



Research Paper

## Road Safety in Bangladesh: Challenges and Obstacles to the Implementation of Law

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### Abstract

The general purpose of this study is to get information related to road accidents in Bangladesh. Though we have Acts related to road accidents in Bangladesh. Even having a very strong law and order recently this has become one of the most alarming facts for every person in the country due to the huge number of accidents at the moment. The government is also giving it the most priority but the reason behind doing the research was to find out the loopholes why the road accident is not decreasing rather than increasing? In this study, I tried to do an exploratory research design which helped me to understand the main problem. Qualitative and quantitative research methodologies and methods were used to analyze and gather the information required for the study. There are many things related to the cause of road accidents such as human factors, environment, situation, and mechanical factors as well. As a result, we cannot say that violation of road safety is solely responsible for a road accident. However, while doing the study I found out that most people know what road safety is and the rules to follow but they don't necessarily implement that. The best way of reducing road accidents would be to implement the law together with effective safety measures. Furthermore, proper education with knowledge and enforcement will be the most effective path while the easiest way of execution will be by making public awareness.

**Keywords:** Road accident, obstacles, awareness, law implementation.

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### I. Introduction

In today's world, road safety has become a major public health concern, as statistics show that more than 3,000 people around the world succumb to death daily due to injuries sustained in traffic accidents.<sup>3</sup> Another problem with road accidents is that they cause huge social and economic losses to individuals, families, and countries. Thus, everyone understands the urgent need to recognize the worsening situation in Bangladesh with road accident deaths and injuries and to take measures to prevent them.

### Background of the study

Although road accidents are a serious concern all over the world, their severity is more visible in developing countries like Bangladesh. The traffic police and the police department play a crucial role in identifying and recording accidents and in making drivers accountable for their faults. Major and minor accidents take place every day, but the numbers increase during Eid holidays. In our country, we have always had many laws, but proper implementation is always a question due to the lack of a proper implementation mechanism. Some of these reasons are known to everyone, and some of them are hidden behind other problems. If good laws were implemented, drivers might stop driving unsafely and recklessly.

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## **Causes of Road accidents**

### **Primary causes**

There are some primary causes of road accidents in Bangladesh. The Bangladesh Road Transport Authority (BRTA), Dhaka Metropolitan Police (DMP), and Dhaka Transport Coordination Authority (DTCA) have blamed the drivers for 90% of accidents in the whole country, citing rash driving as the main reason.<sup>4</sup> On the other hand, drivers blame passengers who ask them to hurry and force them to drive as fast as possible. As a result, it is difficult for drivers to concentrate on the road and more accidents take place. In Bangladesh, 70% of total accident victims are pedestrians. 54% of road accidents occur in urban areas, according to a report submitted by the Bus Accident Research Institute (ARI). It also states that police only submit the crashes between two vehicles, ignoring the rest. As a result, many accidents are uncounted.<sup>5</sup>

### **Specific causes**

According to a World Bank analysis report, the average traffic speed in Bangladesh, specifically in Dhaka city, has dropped from 21 kilometers per hour to 7 kilometers per hour over the last 10 years.<sup>6</sup> Traffic jams are one of the reasons for road accidents in Bangladesh. Another specific reason for the increased number of road accidents is the habit of pedestrians who walking in the streets haphazardly. This increases the risk of road accidents, but most of the time vehicle drivers are blamed for the incident. It is quite noticeable that people are crossing roads without checking vehicles on both sides of the road, as it's very common in our country to use the wrong side to drive. It is not possible to change the habits of drivers within a day, but it's possible for people to be more careful while crossing the road. Parking cars, buses, trucks, and other vehicles at any place also causes a road accident. There are lots of signs telling people not to park any vehicles, but due to the proper implementation of the law, people don't follow them and park their vehicles wherever they want. As a result, busy roads create intolerable traffic, makes the drivers and passengers impatient, and causes road accident. Road improvements also create huge traffic jams on the road. Most importantly, roadwork signs are inadequate, so drivers are not aware of the roadwork are also creating road accidents. The improper road system of the country is also responsible for the increased number of a road accident.

### **Permanent causes**

There are some problems with our road transportation system of our country, which are pretty permanent and can't be fixed easily. But these are also reasons for serious accidents. To solve these problems and to stop road accidents, governments need to adopt a long-term management program.

**Road system-** There are some road systems in our country, which increase the probability of causing accidents, especially on highways, which can only be repaired by overhauling the whole system. These include unplanned speed breakers and improperly situated gas stations etc. It is not possible to fix these problems within a short time, but they can be fixed if the government makes a plan to fix the roads and construct new roads.

**Signals-** Mainly road accidents occur in our country because of drivers and their reckless driving, but others are caused by failure to maintain the signals which are used in the road. Because many road signals are manual, it's not possible for the traffic police to handle the entire traffic at the same time. Most people don't know about the proper signals, and drivers are also not interested to learn them properly. As a result, road accident percentages increase.

**Rainy season-** It's a very common thing for the people of Dhaka city to suffer a huge crisis during the rainy season as there is rainwater everywhere on the road. At that time, road accidents increase rapidly. And it's not just in Dhaka but also in other cities, and even on the highway roads.

### **Social causes**

Road or traffics are not the only reason behind the huge number of road accidents. There are several social reasons behind it while are also to be blamed for a road accident. Some of them are-

**Using a personal car**—Nowadays, people think using a car is all about status. Unless one owns a private car, they do not have a social status. As a result, people are so ambitious to buy a car they also take loans for buying a car and even use their personal savings. So day-by-day, the number of car users is increasing rapidly, and it is also increasing the load in the road.

**Availability of public transport**—The public transport in Bangladesh does not meet the needs of the people. One needs to wait and then hurry to get the public transport. So people get frustrated and want to hurry and use public transport unsafely. As a result, road accidents are increasing.

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<sup>4</sup>Farhin, N. (2018, April 24). Are drivers alone responsible for road accidents in Bangladesh? *Dhaka Tribune*. Retrieved November 12, 2018, from <https://www.dhakatribune.com/bangladesh/2018/04/24/drivers-alone-responsible-road-accidents-bangladesh/>.

<sup>5</sup>Farhin, N. (2018, April 23). Why are road crashes rising in Dhaka? *Dhaka Tribune*. Retrieved November 12, 2018, from <https://www.dhakatribune.com/bangladesh/dhaka/2018/04/23/road-crashes-rising-dhaka/>.

<sup>6</sup> ibid

**Safety issues**—Girls and children are the most vulnerable groups in society. Now the social condition of Bangladesh is such that parents do not feel safe leaving their children alone. So they prefer using private vehicles, which increase traffic jam on roads and, as a result, road accidents take place.

**Poverty**—Poverty is one of the main reasons for road accidents. The drivers want to earn more money by competing with other vehicles to get more passengers. As a result, many times this causes road accidents. Due to lack of money, there are lots of vehicles that are not fit to use on the road, but bus owners are still using them. So when a road accident takes place it causes injury, death, and damage to properties.

## **Laws related to road accidents in Bangladesh**

### **4.4 The Penal Code**

Causing death by rash driving or riding on a public way 304B. Whoever causes the death of any person by rash or negligent driving of any vehicle or riding on any public way not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to [three years], or with a fine, or with both.

### **Road transport Act-2018**

After the long-standing Motor Vehicle Ordinance of 1983, the new Road Transport Act 2018 came into force in November 2019. Again in a meeting between the home minister and transport leaders in November 2019, several sections of the Act were not enforced until June 2020. There are several new provisions as well as explanations of various terms and new punishments with new rules. Among other new incorporation, the highlights are-

1<sup>st</sup> there will be 12 points on all licenses. There are nine types of violations that are identified for example- speeding, excessive honking, etc. each violation will add a point to the license. Once a license score 12 points the license will be revoked. The law itself is very ambitious but a big doubt arises about its implementation. At present most of the drivers don't have a digital license so it is not possible to keep the track of their violations. Proper implementation of this rule is time-consuming and challenging.

2<sup>nd</sup> rule is an applicant for a license must have to pass class eight before applying. Without having the proof no one is entitled to get a license. This law surprised me as there was no requirement of education qualification to get a license.

3<sup>rd</sup> there is a huge change in the fine amount. For example, under the previous law driving without license costs a 500tk fine whereas now it will fine Tk 25,000 for the same offense. It's also the same for the fake license as it used to cost only Tk 500 but now under the new law, it will cost Tk 1 to 5lakhs.

Driving without a fitness certificate will now carry a fine of TK 25,000, while jaywalking, driving without a seatbelt and parking illegally were previously an offense of TK 200 but now all carry fines of TK 5,000. Driving on the wrong side, speeding, breaking traffic signals, and riding a motorbike without a helmet can get you fined up to TK 10,000.

Another change that will surely hurt all car users is the update to the "alteration to motor vehicles" section. The previous Section 42 was left vague and only had a TK 5,000 fine. In the new act, Section 40 replaces Section 42 and brings in 18 different classifications, in which modifications to a car are punishable by a fine of up to TK 3 lakh. These classifications include both front and rear overhangs (the basic dimensions of the car)—meaning technically, the all too common steel bumper additions found in most cars are a crime under this law. Along with that, aftermarket exhausts, bigger wheels, modified horns, indicators, brakes, and more, all fall under the "illegal modification" classification.

According to the new act, Section 105 of the 11th chapter states that no matter what, if anybody gets seriously injured or killed in a motor vehicle-related accident, it would be considered an offense under the relevant sections of the Penal Code, 1860. This ranges from Section 302 to 304B, with the maximum punishment being a death sentence. The offenses that fall under section 105 of the act are not eligible for bail.

### **Case law**

In Bangladesh, there are serious accidents in everyday life due to the harsh, fast, and reckless driving of bus and truck drivers. These accidents cause death and injury to many innocent people. In most cases, the victims remain silent and their misery remains unattended. The Directive on Compensation for Road Accidents has remained largely unknown, with a few principles. While the traffic accident statistics that occur in Bangladesh are alarming, the number of successful cases is frustratingly disappointing. The Supreme Court (SC) of Bangladesh has endeavored to develop a jurisprudence of compensatory justice for victims of traffic accidents.

Let's look at some notable cases:

### **Bangladesh Beverage Industries Ltd Case**

The case of Bangladesh Beverage Industries Ltd against Rowshan Akhter is fundamental to assess the damages and grant compensation for the non-calculable losses. In this case, a journalist was killed in an incident of hit and run. A minivan that came from the wrong side destroyed his skull. The Joint District Judge, Dhaka, awarded TK 3, 52,97,000 as compensation. Reduced to TK 2, 01, 47,008 in the Superior Court Division (HCD), the Appeals Division (AD) finally decreed that the amount of the compensation was TK 1, 71, 47,008. The Court held that the applicants were entitled to compensation for pain resulting from the premature loss of their loved one. The case of N Rakshit against Bhadreswar Municipality 73 CWN 88 was trusted, paving the way for compensation and alleviation of pain, distress, suffering, and loss of life expectancy. Regarding the question of whether the damage would be calculable or flat-rate, the court's view was that love, affection, pain, suffering, mental distress, and physical incapacity are incalculable and therefore, the case of the Court in Bangladesh Beverage Industries Ltd. observed that the assessment of damages in such a case, therefore, must necessarily be, to a certain extent, approximate in nature, more or less based on the work of divination, since it may be impossible to specify it.<sup>7</sup> Determine the loss suffered by the death of a husband, wife, father, or child. The court further stated that a final or hard and fast rule cannot be established about the matters that must be taken into account. But you can say the same thing that can only be given the damages that are proven to be financially suffered by those who exercise the action.

### **Catherine Masud Case**

The case of Catherine Masud is the first of its kind that is decided directly in the HCD. On August 13, 2011, the renowned filmmaker Tareque Masud (aged 54) died in a fatal traffic accident. Compensation from the co-owners of the bus, the driver, and the insurance company was requested. On February 13, 2012, a case was filed with the District Judge and the Motor Car Accident Claim Tribunal in Manikganj. In 2014, it was ruled that HCD would hold the trials. On December 3, 2017, the HCD was ordered to pay TK 4.61 crore in compensation to the family of Tareque Masud for his untimely death in the accident. This case has a lot to say and give to the history of the judgment of the case related to a road accident. This case is immensely significant, not only because of the shortage of grievance litigation in Bangladesh but also because it sets a precedent for imposing responsibility on a group of people who have long enjoyed absolute impunity. The MVO was enacted almost three and a half decades ago to provide a rapid system through which car accident victims could sue not only negligent drivers but also vehicle owners (for example, bus owners who employ unskilled drivers to drive unsuitable buses). Although Bangladesh has one of the highest rates of traffic accident deaths in the world, victims or their families hardly demand compensation, either under the MVO or other applicable laws.

In a press release, Catherine Masud declared that "this case is an 'innovative attempt' for the MVO (and the law of grievances in general) neglected for a long time to be made public, so that in the future, the victims of traffic accidents and their families may have the means to be legally compensated for their losses." Earlier this year, the bus driver, Jamir, had already been convicted under Article 304 of the Penal Code by the Additional District of Manikganj and the Court of Sessions for "driving recklessly and causing death by negligence." As a result, this case also clearly illustrates an often forgotten aspect of our legal system that victims of negligence do not have to choose between putting the offender behind bars and obtaining compensation from them since they can exercise an action in both the criminal and civil law (tort). Concurrently when the only one who wins the bread of a family dies in a traffic accident, imprisoning the negligent driver can alleviate the feelings of the family members of the deceased, but leaves unattended the economic and personal losses they face as a result of the early death. This is where the civil responsibility law plays a fundamental role in the empowerment of the relatives of deceased persons to recover compensation for both pecuniary loss (loss of dependency and medical expenses, etc.) and non-pecuniary losses (loss of affection, care, and nursing of the parents, spouse, and kids). For example, in the present case, members of the Tareque Masud family were paid a total of Tk 4.61 million rupees under the following headings: loss of dependency, loss of affection, care, and nursing, medical expenses, and damages to the property. Crucially, the insurance company Reliance Insurance only had to pay 80,000 TK, of which only 20,000 Tk were responsible for the loss of life, 50,000 Tk for property damage, and 10,000 Tk for serious injuries.

It is frightening that the insurance policy of our insurance law of 2010 and the insurance regulations of 1958 limit the risk of the insurance company to such amounts and that loss of life is worth two and a half times less than property damage. While this case is indeed a milestone in the tort law and liability of bus owners in Bangladesh, it is important to know that the insurance company has largely escaped unscathed. In quantifying the compensation for loss of love and affection, the Court established the basic criteria for the relationship between the victim and the applicants. In determining the relationship, the closeness and closeness of and/or blood relationships may be examined, along with any indication of a continuous and visible manifestation of

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<sup>7</sup>Ahmed, T. N. (2018, August 7). Assessing compensation in road accident cases. *The Daily Star*.



love and affection between them. In everyday life occur numerous incidents that involve gross negligence of those affected. However, the corpus of torts is still not always bigger; rather, people feel a lack of motivation when it comes to suing someone and filing an application for an offense. The judgment of the High Court Division in the case of Catherine Masud is a laudable verdict for them. It contains valuable guidelines for future offenses relating to the assessment of damages that are very complex in practice. It also shows us the leaders/accounts for which compensation can be requested. After all, this case is a victory not only for the Tareque Masud family but also for the victims of reckless driving who have not been heard for a long time and who, with luck, will feel empowered enough to sue the responsible parties for the compensation they deserve.

### **Rajib Hossain Case**

Rajib Hossain (aged 22), a student at the Titumir Government College in Dhaka, lost his right arm when a bus from Sajan Paribahan crashed into a double-decker BRTC bus parked in the SAARC circle on April 3. He was transferred to the Samorita Hospital in Panthapath and then transferred to DMCH on April 4 for better treatment. The doctors could not replace the amputated arm. On April 5, the Health Minister, Mohammad Nasim, visited Rajib and assured his family that the government would assume the full cost of his treatment. The minister had also assured that Rajib, after his recovery, would be given a position in the government for humanitarian reasons. But he died after succumbing to the injuries. After a written petition was filed on the incident, the HCD ordered BRTC and the bus owner to pay TK 10 million in compensation for Rajib's family. However, the prosecution insisted on orders and ordered the HCD to form a committee to dig up the people responsible for the death of Rajib and then submit a report. A four-member bank of the Appeals Division, headed by Supreme Court Chief Justice Syed Mahmud Hossain, set the date after holding a hearing on petitions filed by BRTC and Sajan Paribahan. During the hearing, the bus owners' lawyers informed the Supreme Court that their clients were not responsible for the incident and that they could not give compensation. Attorney ABM Bayezid appeared for BRTC and lawyer Pankaj Kumar Kundu represented Sajan Paribahan. BRTC filed the petition on May 10 seeking to remain on the order of the High Court that asked him to pay 25 lakh Tk within a month to Rajib's family.

Sajan Paribahan recently filed another petition requesting to remain on the order he requested to pay Tk 50 lakh in compensation. A three-member liability and compensation committee was formed. Later, a time prayer was postponed, as the committee members could not speak with the accused drivers and the investigation report remained incomplete. On August 1, the HCD ordered the IG of Prisons to allow the committee to question the two accused drivers. The Tribunal may issue one more historical verdict for this case. This case shows the pure negligence of drivers as well as their competition for going faster than another bus, which is totally against the road safety rule.

### **Nazim Uddin Case**

A senior executive of the ad department Md Nazim Uddin of the Dhaka Tribune was killed in a traffic accident in the Dhaka Jatrabari area. A bus knocked down his bike and ran him over on Mayor Mohammad Hanif's flyover at 9:45 pm on May 17, 2018. He was taken to Dhaka Medical College Hospital (DMCH), where the doctors declared him dead at 10:10 pm, said DMCH police outpost of in-charge sub-Inspector Bachchu Mia. Nazim, aged 37, left behind his wife Sabrina Yasmin Irene and two daughters, Nusrat Jahan Mun, 9, and newborn Ishrat Jahan Noor. The police later confiscated two buses involved in the incident that had led to Nazim's death. Each of the staff's two bus drivers was also arrested. Nazim, originally from Bhola, was the fourth of four sisters and three brothers. His father's name is Anisul Haque. He lived with his family in an apartment in Faridabad in Dhaka Shyampur. His native village was Balurchar in Bholas Lalmohan. Nazim was the secretary-general of the Lalmohan Dhaka Foundation, a social welfare organization formed by people from thana Lalmohan. The Foundation took on regular social work, including providing assistance to the Rohingya refugees. Nazim's second daughter Ishrat was born four days after the accident. His wife Sabrina was in postpartum care and he had gone to Ad-Din Hospital to visit his family before going to work. Nazim's first namaz-e-Janaza was held at Dhaka Central Mosque University, and he was buried in his village cemetery after another Janaza. Respondents were asked to show why the compensation of TK 1 would not be given to the Nazim family. The secretary of the Ministry of Home Affairs, the chairman and managing director of Bangladesh Road Transport Authority (BRTA), the inspector general of police, the Dhaka Metropolitan Police commissioner, owners of Srabon Paribahan and Monzil Paribahan, and concerned others have been asked to respond to the rule.

### **Nurul Amin Chowdhury Case**

Nurul Amin Chowdhury's (56) right leg was damaged on May 17, 2018, under the wheels of a bus. His leg had to be subsequently amputated. Following a letter of amnesty issued by Amnesty International, the HCD issued a rule explaining why the authorities should not be directed to give TK 1.5 crore as compensation.

### **Airport Road Bus Accident Case**

On July 29, 2018, two students died in a traffic accident in the Airport Road area. The HCD ordered the owners of 'Jabal-e-Noor Paribahan' to pay TK 5 lakh to each of their families within a week. The Court also ordered the bus operators to assume all costs of treating the injured students. The court ordered the BRTA chairman and the additional commissioner (traffic) of the Dhaka Metropolitan Police (DMP) to assist the expert committee in its task. A HC bench also issued a rule asking respondents to explain within four weeks why no instruction to the owner of Jabal-e-Noor Paribahan should be issued to each of the families of the two students who were killed to get Tk 2 crore as compensation. In general, the court also asked respondents to give reasons why they should not be encouraged to ensure the safety of passengers in public transport by controlling reckless driving and strictly enforcing traffic rules. Secretary of State, Road Transport and Bridge Secretary, Inspector General of Police, DMP Commissioner, DMP Supplementary Commissioner (Transport), BRTA, and Jabal-e-Noor Paribahan are the respondents to the rule. The Judiciary JBM Hassan and Justice Khairul Alam came into contact with the order and case law after hearing the written petition by the Supreme Court Attorney, Ruhul Quddus. At the beginning of the day, the lawyer filed the petition as litigation before the HC. On May 8, after another plea filed by Ruhul Quddus, the HC ordered the owners of two buses—BRTC and Shajan Paribahan — Tk 1 Crore to the family. However, the owners did not pay the compensation after they received a residence permit from the SC. Following two separate petitions filed by the Bangladesh Road and Transport Corporation (BRTC) and Sajan Paribahan, the court lifted the HC's order on May 22, saying that an independent committee would submit its assessment report to the HC, and the HC will then issue a compensation order. On May 30, the HC formed a three-member committee headed by Prof. Mowazzem Hossain, director of the Accident and Research Institute of BUET, to assess liabilities and compensation. The Court also issued a rule asking the authorities to explain why directives should not be given to provide TK 2 scores to each of the families as compensation. The HCD also ordered the president of BRTA to present a report that guarantees that the owners of the buses pay the damages within seven days and to present a report on the steps they have taken to guarantee the safety of the passengers on the roads and on the basis of which driver's public transports have driving licenses. On August 9, the AD confirmed the order of the HCD.

### **Accident report of November, 2021**

Road Safety Foundation (RSF), an organization that campaigns for safer roads, came up on 4<sup>th</sup> December, 2021 with the data in a new report on road accidents in Bangladesh that year. According to the report, 413 lives were lost while 532 people were injured in 379 road accidents across the country in November alone. The report they made were prepared mainly based on seven national dailies with five top online news portal as well as electronic media. They also mentioned that 407 people were killed in 346 road accidents in October 2021. According to the RSF report Dhaka division recorded the highest number of accidents and Barisal experienced the lowest number of accidents.

### **Four brothers case in Cox's Bazar**

Five members of a family were killed and four were injured after being hit by a pickup van on the Chittagong-Cox's Bazar Highway in Chakaria Upazila of Cox's Bazar early on 8th February 2022. The deceased were identified as brothers Anupam Shil, 47, Nirupam Shil, 45, Deepak Shil, 40, Champak Shil, 30, and Sharan Shil, 29. The family lost five of its members at the same time. This tragic accident broke all the strength of the family as they were already in sorrow due to the death of the head of the family Suresh Shil (father of the deceased) just 10 days before the accident. All the family members were coming back from the religious ritual of their father's funeral ceremony. According to Chakaria Upazila Nirbahi Officer JP Dewan, they seized the pickup van and tried to catch the fugitive driver and helper and they are also going to provide financial assistance to the families of the victims.

## **II. Conclusion**

Despite putting enormous effort there is still a lack of new laws and implementation. It can't be fixed by any individual person or authority- it requires awareness, regulation, opportunities, and proper implementation of the law. After three years of implementation of the new law, road safety has not improved rather it has only worsened. There are considerable doubts in people's minds about the successful enforcement of the law. No-fault versus tort- in our country there were no rules to give the liability to the drivers for accidents and give it losses to govern by tort principles. But the truth was drivers were the basic liable for the losses of others that resulted from their negligent behavior. Theoretically, an illicit system of torts is a perfectly functioning rule where courts can always be free and accurate in determining whether the behavior was negligent and provides optimal incentives for care while driving and accident prevention. In most jurisdictions, drivers are responsible for damages caused by their negligence and a driver is negligent when his behavior is unreasonable. Examples are accelerating, without stopping at a stop sign, reacting too slowly in dangerous

situations, looking away from the road, not maintaining an adequate observation post, failing to reduce speed when necessary or taking eyes off the road, and not maintaining an adequate distance of other cars faults and it's an unreasonable behavior of the driver. It's high time that we consider the road accident as a serious matter and find a way out of it.

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