



## Concerns over Hit-and-Run Law

**For Prelims:** [Bharatiya Nyaya Sanhita 2023](#), [Indian Penal Code, 1860](#), [National Crime Records Bureau](#)

**For Mains:** Bharatiya Nyaya Sanhita 2023, Government Initiatives Related to Criminal Justice System, Issues Arising Out of Design & Implementation of Policies

**Source:** [TH](#)

### Why in News?

The recent protests by transporters and commercial drivers in states like Maharashtra, Chhattisgarh, West Bengal, and Punjab shed light on the contentious **Section 106 (2) of the [Bharatiya Nyaya Sanhita, 2023 \(BNS\)](#)**.

- This section, which stipulates **severe penalties for hit-and-run incidents**, has become a focal point of discontent among the driving community.
- The nationwide truckers' strike has been called off after the government assured that it **would consult stakeholders before implementing** a contentious law against hit-and-run.

### What is the Hit-and-run Law?

- **Provisions:**
  - The hit-and-run provision is part of the **Bharatiya Nyaya Sanhita (BNS)**, which is set to replace the colonial-era [Indian Penal Code, 1860](#).
    - Section 106 (2) of the BNS, 2023 **stipulates a penalty of up to 10 years in jail and a fine for fleeing an accident spot** and failing to report the incident to a police officer or a magistrate.
    - However, if the driver reports the incident immediately after the accident, they will be charged under Section 106(1) instead of Section 106(2). **Section 106(1) provides for a punishment of up to five years** for causing death by any rash or negligent act not amounting to culpable homicide.
- **Need:**
  - The new law comes in the backdrop of concerning figures related to road accidents in India.
    - In **2022, India recorded over 1.68 lakh road crash fatalities**, averaging 462 deaths daily.
    - India experienced a **12% increase in road accidents** and a 9.4% rise in fatalities, while global road crash deaths decreased by 5%.
      - On average, there are 19 deaths per hour due to road accidents in India, almost one death every three and a half minutes.
    - More than half of road fatalities occurred on national and State highways, which make up less than 5% of the total road network.
    - **India, with only 1% of the world's vehicles**, contributes to about **10% of crash-related deaths** and suffers an annual economic loss of **5-7% of its GDP** due to road crashes.

### ▪ Principle Underlying the Law:

- The [National Crime Records Bureau](#) recorded **47,806 hit-and-run incidents** which resulted in the deaths of 50,815 people in 2022.
  - Offenders have a **legal duty to report road accidents to the police** or magistrate, and there are **provisions to criminalize the omission of this duty**.
- The principle underlying **Section 106 (2) of hit-and-run law is to deter rash and negligent driving and to punish** those who flee the scene without reporting or helping the victims.
- The law reflects the legislative intent to **enforce moral responsibility** on the offender towards the victim.
  - Drawing parallels with existing laws, such as **Section 134 of the Motor Vehicles Act, 1988**, highlights the government's commitment to ensuring a prompt and responsible response from drivers in the aftermath of accidents.
    - Section 134 of the Motor Vehicles Act, 1988, **requires the driver of the vehicle to take all reasonable steps** to secure medical attention for the injured person unless it is **not practicable on account of mob fury or any other reason beyond his control**.

### What are the Concerns of the Protesters?

#### ▪ Section 106 (2) of the BNS, 2023:

- Transporters and commercial drivers are demanding the **withdrawal or amendment of Section 106 (2) of the BNS, 2023**.
- Protesters argue that the prescribed penalties, including a 10-year imprisonment and Rs. 7 lakh fine, are excessively severe.
- The widely circulated view that Section 106 (2) of the BNS stipulates imprisonment of up to 10 years and a **fine of Rs. 7 lakh for fleeing an accident spot and failing to report the incident to a police officer/magistrate is grossly incorrect**.
  - While this Section discusses a maximum punishment of 10 years and a fine, there is **no actual mention in the BNS about the fine being Rs 7 lakh**.

### Note

#### ▪ Section 161 of the [Motor Vehicles \(Amendment\) Act, 2019](#), provides compensation for victims of hit-and-run accidents.

- The compensation for death is Rs 2 lakh and for grievous hurt, it is Rs 50,000. Unlike Section 106 (2) of BNS, the compensation in this case is not recoverable from the drivers.

#### ▪ Challenging Conditions:

- They argue that the **penalty is excessive** and fails to consider the challenging work conditions of drivers, such as **long driving hours and difficult roads**.
- Transporters also argue that accidents may be caused by **factors beyond the driver's control**, such as **poor visibility due to fog**, and **fear of mob violence against drivers** if they stop to assist at accident sites.
  - The fear of violence further complicates the decision-making process for drivers in the aftermath of accidents.

#### ▪ Perceived Unfair Blame:

- Drivers argue that they are **often unfairly blamed for accidents**, irrespective of the actual circumstances.
- The legislation's punitive approach may exacerbate this perception of unfairness and contribute to a negative impact on the transport industry.

#### ▪ Possible Misuse by Authorities:

- They are concerned that the law may be **abused by law enforcement agencies** and that the harsh penalties could hurt the transport industry as a whole.

#### ▪ Unfair Treatment and Limited Categorization:

- The current legislation raises concerns about the **fairness of penalties** imposed on truck drivers and individual vehicle drivers,
  - For instance, an exception has been made under **106 (1) of the BNS for doctors**

in the event of rash or negligent acts, where the **punishment will be up to two years with a fine.**

- This limited categorisation is problematic and is against the **principles of equality**, as the liability of a wide variety of people working in other sectors also needs to be moderated.
- **Lack of Differentiation:**
  - Section 106(2) lacks differentiation between **rash and negligent driving**, which are two distinct types of offences with different degrees of liability.
    - They also contend that the **section does not consider the contributory factors in negligent acts**, such as the behaviour of commuters, road conditions, lighting on the road, and other similar factors, which may affect the driver's responsibility.
  - Applying one clause to all situations may **unfairly prejudice drivers** in different circumstances.

## Way Forward

- Initiate **comprehensive consultations with stakeholders**, especially drivers and transport associations, to address concerns and gather diverse perspectives.
  - Establish a **clear and standardized protocol for emergency response**, emphasizing the importance of prompt reporting **without exposing drivers to potential violence.**
- The current hit-and-run law under Section 106 (2) of the BNS **does not differentiate** between different types and outcomes of accidents.
  - The law should be categorised in different scales based on liabilities, such as death, grievous hurt, simple hurt, or minor injuries, and the punishment should be **commensurate** with the offence.
- The law should also **clarify** the reporting procedure and the evidence required for the drivers to prove their innocence or mitigating factors.
- The road accidents resulting in **minor injuries ought not to be equated with criminal acts**, but rather impose **alternative measures** such as community service, revoking of driving licences, or mandatory driving retests.
- Invest in improved road infrastructure, visibility measures, and safety features to mitigate accidents and reduce the likelihood of hit-and-run incidents.
- Study and incorporate successful models and best practices from other countries with effective hit-and-run legislation, adapting them to the Indian context.

**Legal Insights:** [Hit and Run Law](#)

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