
ALTERATION OF MOTOR VEHICLE ITS LEGALITY, NON-CLARITY AND PUNISHMENT WITH THE EFFECT ON SOCIETY: A COMPREHENSIVE STUDY

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ABSTRACT

The paper is a detailed analysis of laws concerning the alteration of a motor vehicle and how it affects society. This paper reviews section 52 and connected sections which were implemented to regulate the alteration in a motor vehicle. It is a descriptive and doctrinal legal research paper written by researching various statutes, supreme court cases, notifications by ministries, circulars, and articles. The study also takes into consideration a few real incidents as examples. This paper aims to evaluate the effectiveness of the law in achieving its objectives and identify potential areas for enhancement. It was found that there arises a non-clarity with the law. Further, it was found that the off-road vehicles have to be categorized separately as they had different functions. This paper helps the readers in understanding the law, identifying the problem in law, and provides awareness to the readers about what they should know before altering their vehicle. In this research paper, the legal and illegal alterations and the punishments for the alterations are researched, including the circumstances for suspension and cancelation of registration.

Keywords: Alteration, Law, Off-road, Legal, Illegal, Punishment

Introduction

In English Vocabulary, the term Alteration means a change made to something. It can be an adjustment, adaptation, improvement, etc.... In Motor Vehicles Term Modification, the term means the change made to the appearance or performance of the vehicle or both, using parts that are not stock. Some Alteration requires approval from the RTO, some require no registration, and not every change to a vehicle is legal or approved in India.

The Motor Vehicles Act, 1988¹, hereinafter referred to as the Act, regulate all aspects of road transport vehicle in India. This Act falls under the concurrent list. That means both the center and state have the power to make laws, but the state must adhere to the guidelines put forth by the center. Other laws regulating vehicle alteration are The Central Motor Vehicles Rules, 1989, and state laws for state regulation such as the Kerala Motor Vehicle Rules 1989, The Karnataka Motor Vehicles Rules 1989, The Maharashtra Motor Vehicles Rules 1989, etc ...

According to Section 107 of the Motor Vehicles Act² deals with the power of state government to make rules. It is expressed in the Act that the State Government may make rules to carry into effect the provisions of this Chapter.

There can be multiple reasons to modify a vehicle. It can be based on looks or performance. Few people find an altered vehicle to be an excellent medium to get noticed by the public and they proceed to do so. Many other vehicle enthusiasts just want to enjoy their vehicle or unlock the true potential of a vehicle and for them, the chance to do so is obstructed by law.

An example of the same can be off-road compatible vehicles. They aim to improve the efficiency of four-wheel drive vehicles by modifying them. It is unjust to categorize adventure vehicles in the same group as passenger cars. There should be a special consideration or set of laws for off-road vehicles. These vehicles are not intended for use on normal public roads but on hilly terrains and unsafe roads. These modifications, such as premium seat belts, roll-cages, and larger tires, are meant to enhance both the performance and safety of the vehicle as well as the passengers. By increasing the tire size, it will also improve the braking capacity, ensuring optimal safety. The

¹ Motor Vehicles Act 1988

² Motor Vehicles Act 1988, s 107

present law makes such alterations illegal thus obstructing the construction of a proper off-road capable and safe vehicle.

Off-Road capable vehicles are important for a country such as India which contains so much of hilly terrains and non-paved roads which are unsafe for normal vehicles. Such vehicles are used in day-to-day activities in those areas for livelihood. Even off-road competitions are gaining population in India.

Race enthusiasts can import their vehicles, but they will not be permitted to ride on public roads. **Notification No. 65 (RE-2013)/2009-2014**³ by the Directorate General of Foreign Trade (DGFT) stated through the notification issued that the vehicles imported must be used for that purpose only. Further, it is stated that the vehicle thus imported will not be registered under CMV Act and such vehicles cannot be sold or alienated by anyone in India.

It was also stated that such a vehicle shall be used within closed premises with proper safety precautions, and it shall not be used for any commercial purposes. Further, the importer shall be required to execute a Bond with Customs with adequate security/ surety to re-export the vehicle(s) within 30 days of the completion of the event or within such extended period as the appropriate officer may allow after being shown a reasonable cause.” This means the vehicle imported for a race must be exported without reasonable cause for a stay. Which hamper the complete enjoyment of their vehicle.

Alteration of Motor Vehicle

It is regulated under section 52 of the Motor vehicles act, 1988. It states that – “No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer”.⁴

It is further regulated by the Central Motor Vehicle Rules, 1989⁵. Chapter V, that is rules 91 to 137 of this act deals with the construction, equipment, and maintenance of motor vehicles. The

³ ‘Addition of a new Policy Condition No. 10 to Chapter 87 of ITC (HS), 2012 Schedule 1 (Import Policy)’ (ieport.com, 2013 - 2014) < http://www.ieport.com/2013-2014/notifications/notification_no_65.htm > accessed 3 July 2023

⁴ Motor Vehicle Act 1988, s 52

⁵ Central Motor Vehicle Rules 1989

provisions regulate the overall dimensions, Size, Nature, and Condition of tires and Brakes, Steering gears, safety glass, and windscreen wipers. Section 92 of the CMVR states that “No person shall use or cause or allow to be used in any public place any motor vehicle which does not comply with the provisions of this Chapter.”⁶

Road Safety is one of the main reasons for the ban on modification. Difficulty to identify the vehicle. Some modifications were so severe that even the owner themselves cannot identify which model of their vehicle was. Further, such modified vehicles abet crimes, and it became difficult to identify the modified vehicles and their owners. Also, the new AI cameras modification such as tinted window makes it difficult to analyze the driver to find if he is wearing a seat belt or driving with a phone in hand. The allowed tint is 70% to the windshield and 50% to the windows. Anything violating the above is considered illegal.

The object of the MV Act came into consideration in the landmark case of **Regional Transport Officer v K Jayachandra (2019)**⁷. The Court observed that the legislative’s intent was attaching due significance to the “public safety” and “Public Interest” thus: The object and the clear intent of amended section 52 is that the vehicle cannot be so altered that the particulars contained in the certificate of registration are at variance with those “originally specified by the manufacturer”.

Some modifications banned under the law are

Exhaust – Sections 112-115 of the CMVR deals with Exhaust gases, the Location of exhaust pipes, Exhaust pipes of public service vehicles, and the Emission of smoke, vapor, etc. from motor vehicles. Violation of the same can warrant punishment under section 190(2) of the MV Act.

Section 190(2) of the MV Act states “Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed concerning road safety, control of noise and air pollution, shall be punishable for the first offense with a fine of one thousand rupees and for any second or subsequent offense with a fine of two thousand rupees.”

Bull Bumper – The Circular No. RT- 11021/38/20 1 7-MVL⁸ passed by the Ministry of road

⁶ Central Motor Vehicle Rules 1989, s 92

⁷ Regional Transport Officer v. K. Jayachandra (2019) 3 SCC 722

⁸ ‘Action against unauthorised fitment of Crash Guard / Bult Bar on the Motor Vehicles’ (morth.nic.in, 2017)
<[https://morth.nic.in/sites/default/files/circulars_document/Action%20against%20unauthorised%20fitment%20of%](https://morth.nic.in/sites/default/files/circulars_document/Action%20against%20unauthorised%20fitment%20of%20)

transport and Highways made them illegal under section 52. It states as follows - Kind attention is drawn to the unauthorized fitment of crash guards/bull bars on Motor Vehicles. The fitment of the crash guard/bull bar on the vehicle brings serious safety concerns to the pedestrians as well as occupants of the vehicle. It is brought to your notice that the fitment of crash guards/ bull bar is in contravention of Section 52 of the Motor Vehicles Act, 1988, and attracts penalties under Section 190 and Section 191 of the Motor Vehicles Act, 1988. The circular further requested the states to take strict action against the unauthorized fitment of Crash Guards/Bullbars on motor vehicles.

Extra Lights - It's against the law to have modified headlights and taillights. Your headlamps and their color cannot be switched out for ones in the hue of your choice. Under sections 108 and 108A, what color lights are to be used where is stated accordingly. If the headlights are overly bright, they could blind cars traveling in the opposite direction.

Sections 105 to 111 of CMVR deal with the fitment of lamps and lights on a vehicle, modification violating the same calls for punishment, and a hefty fine. Section 111 deals with the prohibition of spotlights⁹. It states that “No spotlight or searchlight shall be carried on the front of any vehicle except in exceptional circumstances with the prior approval of the registering authority.”

Tire modification - Tire modifications in India are regulated for safety reasons. Altering tire sizes beyond manufacturer limits can affect stability and increase accident risks. Using tires with inadequate load capacity compromises weight-bearing capability, potentially leading to tire failure and loss of control. Inappropriate tread patterns or missing markings reduce traction, increasing the likelihood of skidding. Fitting tires that protrude or cause clearance issues can interfere with components and impact steering and suspension. Unauthorized suspension or wheel arch modifications disrupt vehicle balance and stability.

The size, nature, and condition of tires are dealt with under S 94 and S 95. Any modification done violating the same shall be punished under S 190 of the MV Act, which is using the vehicle in an unsafe condition.

20Crash%20Guard_Bult%20Bar%20on%20the%20Motor%20Vehicles,%20letter%20dated%207.12.2017.pdf>
accessed 6 July 2023

⁹ Central Motor Vehicle Rules 1989, s 111

Body Modification - Vehicle bodies are designed to meet certain safety standards and undergo rigorous testing to ensure occupant protection and structural integrity. Modifying the body can compromise these safety features and affect the vehicle's crashworthiness. Changes that impact the structural integrity, weight distribution, or overall stability can increase the risk of accidents, reduce occupant protection in case of a collision, and potentially violate safety regulations.

Overall dimensions of a motor vehicle are dealt with under S-93. Any modification done violating the same shall be punished under S 190 of the MV Act, which is using the vehicle in an unsafe condition.

Problem with the Law - Even so carefully curated, there are still many lacunae in the law which include, The Government allows Companies to sell and buy products for car modification, which is taxed as well, but it would be illegal to fit them. It is the same reasons it never bans cigarettes and alcohol and shows dirty health hazard videos in movie theatres and levy hefty fines for consumption in public, or constructs huge highways and imposes speed limit regulation of 80km/hr. The Tax revenues, speeding fine, and party funds from the companies are a great source of revenue for the government and they would never want to lose it. It would be the regular people who elected the government that will have to suffer because of this chicanery.

In the case **Regional Transport Officer v K Jayachandra (2019)**¹⁰. The landmark judgment highlighted the issue concerning section 52 of the MV Act and Rule 126 of the Central Motor Vehicles Rules. The court, in this, acknowledged the object and intentions behind the amendment made by Parliament in 2000. The amendment aimed to prioritize the safety of road users by prohibiting any form of alterations, including the change of tires to higher capacity. The central point of the judgment is that the Regional Transport Office (RTO) does not need to be involved in every minor alteration, such as fitting accessories. However, if there are structural changes that deviate from the registered particulars and can be considered as altering the "basic structure" of the vehicle, these modifications are deemed illegal. The legislature has recognized and affirmed the prohibition of increasing tire size due to safety concerns was upheld by the Supreme Court.

¹⁰ Regional Transport Officer v. K. Jayachandra (2019) 3 SCC 722

Acknowledging this Judgement, the Ministry of Road Transport and Highways passed notification No. RT-11036/06/2019-MVL¹¹ considering the issue in the matter. As per the report, discussions have taken place among different agencies and stakeholders regarding the provisions of Section 52 and the orders of the Hon'ble Supreme Court. The report indicates that a motor vehicle, when altered by including optional components provided by the manufacturer or modified in a manner that maintains compliance with the manufacturer's specifications, may not need further certification. For further clarification, the ministry mentions the modification that can be carried out by the vehicle owner which would not entail further certification.

- (a) Replacement of parts or components by identical parts or components.
- (b) Replacement parts or components with parts or components with equivalent functional performance.
- (c) Optional parts or components as prescribed by the vehicle's manufacturer.

This clarification creates a situation in which modification done by the manufacturer or branch of the manufacturing company can be legal and seen as upgrades or optional parts and those upgrades done by a third-party store be deemed as modification and violation of the act.

For example, a Tyre upgrade to a greater size if prescribed by the manufacturer is valid, whereas those done by a third-party dealer are not legal. Similarly, a person who buys lights from a third party other than the manufacturer can be liable.

This clarification raises a question about the interpretation of "continuing to comply with the manufacturer's specifications." There is ambiguity regarding the legality of fitting taillights, headlights, and horns, which are considered basic features of a vehicle and do not alter its structure when obtained from a third-party dealer. This raises questions about the permissibility of such installations. Additionally, the situation becomes more complicated when considering the situation, if an installation being fined by the MVD for non-compliance with the act is a genuine accessory provided by the manufacturer.

¹¹ 'Alteration in Motor Vehicles – reg.' (mvd.kerala.gov.in)
<https://mvd.kerala.gov.in/sites/default/files/Downloads/Altera_41_19_pdf.pdf> accessed 6 July 2023

Even so, there are a few alterations that may not be specified by the manufacturer but are regarded as lawful by the act, they include:

Color change – While it is legally allowed to repaint a car in the desired color, obtaining approval from the Regional Transport Office (RTO) for the color modification is necessary. Additionally, the Registration Certificate (RC) of the vehicle should indicate the color changes made. However, it is important to note that repainting the car in Army Green is strictly prohibited in India, as this color is exclusively reserved for military purposes.

Change of engine to different type - The proposal aims to prohibit any form of alteration to vehicles, including the use of higher capacity tires, except for modifications made to enable the use of eco-friendly fuel, such as Liquefied Petroleum Gas (LPG). Additionally, the Central Government is proposed to be granted the authority to permit vehicle alterations for specific purposes.

It is provided under section 52(1) of the MV Act¹² that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different types of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed.

Adapted vehicles - Motor Vehicle Amendment Act 2019 has introduced the terminology of Adapted Vehicles in section 2 and alteration provisions under section 52 thereof. In the 56th meeting of CMVR TSC held on 22nd August 2019 need to formulate procedures for adapted vehicles of category M1 was highlighted. The AUTOMOTIVE INDUSTRY STANDARD -169 (AIS – 169)¹³ standard has been formulated covering adaptations for vehicles of category M1 covering requirements for accommodation and accessibility for differently-abled drivers and passengers of reduced mobility. Alteration to vehicles for the same can be done legally with proper authorization.

¹² Motor Vehicles Act 1988, s 52(1)

¹³ ‘AUTOMOTIVE INDUSTRY STANDARD – 169, Guidelines on Provisions for Adapted Vehicles of categories M1, N1 and M2 ‘ (morth.nic.in, 2021) <
<https://morth.nic.in/sites/default/files/ASI/Draft%20AIS%20%20169%20Provisions%20for%20adapted%20vehicles.pdf>> accessed 10 July 2023

Punishment - Alteration to a vehicle without authorization can be an offense that calls for a fine as well as jail time. The construction and maintenance of a vehicle is looked over in the MVA under section 109. Section 182¹⁴ A deals with the punishment for the same. It states that any person violating the said provision shall be punished with a 1000rs fine and 5000rs fine as mentioned under the provision.

Further, in section 190 of the act, the punishment for using vehicles in unsafe conditions is dealt with. As the alterations to the vehicle in contravention of the Act can be deemed unsafe to be used on the road, this section deals with the punishment for the same. Section 190(2) states that “Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed concerning road safety, control of noise and air pollution, shall be punishable for the first offense with a fine of one thousand rupees and for any second or subsequent offense with a fine of two thousand rupees.”¹⁵

Suspension and Cancellation of Registration (S 53 & 54)¹⁶

Under section 53 1(a) of the Act the Registration can be temporarily suspended provided that the use of such vehicles in a public place would constitute danger or if it fails to comply with the provisions of the Act or the rules made thereunder. Since vehicle modification contravenes the provisions of the Act and is deemed to be a danger to the public, registration can be suspended under this section.

Section 54 of the act deals with the cancellation of registration suspended under section 53. If a vehicle's registration has been suspended under Section 53 for a continuous period of at least six months, the registering authority, whether it is the original or a different authority, has the power to cancel the registration by either canceling it themselves or forwarding the registration certificate to the original authority for cancellation.

In the case of Abin Babs Abraham¹⁷, the owner of an Isuzu V-Cross was fined a hefty amount of

¹⁴ Motor Vehicles Act 1988, s 182

¹⁵ Motor Vehicles Act 1988, s 190(2)

¹⁶ Motor Vehicles Act 1988, s 53 & 54

¹⁷ Kanad kalasur, ‘Kerala MVD slaps Rs. 48,000 fine on a modified Isuzu V-Cross’ (team-bhp.com, 16 August 2020) < <https://www.team-bhp.com/news/kerala-mvd-slaps-rs-48000-fine-modified-isuzu-v-cross> > accessed 10 July 2023

Rs 48,000 for heavy modification of the vehicle. This is a vehicle that helped in rescue missions during the Kerala floods. The registration of this vehicle was canceled for six months or until the vehicle is submitted for inspection without unauthorized modifications under Section 53 (1) of the Motor Vehicle Act. It was mandated that the vehicle should be used on public roads during this period. Registration will be permanently canceled under Section 54 of the Motor Vehicle Act if the unauthorized modifications to the vehicle were not removed within six months.

In another case. It was alleged by the MVD that the owner of a tempo traveler, Ebin Varghese¹⁸ turned it into a caravan without permission. MVD proceeded to cancel the registration of the vehicle and was taken after noticing modifications such as the installation of laser lights modifying tire space and vehicle registration plates.

Conclusion

The above study findings help the reader in identifying the law, reason, punishment, and non-clarity in the laws of modification or alteration in India. The law provides huge importance to public safety as it should, it often neglects to look into the safety of the drivers who are off-roading. This lacuna can be improved by categorizing off-road vehicles separately and passing new improvised laws for the same. To control the problem of uncontrolled modification effectively, the government must regulate the availability of such parts in the aftermarkets. By introducing separate regulations for off-road vehicles and by controlling the availability of modification parts in aftermarkets, the government can effectively control the issue. Additionally, passing a clear notification covering permissible alterations for specific purposes, such as food trucks, caravans, and advertisement vehicles, will further enhance the efficacy of the law and promote safe and responsible vehicle modifications in the country. Overall, the paper is a detailed analysis of laws concerning the alteration of a motor vehicle and how it affects society. Further, I hope, it helps readers in the legal and illegal alterations and the punishments for the alterations including the circumstances for suspension and cancelation of registration.

¹⁸ CK Vijayan, 'Arrest of 'E Bull Jetters': Police collect more evidences on their past traffic rule violations' (english.mathrubhumi.com, 10 August 2021) < <https://english.mathrubhumi.com/news/kerala/napoleon-caravan-rto-motor-vehicle-department-ebin-varghese-libin-varghese-1.5899976> > accessed 10 July 2023