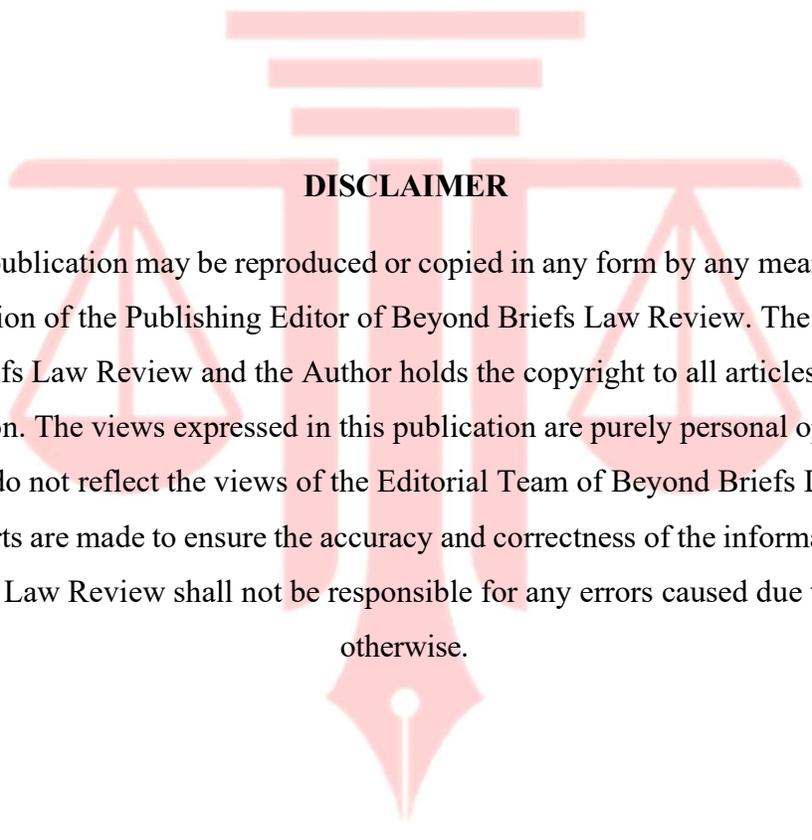


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Parking In Patna City: A Comprehensive Review of Parking Provisions and Its Legal Implications on Illegal Parking

~ Ananya Prakash

Abstract

*This article is based on the **observations** made over a period of 10 days on **illegal parking** by people on roads which causes inconvenience to the public. The article deals with the repercussions arising out of parking which are not done as per the traffic rules made by the Union or the state. Also, under this article the legal perspective, i.e., both substantive as well as procedural laws in the same regard is being discussed. As the traffic matters falls under the concurrent list thus, both Central and states can make rules on it. The traffic rules in India at central level are governed by the **Motor Vehicles Act, 1988; Motor Vehicle (Driving) Regulations, 2017 and Rules of the Road Regulations, 1989** and on the other hand states have their own rules to manage the traffics. For instance, in Bihar there is the Bihar Motor Vehicle Rules, 1992 to govern the traffic rules in the state. It is therefore highlighted in the article about the parking issues in Patna city.*

Keywords: *Motor Vehicles Act, Illegal Parking, Traffic Rules, Parking areas, Inconvenience.*

INTRODUCTION

The term “**Traffic Rules**” can be understood as ‘**all laws applicable in relation to the usage and operations of vehicles on road.**’ In the developing and densely populated countries like India, there is a requirement of strict traffic rules as they are violated every now and then by the peoples because of which increased in the number of accidents is being observed. The mindset of people is such that they follow the traffic rules due to the fear of fine or punishment as prescribed for the violation of different traffic rules. This mindset needs to be changed and people should follow the rules with an intention to keep themselves as well as other roaders safe because the rules are made for achieving the purpose of safety and not merely to impose fine in case of violation. If people start keeping safety as their priority, then eventually the accidents will decrease. Also, it is the duty of every person to take due care of another person while performing an act. In case a person violated his duty of care¹ shall be liable of negligence. For instance, X while driving his vehicle on road owes a duty of care towards other road users, and therefore X is required to avoid and try not to cause injury or any harm through their actions. On observing, it is found that people are so careless that they along with themselves bring threats to the life of others too. Such violation eventually leads to deaths and inconvenience to the pedestrian, shopkeepers, etc. The youngsters are violating the traffic rules as for them driving is just fun and an act to impress others. There is a lack of knowledge about the basic tips of driving to the people, which ends up as a traffic violation. Apart from imposing fine there is need to implement programs to generate awareness among people that why they need not break rules, what are the consequences of them and should also be made aware of the basic driving tips such as the side from which a vehicle has to be overtaken, whether to move vehicle on yellow light or not, vehicles can be in any situation be allowed to be run on pedestrian crossing or not and so on.

OBSERVATIONS (METHODOLOGY)

The methodology Adopted by me to understand about the violation of parking rules in the Patna city was physical appearance and observation on the road for the period of 10 days. Within this

¹ Essential elements of Negligence under Law of Tort

period whenever I used to go on the road, I observed the pattern of driving of vehicles by the people. The way people moved their vehicles on the traffic signals and the behavior of traffic police in such circumstances. It was observed that few people where there were no traffic police parked their vehicles here and there on the road in spite on the objections being raised by the nearby shopkeepers that customers face hindrance in visiting their shops resulting in their loss. The person who parks their vehicles illegally just makes an excuse that he will return in a while and without paying any heed towards the problem of other users and move for his own work. It is therefore observed that due to such illegal parking the inconvenience to the public road users as well as the shopkeepers is caused. Also, such illegal parking gives rise to accidents. Such illegal parking is not limited to roads but also extends to the private properties of a person. It was also observed by me that people usually park their vehicles out of the house. This sometimes causes hindrance to the people staying in the house. For instance: if an emergency arises and the person must visit hospital then due to such parking people are not available to take out their cars or vehicles in order to reach the hospital. Therefore, not reaching hospitals at time leads to certain mis happenings such as death of the patient. This can be counted under the ambit of **mischief and nuisance**. In simpler terms, an individual intending to perform an act having the knowledge that his act will create hindrance to another person in enjoying the benefit of their property by one means or other, it is called a mischief which may be either public or private. Similarly, nuisance can also be either Public or Private nuisance depending upon the circumstances of the case. Thus, illegal parking on footpaths shall fall under the ambit of public nuisance as such parking is hindering the enjoyment of road of a public at large. On the other hand, the illegal parking out of the house of any person falls under the ambit of private nuisance as it hinders the right of enjoyment of the person on whose private property the vehicle has been parked. Due to such parking the person may face problems in moving from his house in case of any emergency situations and therefore, such parking is illegal. In **Ramachandra Reddy v. Commissioner of Police, Bengaluru**, it was held by the Karnataka High Court that illegal parking on footways and public streets is violative of **Article 21** (Fundamental Rights) of the Indian Constitution.

Also, it was said that it is the duty of the authorities to ensure that the public streets and footways are free of obstruction, such as illegal parking thereon. Also, criminal law is promptly set in motion for such traffic violations. Therefore, from this case it is evident that Article 21 includes the right to have streets and footways in obstruction free and good conditions. If such footways encroached

in any matter whether it be by the means of illegal parking shall come under the ambit of the violation of Article 21 of the Indian Constitution. In this regard an obligation is therefore imposed on the concerned authorities to make and maintain proper parking spaces and the parking boards wherever required.

LEGAL PROVISIONS

A person who parks or abandons his vehicle on a public street, footways or outside the house of any person in such a condition that it is dangerous in any way or obstruct the right of road enjoyment of the users, then while doing such an act the person is **violating the substantive provisions provided under:**

- **Section 122 of the Motor Vehicles Act, 1988:** This section discusses, the vehicle shall not be abandoned or made to rest on any public place, in a position, condition, or circumstances as it causes or likely to cause obstruction, danger, or undue inconvenience to other users of the public place or passengers.
- **Rule 3 of the Motor Vehicles (Driving) Regulations, 2017:** The rules talk about the duty of the vehicle owner towards the general public and other road users. The vehicle driven, stopped, or parked on a road or public places in such a manner as is likely to endanger the safety or cause inconvenience to the other road users is prohibited under this rule.
- **Rule 15(1) of The Rules of the Road Regulations, 1989:** Every driver of a motor vehicle parking on any road shall park in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to other road users and the manner of parking is indicated by any sign board or markings on the roadside, he shall park his vehicle in such manner.

Hence, the person parking his vehicle in such a manner that it causes hindrance or inconvenience to the other road users, while doing so the violation of previously mentioned legal provisions in regard to traffic rules is committed by that person. Therefore, any person found guilty of illegal parking shall be punishable with a fine of Rs. 500/. for the offence being committed for the first time. If found guilty of the same offence subsequently then with a fine of Rs. 1,500/, which is as per Section 177 of the Motor Vehicles Act, 1988.

CONCLUSION

Therefore, from the above discussions it is evident that one of the reasons behind the causes of accidents is illegal parking. The lack of parking areas near the market adds to the illegal parking of vehicles which further causes inconvenience to the other road users. To lessen such kind of accidents, one step that should be taken is that every establishment should mandatorily create their own parking spaces so that the customers can utilize the space and do not park their vehicle illegally on roads. In this regard, various initiatives have been taken by the government and one such is that if any car or other **vehicles** is **parked in the no-parking areas** then such vehicles is being **towed** and then the **person must pay the fine in court** and then only can **get their vehicles back**. This practice acts as a deterrence in the mind of the citizens and therefore people avoid parking on roads illegally. Thus, in most cities, it has been made mandatory to have parking spaces by every commercial establishment and roadside parking has been banned everywhere. This has been done with the aim of facilitating the free flow of traffic. In my opinion, not only in commercial zones but also in residential areas roadside parking should be banned. In Imphal, the vehicle parked on main road is seen thus, it is high time for the government and the municipal authorities to enact a law prohibiting roadside parking on all roads and make it mandatory for vehicle owners to have own parking spaces at home for their vehicles or rent commercial garages. Recently, a protest was done against the illegal parking in front of Vishal Mega Mart at Chingmeirong and complaint to the Deputy Commissioner under **Section 133 of the Code of Criminal Procedure, 1973** to take appropriate action against the public nuisance caused by such parking. The allegation was that such parking outside the Mart is done due to lack of parking space for the staff as well as customers who visit the mall. As a result, the cars are parked on both sides of roads haphazardly obstructing the smooth flow of other vehicles around the mall. Also, this act was a **violation of Section 70 of the Imphal Municipal Council Building Bylaws, 2013 for parking space**. This puts the life of the pedestrian in danger as they must walk in the middle part of the road due to blockage of the footpath by the parked vehicles. Thus, there is a need for strict implementation of the laws which are made for the prevention of the violation of traffic rules. Also, if the vehicles are parked in the systematic and proper places then the pedestrians will not face trouble in walking as well as traffic jams will also be reduced. Further, there is a need to create awareness among the people about the traffic rules because lack of knowledge is also a reason for illegal acts. Therefore, every person

should be aware of the traffic rules for making the laws in this regard effective. Hence, one must understand that if he is parking illegally either on the roads or outside the house of any person, then legal action might be taken in this regard against him and shall be liable to face the consequences. Thus, be aware of the traffic rules and avoid violating the rules as it is beneficial for everyone whether it be the vehicle owner or the other road users. It will also lead to an obstruction free as well as smooth working of the roads and overall reduced stress.

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