

The BJP Government through its Bharatiya Nyaya Sanhita (BNS) Imposes Additional Criminal Liability on Motor Vehicle Drivers!

Since the times of British colonial rule in our country, motor vehicle drivers have been treated as responsible for road accidents and viewed as having occurred due to the rash and negligent driving of the drivers, irrespective of the actual causes of the accidents. With such an incorrect and unscientific view about the occurrence of accidents, the drivers are being punished with imprisonment, a fine or both. Thus, motor vehicle drivers, particularly the drivers of heavy motor vehicles, become a vulnerable category of road users and easy targets for police, who are deeming drivers of heavier vehicles guilty. Though the police have the onus of establishing how the particular driver was rash and negligent, without establishing it, they are victimising the drivers of heavy motor vehicles indiscriminately. The motor vehicle inspectors, who too play a crucial role in deciding the cause of accidents with regards to the condition of the vehicle involved in accidents, are not correctly playing their role but are simply not even checking the vehicles involved in the accidents and issuing certificates as if there were no mechanical failures that led to the accident. Due to the mechanistic and formal attitude of these police and motor transport departments, often the drivers involved in the accidents of vehicles are being victimised. More over, their poverty, inability, and financial unaffordability to engage expert lawyers to defend their cases are making them vulnerable.

In reality the cause of accidents is not exclusively the rash driving of concerned drivers. Defective road construction, bad road conditions, bad weather conditions, lack of segregation of roads, non-observation of traffic rules by the cyclists, pedestrians, and other small vehicle drivers involved in accidents, mechanical failure of breaks of the motor vehicles involved in the accidents, the sobriety/drunken condition/ mental conditions of the people involved in the road accidents, and fatalities too contribute to the cause of accidents. Without taking all these causes into consideration, very often the drivers of heavy vehicles are vulnerable to being victimised.

Even the management of government-owned state road corporations or semi-governmental road transport corporations has been punishing the drivers of the buses that met or were involved in accidents, imposing heavy punishments, including removal from service, unjustly, though the concerned driver is in no way responsible for or the cause of the accident, but the accident occurred due to conditions, and circumstances beyond his

control. Thus, management invented a so called vague and generalised cause viz lack of anticipation on the part of the driver, to punish their bus drivers by conducting so-called domestic inquiries or departmental inquiries, which are farce and totally violative of all principles of justice and natural justice, unfair and prejudicial against the drivers. Without any forensic evidence or required scientific investigation to establish rash and negligent driving in accordance with the Motor Vehicles Act, 1988, and the Motor Vehicles (Driving) Regulations, 2017, the drivers whose vehicles are involved in accidents are very often made scapegoats and punished unjustly.

Under this background of disadvantageous and unjust conditions meted out to motor vehicle drivers, the drivers have been expecting that the government would improve their condition by removing their vulnerability through the amendment of concerned laws. They hoped, when the B.J.P. government announced that it would codify and amend the archaic and colonial I.P.C. to suit the present day conditions, that the new code would justly lighten their 'criminal liability' in the case of accidents, considering the 'rash or negligent' driving as not culpable homicide and treating them on par with the managements of big industrial establishments where horrible work-place accidents are occurring, killing workers besides civilians due to their negligence in conducting their manufacturing activities, where punishments are drastically reduced, without even prosecuting them.

But the B.J.P, government, abiding by its anti-class nature of anti-worker and anti-people character, through its yet-to-be- implemented code, the Bharatiya Nyaya Sanhita (BNS), imposed additional criminal liability on the drivers, making penal provisions concerning accidents more stringent and unjustified. This new code vides section 106 by extending the term of punishment from two years to five years and to unreported accidents by concerned drivers up to 10 years of imprisonment and a huge amount of fine to the extent of 10 lakh rupees or both.

The reality that at the time of an accident, the driver has to face lynching and, in self-defense, was forced to flee from the accident spot, having no scope to inform the concerned authorities, is not taken into consideration while deciding to impose such stringent punishment on the drivers, who are poorly paid and not at all able to pay such huge fine amounts. The government has not even taken into consideration the recommendation of the parliamentary standing committee on home affairs that Section 104(2) of BNS could be reconsidered. The BJP had shown outright prejudice and partiality against the working class, and in this context, the drivers.

Even after the drivers of trucks, buses, and all tanker drivers staged protest demonstrations and blocked several places across the states of Rajasthan, Maharashtra, Punjab, Haryana, Madhya Pradesh, Himachal Pradesh, Jammu and Kashmir, Andhra Pradesh, and Karnataka, and the All India Transporters bodies have expressed their protest against the new code, and the All India Motor Transport Congress (AIMTC) met with the Ministry of Home Affairs (MHA), the government has not given any indication to revoke Sections 106 (1) and 106 (2) of the BNS and adopted an adamant stance, being true to its class nature.

The traditional worker's movement remained a passive spectator without taking up the cause of motor vehicle drivers whose future is steeped in more peril, exposing its weakness and ineffective condition to come to the protection of the worker's cause, abandoning its responsibility and throwing it on the shoulders of the working-class movement to take up the driver's cause and to expose the nefarious anti-worker attitude and policies of the B.J.P. government led by Prime Minister Modi by vehemently opposing them.