medical treatment to all such injured victims of road accident.

TO,

THE HON'BLE CHIEF JUSTICE OF THE HON'BLE HIGH COURT AND HIS  
COMPANION JUSTICES AT HIGH COURT OF DELHI AT NEW DELHI  
THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED  
MOST RESPECTFULLY SHOWETH:

1. That the petitioner is filing the instant petition (PIL) under Article 32 of the Constitution of India is being filed for issuance of a Writ of

Mandamus or other directions to the respondents directing them to universally extend 'cashless treatment' to all injured victims of road accident in country and to direct them to issue appropriate orders/directions to all hospitals/medical institutions to provide free medical treatment to all such injured victims of road accident, to secure the 'Right to Life' guaranteed under Article 21 of the Constitution of such victims.

2. That the petitioner has not filed any other similar petition before this Hon'ble Court or any other High Court for seeking same relief as prayed in the present one.
3. That petitioner has no personal interest in reliefs sought in hand and he pro bono prefers the present PIL being moved by the plight of the injured victims of road accident who being denied immediate medical help, suffered by death or severe disability of permanent nature, only because either the nearest hospital was a private hospital or there was no one from family to bear the expense of the treatment.
4. That this Hon'ble Court has the Jurisdiction to entertain and decide the present writ petition as the matter is of public concern related to disadvantaged group of injured victims of road accidents.
5. That the Petitioner herein is a private person and a public spirited Citizen of India and is moved by the plight of the injured road accident victims, many of whom died due to non availability of Government hospitals nearby and refusal of treatment by private

hospitals and Respondent therein namely Union of India is a State within the meaning of the Article 12 of the Constitution of India.

6. That respondent therein UNION of India is State within the ambit of Article 12 of the Constitution of India. Petitioner states that Right to Life is a Natural Right and it is the constitutional duty of the State to protect, nourish and respect every human life irrespective of the caste, creed, gender, religion and nationality of the person.
7. India is the member of United Nation (hereinafter UN) and is signatory of the UN Declaration of Human Rights securing to its citizen 'access to public service' (Art. 21), 'right to social security and entitlement to realization, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality' (Art. 22) and the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.' (Art. 25).
8. Petitioner states that government hospitals are scarce in India and private medical institutions/hospital operate on the motive of profit and therefore in the absence of Government intervention or promise to bear the cost if necessary, private hospitaling general refuse to extend medical assistance or serious treatment to the seriously injured victims of road accidents either due to their incapacity to bear the cost of treatment or due to absence of any

family member or any other person who is ready to bear the cost of such treatment at critical time also referred to as 'Golden Hour' and absence of proper medical assistance in the critical Golden Hour is one of the major cause of deaths and prolonged or permanent disabilities and lifelong complications in the injured victims.

9. That one of the latest Report on road accidents, "Controlling the "Carnage on Indian Roads" by Ravinder Goyal, Shikha Juyal and Shashvat Singh published in the website of Niti Aayog quoting from various government sources that among "BRICS (Brazil, Russia, India, China and South Africa) nations contribute to 20% of the world's road accident deaths and India top the list. While India has less than 3% of the world's vehicles, it accounts for about 11% of the world's road deaths. In 2016, our roads saw 4,80,652 accidents, injuring 4,94,624 and killing 1,50,785 persons. This translates to, on an average, into 1,317 road accidents and 413 fatalities every day; or 55 road accidents and 17 deaths every hour. The number of fatal road accidents have been increasing consistently since 2005 and stood at 1,36,071 in 2016. Consequently, accident severity expressed in terms of the number of persons killed per 100 accidents, has gone up from 29.1 in 2015 to 31.4 in 2016. Therefore, it is nothing short of "carnage on the roads". The true copy of the report "Controlling the "Carnage on Indian Roads" by Ravinder Goyal, Shikha Juyal and Shashvat Singh is annexed herewith as ANNEXURE-1.
10. That road accidents inflict trauma on victims and socio-economic burden on their families. Aforesaid report states, "Due to a rapid

urbanization, the menace of road traffic crash is increasing in India, and the worst victims are those in the productive age group of 18–45 years. Among those who lost their life in 2016 due to road accidents, a staggering 68.6% were from this category. A vast majority of these victims are non-motorized road users and motorcyclists, who are generally from the economically weaker sections of the society. Thus, road safety must be accorded a national priority in our country and adequate steps need to be taken for realising it.”

11. That aforesaid report among other recommends, “Adequate attention must be accorded to the needs of persons using non-motorised transit which accounts for 66% of India’s 2008 national average mode share. The drivers of two wheelers are the most vulnerable; constituting 34.8% of total persons skilled in 2016. No road safety intervention could be successful unless the needs of those road users are considered.”
12. That India is also a member of World Health Organisation (herein after WHO). World Health Organization/World Bank World report 2004 on road traffic injury prevention recognized, ‘road traffic injuries are a major public health problem and leading cause of death and injury around the world’. WHO’s ‘Global status report on road safety 2015’, road traffic and safety is represented as a major development issue, public health problem and leading cause of death and injury around the world, as crashes kill more than 1.25 million people and injure as many as 50 million a year, with 90% of these casualties occurring in developing countries. WHO profile of

India on Post-Crashcare identifies its gaps in terms of lack of Emergency room injury surveillance system, Multiple Emergency access telephone numbers and Permanently disabled due to road traffic crash 2.0–3.0%. The WHO profile of India on Post-Crashcare is annexed herewith as Annexure P-2.

13. India is also signatory to 'Brasilia Declaration on Road safety' under which by 2020, it has committed to reduce the number of road accidents and fatalities by 50%. Brasilia Declaration, underlines 'the important role of public health in terms of reducing road traffic fatalities and injuries and improving health outcomes, as well as the role of health systems, including through universal health coverage'. It states that 'road crashes are the leading cause of death around the world for children and youth aged 15-29 years' and recognized, 'that human suffering, combined with global costs estimated at USD 1,850 billion a year, turns reducing road traffic deaths and injuries into an urgent development priority, and that investment in road safety has a positive impact on public health and economy.' The true copy of the Brasilia Declaration on Road safety is annexed herewith as ANNEXURE P-3.

14. That the Declaration noted that overwhelming majority of road traffic deaths and injuries are predictable and preventable and that at the mid-point of the Decade of Action much remains to be done, despite some progress and improvements in many countries, including in developing countries and recognized that there is a shared responsibility to move towards a world free from road traffic

fatalities and serious injuries, and that addressing roads safety demands multistakeholder collaboration. It also took into account that road traffic deaths and injuries are also a social equity issue, as the poor and the vulnerable are most frequently also vulnerable road users (pedestrians, cyclists, users of motorized two- and three-wheeled vehicles and passengers of unsafe public transport), who are disproportionately affected and exposed to risks and road crashes, which can lead to a cycle of poverty exacerbated by income loss; and recalling that the aim of roads safety policies should be to guarantee protection to all users;

15. Earlier in year 2009, First Global Ministerial Conference on Road Safety: Time for Action; Moscow Declaration while accepting that 'in addition to the enormous suffering caused by road traffic deaths and injuries to victims and their families, the annual cost of road traffic injuries in low-income and middle-income countries run to over USD 65 billion exceeding the total amount received in development assistance and representing 1–1.5% of gross national product, thus affecting the sustainable development of countries', it expressed its concern, 'that more than 90% of road traffic deaths occur in low-income and middle income countries' and underlined 'lack of adequate trauma care and rehabilitation' as one of the factors. The declaration acknowledged the findings of the World Health Organization/UNICEF World report on child injury prevention which identifies road traffic injuries as the leading cause of all unintentional injuries to children and recognized that the road safety crisis can only be implemented through multi-sectoral

collaboration and partnerships among all concerned in both public and private sectors, with the involvement of civil society and resolved to 'Strengthen the provision of pre-hospital and hospital trauma care, rehabilitation services and social reintegration through the implementation of appropriate legislation, development of human capacity and improvement of access to health care so as to ensure the timely and effective delivery to those in need; and recommended to encourage among others private sector and actions to improve post-crash response and rehabilitation services by strengthening pre-hospital care, including emergency health services and the immediate post-crash response, hospital and ambulatory guidelines for trauma care, and rehabilitation services, through the implementation of appropriate legislation, capacity building and improvement of timely access to integral health care.

The true copy of the 2009, First Global Ministerial Conference on Road Safety: Time for Action; Moscow Declaration is annexed herewith as ANNEXUREP-4.

16. Government of India has approved a National Road Safety Policy that outlines various policy measures pertaining to road safety, including identifying needs of vulnerable road users and ensuring medical facilities for road accident victims. The National Road Safety Council has been constituted as the apex body to take policy decisions in matters of road safety. The National Road Safety Policy 2018 keeping in view the target of 'Brasilia Declaration' also has improving emergency care as one of its focus points. The true copy of the National Road Safety Policy is annexed herewith as ANNEXUREP-5.



17. Article 21 of the Constitution of India makes 'Protection of life and personal Liberty' a Fundamental Right and Directive Principles of State Policy provides fundamentals of 'the governance' imposing duty upon the Respondent to strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. (Article 38), to secure the health and strength of men and women (Article 39(e)), to make effective provision for securing the public assistance in cases of sickness and disablement, and in other cases of undeserved want (Article 41), to endeavor to the improvement of public health.

18. This Hon'ble Court in State of Punjab v. Mohinder Singh Chawla (1997) 2 SCC 83. while deciding regarding the Government's responsibility to bear the expenses of treatment has held, "It is now settled law that right to health is an integral part of right to life. Government has constitutional obligation to provide the health facilities".

19. In Pt. Parmanand Katarava v. Union of India & Ors 1989 SCR (3) 997 pertaining to medico-legal cases of road accident, this Hon'ble Court held that Article 21 of the Constitution casts the obligation on the State to preserve life. There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. Every doctor whether at a Government hospital or otherwise

has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statute or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way.

20. In case of injury involving train, this Hon'ble Court in *Paschim Banga Khet Mazdoorsamity vs State Of West Bengal & Anr* 1996 SCC(4)37, in context of availability of facilities in Government hospitals for treatment of persons sustaining serious injuries, held,
- “It is no doubt true that financial resources are needed for providing these facilities. But at the same time it cannot be ignored that it is the constitutional obligation of the State to provide adequate medical services to the people. Whatever is necessary for this purpose has to be done. In the context of the constitutional obligation to provide free legal aid to a poor accused this Court has held that the State cannot avoid its constitutional obligation in that regard on account of financial constraints. [See: *Khatri (II) v. State of Bihar*, 1981(1)SCC627 at p.631]. The said observations would apply with equal, if not greater, force in the matter of discharge of constitutional obligation of the State to provide medical aid to preserve human life.”

21. This Hon'ble Court in the pending WRIT PETITION (CIVIL) NO. 295

OF2012S.RajaseekaranvsUnionOfIndia&OrsinOrderdated22 April,2014referringtothepilotprojectintroducedalongastretch ofNH-8betweenDelhiandJaipurwherein11ambulanceshadbeen deployedatintervalsof20kilometersandthegovernmenthas undertakentobearthetreatmentcostuptoRs.30,000/-forthe initial48hoursandtotheNationalHighwayAccidentReliefService Scheme(NHARSS),hasobservedthat;

“30.Insofarasemergencyisconcernedthereis perhapsnodenialofthefactthatmanydeathsandlossof limbsandseriousdisfigurationofvictimscanbesavedby timelymedicalattention.Lackofadequatenumerofgood samaritans;squabblesbetweenpolicestationsand administrativeauthoritiesoverjurisdiction;lackofquick responseinremovingthevictimstohospitalsandcentresof medicalcareduetolackofnecessaryinfrastructurelike ambulances;absenceofadequateandwellspreadout numberofhospitalsandmedicalcentres;thepoorcondition andlackofadequateinfrastructureingovernmentrun hospitalsandhealthcentresandtheprohibitivecostsof healthcarefacilitiesinthemoreadvancedcentresof medicalcarebesidesinsistenceoflargedepositofmoney bysuchadvancedhealthcarecentresinthepriatesectors aresomeoftheproblemsthathaveseriouslyplaguedpost trauma/accidentcareinthecountry.Asalreadynoted, limitedattemptshavebeenmadeonexperimentalbasisand thattoonationalhighwaysalonetoprovidebetter amenitiesandalsototakecareofthefundrequirementsfor

the first 48 hours following the accident. The experiment need to be extended by the Central Government to more stretches of the National Highways besides introduction and implementation of such measures by the States in the roads under their control and jurisdiction.”

This Hon'ble Court constituted a Committee under the Chairmanship of Hon'ble Justice K.S. Radhakrishnan to supervise the progress and implementation of Government measures as well as directions of this Court.

22. That on 30.11.2017 this Hon'ble Court recorded the callous attitude of the respondent and lack of positive response from the State Government to the recommendations of the aforesaid Committee and dealing with the issue pertaining to this Writ Petition i.e. Emergency Medical Care, it was suggested by the Amicus Curiae to direct for Trauma Care Centre for every district with all modern medical facilities, and same was agreed to by the Respondent and States.
23. That the petitioner states that it is well recognized and generally accepted fact of medical emergency that in the cases of severe trauma, especially internal bleeding, surgical intervention is required.

Complications such as shock may occur if the patient is not managed appropriately and expeditiously. It is necessary to provide definitive treatment to injured victims as fast as possible because some injuries can cause a trauma patient to deteriorate extremely rapidly, the lag time between injury and treatment should ideally be

kept to a bare minimum; this has come to be specified as no more than 60 minutes, after which time the survival rate for traumatic patients is alleged to fall off dramatically and is referred to as 'Golden Hour'. The 'golden hour' is a widely accepted concept that emphasises the urgency of care required by major trauma patients to prevent 'early deaths' predominantly from haemorrhage. Trauma deaths are classified as having a trimodal distribution, 1. Immediate, 2. Early and 3. Late. Immediate deaths occur within seconds to minutes after injury and are usually unpreventable. Early deaths are those which occur minutes to hours after injury and are usually haemorrhage related and urgent definitive medical intervention can not only prevent death but also arrest the severity of consequent disability.

24. That National Road Safety Policy recognises that road accidents is a leading cause of death in the country. It has also recognised the importance of addressing road safety in order to reduce the number of accidents, deaths and injuries on the road. The proposed action involves, Emergency Medical Amenities for Accidents on the Road which include efforts to ensure that everyone who is involved in accidents on the road to get quick, superior medical care. The main features of such medical care include, efficient rescue operations and conducting first aid at the accident site, as well as transporting the injured to the hospital for further care. Further, the government will ensure that all hospitals near National Highways/ State Highways are prepared to care for those who are injured in road accidents sufficiently.

25. That in July 2015, Hon'ble Prime Minister in his address to nation in 10<sup>th</sup> edition of 'Mannki Baat', Expressing concern over the growing number of road accidents in the country, promised cashless treatment plan for road accident victims, and said the transport Ministry's scheme that provided cashless treatment for the first 50 hours to the victims would soon be extended to all national highways. At present, there are three pilot projects being run by Respondent in Vadodara-Mumbai stretch of NH-8, Ranchi-Rargaon Mahulia (Jamshedpur) stretch of NH-33 and Gurgaon-Jaipur stretch of NH. The true copy of the media report of pilot projects published in [www.rushhour.com](http://www.rushhour.com) is annexed herewith as ANNEXUREP-6 and Media Report about announcement by Prime Minister as published on July 26, 2015 in Oneindia News is annexed herewith as ANNEXUREP-7.

26. That not being fully satisfied by support limit of treatment announced for 50 hours by the Hon'ble P.M., as may injured who are poor may still require specialized treatment beyond this period and the poor people who the most affected in road accidents cannot be left in lurch after 50 hours to care for their own, without appropriate medical support, petitioner herein on 04.08.2015 and

29.07.2015 made representation to the PMO. Thereafter he again on made representation vide letter dated 30.11.2016 to PMO. The true translated copy of the representation dated 04.08.2015, 29.07.2015 and receipt of his representation dated 30.11.2016 is annexed herewith as ANNEXUREP-8.

27. That the petitioner states safety of life being Fundamental Right, and India being a Welfare State, all injured victims of road accidents deserve the same treatment as promised by the Hon'ble PM so that they are not denied treatment either due to lack of government hospital in proximity or due to the financial position of the injured victim. The issue is of great public concern and therefore the petitioner herein is filing the present writ petition under Article 32 of the Constitution of India on the following among others:-

#### GROUNDS

- i. Because India is the member of United Nation and is signatory of the UN Declaration of Human Rights securing to it 'citizen' access to public service' (Art.21), 'right to social security and entitlement to realization, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality' (Art.22) and the right to a standard of living adequate for the health and well-being of himself and of his family, including medical care and necessary social services, and the right to security in the event of sickness, disability, or other lack of livelihood in circumstances beyond his control.' (Art.25).
- ii. Because government medical infrastructure and hospitals in India are scarce and poorly equipped and private hospitals can be exhorted to share the responsibility at subsidized rates fixed by the government.
- iii. Because immediate and appropriate treatment at critical time also referred to as 'Golden Hour' is necessary to save the life in case of road incidents.
- iv. Because the number and casualty of road accidents in India are very large to be ignored.

- v. Because road accidents inflict trauma on victims and socioeconomic burden on their families and country.
- vi. Because the most affected victims of the Road accidents are the young and the poor.
- vii. Because under the 'Brasilia Declaration on Road safety' India is committed to reduce the number of road accidents and fatalities by 50% by 2020.
- viii. Because as recognized by the First Global Ministerial Conference on Road Safety: Time for Action; Moscow Declaration the financial burden of road accidents on the state is very significant and high.
- ix. Because Government of India has approved a National Road Safety Policy wherein improving emergency care is one of the important component.
- x. Because Article 21 of the Constitution of India makes 'Protection of life and personal Liberty' a Fundamental Right and Directive Principles of State Policy provides fundamental of 'the governance' imposing duty upon the Respondent to strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. (Article 38), to secure the health and strength of men and women (Article 39(e)), to make effective provision for securing the public assistance in cases of sickness and disablement, and in other cases of undeserved want (Article 41), to endeavor to the improvement of public health.
- xi. Because this Hon'ble Court in Pt. Parmanand Katarava vs Union of India & Ors 1989 SCR (3) 997 has held that Article 21 of the Constitution casts the obligation on the State to preserve life.
- xii. Because this Hon'ble Court in Paschim Banga Khet Mazdoorsamity



...vsStateOfWestBengal&Anr1996SCC(4)37,hasheldthatit  
istheconstitutionalobligationoftheStatetoprovideadequate  
medicalsevicestothepeople.Whateverisnecessaryforthis  
purposehastobedone.

xiii. BecauseRespondentinWRITPETITION(CIVIL)NO.295OF2012S.

RajaseekaranvsUnionOfIndia&OrshasinformedthisHon'ble

CourtthatemergencycareisthepriorityoftheRespondent. xiv.

BecauseHon'blePrimeMinisterinhisaddressstonationin10<sup>th</sup>

editionof'MannkiBaat',promisedcashlesstreatmentplanforroad

accidentvictimsinmannerbeingprovidedinthreepilotprojectsin

NH.

xv. Becauseinmatteroflifeanddeathallinjuredvictimsofroad

accidentsdeservethesametreatmentaspromisedbytheHon'ble

PMandarentitledtosame.

#### PRAYERS

ItismostrespectfullyprayedthattheHon'bleCourtmaygraciously bepleasedto;-

- a. issue writ of mandamus or any other appropriate writ order(s),  
direction(s) thereby directing the respondent to extend 'cashless  
treatment' to all injured victims of road accident in country;.
- b. issue writ of mandamus or any other appropriate writ order(s),  
direction(s) thereby directing the respondent to issue appropriate  
orders/directions to all hospitals/medical institutions to provide  
free medical treatment to all such injured victims of road accident.
- c. issue any other writ, order(s), direction(s) as the Hon'ble Court may  
deem it just and proper in the facts and circumstances of the case.

ANDFOR THISACTOFKINDNESSTHEPETITIONERASINDUTYBOUND SHALLEVERPRAY.

DRAWNBY:

FILEDBY:

FILEDON:23.03.2018  
NEWDELHI

AdvocateforthePetitioner