

Disposal of Motor Vehicle Act Cases In Lok Adalats

Sarfraz Nawaz
Judicial Magistrate First Class, Hojai

March, 2020 has come and along with it comes another monthly frenzy over disposal of cases. The State Lok Adalat scheduled to be held on the 28th of this month is a drive towards ensuring maximum disposal. Along with pre-litigation matters, matrimonial matters and cases involving compoundable offences, a large number of Motor Vehicles Act cases are likely to be disposed of in this Lok Adalat.

However, therein lies a problem. There has been an alarming trend in Lok Adalats disposing of cases under the Motor Vehicles Act without conforming to the procedure prescribed by law.

At the outset, it is worth pointing out here that only the offences punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 (only to the extent of use of handheld communication devices), section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196 and section 198 are compoundable.¹

Section 200 of the Motor Vehicles Act provides that the aforementioned offences may be compounded either before the institution of prosecution or after it. The Section authorizes the government to issue a Gazette notification indicating as to who will be the person who can compound the offences and as to what would be the amount for which the offences can be compounded.

When a person violating the aforementioned provisions of the Motor Vehicles Act gets challaned, the challaning officer (duly authorized in this regard) may compound the challan by collecting the fine amount. This power of the challaning officer flows from the provisions of Section 200 of the Motor Vehicles Act and is restricted to the offences specified therein (offences mentioned above).

In this context, Notification No.TMV.250/2019/67 issued under the orders of the Governor of Assam on the 23rd of September, 2019 is relevant. I am reproducing the same here.

¹ Section 200, Motor Vehicles Act.

পঞ্জীকৃত নম্বৰ - ৭৬৮/১৭

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 427 Dispur, Wednesday, 9th October, 2019, 17th Asvina, 1941 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
TRANSPORT DEPARTMENT

NOTIFICATION

The 23rd September, 2019

No. TMV.250/2019/67.- In supersession of Govt. of Assam Notification No. TMV.293/99/48-A dated 08/01/2003 and in exercise of powers conferred under Section 200(1) of the Motor Vehicle Act, 1988 as amended by the Motor Vehicle (Amendment) Act, 2019, the Governor of Assam is pleased, to empower either before or after institution of the prosecution, under mentioned officers to compound offences committed under Section 177, 178, 179, 180, 181, 182, 182A(1), 182A(3), 182A(4), 182B, 183(1), 183(2), 184(C), 186, 189, 190(2), 192, 192A, 194, 194A, 194B, 194C, 194D, 194E, 194F, 196, 198 of the aforesaid Act for such amount as specified below:-

(A). Designated officers: - Commissioner of Transport, Addl. Commissioner of Transport, Joint Commissioner of Transport, Deputy Commissioner of Transport, Asstt. Commissioner of Transport, District Transport Officer and Enforcement Inspector of the Transport Department, Assam.

Sl. No.	Section	Offences	Amount of C.F for the 1st offence (in Rs.)	Amount of C.F for the subsequent offence (in Rs.)
1	177	General Offence	500	1,500
2	178(1)	Travel without ticket	500	500
3	178(2)	Travel without ticket	500	500
4	178(3)	Refusal to ply contract carriage or carry passenger A) Two and Three Wheeler B) In other cases	A)50 B) 500	(A)50 (B)500

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5	179(1)	Disobedience of order of authorities	2,000	2,000
6	179(2)	Refuse to supply information wilfully.	2,000	2,000
7	180	Allowing Unauthorised person to drive vehicle	5,000	5,000
8	181	Driving without licence	5,000	5,000
9	182(1)	Driving vehicle during disqualification/suspension	10,000	10,000
10	182(2)	Offences relating to Conductor Licence.	10,000	10,000
11	182 B	Prohibition of Registration & Fitness Certificate to oversized vehicles violating Section 62 A read with section 110	10,000	10,000
12	183(1)(i)	Driving LMV with excess speed	2,000	Impounding of Driving License as per Section 206(4)
13	183(1)(ii)	Driving HMV/MMV Passenger with excess speed.	4,000	Impounding of Driving License as per Section 206(4)
14	184 (C)	Using Mobile phone while driving	5,000	10,000
15	186	Driving when mentally or physically unfit.	1,000	2,000
16	189	Racing and trials of speed.	5,000	10,000
17	190(2)	Violating Air and Noise Pollution	10,000	10,000
18	192	Using vehicle without registration and F.C.	5,000	10,000
19	192 A	Vehicle without permit and violating permit conditions	10,000	10,000
20	194(1)	Overloading goods vehicle	20,000 and 2,000 per extra tonn.	20,000 and 2,000 per extra tonn.
21	194(1)A	Carrying over dimension projections	20,000	20,000
22	194(2)	Refusal for weighing of goods carriages.	40,000	40,000
23	194 A	Carrying excess passenger in transport vehicle	200 per extra passenger	200 per extra passenger
24	194 B(1)	Driver or passenger without Seat belt	1,000	1,000
25	194 B(2)	Carrying children below 14yr without safety belt/child restraint system	1,000	1,000
26	194 C	Riding more than two persons in two wheeler	1,000	1,000
27	194 D	Riding Without Helmets by both driver & pillion	1,000	1,000
28	194 E	Not providing way for emergency vehicles (Fire Service or Ambulance)	10,000	10,000
29	194F(a)	Using horn needlessly or continuously/ prohibited area	1,000	2,000
30	194F(b)	Release of exhaust gas other than silencer	1,000	2,000
31	196	Driving without insurance	2,000	4,000

(B). Designated officer:- Commissioner of Transport, Addl. Commissioner of Transport, Deputy Commissioner of Transport, Asstt. Commissioner of Transport, District Transport Officer and Motor Vehicle Inspector of the Transport Department, Assam.

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THE ASSAM GAZETTE, EXTRAORDINARY, OCTOBER 9, 2019 2017

Sl. No.	Section	Offences	Amount of C.F for the 1st offences (in Rs.)	Amount of C.F for the subsequent offences (in Rs.)
1	177	General Offence	500	1,500
2	178(1)	Travel without ticket	500	500
3	178(2)	Travel without ticket	500	500
4	178(3)	Refusal to ply contract carriage A) Two and Three Wheeler B) In other cases	A) 50 B) 500	A) 50 B) 500
5	179(1)	Disobedience of order of authorities	2,000	2,000
6	179(2)	Refuse to supply information wilfully.	2,000	2,000
7	180	Allowing Unauthorised person to drive vehicle	5,000	5,000
8	181	Driving without licence	5,000	5,000
9	182(1)	Driving vehicle during disqualification/suspension	10,000	10,000
10	182(2)	Offences relating to Conductor Licence.	10,000	10,000
11	182-A(4)	Alteration of motor vehicle by owner not permitted by Act Rules	5,000 per alteration	
12	182 B	Prohibition of Registration & Fitness Certificate to oversized vehicles violating Section 62 A read with 110	10,000	10,000
13	183(1)(i)	Driving LMV with excess speed	2,000	Impounding of Driving License as per Section206(4)
14	183(1)(ii)	Driving HMV/MMV Passenger with excess speed.	4,000	Impounding of Driving License as per Section206(4)
15	184 (C)	Using Mobile phone while driving	5,000	10,000
16	186	Driving when mentally or physically unfit.	1,000	2,000
17	189	Racing and trials of speed.	5,000	10,000
18	190(2)	Violating Air and Noise Pollution	10,000	10,000
19	192	Using vehicle without registration and F.C.	5,000	10,000
20	192 A	Vehicle without permit and violating permit conditions	10,000	10,000
21	194(1)A	Carrying over dimension projections	20,000	20,000
22	194 A	Carrying excess passenger in transport vehicle	200 per extra passenger	200 per extra passenger
23	194 B(1)	Driver or passenger without Seat belt	1,000	1,000
24	194 B(2)	Carrying children below 14yr without safety belt/child restraint system	1,000	1,000
25	194 C	Riding more than two persons in two wheeler	1,000	1,000
26	194 D	Riding Without Helmets by both driver & pillion	1,000	1,000
27	194 E	Not providing way for emergency vehicles (Fire Service or Ambulance)	10,000	10,000
28	194F(a)	Using horn needlessly or continuously/ prohibited area	1,000	2,000
29	194F(b)	Release of exhaust gas other than silencer	1,000	2,000
30	196	Driving without insurance	2,000	4,000

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(C). Designated officer:-Commissioner of Transport, Addl. Commissioner of Transport, Deputy Commissioner of Transport, Asstt. Commissioner of Transport and District Transport Officer of the Transport Department, Assam.

Sl. No.	Section	Offences	Amount of C.F for the 1st offences (in Rs.)	Amount of C.F for the subsequent offences (in Rs.)
1	177	General Offence	500	1,500
2	182-A(1)	Offences relating to sale of vehicle by Dealer/Manufacturer/importer violating chapter VII	1,00,000 per vehicle	
3	182-A(3)	Offence relating to sale of unauthorised critical safety component Chapter VII	1,00,000 per component	
4	189	Racing and trials of speed.	5,000	10,000
5	198	Unauthorized interference with vehicle	1,000	1,000

(D). Designated officer:-

(I). Superintendent of Police, Addl. Superintendent of Police, Deputy Superintendent of Police, Inspector, Sub-inspector.

(II). For Guwahati Commissionerate:- Commissioner of Police, Joint Commissioner of Police, Deputy Commissioner of Police, Asstt. Commissioner of Police, Inspector, Sub-inspector.

Sl. No.	Section	Offences	Amount of C.F for the 1st offences (in Rs.)	Amount of C.F for the subsequent offences (in Rs.)
1	177	General Offence	500	1,500
2	179(1)	Disobedience of order of authorities	2,000	2,000
3	179(2)	Refuse to supply information wilfully.	2,000	2,000
4	180	Allowing unauthorized person to drive vehicle	5,000	5,000
5	181	Driving without licence	5,000	5,000
6	182(i)	Driving vehicle during disqualification/suspension	10,000	10,000
7	182(ii)	Offences relating to conductor licences	10,000	10,000
8	183(i)	Driving LMV with excess speed	2,000	Impounding of Driving License as per Section206(4)
9	183(ii)	Driving HMTV/MMV Passenger with excess speed.	4,000	Impounding of Driving License as per Section206(4)
10	184 (c)	Using Mobile phone while driving	5,000	10,000
11	186	Driving when mentally or physically unfit	1,000	2,000
12	190(2)	Violating Air and Noise Pollution	10,000	10,000
13	192	Using vehicle without registration and F.C.	5,000	10,000

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14	196	Driving without insurance	2,000	4,000
15	198	Unauthorized interference with vehicle	1,000	1,000
16	194 B(1)	Driver or passenger without Seat belt	1,000	1,000
17	194 B(2)	Carrying children below 14yr without safety belt/child restraint system	1,000	1,000
18	194 C	Riding more than two persons in two wheeler	1,000	1,000
19	194 D	Riding Without Helmets by both driver & pillion	1,000	1,000
20	194 E	Not providing way for emergency vehicles (Fire Service or Ambulance)	10,000	10,000
21	194F(a)	Using horn needlessly or continuously/ prohibited area	1,000	2,000
22	194F(b)	Release of exhaust gas other than silencer	1,000	2,000

B. R. SAMAL,
Principal Secretary to the Govt. of Assam,
Transport Department.

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Thus, it is quite clear that the aforementioned officials are the only ones who have been authorized to compound the offences in question by collecting the specified amount.

This can be done at the time of issuance of the challan and on payment of the prescribed amount, the offence is compounded. Or in the alternative, once prosecution is initiated on the basis of the traffic challan, the authorized officer can compound the offence in court by collecting the specified amount. In either case, the offender's penal liability ends. I hasten to add that some additional liabilities for the offenders have been prescribed by the Amendment Act of 2019. However, those have no bearing on the subject matter of this article and I do not intend to go into them here.

Now, a Lok Adalat is a suitable and expeditious mode of disposal of cases involving compoundable offences. A Lok Adalat organized under section 19 of the Legal Services Authority Act is authorized to determine and to arrive at a compromise or settlement between the parties as is seen from Section 20(3) of the Act.

A traffic challan is a complaint under Criminal Procedure Code and in all cases in which prosecution has been initiated for the offences specified in section 200 of the Motor Vehicles Act, a Lok Adalat is empowered to dispose of such cases on composition. A Lok Adalat can also dispose of traffic challans for such offences before prosecution is initiated upon them. But the caveat remains that the offence therein must be compoundable as per Section 200. After all, a Lok Adalat does not have either the authority or the jurisdiction to deal with non-compoundable offences.²

This brings me to the first anomaly in disposal of Motor Vehicles Act cases in Lok Adalats. It has been seen (from experience) that Lok Adalats often fall short of distinguishing compoundable offences from non compoundable ones prior to disposal. As for instance, the offence under section 185 of the Motor Vehicles Act is non-compoundable. A Lok Adalat is barred by statute to dispose it of in Lok Adalat. Unfortunately, Lok Adalats across the State have been disposing of offences under section 185 routinely in Lok Adalats. A simple data collection survey by the Assam State Legal Services Authority or the District Legal Services Authorities would reveal how many such non compoundable cases have been disposed of in Lok Adalats.

² Proviso to Section 19(5) The Legal Services Authorities Act, 1987

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Now, even if this is brushed aside as an inadvertent mistake, the larger issue of disposal of Motor Vehicle Act cases in Lok Adalats remains subject to critique.

One must remember that compounding is a matter between the accused and the aggrieved. A Lok Adalat acts as a facilitator between the accused and the aggrieved. The role of the Lok Adalat is to give the seal of approval to a settlement arrived at between the aggrieved and the accused. But the consent of the aggrieved is a must for composition.

As I have already pointed out, only a selected few officials have been notified to compound offences under the Motor Vehicles Act. The list is exhaustive. So, the only way that Lok Adalats can dispose of compoundable offences under the Motor Vehicles Act is if the offender (in person or through pleader) appears and pays the prescribed sum of money and any of the notified officers on acceptance of the notified amount compounds the offences.

But has any one of the officials authorized *vide* Notification No.TMV.250/2019/67 dated 23.09.2019 (or for that matter the superseded Notification No. TMV.293/99/48-A) ever remained present in a Lok Adalat for composition of the offences specified in Section 200 of the Motor Vehicles Act? Statutory prescriptions are required to be complied with in the manner provided. There can be no divergence from them. Lok Adalats cannot allow composition of the offences under the Motor Vehicles Act if any of the notified officers do not remain present during the Lok Adalat for the purpose of composition.

It is extremely unfortunate that though the normal perception is that traffic violators deposit the fine in Lok Adalat and the offences get compounded, the actual practice is quite different. Lok Adalats are routinely accepting pleas of guilt by the traffic violators and sentencing them with fines. What necessarily ensue are criminal convictions. Compositions, on the other hand, result in acquittals. Neither the Legal Services Authority Act nor any other statute has empowered a Lok Adalat to convict a person. This practice by Lok Adalats is *ex facie* illegal and it needs immediate correction.

I do concede that after the Amendment Act of 2019, this practice is going to get curtailed reasonably. The substantial increase in the fines will act as a deterrent for offenders to come forward and pay the fine voluntarily. There will be a substantial increase in trials.

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However, that does not necessarily mean that no case under the Motor Vehicles Act will get disposed of in Lok Adalats. There have been instances following the notification of the Amendment Act wherein traffic offenders have paid traffic challans worth lakhs of rupees. Thus, the role of Lok Adalats will not cease even though the fines have been increased exponentially. Also, the cases which were instituted prior to the Amendment Act have not all been disposed yet. As such, Lok Adalats would continue to play a crucial role in disposing such cases. Considering the gargantuan pendency in the criminal courts, one can use all the help that one needs. Lok Adalats continue to remain relevant in ensuring that cases under the Motor Vehicles Act get disposed of expeditiously.

The only requirement is that Lok Adalats must act within the ambit of its power and jurisdiction. And to ensure the same, the Assam State Legal Services Authority has its role cut out for it.

First of all, it has to send a clear direction to all the Lok Adalats that would be held henceforth that only the offences punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (3) or sub-section (4) of section 182A, section 182B, sub-section (1) or sub-section (2) of section 183, section 184 (only to the extent of use of handheld communication devices), section 186, section 189, sub-section (2) of section 190, section 192, section 192A, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196 and section 198 of the Motor Vehicles Act are disposed of therein.

Secondly, the Assam Legal Services Authority has to enlist the assistance of the top brass of the Transport Department and Police Administration. It must have them send officials of the ranks prescribed by Notification No. TMV.250/2019/37 to remain present during the Lok Adalats for ensuring composition. The District Legal Services Authorities can also ensure the same but for ensuring uniform application across the state, the role of the State Authority remains vital.

If the same is not done then the only legal recourse would be a summary trial by a competent court as prescribed by Section 208 of the Motor Vehicles Act.
