

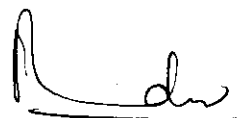
പതിനാലാം കേരള നിയമസഭ

അഞ്ചാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിടാത്ത ചോദ്യം നം. 2831 09.05.17 ൽ മറുപടിയ്ക്ക്

അന്തർ സംസ്ഥാന ബന്ധുകളുടെ പരിശോധന

<p align="center"><u>ചോദ്യം</u></p> <p align="center">ശ്രീ.സി. ദിവാകരൻ ശ്രീ. ഇ.കെ.വിജയൻ ശ്രീ.ഇ.ടി. ടൈസൺ മാസ്റ്റർ ശ്രീ.മുഹമ്മദ് മുഹസിൻ പി</p>	<p align="center"><u>മറുപടി</u></p> <p align="center">ശ്രീ.തോമസ് ചാണ്ടി (ഗതാഗത വകുപ്പുമന്ത്രി)</p>
<p>(എ) സംസ്ഥാനത്ത് യാത്രാ ബന്ധുകളെ സ്റ്റേറ്റ് ക്യാരിയേജ്, കോൺട്രാക്ട് ക്യാരിയേജ് എന്ന് തരംതിരിക്കുന്നതിന്റെ മാനദണ്ഡങ്ങൾ വിശദമാക്കുമോ;</p>	<p>(എ) 1988-ലെ കേന്ദ്ര മോട്ടോർ വാഹന നിയമം, സെക്ഷൻ 2(7), 2(40) എന്നിവ പ്രകാരമാണ് യഥാക്രമം സ്റ്റേജ് ക്യാര്യേജ്, കോൺ ട്രാക്ട് ക്യാര്യേജ് എന്നിവയെ തരം തിരിച്ചിരിക്കുന്നത്. ആയതിന്റെ പ്രസക്തഭാഗം അനുബന്ധമായി ഉള്ളടക്കം ചെയ്യുന്നു.</p>
<p>(ബി) കേരളത്തിലെത്തുന്ന അന്തർ സംസ്ഥാന ബസ്സുകൾ കോൺട്രാക്ട് ക്യാരിയേജ് പെർമിറ്റുള്ളതായിട്ടും അവ ടിക്കറ്റ് നൽകി യാത്രക്കാരെ കൊണ്ടുപോകുന്നത് സർക്കാർ പരിശോധിച്ചിട്ടുണ്ടോ; വ്യക്തമാക്കുമോ;</p>	<p>(ബി) കോൺ ട്രാക്ട് ക്യാര്യേജ് വാഹനങ്ങൾ പെർമിറ്റ് വ്യവസ്ഥകൾ ലംഘിച്ച് സമാന്തര സർവ്വീസ് നടത്തുകയാണെങ്കിൽ അത്തരം വാഹനങ്ങൾ കൈതിരെ നടപടികൾ സ്വീകരിച്ചുവരുന്നുണ്ട്.</p>
<p>(സി) ഇത്തരം ബസ്സുകളുടെ ലഗേജ് പരിശോധനയും മറ്റും നടത്താത്തത് കാരണം വാണിജ്യ നികുതി ഇനത്തിൽ സംസ്ഥാനത്തിന് ലഭിക്കേണ്ട വരുമാനം അന്തർ സംസ്ഥാന ബസ് ലോബി കൈക്കലാക്കുന്നത് പരിശോധിച്ചിട്ടുണ്ടോ എന്ന് അറിയിക്കുമോ?</p>	<p>(സി) മോട്ടോർ വാഹന നിയമമനുസരിച്ച് യാത്രക്കാരുടേതല്ലാത്ത ലഗേജുകൾ വാണിജ്യാടിസ്ഥാനത്തിൽ കയറ്റുകയാണെങ്കിൽ, അത് പെർമിറ്റ് വ്യവസ്ഥ ലംഘിക്കുന്നതായി കണക്കാക്കി നടപടികൾ സ്വീകരിക്കുന്നതാണ്.</p>


സെക്ഷൻ ഓഫീസർ

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.

Case Law

Third-party fatal accidents: Compensation for. Liability of the insurer. Held, it would be governed by the law prevailing on the date of the accident. *Maitri Koley and Another v. New India Insurance Co. And Others* — 2003 KHC 1692 : 2003 (8) SCC 718.

Preamble: Is a social welfare legislation. *Ashwani Kumar v. Regional Transport Authority* — 1999 KHC 1413 : 1999 (8) SCC 364 : AIR 1999 SC 3888.

Social Welfare Legislation: Motor Vehicles Act is a Social Welfare Legislation under which the compensation is provided by way of award to people to sustain broadly injuries or get killed in an accident. *Oriental Insurance Company v. Zarifa* — AIR 1995 J & K 81.

2. Definitions.— In this Act, unless the context otherwise requires,—

- (1) "area", in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;
- (2) "articulated vehicle" means a motor vehicle to which a semi-trailer is attached;

Case Law

Various directions issued by the Court to prevent accidents: Government directed to comply with the directions immediately. *Rose Lynd E. T. and Another v. Lekha alias Lekha Krishnakumar and Others* — 2008 (4) KHC 184 : 2008 (4) KLT SN 38 (DB).

- (3) "axle weight" means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to the axle to the surface on which the vehicle rests;
- (4) "certificate of registration" means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV;

Statement of Objects and Reasons (Contd.....)

5. The proposed legislation has been prepared in the light of the above background. Some of the more important provisions of the Bill provide for the following matters, namely:—

- (a) rationalisation of certain definitions with additions of certain new definitions of new types of vehicles;
- (b) stricter procedures relating to grant of driving licences and the period of validity thereof;
- (c) laying down of standards for the components and parts of motor vehicles;
- (d) standards for anti-pollution control devices;
- (e) provision for issuing fitness certificates of vehicles also by the authorised testing stations;
- (f) enabling provision for updating the system of registration marks;
- (g) liberalised schemes for grant of stage carriage permits on non-nationalised routes, all-India Tourist permits and also national permits for goods carriages;
- (h) administration of the Solatium Scheme by the General Insurance Corporation;
- (i) provision for enhanced compensation in cases of "no fault liability" and in hit and run motor accidents;
- (j) provision for payment of compensation by the insurer to the extent of actual liability to the victims of motor accidents irrespective of the class of vehicles;
- (k) maintenance of State registers for driving licences and vehicle registration;
- (l) constitution of Road Safety Councils.

6. The Bill also seeks to provide for more deterrent punishment in the cases of certain offences.

7. The Notes on clauses explain the provisions of the Bill.

8. The Bill seeks to achieve the above objectives.

1. Came into force on 01/07/1989, published under Notification No. SO 368(E) dt. 22/05/1989 in Gazette of India Ext. Part II Section 3(ii) dt. 22/05/1989.

- (5) "conductor" in relation to a stage carriage, means a person engaged in collecting fares from passengers, regulating their entrance into, or exit from, the stage carriage and performing such other functions as may be prescribed;
- (6) "conductor's licence" means the licence issued by a competent authority under Chapter III authorising the person specified therein to act as a conductor;
- (7) "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum—
- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another,
- and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—
- (i) a maxicab; and
- (ii) a motorcab notwithstanding the separate fares are charged for its passengers;

Case Law

Motor vehicles tax: Power of the State government to levy tax. Distinction between 'contract carriage' and 'stage carriage'. Meaning of 'permit': Central Act of 1988 enabling the State to enact statutes for levying tax on motor vehicles. Owner of a vehicle having one kind of permit could not have been treated as a person having no permit at all only because the transport authorities had reasons to believe that the conditions of permit have been violated. The executive while fixing a rate of duty cannot be permitted to usurp the legislative power and make a provision which was inconsistent with the substantive provision of the statute. Clause.(g) of Entry.4 along with Explanation.(7) of the First Schedule to the State Act of 1991 as amended in 2004 therefore declared as unconstitutional. *Hardev Motor Transport v. State of M.P. and Others* — 2006 KHC 1551 : JT 2006 (9) SC 454 : 2006 (8) SCC 613 : AIR 2007 SC 839 (DB).

Tractor-trailer: Whether tractor-trailer would constitute a "goods carriage" and consequently a "transport vehicle": Tractor-trailer. "Motor vehicle" includes any mechanically propelled vehicle apt for use upon roads irrespective of the source of power and it includes a trailer. Even though a trailer is drawn by a motor vehicle, it by itself being a motor vehicle, tractor-trailer would constitute a "goods carriage" and consequently a "transport vehicle". *Natwar Parikh & Co. Ltd. v. State of Karnataka and Others* — 2005 KHC 1395 : 2005 KHC 1395 : 2005 (7) SCC 364 : AIR 2005 SC 3428 (FB).

Contract carriage permit granted in respect of mini buses: Held, holders of permit cannot pick up individual passengers at the starting point of their journey. There must be prior contract indicating the passengers to be carried. Expression 'notwithstanding that separate fares are charged for its passengers' in S.2(7)(b)(ii) applies to motor cabs alone and not to mini buses. *Brijendra Kumar Chaudhari v. State of U.P.* — 1992 KHC 1043 : 1992 (4) SCC 703.

Contract carriage meaning: In case of a contract carriage there must be a prior contract, the passengers should be settled in advance and there is no stopping in the route to pick up or set down a passenger. In case of stage carriage there is no such prior contract. *Brijendra Kumar v. STA, Lucknow* — AIR 1991 All. 300.

- (8) "dealer" includes a person who is engaged—

Route overlaps nationalised route: Scheme of Nationalisation finalised. Private operators whose route overlaps nationalised route are not entitled to renewal of the permit covering the overlapping distance. *KSRTC v. RTA and Others* — 1991 KHC 608 : ILR 1991 (3) Ker. 40 (DB).

Request for change of halting place (Corresponding to S.2(28A) of the old Act): Mark, the explanation to S.46 explains the expression "trip" for the purpose of S.48 and 57 as meaning "a single journey from one point to another" and goes on to explain that "every return journey shall be deemed to be a separate trip". This would indicate that the journey from point A to B is a trip and the return journey from point B to A would be a separate trip on the same route. *Kissan Roadways v. RTA, Malappuram* — 1981 KHC 364 : 1981 KLT 689.

[(39) "semi-trailer" means a vehicle not mechanically propelled (other than a trailer), which is intended to be connected to a motor vehicle and which is so constructed that a portion of it is super-imposed on, and a part of whose weight is borne by, that motor vehicle;]

Case Law

Amendment Act, 54 of 1994: Nature of: Held, it is not a procedural or declaratory or clarificatory amendment. It does not have any retrospective operation. *Chakiat Agencies (P) Ltd. v. State of Kerala and Others* — 2012 (2) KHC 831 : 2012 (2) KLT 955 : ILR 2012 (3) Ker. 247 : 2012 (3) KLJ 84.

(40) "stage carriage" means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;

Case Law

Motor vehicles tax: Power of the State government to levy tax. Distinction between 'contract carriage' and 'stage carriage'. Meaning of 'permit': Central Act of 1988 enabling the State to enact statutes for levying tax on motor vehicles. Owner of a vehicle having one kind of permit could not have been treated as a person having no permit at all only because the transport authorities had reasons to believe that the conditions of permit have been violated. The executive while fixing a rate of duty cannot be permitted to usurp the legislative power and make a provision which was inconsistent with the substantive provision of the statute. Clause.(g) of Entry.4 along with Explanation.(7) of the First Schedule to the State Act of 1991 as amended in 2004 therefore declared as unconstitutional. *Hardev Motor Transport v. State of M.P. and Others* — 2006 KHC 1551 : JT 2006 (9) SC 454 : 2006 (8) SCC 613 : AIR 2007 SC 839 (DB).

Mofussil service/stage carriage scheme: Mofussil service/stage carriage scheme completely excluding all holders of stage carriage permits, except those specified, on the proposed route and routes overlapping completely or partially therewith. Exception clause covering "existing town services operating on the notified route". Having regard to such limited exception, town services operating on the notified routes are covered by the said Scheme. Words and phrases. "existing", "operating", "service", "route". *A.P. State Road Transport Corporation v. RTA and Another* — 2005 KHC 861 : 2005 (4) SCC 391 : AIR 2005 SC 2663 (FB).

(41) "State Government" in relation to a Union territory means the Administrator thereof appointed under Article 239 of the Constitution;

Case Law

Grant of stage carriage permit: Regional Transport Authority being a statutory body is bound to act strictly in terms of the provisions thereof. It cannot act in derogation of the powers conferred upon it. Chief Minister of a State has no role to play in a matter of grant of permit of a stage carriage. *Pancham Chand and Others v. State of Himachal Pradesh and Others* — 2008 (2) KHC 147 : 2008 (2) KLT SN 101 : 2008 (7) SCC 117 : AIR 2008 SC 1888 (SC).

(42) "State Transport undertaking" means any undertaking providing road transport service, where such undertaking is carried on by,—

5. Substituted by Act 54 of 1994, S.2 (w.e.f. 14/11/1994).

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