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COMMERCE & TRANSPORT (TRANSPORT) DEPARTMENT

NOTIFICATION

The 27th January, 2018

No. 674–LC-TR-CASE-35/2017/T.— Whereas, the Hon'ble Supreme Court in the case of Save life Foundation and another vs. Union of India and another in Writ Petition (Civil) No. 235 of 2012 *vide* its order dated the 29th October, 2014, *inter alia*, directed the Central Government to issue necessary directions with regard to the protection of Good Samaritans until appropriate legislation is made by the Union Legislature;

And, whereas, in pursuance of the said directions, the Ministry of Road Transport & Highways (ROAD SAFETY), Government of India *vide* its Notification dated the 12th May, 2015 have issued guidelines to be followed by hospitals, police and all other authorities for the protection of Good Samaritans and *vide* its Notification dated the 21st January, 2016 the Standard Operating Procedures (SOPs) for the examination of Good Samaritan by the police or during trial;

And, whereas, the Hon'ble Supreme Court *vide* its order dated the 30th March, 2016 after effecting certain modifications to the guidelines and the Standard Operating Procedures (SOPs) so issued by the Central Government *vide* the said Notifications, approved the same and ordered that the guidelines and SOPs with such modifications be complied with by the Union Territories and all the functionaries of the State Governments as per law laid down by the Court under Article 32 read with Article 142 of the Constitution of India and the same be treated as binding as per mandate of Article 141;

And, whereas, in pursuance of the directions of the Hon'ble Supreme Court the State Government hereby issues the following guidelines to be followed by hospitals, police and all other authorities in Odisha for the protection of Good Samaritans and the Standard Operating Procedure for the examination of Good Samaritans by the police or during trial, namely:—

1. A Good Samaritan or a by-stander, or any person who makes a phone call to the Police Control Room or Police Station to give information about any accident injury or death, except an eyewitness may not reveal personal details such as full name, address, phone number etc. on the phone or in person.

2. A Good Samaritan, after having informed the Police about an injured person on the road, shall be allowed to leave by the concerned Police official(s), and no further questions shall be asked if the Good Samaritan does not desire to be witness in the matter.

3. A Good Samaritan or by-stander including an eyewitness of a road accident may take an injured person to the nearest hospital for treatment and the Good Samaritan or the by-stander should be allowed to leave if he/she desires so and no question shall be asked to him/her by hospital staff except the request made by the authority concerned to the good Samaritan or to the by-stander to leave his/her present and permanent address with the contact number/email, if any, for the purpose of reward or trial. He/she may shall be shown due courtesy and shall be treated respectfully without any discrimination on the grounds of gender, religion, nationality, caste or any other grounds. The Good Samaritan shall be allowed leave Hospital without unnecessary delay.

4. In order to identify the good Samaritan, the following may be adopted:—

The Good Samaritan(s) after taking the road accident victim(s) to the hospital may, if he or she so desires may leave his/her address with contact number/email address in a standard format prescribed by Health & Family Welfare Department, Government of Odisha. In absence of the said format or till the time such format is prescribed and disseminated to all hospitals, there should be no vacuum and in the interregnum period, if so desired by Good Samaritan, the acknowledgement shall be issued on official letter pad etc. of the doctor not below the rank of Assistant surgeon, mentioning name of the Samaritan, address, time, place of occurrence and confirming that the injured person was brought by the said Samaritan. It shall be the duty of the said authorities to make a humble request to the Samaritan to leave his/her address.

5. The disclosure of personal information, such as name and contact details of the Good Samaritan or the by-stander shall be made voluntary as well as optional in the Medico Legal Case (MLC) Form provided by the hospitals.

6. The disciplinary or departmental action shall be initiated by the Government against the concerned public officials who force or intimidate a Good Samaritan or a by-stander for revealing his/her name or personal details.

7. All registered public and private hospitals shall not detain the Good Samaritan or the by-stander, demand payment for registration and admission costs unless the Good Samaritan or the by-stander is a family member or relative of the injured.

8. The injured brought to the hospital is to be treated immediately in pursuance of the order of the Hon'ble Supreme Court in Pt. Parmanand Katara vs. Union of India & Others (1989) 4 SCC 286.

9. Lack of response by a doctor in an emergency situation pertaining to road accidents, where he is expected to provide care, shall constitute "Professional Misconduct" under Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 and disciplinary action shall be taken against such doctor under Chapter 8 of the said Regulations.

10. All hospitals shall publish a charter in Odia, Hindi and English at their entrance to the effect that they shall not detain the Good Samaritan or the by-stander or ask depositing money for them for the treatment of a victim.

11. All public and private hospitals shall implement these guidelines immediately and in case of non-compliance or violation of these guidelines, appropriate action shall be taken against them by the concerned authority.

12. The guidelines will be included as one of the topics for discussion in every induction training programme meant for doctors.

13. The implementation of the guidelines will be monitored by Head of the hospital and a report thereof to be furnished quarterly to Health & Family Welfare Department, Govt. of Odisha.

14. The Good Samaritan or the by-stander shall not be liable for any civil or criminal liability.

15. The Good Samaritan or the by-stander shall not be compelled to lodge FIR at Police Station nor shall the eye witness be asked to do so either by police agency or by medical authority.

16. The local police having jurisdiction to the accident shall register FIR either on the voluntary report of the Good Samaritan or the by-stander or on the basis of the report received from the hospital authority. The Good Samaritan or the by-stander shall not be cited in the charge sheet, if he is not willing.

17. If the Good Samaritan or the by-stander is willing to be the witness to the occurrence of the accident, the following guidelines are to be strictly observed by the Police for examination of the Good Samaritan:—

- (a) The Investigating Officer shall, as far as possible, conduct the examination of the Samaritan at a time and place of convenience such as his/her place of residence or business, and the investigating Officer shall be dressed in plain clothes, unless the Good Samaritan chooses to visit the Police Station.
- (b) In case the Good Samaritan speaks a language other than the language of the Investigating Officer or the local language of the respective jurisdiction, the Investigating Officer shall arrange for an interpreter.
- (c) Where a Good Samaritan declares himself to be an eyewitness, he shall be allowed to give his evidence on affidavit, in accordance with Section 296 of the Code of Criminal Procedure, 1973(2 of 1974) which refers to Evidence in formal Character on Affidavit.
- (d) The Police Officer while conducting the investigation shall treat the affidavit of the Good Samaritan if filed, as complete statement. In case statement is to be recorded, complete statement shall be recorded in a single examination on a fixed date and time convenient to the Good Samaritan.
- (e) At the time of examination of the Good Samaritan or by-stander, utmost care needs to be taken by the investigating officer to maintain decency, decorum and dignity. No intimidation or annoyance in any manner shall be caused to the Good Samaritan or by-stander or eye witness while examining them for collecting material evidence.
- (f) In view of the provision laid down under section 160 Cr PC, the Good Samaritan or by-stander, if a male person under the age of 15 years or above 65 years or if a woman or physically disabled, shall be examined only at his / her residence. The said examination should be concluded in a single sitting.

18. In the event of avoidance / unwillingness by the Good Samaritan/ by-stander / eye-witness as witness to attend the court of law physically, the concerned Court shall not normally insist on appearance as that causes delay, expenses and inconvenience. The Court shall exercise the power to appoint the Commission for examination of Good Samaritans in accordance with the provisions contained in Section 284 of the Code of Criminal Procedure, 1973 *suo motu* or on an application moved for that purpose, unless

for the reasons to be recorded personal presence of Good Samaritans in Court is considered necessary.

On receipt of written request, seeking lawful protection by /from the Good Samaritan or the by-stander, the officer- in-charge of local police station concerned shall extend all possible assistance for the required purpose.

On the approach of the Good Samaritan or the by-stander, the concerned Public Prosecutor shall take steps to record the evidence in time. If found to be hearsay, his/her evidence may be dispensed with.

Reasonable and necessary protection need be given by the officer-in-charge for the safe court attendance of the by-stander or Good Samaritan in Court of law.

19. The Superintendent of Police or Deputy Commissioner of Police or any other Police Official of corresponding seniority heading the police force of a District, as the case may be, shall be responsible to ensure that all the above mentioned procedures for examination of the Good Samaritan are implemented through his/her respective jurisdiction with immediate effect.

20. The Good Samaritan or the by stander shall be suitably rewarded or compensated to encourage other citizens to come forward and help the road accident victims by admitting them in hospitals. Proper publicity shall be given in print and electronic media about the Good Samaritan or the by stander to recognize their good work and motivate others to help the road accident victims. The following financial assistance are recommended for rewarding the Good Samaritan:—

- (a) Rs 2000/- cash award to a person or persons shall be given as incentive in each case.
- (b) Transporting to the hospital and cost thereof will be reimbursed, if the victim is shifted to the hospital in a hired vehicle. Bill for the same may not be insisted.
- (c) Good Samaritans will be felicitated at the functions organized by the State as well as by the Districts.
- (d) The reward will be paid out of the Odisha Road Safety Society Fund.

21. The following procedure shall be adopted to for rewarding the Good Samaritan/by stander:—

The Hospital authority not below the rank of Assistant Surgeon, on receipt of the address from the Good Samaritan will reproduce it in the prescribed acknowledgement format prepared by Health & Family Welfare Department, Government of Odisha and will intimate the same to the nearest RTO in person or through authorized representative or

through post for award of cash prize. The RTO shall then reward the Samaritan with a cash prize of Rs.2000/ with a letter of appreciation the audio-visual of which shall be uploaded in the websites of the concerned departments for public view.

The above guidelines in relation to protection of a Good Samaritan will be binding upon all the registered public and private hospitals, police and all other authorities in Odisha and are without prejudice to the liability of the driver of the motor vehicle involved in a road accident under section 134 of the Motor Vehicles Act, 1988.

The Standard Operating Procedure (SOP) issued by Home Department for protection of Good Samaritan Vide Order No. 38943–HRPC(A)-65/2015, dated the 21st November, 2015 and the guidelines for protection of Good Samaritan issued by Health & Family Welfare Department vide Notification No.2721–Sch-Med-512/2015/H dated the 5th February, 2016 are superseded herewith.

By Order of the Governor

G. SRINIVAS

Principal Secretary to Government