**THE GOOD SAMARITAN (PROTECTION FROM CIVIL AND CRIMINAL LIABILITIES) AND MISCELLANEOUS PROVISIONS**

**BILL, 2016**

**OBJECTIVE:***Preservation of human life is of paramount importance*. *To provide for protection to Good Samaritans from civil and criminal liabilities by establishing supportive legal environment, constitution of Good Samaritans Authority, obligations of Hospitals and clinics and for matters connected therewith or incidental thereto.*

Be it enacted by Madhya Pradesh state legislative assembly in the Sixty-sixth Year of the Republic of India as follows :-

**1.** (1) This Act may be called the Good Samaritan (Protection from Civil and Criminal Liabilities) and Miscellaneous Provisions Bill, 2016.

***Short title extent and commencement***

 (2) It extends to the whole of Madhya Pradesh.

 (3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint.

**2. Definitions: -** In this Act, unless the context otherwise requires.-

 (a) ''accident'' includes road, railways or air accident;

 (b)''appropriate Government'' means,the Government of the state.

 (c) Authority means the Good Samaritan Authority constituted under section 3;

 (d) ''Good Samaritan'' means a by stander who helps a victim by taking reasonable necessary action to save life or property in good faith.'

 (e) ''emergency response'' means reasonable necessary reaction to an accident and includes taking the victim to a hospital in order to save his/her life or calling in ambulance or police;

 (f) ''Fund'' means the Good Samaritan Welfare Fund constituted under section 1I'

(g) ''victim'' means a victim of an accident.

**3.** *(1)* The State Government shall, within a period of six months from the coming into force of this Act, constitute an Authority to be known as the Good Samaritan Authority.

Constitution

of the Good

Samaritan

Authority

 *(2)* The Chairperson of the Authority and members shall be nominated by the State Government in such manner, as may be prescribed, from amongst persons of eminence having adequate knowledge of and experience in management, administration, law enforcement, public affair, health services, social work or law.

 *(3)* The Chairperson and the members of the Authority shall hold office for a period of three years from the date of their appointment.

 *(4)* The Authority shall have one experienced doctor and a police officer, and other such number of officers and staff, as may be necessary, for efficient discharge of its functions.

 *(5)* The salaries and allowances and other terms and conditions of the officers and staff of the Authority shall be such as may be prescribed.

Functions of the Authority

**4.** The functions of the Authority shall be -

*(a)*to receive complaints of harassment or violation of rights of Good Samaritans under this Act and institute legal proceedings against persons involved in such harassment or violation of rights'

 *(b)* to process and pay reasonable claims of hospitals regarding payment of hospital charges for providing treatment to a victim;

 *(c)*to take up mass media campaigns to encourage and sensitise the public in becoming Good Samaritans**;**

*(d)*to inform the general public about the provisions of this Act and in particular the rights of Good Samaritans in such manner, as it may deem appropriate.

 *(e)*In case by stander orGood Samaritan, so desire the authority an acknowledgement to confirming that an injured person was brought to the hospital, the time and place of such occurrence may, issue a compliment certificate in standard format.

**5.** *(1)* A Good Samaritan shall not be liable to any civil or criminal liability in respect of anything done or cause to have been done to save the life or property of a victim, unless there are evidences of his involvement in accident, whereby all the rights and privileges shall cease to exist.

Exemption

from civil or criminal liability to Good Samaritan and their rights

*(2)* Without prejudice to the generality of the foregoing provision, a Good Samaritan, in respect of an accidents in which he helps in saving life or property of a victim.

shall have the following rights, namely -

 *(a)*he shall not be required or compelled to file a First Information Report unless he decides otherwise;

 *(b)* he shall not be required or compelled to pay any charges for treatment including future treatment to the hospital or clinic in which the victim is brought by him for treatment;

 *(c)*unless he so chooses, he shall not be detained by the hospital or any police official for any reason including, but not limited to. -

 *(i)* finding or confirming the identify of the victim;

 *(ii)* any questioning unless he decides to stay and respond; and

 *(iii)* standing as witness or providing evidence to the police or any other person;

*(d)* he shall not be forced to reveal his identity; and

*(e)* he shall not be subject to any force or harassment by any person investigating into or otherwise related to the accident.

*(f)*he shall not be compelled by any court to depose before it as a witness unless he volunteers himself.

 *(3)* Where a Good Samaritan chooses to assist in the investigation of an accident. -

*(a)* the police shall act with sensitivity towards him and complete the recording of his statement and all other proceedings relating to him in a timely manner.His statement shall be completed in one sitting preferably at his own place of residence in civil dress.

Duty of Police to act with sensitivity.

*(b)*his statement as a witness in a court of law shall be recorded through video in a single hearing.

*(c)* A Good Samaritan unless he so chooses willingly shall not be detained by any Police official for confirming the identity of the victim, any questioning or standing as witness or as providing evidence to the police.

*(d)* Police or emergency service personnel should not insist on getting details of the good Samaritan when he informs about the accident over phone.

**6.** (1) It shall be the duty of every educational institution to impart training in first-aid and emergency response to every student above the age of thirteen years for such duration, as may be prescribed.

Educational

institutions to impart training in first-aid and emergency response to students.

(2) The training under sub-section(1) shall be imparted once in every academic year.

(3) For the purpose of imparting training under sub-section(1), the educational institutions shall take the assistance of such professionals or institutions, as the appropriate Government may, by notification in the Official Gazette, specify.

Appropriate Government to impart training and emergency response to its employees

**7.** (1) It shall be the duty of the appropriate Government to impart training in first-aid and emergency response to all their employees once every year.

Duty of every hospital and clinic to provide emergency treatment

Appropriate Government to organize awareness programmes and workshops.

**8.** The appropriate Government shall, from time to time, organize and conduct programmes, workshops and seminars to -

 (a) sensitize the citizens in becoming Good Samaritans;

 (b) make the citizens aware of emergency response numbers of ambulance service and police assistance; and

 (c) train the citizens in the art of first-aid and emergency response.

**9.** *(1)* No hospital or clinic shall deny emergency treatment to any victim;

Provided that if the hospital or clinic is not equipped to deal with the emergency treatment, it shall assist in directing the victim to the nearest hospital or clinic where such emergency treatment facility is available, after stabilizing the victim.

Duty of Hospital to provide emergency treatment to accident victim.

*(2)* No hospital or clinic shall demand any payment for providing emergency treatment to any victim or deny such treatment if the family members of the victim are unable to make the payment.

 *(3)* For reimbursement of charges incurred during emergency treatment of any victim, the hospital or clinic concerned shall apply to the Authority within such period and in such form and manner, as may be prescribed.

 *(4)* It shall be the duty of hospital or clinic to inform the police as soon as a victim is brought to the hospital or clinic by a Good Samaritan.

 *(5)* All hospitals shall publish a charter in Hindi and English at their entrance to the effect that they shall not detain bystander or good Samaritan or ask depositing money from them for the treatment of a victim.

**10.** (1) Where any physical or mental damage to, or death of, a victim occurs due to denying emergency treatment to him by a hospital or clinic or doctor, after inquiry by the Authority as prescribed, the license of such hospital or clinic or doctor, shall be cancelled and such hospital or clinic or doctor shall also be liable to a fine which shall not be less than ten lakh rupees for hospital and rupees 5 lac for doctor:

Penalty for denial of treatment to victims by hospitals or Clinics.

(2) Notwithstanding anything in sub-section(1), no hospital or doctor shall be liable to any civil or criminal liability for any physical damage of, a victim due to complications during the emergency medical attention;

 Provided that nothing in this sub-section shall apply to a case of gross medical negligence by a medical practitioner.

**11.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect

**12.**Further amendment incertain laws.

Cr.P.C

section 154

After sub section (1) the new provisio is inserted as follows

 Provided further that every information relating to accident, if given orally or written under sub section (1) by a good Samaritan, the name of such good Samaritan will not be disclosed in any record and FIR without his or her consent. The violation of this provision shall be punishable under section 166 A IPC.

section 160

After sub section (2) the new sub section 160(3) is inserted as follows

(3) Provided that no good Samaritan or by stander shallbe compelled to give consent to give statement.

section 311

The new provisio is inserted as follows:

provided that no court shall summon any good Samaritan or by stander without his / her consent.

INDIAN PENAL CODE

In section 166 A a new sub section D is inserted as follows:

(1) Whoever knowingly disobeys any direction given in the good Samaritan or by stander protection from civil and criminal liabilities Act 2016.

INDIAN EVIDANCE ACT

In section 125 a new sub section A is inserted as follows:

Section 125 A

no person or institute shall be compelled to give any information about good Samaritan or by stander , who helps a victim by taking reasonable necessary action to save his life or property.

**13.** (1)If any difficulty arises in giving effect to the provision of this Act. the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty.

Power to remove difficulties

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

 (2)Every order made under this section shall, as soon as may be after it is made, be laid before House of Assembly.

**14.** *(1)* The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules

*(2)* Every rule made under this Act shall be laid, as soon as possible after it is made. before Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid.