

STRAY ANIMALS ON THE ROAD: A HAVOC: LEGAL ASPECTS

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ABSTRACT

Accidents caused by stray animals have led to public outrage in the recent past but, what has gone unnoticed is that so many animals have been injured in road accident these stray animals include dogs, cats, cattle, and goat which comes under the livestock or pets and also include hyenas, leopard, barking deer, spotted deer, blue bull, bear, etc., which comes under wild animals. These accidents occur due to over speeding poor lighting etc., but cause havoc for both humans and stray animals and cause life casualties too. "According to reports, dogs account for 58% of all animal-related incidents on roads, with cattle accounting for the remaining 25.4%. The government's road accident reports, which are based on police FIRs, demonstrate that these data are somewhat at odds with the causes of crashes."¹ Liability for these accidents and human life casualties by stray animals on the roads or highways, the railway tracks, and even on the runways of airports must be fixed. Our policymakers, legislatures, and stakeholders must think about this because unless and until the liability is not fixed no one will bother with this and the life casualties of both human and stray animals will go on increasing and increasing.

Keywords: Stray animals, animals, Owner, livestock, cattle, wild animals, accidents

INTRODUCTION

The menace of stray animals has claimed the maximum life in road accidents. "According to the most recent National Crime Records Bureau report on accidental deaths and suicides in 2021, a copy of which can be found in this article in "The Tribune," 22% of road users died in 22 accidents on the road last year that were brought on by stray animals crossing the roads in various parts of India."² Previously it was due to the lack of infrastructure of roads and illegal and irregularly parked vehicles on the roads. But these road accidents nowadays usually occur

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¹ Times of India

² The Tribune

due to stray animals on the roads causing major casualties on roads. As road infrastructure is developing day by day and four-lane and six-lane highways are being made in India allowing vehicles to run at the speed of 80-120 Km/hour on the highways. But the stray animals on the roads are creating havoc by increasing the number of deaths in road accidents. These stray animals include both wild animals and domestic animals' wild animals.

WHAT ARE STRAY ANIMALS? (DEFINITION)

Animal: “According to “Prevention of cruelty to animal’s act 1960” Sec 2 (A)” - “Animal” means any living creature other than a human being.”³

“According to “Section 2(1) in The Wild Life (Protection) Act, 1972” “Animal” includes mammals, birds, reptiles, amphibians, fish, other chordates, and invertebrates and also includes their young and eggs.”⁴

Captive Animals: “According to “Section 2(5) in The Wild Life (Protection) Act, 1972” - “Captive Animal” means any animal, specified in Schedule I, Schedule II, Schedule III, or Schedule IV, which is captured or kept or bred in captivity.”⁵

“According to “Section 2(c) in The Prevention of Cruelty to Animals Act, 1960” - “Captive Animal” means any animal (not being a domestic animal) which is in captivity or confinement, whether permanent or temporary or which is subjected to any appliance or contrivance to hinder or prevent its escape from captivity or confinement or which is pinioned or which is or appears to be maimed.”⁶

Livestock: “According to “Section 2(18A) in The Wild Life (Protection) Act, 1972” - “Livestock” means farm animals and includes buffaloes, bulls, bullocks, camels, cows, donkeys, goats, sheep, horses, mules, yaks, pigs, ducks, geese, poultry, and their young but does not include any animal specified in Schedules I to V;] 16[(19) “manufacturer” means a person who manufactures articles from any animal or plant specified in Schedules I to V and VI, as the case may be.”⁷

³ The Prevention of Cruelty to Animals Act, 1960, Indiankanoon.org

⁴ The Wild Life (Protection) Act, 1972 Bare Act , Indiankanoon.org

⁵ The Wild Life (Protection) Act, 1972 Bare Act, Indiankanoon.org

⁶ The Prevention of Cruelty to Animals Act, 1960, Indiankanoon.org

⁷ The Wild Life (Protection) Act, 1972 Bare Act, Indiankanoon.org

Wild Animal: “According to “Section 2(36) in The Wild Life (Protection) Act, 1972” - "Wild Animal" means any animal found wild and includes any animal specified in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V, wherever found.”⁸

Domestic Animal: “According to “Section 2(d) in The Prevention of Cruelty to Animals Act, 1960” - “Domestic Animal” means any animal which is tamed or which has been or is being sufficiently tamed to serve some purpose for the use of man or which, although it neither has been nor is being nor is intended to be so tamed, is or has become wholly or partly tamed.”⁹

Owner: “According to “Section 2(f) in The Prevention of Cruelty to Animals Act, 1960”- “Owner”, used concerning an animal, includes not only the owner but also any other person for the time being in possession or custody of the animal, whether with or without the consent of the Owner.”¹⁰

Stray Animals: Not Defined Anywhere in “The wildlife protection Act, 1972” & “Prevention of Cruelty to Animals Act, 1960”.

But according to: “Webster's dictionary”: “A domestic animal that is wandering at large or is lost”¹¹

“LawInsider” - “**Stray animal** means any animal declared to be a public nuisance subject to impoundment if it is running At large, not licensed, has no identification tag, and has no apparent home where it is cared for regularly.”¹²

“In a nutshell, we can say that Stray Animals are Animals (Both Wild animals or domestic animals or Livestock) that wander here and there on the Highways or Roads or Streets Urban Areas, and Rural Areas.”¹³

STRAY ANIMALS CAN BE BROADLY CATEGORIZED INTO 2 GROUPS:

Livestock or Domestic Animals and pets – These animals are the animals that are owned by some person called the “owner”. “Owner as defined in “Section 2(f) The Prevention of Cruelty to Animals Act, 1960” Such as cows, goats, buffaloes, ox, dogs, cats, etc., Sometimes their

⁸ The Wild Life (Protection) Act, 1972 Bare Act, Indiankanoon.org

⁹ The Prevention of Cruelty to Animals Act, 1960, Indiankanoon.org

¹⁰ The Prevention of Cruelty to Animals Act, 1960, Indiankanoon.org

¹¹ Webster.com

¹² Lawinsider.com

¹³ Indiankanoon.org

owner abundant such animals to Rome freely on the roads causing havoc to the passengers moving by road. Cows, goats, and buffaloes are left abundant if they cease to produce milk due to which their maintenance by their owner becomes very costly and their owners cannot feed them. Oxes and bulls are left abundant by their owners due to their old age so they are of no use in farming practices. Likewise, dogs and cats are also left abundant by their owners very frequently.

“M.P. Govansh Vadh Pratishedh Adhinyam & Niyam, 2004”¹⁴ Also reduced the slaughter of Govansh and their trade [An Act to Prohibit the Slaughter of Cow Progeny, Preserve and Conserve Cow Progeny, and Matters Connected or Incidental Thereto, in the Interest of the General Public and To Maintain Community Harmony and Peace.] Their trade increased their stray population.

Wild Animals – Wild animals are animals that are wilder in nature and have no owner and they live in the jungle. Wild Animals also come on the highways responsible for road accidents. The main reason behind this is deforestation, Human interference in their natural habitat such as mining, firewood collection, collection of other forest produce such as char chironji, Mahua, Amla, etc., Breaking of the corridors between the forest, shrinking of the forest covers. And our government is also spending a lot of funds to protect these wild animals by making National parks Tigers projects, Sanctuaries, Forest villages, etc., and poaching of wild animals is also reduced very much due to which the population of wild animals such as tigers, leopards, hyena, barking deer, spotted deer, blue bull, fox, bear, wolf, etc., is increasing a lot due to which they are overflowing from the jungles and come on the highways creating a menace. All these wild animals, livestock, cattle, pets, or domestic animals when wandering here and there on the roads or the highways comes in the category of stray animals and cause havoc, by becoming the major cause of road accidents resulting in human life casualties.

FACTS

“Stray animals are the foremost contributor to accidents, with the notable exception of Kolkata, according to a general insurance company's recent report on accidents in six megacities. In 6 cities, "other drivers" contributed to the majority of traffic collisions. Nearly 58 percent of fatalities involving animals were caused by dogs, with cattle (25.4%) coming in second. The reasons for accidents as stated in the government's road accident reports, which are generated

¹⁴ Indiankanoon.Org

using police FIRS, are starkly at odds with these numbers. Relying on a sample size of 1.27 lakh applications filed by car owners to the insurance provider between January and June of this year, the initial ACKO Accident Index, which had been announced on Friday, was compiled.”¹⁵

"This index provides information on the causes of traffic accidents as well as the regions in Delhi-NCR, Mumbai, Kolkata, Chennai, Hyderabad, and Bengaluru that are most prone to accidents. In addition to "other drivers" and animals, the research lists potholes, rash driving, and intoxicated driving as the other three major causes of collisions. Stray animals were the fifth cause of traffic accidents in Kolkata. According to the report, Chennai had the highest percentage of these accidents—more than 3%. The percentage was 2% for Bengaluru and Delhi, respectively. According to the data, 804 dog accidents and 350 cow incidents were included in the 1,376 claims for accidents involving animals"¹⁶.

While we frequently attribute terrible roads to accidents, the data demonstrates the opposite. If tried-and-true safety measures are implemented, road accidents and the deaths that go along with them can be avoided and predicted. "This Index is only a helping hand for our legislators and administrators so that they can set metrics throughout the most accident-prone locations of India that would further help manage the traffic and considerably minimize accidents, says Animesh Das, senior director (of Motor Underwriting) at ACKO.”¹⁷

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“Nations that have succeeded in lowering traffic fatalities and damages have linked the collision outcome of contact by authorities with hospitals and insurance providers to identify the precise cause and for implementing essential remedies. According to the report, Mumbai is second only to Delhi-NCR in respect of the country's risk of road accidents. It stated that the rate of road accidents was 20.3% in Delhi & 18.2% in Mumbai. The number of accidents multiplied by the total of automobiles in a city is referred to as the accident rate. In the Delhi NCR region of Noida and Ghatkopar (West) in Mumbai, the most accident-prone locations were 12 and 12, respectively. While about 9% of accidents in Sector 12 of Noida happened here, Ghatkopar (West) of Mumbai saw around 5% of accidents.”¹⁸

¹⁵ Times Of India

¹⁶ Times Of India

¹⁷ Times Of India

¹⁸ Times Of India

“Bengaluru ranked highest among the metro areas, qualifying as the city with the lowest recorded traffic crashes of 16%. The majority of accidents were reported in Bommanahalli, which recorded nearly 9% of accidents, as well as Kalyan Nagar, which recorded nearly 8%. The 50 km stretch connecting Bannerghatta & Hoodi in Bengaluru, which frequently suffers traffic congestion, is where the preponderance of incidents has occurred. Accident rates were 18.6% in Chennai and 18.5% in Hyderabad, respectively. The majority of accidents in Hyderabad were recorded in the industrial areas of Guindy, followed by Ambattur and Poonamallee, and the tech center of Madhapur. Accidents in Kolkata were dispersed throughout the major neighborhoods, including Park Circus in the Central-South district, Shyam Bazar, and AC Lane.”¹⁹

LEGAL ASPECTS

“The Gujrat government has made progress in addressing the situation of stray animals that pose a public nuisance by drafting the "Gujrat - Cattle control (keeping and moving in urban areas) Bill 2022. To serve the public interest in licensing, trying to regulate, and prohibiting the keeping and motion of cattle within the state of Gujarat's urban areas. Whereas it is essential to safeguard the public's safety and sanitation, which are in danger as a result of the keeping and public transit of huge numbers of cattle in urban areas. While it is beneficial for the public benefit to adopt licensing Cattle transportation, keeping, and regulating in urban areas in the state of Gujarat and issues related.”²⁰

“Based on the "The Hindu" Story so far, the Gujrat High Court has ordered the government administration to provide both short- and long-term strategies for resolving the stray cattle problem on September 6. The Gujrat administration is directed by the High Court to implement the "Gujrat - Cattle regulation (keeping and moving in urban areas) Bill 2022" into action. The High Court requests that the state government make provisions of special administrative offices to monitor the menace of stray cattle.”²¹ “The major setback occurred when the Gujarat Legislative Assembly unanimously decided to withdraw the Cattle Control Bill following protests from cattle-rearing communities across the state to reconsider and start making necessary amendments. The following reasons are provided to explain why other states of India

¹⁹ Times Of India

²⁰ The Hindu

²¹ The Hindu

should also take adequate action to alleviate the problem of stray animals and reduce human life casualties.”²²

- “The proposed regulation intended to outlaw the movement of stray cattle on public property and highways in Gujarat's urban areas.
- The Cattle Control in Gujarat (Keeping and Moving) In urban areas, the In Urban Areas Bill required cattle rearers to obtain a license to retain strays such as cows and bulls in cities and towns and to have them microchipped.
- The owner of the livestock would be subject to a fine of Rs. 10,000 or up to 1 year in prison if he fails to tag the cattle within 15 days.
- The law forbids feeding cattle in cities that are not authorized areas as it poses a risk to the community, especially on the highways.
- Anyone who assaults authorities or places obstacles in the way of civic officers' efforts to catch animals will be sentenced to one year in prison and must pay a minimum punishment of Rs. 50,000. Since these animals stray onto roads and other public areas, growing cows, buffaloes, bulls, and goats in urban areas cause problems for city dwellers. This is the rationale for the measure's introduction.”²³

CONCLUSION

"Many states in India are affected by the issue of stray cattle. The Haryana government reported in August that over the past five years, 900 individuals had been killed in traffic accidents driven on by wandering cattle. While more than lakh stray animals were rehabilitated and transferred to various shelters between 2020–2021 and 2021–2022, almost 3,000 individuals suffered injuries. The UP authorities attempt to shelter at least 10 stray cows every day in each of the 75 districts in July. In India, this state is home to the most stray cattle. My inference is that liability for these accidents and human life casualties by stray animals on the roads or highways, the railway tracks, and even on the runways of airports must be fixed. Our policymakers, legislatures, and stakeholders must think about this because unless and until the liability is not fixed no one will bother with this and the life casualties will go on increasing and increasing. My question is who is liable in case of injuries, permanent disabilities, life casualties, or deaths in accidents due to stray animals?"

²² The Hindu

²³ The Hindu

- Liability of the owner (in case of death Caused by the livestock, cattle, or pets).
- Liability of Municipal Corporations (In case of Municipal, urban areas) because it is the statutory and mandatory obligation of the “the municipal committed to keeping the stray animals away from streets/ Roads and public places.
- "Liability of the Insurance Companies.
- Responsibility of the State or National highway department collects the toll taxes from the vehicle their owners, for providing their services so liability should be fixed on them to provide safety from the stray animals on the roads, or the state highway or national highway department should take proper measures while building the roads by providing barriers on both sides of the roads and making underpasses or overpasses for the animals to pass.
- Liability of the state government to pay monetary compensation because it is the statutory & mandatory obligation of the Government to protect the Fundamental rights (Art-21 Right to live and personal liberty) of every citizen of the state.

I applaud the Gujarat government's efforts in moving the Gujarat Cattle Control (Keeping and Moving) In Urban Areas Bill - 2022 ahead; however, the government has been forced to rescind this legislation as a result of the fierce opposition from the communities that raise cattle. The state government is urged to change its mind and make the required adjustments.

This bill is very necessary to be enacted in all the states of India because the practice of keeping and rearing cattle in urban areas and leaving them abundant causes huge trouble to the city dwellers and the on-road passengers this bill mandated that each cattle rearer should possess a license for the cattle rearing and tagging of their cattle and if fails to do this shall be punished by a heavy penalty in terms of monetary funds or imprisonment. This bill also helps in seeking remedies for both civil cases and criminal cases against the owners. But along with cattle control, control of wild animals which comes in the urban areas should also be included in this act.