

“Rights of Samaritan: An Awareness Drive”



Punjab State Legal Services Authority

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OBJECTIVES

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'. However, the people who are standing near the accident places have fear that touching the body of the accident victim could lay them liable for police interrogation. Therefore, passers-by play safe and choose to wait for the police to arrive and in this process, the injured gradually bleeds to death. People are reluctant to come forward for help to the victims of accident. It is very necessary to protect Good Samaritans from the harassment being taken by them to save life of the road accident victims.

LAW OF THE LAND

Considering the aforesaid need, the Hon'ble Supreme Court of India observed that there is need to enact a Good Samaritan Law in the country.

The Hon'ble Supreme Court of India in case titled as *Savelife Foundation & Another vs. Union of India & Another in Writ Petition (C) No. 235 of 2012* vide its order dated 29th October, 2014, directed the Centre Government to issue necessary directions with regard to the protection of Good Samaritan until an appropriate legislation is made by the Union Legislature.

GUIDELINES BY CENTRAL GOVERNMENT

The Central Government, Ministry of Road Transport and Highways issued a notification dated 12.05.2015 for protection of Good Samaritans as under:-

Punjab State Legal Services Authority

- (1) A bystander or good Samaritan including an eyewitness of a road accident may take an injured person to the nearest hospital, and the bystander or good Samaritan should be allowed to leave immediately except after furnishing address by the eyewitness only and no question shall be asked to such bystander or good Samaritan.
- (2) The bystander or good Samaritan shall be suitably rewarded or compensated to encourage other citizens to come forward to help the road accident victims by the authorities in the manner as may be specified by the State Governments.
- (3) The bystander or good Samaritan shall not be liable for any civil or criminal liability.
- (4) A bystander or good Samaritan, who makes a phone call to inform the police or emergency services for the person lying injured on the road, shall not be compelled to reveal his name and personal details on the phone or in person.
- (5) The disclosure of personal information, such as name and contact details of the good Samaritan shall be made voluntary and optional including in the Medico Legal Case (MLC) Form provided by hospitals.
- (6) The disciplinary or departmental action shall be initiated by the Government concerned against public officials who coerce or intimidate a bystander or good Samaritan for revealing his name or personal details.
- (7) In case a bystander or good Samaritan, who has voluntarily stated that he is also an eye-witness to the accident and is required to be examined for the purposes of investigation by the police or during the trial, such bystander or good Samaritan shall be examined on a single occasion and the State Government

Punjab State Legal Services Authority

shall develop standard operating procedures to ensure that bystander or good Samaritan is not harassed or intimidated.

(8) The methods of examination may either be by way of a commission under section 284 of the Code of Criminal Procedure 1973 or formally on affidavit as per section 296 of the said Code and Standard Operating Procedures shall be developed within a period of thirty days from the date when this notification is issued.

(9) Video conferencing may be used extensively during examination of bystander or good Samaritan including the persons referred to in guideline (1) above, who are eye witnesses in order to prevent harassment and inconvenience to good Samaritans.

(10) The Ministry of Health and Family Welfare shall issue guidelines stating that all registered public and private hospitals are not to detain bystander or good Samaritan or demand payment for registration and admission costs, unless the good Samaritan is a family member or relative of the injured and the injured is to be treated immediately in pursuance of the order of the Hon'ble Supreme Court in [Pt. Parmanand Katara vs Union of India & Ors](#) [1989] 4 SCC 286.

(11) Lack of response by a doctor in an emergency situation pertaining to road accidents, where he is expected to provide care, shall constitute "Professional Misconduct", under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and disciplinary action shall be taken against such doctor under Chapter 8 of the said Regulations.

(12) All hospitals shall publish a charter in Hindi, English and the vernacular language of the State or Union territory at their entrance to the effect that they shall not detain bystander or good Samaritan or ask depositing money from them for the treatment of a victim.

Punjab State Legal Services Authority

(13) In case a bystander or good Samaritan so desires, the hospital shall provide an acknowledgement to such good Samaritan, confirming that an injured person was brought to the hospital and the time and place of such occurrence and the acknowledgement may be prepared in a standard format by the State Government and disseminated to all hospitals in the State for incentivizing the bystander or good Samaritan as deemed fit by the State Government.

(14) All public and private hospitals shall implement these guidelines immediately and in case of noncompliance or violation of these guidelines, appropriate action shall be taken by the concerned authorities.

(15) A letter containing these guidelines shall be issued by the Central Government and the State Government to all Hospitals and Institutes under their respective jurisdiction, enclosing a Gazette copy of this notification and ensure compliance and the Ministry of Health and Family Welfare and Ministry of Road Transport and Highways shall publish advertisements in all national and one regional newspaper including electronic media informing the general public of these guidelines.

STANDARD OPERATING PROCEDURE FOR EXAMINATION OF A GOOD SAMARITAN

The Ministry of Road Transport and Highways, Central Government issued standard operating procedures in respect to the procedure for examination of Good Samaritan by the police or during trial vide Notification dated 21 January, 2016 and Para No. 2 (vii) of the said standard operating procedures were modified by the Hon'ble Supreme Court of India vide aforesaid order dated 30th March, 2016. The Standard Operating Procedure for examination of the Good Samaritan as amended by the Hon'ble Supreme Court of India reads as under:-

Examination of Good Samaritan by the Police

Punjab State Legal Services Authority

- 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 Investigating 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 Investigating 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 affidavit of Good Samaritan if filed, shall be treated as complete statement by the Police official while conducting the investigation.

Punjab State Legal Services Authority

In case statement is to be recorded, complete statement shall be recorded in a single examination.

GUIDELINES BY PUNJAB GOVERNMENT

The Govt. of Punjab, Department of Health and Family Welfare issued instructions vide Letter Number 11/15/13-4HB6/738633/1 dated 25.05.2016, that all the Public and Private Hospitals should ensure the aforesaid guidelines.

BINDING FORCE OF GUIDELINES

The Hon'ble Supreme Court of India vide order dated 30th March, 2016 observed that guidelines issued by the Central Government vide aforesaid Notification dated 12.05.2015 and 21.01.2016 alongwith modification be complied with by all the functionaries of the State Government and shall be treated as binding on all concerned to be complied with.

NEED FOR PUBLICITY

Hon'ble Supreme Court of India further observed that the said order dated 30th March, 2016 be widely published through electronic media and print media for the benefit of the public so that public is made aware and that serves as impetus to Good Samaritan to extend timely help and protection conferred upon them without incurring the risk of harassment.

ROLE OF LEGAL SERVICES AUTHORITIES

Section 12 of Legal Services Authorities Act, 1987 recognizes the need of marginalized section of the society to legal aid; awareness about their rights and assistance to them to avail the benefit of their rights under various welfare schemes. The Jail inmates, children, women whether rich or poor have been recognized as legal aid seeker irrespective of their financial position. On the same analogy, a victim/injured of accident for that moment where he requires immediate medical aid is entitled to attention and care of Legal Services Institutions, irrespective of his/her financial position. He is a man in distress;

Punjab State Legal Services Authority

handicap for a while to help himself. A precious human life can be saved if quick intervention or medical aid is provided.

Hence, creating awareness on the directions of Hon'ble Supreme Court is within the purview of the Legal Services Authority.

AWARENESS DRIVE STEPS

1. A special Drive for creating awareness of the said guidelines be organized by all the DLSAs for seven days.
2. Copy of the gist of guidelines and aforesaid procedure shall be published on the website of the PULSA.
3. These guidelines be added as an additional topic in the Training module for the "Training Programme for Retainer Lawyers and PLVs".
4. Sensitization Programme for the Investigating Officers of the District with regard to the aforesaid guidelines and Standard Operating Procedure should be organized in all Districts by the DLSA.
5. Sensitization Programmes for the Judicial Officers who have to record the statements of eye witnesses in the accident cases be held and for this purpose, Chandigarh Judicial Academy shall be requested by SLSA.
6. Sensitization Programmes for the Doctors of Government and Private Hospitals be conducted in all Districts by the DLSA.
7. Pamphlets and banners containing gist of these guidelines be distributed during the awareness programmes and Legal Services Camps.
8. State Government shall be requested by the SLSA to add these guidelines in the curriculum of Police Training Courses.

Harpreet Kaur Jeewan,
Member Secretary,
Punjab State Legal Services Authority.