



**VOLUME : 05**  
**ISSUE : 12**

### In this Issue:

**From the Desk of Chief Editor**

**Latest Cases: Civil**

**Latest Cases: Criminal**

**Notification**

### Editorial Board

**HMJ Jitendra Chauhan**  
Editor-in-Chief

**Dr. Balram K. Gupta**  
Chief Editor

**Dr. Gopal Arora**  
**Mr. Baljinder Singh Sra**  
**Ms. Mahima Sikka**  
Editors

**DECEMBER 2020**

# CJA e-NEWSLETTER

Monthly Newsletter of  
Chandigarh Judicial Academy of Punjab & Haryana High Court  
For circulation among the stakeholders in Judicial Education

## FROM THE DESK OF CHIEF EDITOR

Each Bar produces a giant or some giants. Over a period of time. I have spent 56 years in the domain of law since the day I joined my law classes in 1964. I have heard a large number of advocates arguing in different courts including the top court in the country. Some of them are truly class apart. About some, I have written. The same are in print. About some, I have read but not written. What an impact, their life journey leaves on our minds. I have even delivered a memorial lecture in the memory of Nani Palkhivala.

This piece will be my last piece of the year 2020. I intend writing about one whom I never had the opportunity of meeting. Nor heard him argue. I have only read about him. I feel, the present generation of advocates do not know about him. He was different. May I say, his name deserves to be included in the top bracket of advocates. The suspense in your mind. It must be unfolded. **Pandit Kanhaiya Lal Misra** from the Allahabad Bar. The High Court of Allahabad completed 150 years in 2016. He was born on August 31, 1903. He was no more on Oct.14, 1975. He lived for 72 years. He did not see 2<sup>nd</sup> position from school to college to university. He secured 91 percent marks in English in his graduation examination in 1925. In 1926, he sat for Indian Civil Service Examination (ICS). He made history by scoring 150 out of 150 in English Essay paper. It was well known Professor of English literature, Sir Arthur Quiller – Couch who had marked Misra's essay paper. He was so impressed that he wrote a personal letter to Misra's Professor of English in Allahabad university, Professor Dunn. He wrote :

It is the Englishman who had conquered India, but it is only K.L. Misra who conquered English!

He not only conquered English, he passed the ICS with credit. Yet, he was not appointed. Even question was raised in the British Parliament. As a student, he had made speeches. He was deeply under the influence of Mahatma Gandhi. This became the stumbling block for him for being part of ICS. This also became the turning point in his life. He passed the law examination in 1927. Joined the District Bar. He shifted to Allahabad High Court in 1930. Not joining the ICS was the real turning point in his life journey. Destiny plays its role. He was actually cut for the legal profession. He achieved eminence in the legal field. His flare for advocacy. Depth of learning. Sweet trapping court craft. Humility. Photogenic memory. Flow with the language. Thought process. Articulation. All blended together. He was a legal colossal.

He was offered Judgeship of Allahabad High Court in 1951. He politely said, no. He was appointed Advocate General, U.P. in 1952. All this on

the advent of the Indian Constitution. In 1955, he was offered Judgeship of the Supreme Court. The first advocate to get such an offer. He requested to be excused. He wanted to be in public life. If he would have accepted this offer (at the age of 52), he would have remained judge of the summit court for thirteen long years. Out of which, he would have been the Chief Justice of India for more than 4 ½ years. This in turn would have meant that JJ P.B. Gajendragadkar, A.K. Sarkar, K. Subba Rao and K.N. Wanchoo would have never become CJIs. Part of the term of Justice M. Hidayatullah as CJI would have been consumed by Misra. Misra continued to be the A.G. till 1969 (the year his wife died), when he resigned. These seventeen years as Advocate General were hugely contributory. The governments changed. The Chief Ministers changed. Misra continued to be the Advocate General. The matching example is that of H.M. Seervai. He remained A.G. of Maharashtra from 1957 till 1974.

Misra was very clear about his duty and responsibility as the Chief Law Officer of the State. Ram Manohar Lohia, the well known socialist leader was in jail. He had challenged his detention order before the Lucknow Bench of the Allahabad High Court. Lohia had decided to argue his case in person. There were no law books in jail. Even otherwise, he had no knowledge of law. Misra decided to assist him. He searched judgements in support of him. He carried the judgements and the other law books to the jail. He informed Lohia the points and the judgments in his favour. The people thought that this was unethical. How could he join hands with his opponent. Misra was asked, why this? He furnished his reply. He said that as the law officer, his duty was not so much to win the case but to assist and help the court to arrive at the correct decision. The truth could not be arrived at unless the version of both sides was known. This response stunned everyone. Yet, how true this response was. Even now, it is so. In the words of Misra :

“Every person in India must have equal opportunity when standing for trial and so have his or her day in court. As a law officer it is my duty to assist the courts in finding the truth and interpreting the law accurately, so that the courts may reach a correct decision and uphold the law in all aspects. My aim is to see that the truth is unveiled and the law clearly presented, thereby assisting the honourable court in arriving at the correct decision when pronouncing its judgement.”

Speaking of the primary duty of a lawyer, Misra says :

“The primary duty of a lawyer is not just to defend his client to the best of his ability but to uphold, above all, the **letter and spirit of the Constitution** to the best of his understanding, to do right and justice according to law without fear or favour to all. A lawyer is first an officer of court and should thus assist the courts, the guardian of the Constitution and law, in imparting justice, and the guiding principle and foundation for this must rest on the Preamble of the Indian Constitution. However all these actions must be **complemented with mercy, then only nobility will glow — and this profession rides on nobility.**”

Misra spoke of the Bench and Bar responsibility :

“The judicial wheel is rounded with equality, oiled with honour and functions smoothly with honesty — principally when **both members of the Bench and Bar shoulder their responsibilities seriously.**”

The period from 1945 to 1975 was the golden period. He reached the top of the ladder. Only the most brilliant and gifted reach. In the most complicated and the complex cases, he could just weave a kind of 'intellectual magic'. With his scholarship blended with advocacy and gripping language.

Misra was a Constitutional lawyer. Not a trial court lawyer. Yet his cross-examination skills were extra-ordinary. He cross-examined Morarji Desai in the Congress symbol case in 1969-70. It was before the Election Commissioner's Court in New Delhi. It was political cross-examination. S.S. Ray, Sr. Advocate and former Governor of Punjab was at that time a junior of Misra. Ray saw Misra cross-examining. Therefore, it would be good to share what Ray had to say about Misra's cross-examination of Morarji Desai :

“..... polite, mild mannered, respectful, humble, soft spoken yet biting, searching, devastating. I thought I was in the **land of Gods. Such was the divine nature of his cross-examination.**”

Many say many disparaging things about lawyers. Misra always had humane approach. Ray had an interesting experience with Misra which is worth sharing. Ray was doing a matter in the Patna High Court. It was with regard to reservation of sugarcane fields. On the date specially fixed for the case sometime in 1968, because of some political development in Calcutta (now Kolcutta), it became difficult for Ray to be present in Patna High Court. A prayer was made for adjournment. It was granted only upon the payment of costs by Ray's client to the opponent. On the next date of hearing, Ray appeared. Misra was appearing for the opposite side for the first time. Before Ray could open up, Misra got up of his own. He started addressing the Division Bench presided over by the Chief Justice. Ray thought that was rather irregular. Before Ray could say anything, Misra submitted to the Chief Justice that the order of payment of costs made against Ray's client may be waived. The learned counsel for the petitioner was in genuine difficulty. The Bench immediately recalled the previous order. This was the kind of large heartedness of Misra. The humane approach in him. My own experience at the Bar of long many years is just otherwise. On one occasion, the lawyer outside the court politely refused to accept the costs. When we went inside the court, the lawyer informed the court that the costs had not been paid. This was an unavoidable embarrassment. I paid from my pocket. Lucky, I had the required amount in cash with me. Otherwise, there would have been further embarrassment. Misra was different. One had a lot to learn from him. In fact, a lot to imbibe from him.

Misra was great in more ways than one. He was in love with Allahabad. He refused to shift to the Supreme Court. Once he went to argue a case in the Supreme Court. After he finished his arguments, Justice S.R. Das said in the open court :

“Mr. Misra, why do not you come more often to the Supreme Court ? In the cases you appear, it raises the standard of our judgments.”

Let me also share an occasion when Misra went to argue a matter in the Bombay High Court. The Bombay Bar has always taken legitimate pride in the members of its own Bar. The Bombay Bar has also contributed hugely in building up the Supreme Court Bar. It was the case of U.P. legislature. It had ordered the arrest of R.K. Karanjia, the then editor of Blitz weekly. The allegation was that he had made wrong reporting of some proceedings of U.P. legislature. Karanjia challenged the order under Article 32. Karanjia had not been produced before the Magistrate within 24 hours of his arrest. Therefore, the petition was allowed.

Karanjia then filed a suit for damages against the Bombay police and the U.P. legislature. The suit was heard by acting Chief Justice, Justice Koyaji. Palkhivala appeared for Karanjia, H.M. Seervai for Bombay police. K.L. Misra for the U.P. legislature. Before the start of the case, Misra met Seervai in his chamber. Seervai found Misra to be a quit kind of a person. Palkhivala argued first for Karanjia. Then, came the turn of Misra. Misra argued the case for 3 to 4 days. At the end of the first day, Seervai sent a message to the Bombay Bar. Also to the Bombay University. The message was that a 'miracle' was unfolding in the court of Justice Koyaji. If they truly wanted to know what advocacy was, they should come and hear Advocate General of U.P., Misra. The Bombay university was closed. The teachers and the students were told to go to the High Court to hear Mr. Misra argue the case. There was difficulty for the space in the court. After Misra finished arguments, Seervai was to argue. Seervai said, after hearing his arguments, 'I feel that even if I argue, my arguments will only wash off the beautiful varnish with which he has coated this case.' After the arguments were over, Justice Koyaji observed : 'I wish to say that never in my long career as a judge have I ever heard such an argument. The suit was dismissed. An appeal was filed by Karanjia before the Division Bench presided over the Chief Justice M.C. Chagla. Palkhivala again appeared for Karanjia. Palkhivala started by saying that his client had a strong case and the suit was wrongly dismissed by the Hon'ble Single Judge. CJ Chagla remarked, if your case was strong, why was it dismissed? Palkhivala responded by saying, because Misra had mesmerised the learned Single Judge. The CJ observed : 'In that case, he may mesmerise us too'. Palkhivala was heard. After hearing the arguments, the appeal was dismissed. After the case was over, Bombay lawyers asked Misra : Is there any other lawyer like you in the Allahabad Bar ? His humbling response was "Dozens of lawyers like me in Allahabad Bar." Sri Jamshedji Kanga of the Bombay Bar revealed : 'I have been comparing Mr. Misra with a large number of Advocates who had come to the Bombay High Court from various other states but none has touched the height of Mr. Misra.' This was said immediately after Kanga's listening to Misra's arguments in Blitz case before the Bombay High Court.

I wish to share what has been shared by Fali S. Nariman (92 years old living Legal Laureate) in his : *Before Memory Fades*. Earl Warren, U.S. Supreme Court Chief records:

I as a Judge of the Supreme Court of America should not be emotional, but I must confess that though I have travelled all over the globe but never was I moved more emotionally than by the speech of the Ld. Advocate General of Uttar Pradesh Mr. K.L. Misra today.

Misra's power of speech virtually had no parallel. It was always blended with intellectual feast and treat. Fali Nariman says : " Kanhaiya Lal Misra was one of the most powerful advocate of his time and one of the most persuasive". Misra always used to speak on the occasion of welcoming a judge on the Bench or bidding farewell to a retiring judge or on the sad demise of a member of the Bench or Bar. His magical selection of words mixed with prose spoken musically was personal to him. On Misra's demise, rich tributes were paid to him. Sadly enough, Misra's special symphony of words for the occasion was missed. The reason was obvious. Who could replace him !

He was truly a versatile man. A noble man. A family man. Loved by one and all. The like of him will never be born again.

**Wish you happy and healthy Covid free 2021.**

## LATEST CASES: CIVIL

"A minority institution should shine in exemplary eclecticism in the administration of the institution. Regulations which will serve the interests of the students, regulations which will serve the interests of the teachers are of paramount importance in good administration."

Uday U. Lalit, J. in *SK Mohd. Rafique v. Contai Rahamania High Madrasah*, (2020) 6 SCC 689

**Anita Sharma vs. New India Assurance Co. Ltd. : 2020 SCC OnLine SC 1002 : Standard of proof in motor accident claim cases is one of preponderance of probabilities, reiterates Supreme Court – Held** – The Supreme court has observed that the standard of proof in Motor Accident Claim Cases is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eyewitnesses, as may happen in a criminal trial; but, intention should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true, the Supreme Court bench observed. The bench observed thus while allowing an appeal against High Court judgment which had rejected the claim petition (by setting aside the Tribunal order allowing it).

**Daulat Singh (D) through LRs. vs. State of Rajasthan & Ors.: 2020 SCC OnLine SC 1004 – Held** – **Acceptance of gift can be gathered from circumstances** – The Apex Court while reversing the finding wherein High court rejected gift deed in favour of appellant on the ground that there was no acceptance as per the requirement of Section 123 of TPA. Reiterating *Asokan v. Lakshmikutty*, (2007) 13 SCC 210 it has followed the observations that: Gifts do not contemplate payment of any consideration or compensation. It is, however, beyond any doubt or dispute that in order to constitute a valid gift acceptance thereof is essential. We must, however, notice that the Transfer of Property Act does not prescribe any particular mode of acceptance. It is the circumstances attending to the transaction which may be

relevant for determining the question. There may be various means to prove acceptance of a gift. The document may be handed over to a donee, which in a given situation may also amount to a valid acceptance. The fact that possession had been given to the donee also raises a presumption of acceptance.

**Iqbal Basith & Ors. vs. N. Subbalakshmi and Ors.: 2020 SCC OnLine SC 1020 – Held** – The Supreme court while reversing the concurrent findings of both the courts below observed that the non-appearance of defendant in evidence is fatal to his case. No doubt his attorney appeared but adverse inference was taken against defendant under Section 114 illustration (d) of Evidence Act. Further the validity of 30 year document was also accepted by reversing the findings of High Court holding that these documents were more than 30 years old, were produced from the proper custody of the appellants along with an explanation for nonproduction of the originals, they were rejected without any valid reason by High Court holding that there could be no presumption that documents executed by a public authority had been issued in proper exercise of statutory powers. This finding is clearly perverse in view of Section 114(e) of the Indian Evidence Act 1872, which provides that there shall be a presumption that all official acts have been regularly performed. Further, the onus lies on the person who disputes the same to prove otherwise. The suit was filed by the appellant for permanent injunction and defendant never claimed title but refuted the claim of plaintiff/appellant and also disputed identity of property. The suit was dismissed on the ground that plaintiff/appellant had failed to prove his claim.

**Skill Lotto Solutions vs. Union of India & Others: 2020 SCC OnLine SC 990 : Article 32 is an important & integral part of Basic Structure of Constitution : Supreme Court – Held** – The Supreme Court reiterated the importance of Article 32 of the Constitution of India. "*Article 32 is an important and integral part of the basic structure of the Constitution. Article 32 is meant to ensure observance of rule of law. Article 32 provides for the enforcement of the fundamental rights, which is most potent weapon*", observed the apex court.

**Inderjit Singh Sodhi vs. Chairman, Punjab Electricity Board: 2020 SCC OnLine SC 985: Dismissal of SLP has no consequence on question of law: Supreme Court – Held** – The Supreme Court has observed that the dismissal of special leave petition is of no consequence on the question of law. In this case, the Division Bench of the High Court set aside the Single Bench judgment that allowed the writ petitions for the grant of 9/16 years' time bound revised promotional scale to the petitioners. The division bench had followed the dictum of the judgment in *Bhakra Beas Management Board v. Krishan Kumar Vij* to hold that the petitioners are not entitled to relief sought.

**S D Containers, Indore vs. M/s Mold Tek Packaging Ltd. : 2020 SCC OnLine SC 979: High Courts having no commercial division competent to consider cancellation of design under section 22(4) of Designs Act – Held** – The judgment delivered by the Supreme Court in the case *S. D. Containers, Indore v M/s Mold Tek Packaging Ltd* discusses the interplay between the Designs Act 2000 and the Commercial Courts Act 2015. The court held that it is not necessary that a suit involving the issue of cancellation of design under Section 22(4) of the Designs Act should be heard by a High Court having a Commercial Division. It held that a High Court without original civil jurisdiction and a commercial division is competent to consider such a case.

**Smt. S. Vanitha vs. The Deputy Commissioner, Bengaluru Urban District & Ors. : 2020 SCC OnLine SC 1023 – Held** – The Apex Court held that the recourse to the summary procedure contemplated by the Senior Citizen Act 2007 was not available for the purpose of facilitating strategies that are designed to defeat the claim of the women in respect of a shared household. A shared household would have to be interpreted to include the residence where the appellant had been jointly residing with her husband. Merely because the ownership of the property has been subsequently transferred to her in-laws or that her estranged spouse is now residing separately, is no ground to deprive the aggrieved of the protection that was envisaged under the PWDV Act 2005.

**State of Jharkhand vs. Brahmputra Metalics Ltd., Ranchi : 2020 SCC OnLine SC 968 : [Doctrine of Legitimate Expectation] State must discard the colonial notion that it is a sovereign handing out doles at its will : supreme court – Held** – The State must discard the colonial notion that it is a sovereign handing out doles at its will, remarked the Supreme Court . The Supreme Court bench observed that the doctrine of substantive legitimate expectation is one of the ways in which the guarantee of non-arbitrariness enshrined under Article 14 finds concrete expression.

**Noy Vallesina Engineering SpA vs. Jindal Drugs Limited: 2020 SCC OnLine SC 957: Supreme Court confirms pre-BALCO foreign awards cannot be challenged under Section 34 of Arbitration and Conciliation Act – Held** – The Court relied upon recent judgments of *MAX Corporation v. E-City Entertainment (India) Pvt. Ltd. ("IMAX")*, and the Court held that challenge to a pre-BALCO foreign award is not maintainable under Section 34 of the Act and even if contract and award is pre-BALCO, the law governing the challenge to the award will be law of seat of arbitration.

## LATEST CASES: CRIMINAL

"Any regulation framed in the national interest must necessarily apply to all educational institutions, whether run by the majority or the minority. Such a limitation must necessarily be read into Article 30. The right under Article 30(1) cannot be such as to override the national interest or to prevent the Government from framing regulations in that behalf. It is, of course, true that government regulations cannot destroy the minority character of the institution or make the right to establish and administer a mere illusion; but the right under Article 30 is not so absolute as to be above the law."

Uday U. Lalit, J. in *SK Mohd. Rafique v. Contai Rahamania High Madrasah*, (2020) 6 SCC 689

**Chaman Lal vs. State of Himachal Pradesh : 2020 SCC OnLine SC 988 – 'victim could not understand the good and bad': Supreme Courts upholds conviction of man accused of raping a mentally disabled girl – Held** – The Supreme Court has upheld the conviction of a man accused of raping a mentally disabled girl with low IQ. While considering the appeal filed by accused, the Apex Court bench noted that it is not in dispute that the accused had sexual intercourse with the victim and that the victim delivered a baby child and that the accused is found to be the biological father of the baby child delivered by the victim.

Agreeing with the findings of the High Court, the bench comprising Justices Ashok Bhushan, R. Subhash Reddy and MR Shah said: *"The High Court has also come to the conclusion that the victim was not in a position to understand the good and bad aspect of the sexual assault. Merely because the victim was in a position to do some household works cannot discard the medical evidence that the victim had mild mental retardation and she was not in a position to understand the good and bad aspect of sexual assault. It appears that the accused had taken disadvantage of the mental illness of the victim. It is required to be appreciated coupled with the fact that the accused is found to be the biological father of the baby child delivered by the victim. Despite the above, in his 313 statement the case*

*of the accused was of a total denial. It was never the case of the accused that it was a case of consent. Therefore, considering the evidence on record, more particularly the deposition of PW11 and PW22 and even the deposition of the other prosecution witnesses, the High Court has rightly observed that case would fall under Section 375 IPC and has rightly convicted the accused for the offence under Section 376 IPC. Even as per clause fifthly of Section 375 IPC, "a man is said to commit rape", if with her consent when, at the time of giving such consent, by reason of unsoundness of mind, is unable to understand the nature and consequences of that to which she gives consent. As observed hereinabove, even it is not the case on behalf of the accused that it was a case of consent. On evidence, it has been established and proved that the victim was mentally retarded and her IQ was 62 and she was not in a position to understand the good and bad aspect of sexual assault. The accused has taken disadvantage of the mental sickness and low IQ of the victim."*

**Jayant vs. State of Madhya Pradesh: 2020 SCC OnLine SC 989 : Magistrate can order registration of FIR u/s 156(3) for offences under Mines and Minerals Act, no bar u/s 22 : Supreme Court – Held** – The Supreme Court has observed that the bar under Section 22 of the Mines & Minerals (Development & Regulation) Act, is not attracted when a Magistrate in

exercise of powers under Section 156(3) of the Code of Criminal Procedure orders/directs the concerned Incharge /SHO of the police station to lodge/register crime case/FIR even for the offences under the MMDR Act and the Rules.

**Sumedh Singh Saini vs. State of Punjab: 2020 SCC OnLine SC 986** : **Long delay in lodging FIR a valid consideration to grant anticipatory bail: Supreme Court – Held** – The Supreme Court has observed that a long delay in lodging FIR can be a valid consideration for grant of anticipatory bail. The supreme Court bench observed thus while allowing the anticipatory bail plea of former Director General of Police (DGP), Punjab, Sumedh Singh Saini who had sought the bail relation to the 1991 Balwant Singh Multani murder case. *"However, considering the fact that the impugned FIR has been lodged/filed by the brother of the deceased after a period of almost 29 years from the date of incident and after a period of 9 years from the date of decision of this Court in the case of Davinder Pal Singh Bhullar (supra) and nothing is on record that in between he had taken any steps to initiate criminal proceedings and/or lodged an FIR, we are of the opinion that at 11 least a case is made out by the appellant for grant of anticipatory bail under Section 438, Cr.P.C. Many a time, delay may not be fatal to the criminal proceedings. However, it always depends upon the facts and circumstances of each case. However, at the same time, a long delay like 29 years as in the present case can certainly be a valid consideration for grant of anticipatory bail."*, the bench further observed.

**Sandeep Kumar and others vs. State of Uttarakhand and Ors.:2020 SCC OnLine SC 980** : **Dowry Death – No conviction**

**under section 304B IPC if unnatural death is not established : Supreme Court – Held** – The Supreme Court has held that the offence of dowry death under Section 304B of the Indian Penal Code cannot be made out if the cause of death has not been established as unnatural. The Court also held that it has to be shown that the deceased wife was subjected to cruelty or harassment in connection with demand for dowry soon before her death.

The judgment authored by Justice K M Joseph explained the ingredients of the offence under Section 304B IPC as follows: *"The ingredients of the offence are well-settled. A marriage performed within seven years before the death of the wife. The death must be unnatural. Soon before the death, the deceased wife must have been at the receiving end of cruelty or harassment, on account of demand for dowry. It is described as dowry death. The relatives concerned, including husband, become liable. Section 113B of the Evidence Act comes to the rescue of the prosecutor by providing for a presumption that a person has caused dowry death if, it is shown that soon before her death, she was subjected by such person for cruelty or harassment for or in connection with demand for dowry"*.

**Rohtasand Another vs. State of Haryana : 2020 SCC OnLine SC 1014** : **Charge under section 149 IPC can be altered to Section 34 IPC if common intention among accused is proved : Supreme Court – Held** – The Supreme Court has held that it is permissible to alter a charge under Section 149 of the Indian Penal Code(IPC) to a charge under Section 34 IPC if the facts prove that the crime has been committed in furtherance of a common intention.

## NOTIFICATION

**Motor Vehicle Aggregator Guidelines issued to regulate shared mobility and reducing traffic congestion and pollution:** The Ministry of Road Transport and Highways has issued the Motor Vehicle Aggregator Guidelines, 2020 dated 27.11.2020 as per the requirements and provisions of the Motor Vehicles (Amendment) Act, 2019 and further as per the amended Section 93 of the Motor Vehicles Act, 1988.

**The objectives of issuing these guidelines include:**

- Regulating shared mobility and reducing traffic congestion and pollution, the Motor Vehicles Act, 1988 has been amended by the Motor Vehicles Amendment Act, 2019 to include the definition of the term ‘aggregator’.
- Prior to the amendment the regulation of Aggregator was not available
- To provide ease of doing business, customer safety and driver welfare

**The Guidelines provide for :**

- License issued by the State Government is a mandatory pre-requisite for permitting business operations by the aggregator.
- For regulating the aggregators, the guidelines specified by the Central Government may be followed by State Governments
- In order to ensure compliance with the license requirements the Act stipulates penalties under Section 93 of the Act.
- These Guidelines seek to establish a regulatory framework for aggregators by State Governments to ensure that the aggregator’s are accountable and responsible for the operations executed by them.
- The business shall also be considered as a service provided by the aggregators to serve the larger public interest in terms of generation of employment, commutation facilities to the public which is cost-effective and comfortable.
- Enable the government to achieve its goal of ensuring maximisation of using public transport, reduced fuel consumption consequently reducing the import bill, reduced vehicular pollution thereby reduced harm to human health.
- This Ministry vide notification dated S.O. No. 5333(E) dated 18th October, 2018 has exempted the electric vehicles and vehicles running on Ethanol or Methanol from the requirements of Permit. The State Governments to facilitate operations of such vehicles.

**Proposed Guidelines to ensure :**

- regulation of aggregators,
- eligibility conditions/qualifications for of an entity to be an aggregator,
- compliances with regard to vehicles and drivers
- compliances with regard to Aggregator App and Website
- manner of fare regulation,
- drivers welfare
- service to citizens parameters and ensuring safety
- evolving concepts like pooling and ride-sharing in private cars,
- license fees/security deposit and powers that the State Governments

In a communication to all the States and UTs today, the Ministry has stressed upon implementing these guidelines.<sup>1</sup>

<sup>1</sup>[https://morth.nic.in/sites/default/files/notifications\\_document/Motor%20Vehicle%20Aggregators27112020150046.pdf](https://morth.nic.in/sites/default/files/notifications_document/Motor%20Vehicle%20Aggregators27112020150046.pdf)