

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

MONDAY, THE 10TH DAY OF JANUARY 2022 / 20TH POUSHA, 1943

SSCR NO. 20 OF 2021

PETITIONER:

SUO MOTU

BY ADV SUO MOTU

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE SECRETARY/
JOINT SECRETARY TO GOVERNMENT, TRANSPORT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 2 TRANSPORT COMMISSIONER
(MOTOR VEHICLE DEPARTMENT), TRANSPORT
COMMISSIONERATE, IIND FLOOR, TRANS TOWER, THYCADU
P.O., VAZHUTHACADU, THIRUVANANTHAPURAM-695 014.
- 3 STATE POLICE CHIEF
POLICE HEAD QUARTERS, VAZHUTHAKKAD,
THIRUVANANTHAPURAM-695 010.
- 4 THE DISTRICT POLICE CHIEF
PATHANAMTHITTA-689 645
- 5 THE TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, NANTHANCODE,
KAWDIAR POST, THIRUVANANTHAPURAM-695 003.

BY ADV SHRI.G.BIJU, SC, TRAVANCORE DEVASWOM BOARD

SRI S RAJMOHAN-SR GOVERNMENT PLEADER ;

SRI N RAGHURAJ-AMICUS CURIAE

THIS SABARIMALA SPECIAL COMMISSIONER REPORT HAVING COME UP FOR
ADMISSION ON 10.01.2022, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

"CR"

ORDER

Anil K. Narendran, J.

The Special Commissioner, Sabarimala, has filed this Report regarding the functioning of Safe Zone Project, Sabarimala, by the Motor Vehicles Department, with offices at Elavunkal, Erumeli and Kuttikkanam. The project provides for accident and break down assistance for motor vehicles and also rescue operations in motor accidents. Under Safe Zone Project, teams of officers in vehicles patrol the accident prone routes covering Elavunkal, Erumeli and Kuttikkanam. There are also quick response teams and an ambulance. In addition to this, break down assistance is provided with the aid of recovery vehicles and mechanics. Safe Zone Project 2021-22 has been operational from the commencement of Mandala-Makaravilakku festival for the current year, from 15.11.2021. The Special Officer, Safe Zone Project, has reported that a total of Rs.68 Lakhs is allocated for the project, out of which Rs.20 Lakhs was sanctioned on 16.12.2021 and received on 21.12.2021. Safe Zone Project has so far attended 40 major accidents, 758 major break downs and 536 minor break downs. Along with the report of the Special Commissioner, the

details of the Safe Zone Project 2021-22 submitted by its Controlling Officer and Special Officer are placed on record.

2. On 03.01.2022, when this report came up for consideration the learned Senior Government Pleader sought time to get instructions from respondents 1 to 4.

3. On 05.01.2022, when this report came up for consideration, Registry was directed to incorporate the news report that appeared in an online media regarding a motor accident, which occurred in the 1st week of December, 2021, involving two contract carriages carrying Sabarimala pilgrims, in which two pilgrims sustained fatal injuries. Copy of that news report was handed over to the learned Senior Government Pleader, the learned Standing Counsel for Travancore Devaswom Board and also the learned Amicus Curiae for Special Commissioner, Sabarimala. The learned Senior Government Pleader was directed to get instructions from the 2nd respondent-Transport Commissioner, the 3rd respondent-State Police Chief and also the 4th respondent-District Police Chief, Pathanamthitta.

4. On 07.01.2022, heard the learned Senior Government Pleader for respondents 1 to 4, the learned

Standing Counsel for Travancore Devaswom Board for the 5th respondent and also the learned Amicus Curiae for Special Commissioner, Sabarimala.

5. During the course of arguments, the learned Senior Government Pleader has made available for the perusal of this Court a report dated 10.12.2021 of the Joint Regional Transport Officer, Vandiperiyar, addressed to the 2nd respondent-Transport Commissioner, and also a report dated 04.01.2022 of the Nodal Officer, Safe Zone Project, Sabarimala, addressed to the learned Senior Government Pleader. As per the report dated 10.12.2021 of the Joint Regional Transport Officer, Vandiperiyar, the accident in question occurred on 09.12.2021 at 11.45 am, at Amalagiri in State Highway-220 in between Kuttikkanam and Mundakkayam. In that accident four vehicles were involved, namely, a contract carriage (HPV) bearing registration No.AP-05/TT-7929, another contract carriage (LMV) - Tempo Traveller - bearing registration No.AP-39/TB-1599 both carrying Sabarimala pilgrims, a Maruti Ertiga car (LMV) bearing registration No.KL-38/J-4092 and a goods carriage (HGV) bearing registration No.TN-76/Q-8556. In that accident four

pilgrims sustained injuries and two pilgrims from Andra Pradesh died. As per the report of the Joint Regional Transport Officer, there was a minor accident on the spot, involving two vehicles - KL-38/J-4092 and AP-39/TB-1599, ahead the occurrence of the major accident. The passengers in those vehicles came out for inspecting the damages caused to the respective vehicles. At that time contract carriage - AP-05/TT-7929 came from Kuttikkanam towards Mundakkayam and hit on the rear of Tempo Traveller - AP-39/TB-1599. In that impact the Tempo Traveller moved forward and hit on the rear of Maruti Ertiga car - KL-38/J-4092. That motor car hit on the front of a goods carriage - TN-76/Q-8556, which came from Mundakkayam side. The Tempo Traveller moved forward in that impact, which ran over two passengers who were standing on the road, in front of that vehicle, who died on the spot. In that accident, four passengers sitting in the Tempo Traveller sustained injuries. As per the report of the Joint Regional Transport Officer, the width of the road near the spot of accident is between 5.4 meters and 5.8 meters. As per the report dated 04.01.2022 of the Nodal Officer, Safe Zone Project, Sabarimala, the total number of accidents in the Safe

Zone area, namely, Elavunkal, Erumeli and Kuttikkanam, during the current Mandala-Makaravilakku season is 65, in which 2 pilgrims died, 3 sustained major injuries and 42 sustained minor injuries. The learned Senior Government Pleader submitted that officers in Safe Zone Project, Sabarimala, which is a joint project of the Kerala Motor Vehicle Department and the Kerala Road Safety Authority, is taking earnest efforts to ensure the safety of pilgrims and other road users on Sabarimala roads, during the pilgrimage season.

6. Motor Vehicles Act, 1988 was enacted by the Parliament to consolidate and amend the law relating to motor vehicles, namely, the Motor Vehicles Act, 1939 to take into account, *inter alia*, the need for encouraging adoption of higher technology in automotive sector; laying down standards for the components and parts of motor vehicles; concern for road safety standards and pollution control measures, standards for transportation of hazardous and explosive materials; etc.

7. Section 56 of the Motor Vehicles Act deals with certification of fitness of transport vehicles. As per sub-section (1) of Section 56, subject to the provisions of Section 59 and Section 60, a transport vehicle shall not be deemed to be

validly registered for the purposes of Section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorised testing station mentioned in sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of the Act and the Rules made thereunder. As per the first proviso to sub-section (1) of Section 56, where the prescribed authority or the authorised testing station refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal. As per the second proviso to sub-section (1) of Section 56, inserted by Section 23(i) of the Motor Vehicles (Amendment) Act, 2019, no certificate of fitness shall be granted to a vehicle, after such date as may be notified by the Central Government, unless such vehicle has been tested at an automated testing station.

8. As per sub-section (2) of Section 56 of the Motor Vehicles Act, substituted by Section 23(ii) of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.04.2021, the 'authorised testing station' referred to in sub-section (1) means any facility, including automated testing facilities,

authorised by the State Government, where fitness testing may be conducted in accordance with the rules made by the Central Government for recognition, regulation and control of such stations. As per sub-section (3) of Section 56, subject to the provisions of sub-section (4), a certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act. As per sub-section (4) of Section 56, the prescribed authority may, for reasons to be recorded in writing, cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the Rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained. As per the first proviso to sub-section (4) of Section 56, substituted by Section 23(iii) of the Motor Vehicles (Amendment) Act, 2019, no such cancellation shall be made by the prescribed authority unless, (a) such prescribed authority holds such technical qualification as may be prescribed by the Central Government and where the prescribed authority does

not hold the technical qualification, such cancellation is made on the basis of the report of an officer having such qualification; and (b) the reasons recorded in writing cancelling a certificate of fitness are confirmed by an authorised testing station chosen by the owner of the vehicle whose certificate of fitness is sought to be cancelled. As per the second proviso to sub-section (4) of Section 56, if the cancellation is confirmed by the authorised testing station, the cost of undertaking the test shall be borne by the owner of the vehicle being tested and in the alternative by the prescribed authority. As per sub-section (6) of Section 56, inserted by Section 23(iv) of the Motor Vehicles (Amendment) Act, 2019, all transport vehicles with a valid certificate of fitness issued under this Section shall carry, on their bodies, in a clear and visible manner such distinguishing mark as may be prescribed by the Central Government.

9. In **Usha Nanthini M. v. Secretary, Regional Transport Authority [2018 (2) KHC 89]**, a decision rendered by one among us (Anil K. Narendran, J), this Court held that, a transport vehicle which is registered under Section 39 of the Motor Vehicles Act can be driven or plied on the road

only if it possesses a valid fitness certificate. If it is not having a valid fitness certificate, it shall be deemed to be an unregistered motor vehicle. Further, the certificate of fitness issued under Section 56 of the Motor Vehicles Act in respect of a transport vehicle is liable to be cancelled at any time, for reasons to be recorded in writing, if the prescribed authority is satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the Rules made thereunder.

10. Chapter VII of the Motor Vehicles Act deals with construction, equipment and maintenance of motor vehicles. Section 109 of the Act deals with general provision regarding construction and maintenance of vehicles; Section 110 deals with power of Central Government to make rules; and Section 111 deals with power of State Government to make rules.

11. Central Motor Vehicles Rules, 1989 made by the Central Government, in exercise of its rule making power under the relevant provisions of the Motor Vehicles Act was published, vide notification dated 02.06.1989. Rule 62 of the Central Motor Vehicles Rules deals with validity of certificate of fitness. As per sub-rule (1) of Rule 62, a certificate of fitness in

respect of a transport vehicle granted under Section 56 shall be in Form 38 and such certificate when granted or renewed shall be valid for a period of two years in the case of a new transport vehicle. Renewal of certificate of fitness in respect of a transport vehicle shall be valid for two years for vehicles up to eight years old and one year for vehicles older than eight years. As per the first proviso to sub-rule (1) of Rule 62, the renewal of a fitness certificate shall be made only after an Inspecting Officer or authorised testing stations as referred to in sub-section (1) of Section 56 of the Act has carried the tests specified in the Table given below the first proviso to sub-rule (1). The certificate of fitness of a transport vehicle issued in Form No.38 contains a certification by the inspecting authority or the authorised testing station that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder.

12. Rule 62 of the Central Motor Vehicles Rules provides for checking the condition of spark plug/suppressor cap/high tension cable, head lamp beams, other lights, reflectors, bulbs, rear view mirror, safety glass, horn, silencer, dash board equipment, windshield wiper, exhaust emission, braking

system, speedometer and steering gear, rear under run protecting device (for N2, N3, T3 and T4 category), lateral side protection device (for N2, N3, T3 and T4 category), fastag, etc. Rule 62 provides for checking the functioning of all the aforesaid items except the reflectors, bulbs, rear view mirror, safety glasses, exhaust emission, rear under run protecting device, lateral side protection device and fastag. Rule 62 provides for checking the make/rating, etc. of spark plug/suppressor cap/high tension cable, bulbs and safety glass as per original equipment recommendations. As per the remarks column of the Table, beam focus of head lamp beams has to be checked as per Annexure VII. While checking other lights it has to be ensured that unauthorised lights are not fitted; while checking reflectors it has to be ensured that the colour of reflectors and reflective tapes are as per Rule 104; while checking bulbs it has to be ensured that head light bulbs wattage, especially halogen, is not higher than those indicated in IS 1606-1993 and also that halogen bulbs with P45t caps are not used in all vehicles; while checking safety glasses it has to be ensured that laminated windscreen glass is used for vehicles manufactured from April, 1996 onwards; etc.

13. As per the third proviso to sub-rule (1) of Rule 62, inserted by G.S.R. 1096(E) dated 28.11.2016, with effect from 28.11.2016, if the tests specified in the Table under the first proviso are conducted by an Inspecting Officer or authorised testing station in a State/Union Territory other than the State/Union Territory where the vehicle is registered, the Inspecting Officer who conducted the tests shall, on the same day or on the following working day, upload his inspection report in Form 38A at the portal <http://parivahan.gov.in/vahan> and also send the inspection report signed under his hand and seal to the registering authority by speed post for issue of certificate of fitness by the registering authority within fifteen days from the date of the inspection report, if the vehicle is found by the Inspecting Officer to be in compliance with the provisions of the Act and rules and a copy shall be given to the driver of the vehicle

14. Chapter V of the Central Motor Vehicles Rules deals with construction, equipment and maintenance of motor vehicles. As per sub-rule (1) of Rule 92, no person shall use or cause or allow to be used in any public place any motor vehicle which does not comply with the provisions of Chapter V. As per

the proviso to sub-rule (1), nothing contained in Rule 92 shall apply to vehicles manufactured prior to the coming into force of the Central Motor Vehicles (Amendment) Rules, 1993. As per sub-rule (2), nothing in Rule 92 shall apply to a motor vehicle enumerated in clauses (a) to (c). As per sub-rule (2) of Rule 92, substituted by G.S.R. 870(E) dated 13.09.2018, whenever a part, component, or assembly is compliant with the international standard namely, EEC or ECE or Japanese, in lieu of the standard notified in the rules, the compliance of such part, component or assembly shall be deemed to be established for the purpose of Rules 124 and 126, by a certificate of compliance for the relevant standard issued by an authorised agency or accredited certifying agency. As per sub-rule (4) of Rule 92, inserted by G.S.R. 935(E) dated 18.12.2019, the manufacturers who are affixing microdot identifiers in the motor vehicles and their parts, components, assemblies, sub-assemblies shall conform to Automotive Industry Standard (AIS)-155 as amended from time to time.

15. Rule 102 of the Central Motor Vehicles Rules deals with signalling devices, direction indicator and stop lights. As per sub-rule (1) of Rule 102, the signal to turn to the right or

to the left shall be given by electrically operated direction indicator lamps on all motor vehicles including construction equipment vehicles and combined harvester, and such construction equipment vehicles and combined harvester be fitted and maintained so that conditions enumerated in clauses (i) to (iii) of sub-rule (1) are met, i.e., (i) the direction indicator lamps shall be of amber colour which is illuminated to indicate the intention to turn, by a light flashing at the rate of not less than 60 and not more than 120 flashes per minute; (ii) the light emitted by the lamp when in operation shall be clearly visible from both front and rear of the vehicle; and (iii) the minimum illuminated area of each direction indicator shall be 60 square centimeters. As per the proviso to sub-rule (1) of Rule 102, nothing contained in this sub-rule shall apply to L1 category of motorcycles. As per sub-rule (2) of Rule 102, on all vehicles other than motorcycles, the intention to stop the vehicle (other than construction equipment vehicle having hydrostatic brakes) shall be indicated by two electrical stop lamps which shall be red in colour and shall be fitted one on each left and right-hand sides at the rear of the vehicle. The stop lamps shall light up on the actuation of the service brake

control. In the case of motorcycle, the intention to stop the vehicle shall be indicated by one stop lamp at the rear which shall light up on the actuation of the control operating the brakes on the rear wheels. As per sub-rule (3) of Rule 102, one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1993, the stop-lamp of every motorcycle shall be so designed and fitted that it will light up on actuation of any of the controls which actuate the brakes on any wheel.

16. Rule 104 of the Central Motor Vehicles Rules deals with fitment of reflectors. As per sub-rule (1) of Rule 104, every motor vehicle manufactured on and after the 1st day of April, 2016, including trailers and semi-trailers, other than motorcycles shall be fitted with two red reflectors, one each on both sides at their rear. Every motorcycle shall be fitted with at least one red reflector at the rear. Clauses (i) to (v) of the proviso to sub-rule (1) deal with fitment of reflectors in respect of vehicle of Categories N1, N2, N3, M2, M3 and three wheeled vehicles including e-rickshaw and e-cart. As per sub-rule (3) of Rule 104, all trailers including semi-trailers, other than those drawn by three wheeled tractors shall be fitted with reflex

reflectors provided in clauses (i) to (iii). As per sub-rule (4) of Rule 104, substituted vide G.S.R. 1192(E) dated 10.12.2018, with effect from 11.12.2018, after omitting sub-rules (2) and (5) of Rule 104, the reflectors referred to in Rule 104 and in Rule 110 fitted with motor vehicles manufactured on or after the 1st day of October, 2019 shall be of reflex type conforming to AIS-057 (Rev.1) 2010 standard as amended from time to time, till such time the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 2016.

17. Rule 105 of the Central Motor Vehicles Rules deals with lamps. As per sub-rule (1) of Rule 105, save as provided in the said rule, every motor vehicle, while being driven in public place during the period half an hour after sunset and at any time when there is no sufficient light, shall be lit with the lamps enumerated in clauses (a) to (d) of sub-rule (1), which shall render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty-five metres ahead. As per clause (a) of sub-rule (1) of Rule 105, a motor vehicle other than three-wheelers, three-wheeled invalid carriages and motorcycles shall have two or four head lamps. As per clause (i) of sub-rule (2), every such motor vehicle other than a

three-wheeler shall carry two rear lamps showing to the rear a red light visible in the rear from a distance of one hundred and fifty-five metres; and as per clause (ii) lamp, which may be the rear lamp or some other device, illuminating with a white light the whole of the registration mark exhibited on the rear of the vehicle, so as to render it legible from a distance of fifteen metres to the rear. Sub-rule (3) of Rule 105 specifies the power and height of front head lamps of a motor vehicle. As per sub-rule (3) of Rule 105, on and from the commencement of the Central Motor Vehicles (Amendment) Rules, 1993, all the obligatory front head lamps of a motor vehicle other than motorcycles shall be as nearly as possible of the same power and fixed at a height as specified in Indian Standards IS:8415-1977 (clause 4.1). As per the first proviso to sub-rule (3), in the case of four-wheel drive cross country vehicles, the maximum height of the said front head lamps may be as per limits specified in Indian Standards IS:8415-1977 (clause 4.1.1). As per sub-rule (4), the rear lamp shall be fixed either on the centre line of the vehicle or to the right hand side, and save in the case of transport vehicle, at a height of not exceeding one metre above the ground. As per sub-rule (5), in

the case of a transport vehicle, the rear light may be fixed at such level as may be necessary to illuminate the registration mark.

18. Rule 106 of the Central Motor Vehicles Rules provides for deflection of lights. As per sub-rule (1) of Rule 106, substituted by the Central Motor Vehicles (6th Amendment) Rules, 2014, which came into force with effect from 24.04.2014, no head lamp showing a light to the front shall be used on any motor vehicle including agricultural tractor and construction equipment vehicle and combine harvester (whether fitted with single or dual head lamp) unless such vehicle is so constructed, fitted and maintained that the beam of light emitted therefrom meet the requirements of the respective safety standards notified under Rules 124 and 124A.

19. Rule 107 of the Central Motor Vehicles Rules deals with top lights. As per Rule 107, every goods vehicle including trailer and semi-trailer other than three-wheelers and vehicles with overall width not exceeding 2.1 metres shall be fitted with two white lights at the top right and left corners showing white light to the front and two red lights at the top at the rear showing red light to the rear. The lights shall remain lit when

the vehicle is kept stationary on the road during night and at the time of poor visibility. As per the proviso to Rule 107, in the case of goods carriage without a full body in the rear, provision for fitting of the top light at the rear shall not be necessary.

20. Rule 108 of the Central Motor Vehicles Rules deals with use of red, white or blue light. As per sub-rule (1) of Rule 108, no motor vehicle shall show a red light to the front or light other than red to rear. As per the proviso to sub-rule (1) of Rule 108, the provisions of this rule shall not apply to the internal lighting of the vehicle [clause (i)]; or the amber light, if displayed by any direction indicator or as top light used on vehicle for operating within the premises such as airports, ports, mines and project sites, without going outside the said premises on to public roads [clause (ii)]; the blinker type of red light with purple glass fitted to an ambulance van used for carrying patients or the warning lamps fitted on Road Ambulance in accordance with Annexure I of AIS-125 (Part-1)-2014 [clause (iv)]; white light illuminating the rear number plate [clause (vi)]; white light used while reversing [clause (vii)]; plough light provided in agricultural tractors for

illuminating the implement's working area on the ground in agricultural field operations [clause (viii)]. As per sub-rule (4) of Rule 108, use of multi-coloured red, blue and white light shall be permitted only on vehicles specifically designated for such emergency and disaster management duties as may be specified by the Central Government. As per sub-rule (6) of Rule 108, on and after the 1st April, 2018, the top lights (warning lamps) fitted on Road Ambulances shall be in accordance with AIS:125 (Part 1)-2014, as amended from time to time, for all types of ambulances specified therein, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986.

21. Rule 109 of the Central Motor Vehicles Rules deals with parking lights. As per Rule 109, every construction equipment vehicle, combine harvester and every motor vehicle other than motorcycles and three-wheeled invalid carriages shall be provided with one white or amber parking light on each side in the front. In addition to the front lights, two red parking lights one on each side in the rear shall be provided. The front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road. As per the first proviso

to Rule 109, these rear lamps can be the same as the rear lamps referred to in sub-rule (2) of Rule 105. As per the second proviso to Rule 109, construction equipment vehicles and combine harvesters, which are installed with flood light lamps or spot lights at the front, rear or side of the vehicle for their off-highway or construction operations, shall have separate control for such lamps or lights and these lights shall be permanently switched off when the vehicle is traveling on the road.

22. Rule 110 of the Central Motor Vehicles Rules deals with lamps on three-wheelers. Rule 111 of the Central Motor Vehicles Rules, which deals with prohibition of spot lights, etc., provides that no spot light or search light shall be carried on the front of any vehicle except in exceptional circumstances with the prior approval of the registering authority.

23. Rule 124 of the Central Motor Vehicles Rules deals with safety standards of components. As per sub-rule (1) of Rule 124, the Central Government may, from time to time, specify, by notification in the Official Gazette, the standards or the relevant standards specified by the Bureau of Indian Standards of any part, component or assembly to be used in

the manufacture of a vehicle including construction equipment vehicle and the date from which such parts, components or assemblies are to be used in the manufacture of such vehicle and on publication of such notification every manufacturer shall use only such of these parts, components or assemblies in manufacture of the vehicle. As per sub-rule (2) of Rule 124, every manufacturer shall get the prototype of the part, component or sub-assembly for which standards have been notified, approved from any agency as referred to in Rule 126 and in the case of tyre and rubber components from the Indian Rubber Manufacturers Research Association, Thane, or in case of compliance with notified Indian Standards from any laboratory duly authorised by the Bureau of Indian Standards. On the basis of such approval, every manufacturer shall also certify compliance with provisions of this rule in Form 22. As per sub-rule (4) of Rule 124, the procedure for type approval and establishing conformity of production for components, listed in Table below sub-rule (4), shall be in accordance with AIS:037-2004 till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986.

24. In **Avishek Goenka v. Union of India [2012 (5)**

SCC 321 : 2012 (2) KHC 394], after referring to the provisions under Rules 100, 104, 104A, 106, 119 and 120 of the Central Motor Vehicles Rules, the Apex Court held that, the said Rules deal with every minute detail of construction and maintenance of a vehicle. In other words, the standards, sizes and specifications which the manufacturer of a vehicle is required to adhere to while manufacturing the vehicle are exhaustively dealt with under the Rules. What is permitted has been specifically provided for and what has not been specifically stated would obviously be deemed to have been excluded from these Rules. It would neither be permissible nor possible for the Court to read into these statutory provisions, what is not specifically provided for. The provisions of the Central Motor Vehicles Rules demonstrate the extent of minuteness in the Rules and the efforts of the framers to ensure, not only the appropriate manner of construction and maintenance of vehicle, but also the safety of other users of the road. The Apex Court held further that, the legislative intent attaching due significance to the 'public safety' is evident from the object and reasons of the Motor Vehicles Act, the provisions of the said Act and more particularly, the rules

framed thereunder.

25. In **Saji K.M. v. Deputy Transport Commissioner [2019 SCC OnLine Ker 2047 : 2019 (3) KHC 836]**, a decision rendered by one among us (Anil K. Narendran, J), after referring to the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]**, this Court held that, the provisions under Rules 102 to 111 of the Central Motor Vehicles Rules deal with every minute detail of the signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. to be fitted in a motor vehicle. The said provisions deal with the number, position, colour and other specifications of such lamps, direction indicators, reflectors, etc. As per the mandate of sub-rule (1) of Rule 105, every motor vehicle, while being driven in a public place, during the period half an hour after sunset and at any time when there is no sufficient light, shall be lit with the lamps enumerated in clauses (a) to (d) of sub-rule (1) of the said Rule, which shall render clearly discernible persons and vehicles on the road at a distance of one hundred and fifty-five meters ahead. As per clause (i) of sub-rule (2), the red light of the rear lamps of a motor vehicle, other than a motorcycle shall be visible in the

rear from a distance of one hundred and fifty-five meters and as per clause (ii) of sub-rule (2), the device illuminating the whole of the registration mark exhibited on the rear of a vehicle with a white light shall render the registration mark legible from a distance of fifteen meters to the rear. As per the mandate of sub-rule (3) of Rule 105, all the obligatory front head lamps of a motor vehicle other than a motorcycle shall be as nearly as possible of the same power and fixed at a height as specified in Indian standards IS:8415-1977 (clause 4.1.1). Similarly, sub-rule (4) of Rule 105 deals with the position and height of the rear lamp of a motor vehicle other than a transport vehicle; and sub-rule (5) deals with the position of rear light in the case of a transport vehicle, as per which, in the case of a transport vehicle, the rear light may be fixed at such level as may be necessary to illuminate the registration mark. As per the mandate of Rule 109, which deals with parking lights, the front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road.

26. The erstwhile Ministry of Shipping, Road Transport and Highways (Department of Road Transport and Highways), vide S.O.1365(E) dated 13.12.2004, prescribed the standards

for installation of lighting and light-signaling devices for motor vehicle having more than three wheels, trailer and semi-trailer, as a safety requirement. Serial No.1(i) of the said notification prescribed the standards for automobile lamps that are to be used as head lamps and states that they shall be of AIS-034/2004 standard. Serial No.20 of the said notification prescribes the fitment requirements of such lamps to be as per AIS-008/2001. AIS-034/2004 deals with Automotive Industry Standards (for brevity 'AIS') for automobile lamps, which has been prepared for implementation of the mandatory requirements regarding lamps (bulbs) for use in automobiles for lights and light-signalling devices covered by AIS-008/2001-Installation Requirements of Lighting and Light-Signalling Devices for Motor Vehicle having more than three wheels, Trailer and Semi-Trailer excluding Agricultural Tractor and Special Purpose Vehicle; AIS-009/2001-Installation Requirements of Lighting and Light-Signalling Devices for Two and Three Wheeler, its Trailer and Semi-trailer; and AIS-030/2001-Installation Requirements for Lighting and Light-Signalling Devices for Agricultural Tractor.

27. Para.1.0 of AIS-008 deals with its scope. Para.2.0 of

AIS-008/2001 deals with definitions. As per Para.5.1, only those lighting and light-signalling devices referred to in Para.6.0 of this standard shall be permitted to be installed on motor vehicles. As per Para.5.9, in the absence of specific requirements, no lamps other than direction indicator lamps and the hazard-warning signal and amber side-marker lamps complying with Para.6.18.7. below, shall be flashing lamps. As per Para.5.10, no red light in the forward direction and no white light in the rearward direction shall be emitted from a lamp (which could give rise to confusion), other than from a reversing lamp and a rear registration plate lamp. While considering this requirement, no account shall be taken of lighting devices fitted in the interior of the vehicle. In case of doubt, this requirement shall be verified as enumerated in Para.5.10.1 to Para.5.10.3.2. As per Para.5.15, the colours of the light emitted by the lamps shall be as shown in the Table to Para.5.15. Para.6.0 deals with individual specifications of lamps, namely, number, position, width, height, length, geometric visibility, orientation, etc. Para.5.16 deals with number of lamps. As per Para.5.16.1, the number of lamps mounted on the vehicle should be equal to the number(s)

specified in each of Para.6.1. to Para.6.20. Para.6.3 to Para.6.20 of AIS-008 deal with individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of various lamps and retro-reflectors.

28. In **Principal, Sabari PTB Smaraka H.S.S. v. Additional Registering Authority and others [2019 SCC OnLine Ker 7998 : 2020 (2) KHC SN 9 : 2020 (2) KLJ 662]**, a decision rendered by one among us (Anil K. Narendran, J), this Court held that, in view of the general requirements under Para.5.1 of AIS-008, a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle, shall be permitted to be fitted with only those lighting and light-signalling devices, and also the retro-reflectors referred to in Para.6.0. Paras.6.1 to 6.20 deals with individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of various lamps and retro-reflectors. As per Para.6.1.4.3 and Para.6.2.4.3, the light emitted from the main-beam headlight and dipped-beam headlight fitted at the front of the vehicle shall not cause discomfort to the driver either directly or indirectly through the rear-view mirrors

and/or other reflecting surfaces of the vehicle. As per Para.6.2.4.2, the height of dipped-beam headlight shall not be less than 500 mm and not more than 1,200 mm above the ground. As per Para.2.7.14 'front position lamp' should indicate the presence and the width of the vehicle when viewed from the front and as per Para.2.7.15 'rear position lamp' should indicate the presence and the width of the vehicle when viewed from the rear. As per Para.5.3, for all light-signalling devices, the reference axis of the lamp when fitted to the vehicle shall be parallel to the bearing plane of the vehicles on the road. In the case of side retro-reflector and side marker lamps, it shall be perpendicular to the median longitudinal plane of the vehicle and parallel to that plane in the case of all other signalling devices. In each direction, a tolerance of $\pm 3^\circ$ shall be allowed.

29. In **Principal, Sabari PTB Smaraka H.S.S.** this Court noticed that, AIS-008 deals with every minute detail of installation of lighting, light-signalling devices and retro-reflectors for a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle. The lighting, light-signalling devices

and retro-reflectors permitted to be installed on a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle motor vehicle have been specifically provided for in AIS-008. Therefore, this Court held that, in view of the prohibition contained in Para.5.1, no such motor vehicle shall be permitted to be installed with any lighting and light-signalling devices or retro-reflectors, other than those referred to in Para.6.0 of AIS-008. The combined reading of the definition clauses and the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of those lighting, light-signalling devices and also retro-reflectors specified in Paras.6.1 to 6.20 of AIS-008, leads to an irresistible conclusion that, in order to ensure the safety of road users, the standards prescribed in AIS-008 deal with every minute detail of the installation of lighting and light-signalling devices for motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle.

30. In **Principal, Sabari PTB Smaraka H.S.S.** this Court noticed that, the individual specifications, namely,

position, height, length, geometric visibility, orientation, etc. of those lighting, light-signalling devices and retro-reflectors are specified in Paras.6.1 to 6.20 of AIS-008 to ensure appropriate manner of construction and maintenance of motor vehicles, so that the light emitted from the 'main-beam headlight' and 'dipped-beam headlight' fitted at the front of the vehicle shall not cause discomfort to the driver either directly or indirectly through the rear-view mirrors and/or other reflecting surfaces of the vehicle; the 'front position lamp' and the 'rear position lamp' indicates the presence and the width of the vehicle when viewed from the front/rear; the 'retro-reflector' indicates the presence of a vehicle by the reflection of light; etc. When a vehicle temporarily constitutes a special danger to other road users, 'hazard warning signal' has to be shown by simultaneous operation of all the direction indicator lamps of that vehicle to draw the attention of other road users.

31. In **Principal, Sabari PTB Smaraka H.S.S.** this Court held that, use of a motor vehicle in a public place without complying with the installation requirements of lighting and light-signalling devices and also retro-reflectors as per AIS-008 is likely to endanger the safety of other road users. A

motor vehicle governed by AIS-008, which is not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0, conforming to the individual specifications for such lighting and light-signalling devices and also for retro-reflectors prescribed in Paras.6.1 to 6.20, namely, number, position, width, height, length, geometric visibility, orientation, etc., shall not be permitted to be used in any public place. Similarly, a motor vehicle governed by AIS-008, which is installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, shall not be permitted to be used in any public place.

32. Motor Vehicles (Driving) Regulations, 2017 made by the Central Government, in exercise of the power conferred by Section 118 of the Motor Vehicles Act, and in supersession of the Rules of the Road Regulations, 1989, was notified vide G.S.R.634(E) dated 23.06.2017. Regulation 3, which deals with duty towards other road users and general public, provides that no vehicle shall be driven, stopped or parked on a road or in a public place in such a manner as is likely to endanger the safety of or cause inconvenience to other road users.

33. Regulation 5 of the Motor Vehicles (Driving) Regulations deals with duties of drivers and riders. As per sub-regulation (3) of Regulation 5, the driver shall at all times maintain a good lookout and concentrate on the road and traffic and avoid any activity which distract or is likely to distract his attention. As per sub-regulation (4) of Regulation 5, the driver and the riders shall take special care and precautions to ensure the safety of the most vulnerable road users such as pedestrians, cyclists, children, the elderly and the differently-abled persons. As per sub-regulation (5) of Regulation 5, the driver shall ensure that his vehicle, while moving or when stationary, does not cause any hindrance or undue inconvenience to other road users or to the occupants of any properties. As per sub-regulation (6) of Regulation 5, the driver shall ensure that his view is not obstructed and his hearing is not impaired by passengers, animals, load, equipment in the vehicle or by the conditions of the vehicle. Sub-regulation (10) of Regulation 5 mandates that the driver shall ensure that loud music is not played in the vehicle. sub-regulation (11) of Regulation 5 provides further that the driver

shall not watch digital motion pictures or videos while driving,
except were required for route navigation.

34. Regulation 26 of the Motor Vehicles (Driving) Regulations, which deals with bar on traffic impairment, provides that unless validly permitted by the competent authority under the Act or the rules made thereunder, no driver shall (i) offer goods or services of any kind on the road; or (ii) display any advertisement on the vehicle. Regulation 31 deals with vehicles lighting. As per sub-regulation (1) of Regulation 31, the driver shall use the specified lighting devices at nightfall and at dawn and at other times when visibility is poor. As per sub-regulation (2) of Regulation 31, the lighting devices of a vehicle shall at all times be kept in good working condition and no lighting device shall be obscured by any object or dirt. As per sub-regulation (3) of Regulation 31, no driver shall drive the vehicle with parking lights only, unless so directed by a police officer in uniform or any other authorised person; and use high beam inappropriately or for long duration or on well-lit roads. As per sub-regulation (4) of Regulation 31, high beam shall be dipped in good time on the approach of an oncoming vehicle or when driving close behind another vehicle.

As per sub-regulation (5), the driver shall switch on the fog light headlamps only when visibility is considerably affected due to fog, dust, storm, rain or snow and only with dipped head lamps.

35. In Writ Petition (C) No.295 of 2012 filed under Article 32 of the Constitution of India, by a public-spirited citizen, seeking enforcement of road safety norms and appropriate treatment of accident victims, the Apex Court constituted a 'Committee on Road Safety', vide its order dated 22.04.2014, and notified by the Ministry of Road Transport and Highways, Government of India, on 30.05.2014. In the said writ petition the Apex Court delivered a judgment dated 30.11.2017 - **S. Rajaseekaran v. Union of India [(2018) 13 SCC 516]**. In the said decision, the Apex Court observed that all States and Union Territories are expected to implement the Road Safety Policy with due earnestness and seriousness. The responsibility and functions of the Road Safety Council constituted in terms of Section 215 of the Motor Vehicles Act will be as recommended by the Committee on Road Safety constituted as per the order dated 22.04.2014 and Road Safety Councils should periodically review the laws and take

appropriate remedial steps whenever necessary. In paragraph 94.13 of the said decision, in the context of Lane Driving, the Apex Court held that the Ministry of Road Transport and Highways has already issued the Motor Vehicles (Driving) Regulations, 2017, vide G.S.R.634 (E) dated 23.06.2017, which should be implemented by the State Governments and Union Territories strictly. Paragraphs 94.1 to 94.25 of the said decision contains various directions issued by the Apex Court. In paragraph 95, the Apex Court has made it clear that, if there is any doubt or clarity is required in implementing those directions, the State Government or Union Territory concerned is at liberty to move the Committee on Road Safety.

36. In **Jijith and others v. State of Kerala and others [2018 SCC OnLine Ker 8262 : 2019 (1) KHC 463]**, a decision rendered by one among us (Anil K. Narendran, J), this Court held that, in view of the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** every motor vehicle, including transport vehicles shall be fitted with the lights which are specifically provided for in the Central Motor Vehicles Rules and what has not been specifically stated in the said Rules would obviously be deemed to have been excluded

from that Rules. Therefore, no motor vehicle, including a transport vehicle, can be fitted with lights which are not specifically provided for in the Central Motor Vehicles Rules. Use of flexible LED Lights, multi-colour LED lights, halogen driving lamps, etc. on motor vehicles, which are not specifically provided for in the Central Motor Vehicles Rules, is legally impermissible, in view of the law laid down by the Apex Court in **Avishek Goenka**.

37. In **Jijith [2019 (1) KHC 463]** this Court was dealing with a case in which contract carriage bearing registration No.KL-44/D-7473 was fitted with large number of unauthorised LED lights, flexible LED lights on wheel arches, top and bottom of the windows throughout the length of the vehicle, etc.; contract carriage bearing registration No.KL-17/N-7374 was fitted with similar unauthorised LED lights, flexible LED lights (except around windows); and contract carriage bearing registration No.KL-45/R-959 was fitted with multi-coloured LED lights inside the windscreen glass and front grill and the entire rear side of the vehicle is lit up. In addition to four head lamps, two halogen driving lamps and two fog lamps were fitted on the front of contract carriages bearing

Nos.KL-17/N-7374 and KL-45/R-959. Contract carriage bearing registration No.KL-44/D-7473 was having six head lamps, as against the statutory requirement of four head lamps.

38. It is pertinent to note that, as per sub-rule (1) of Rule 125C of the Central Motor Vehicles Rules, on and after the dates specified in the said rule, the testing and approval for body building of new models of buses with seating capacity of 13 or more passengers excluding driver shall be in accordance with AIS-052 (Rev.1) 2008 as amended from time to time, for vehicles mentioned therein, till corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986. As per the proviso to sub-rule (1) of Rule 125C, the provision of this rule shall be implemented in two phases. In first phase, the provisions of AIS-052 (Rev.1) 2008, excluding the parameters and requirements given in Table-1 below, shall be applicable on and after 1st day of January, 2017. In second phase, the provisions of AIS-052 (Rev.1) 2008, as amended from time to time, and the parameters and requirements given in Table-1 below, shall be applicable on and after 1st day of January, 2018. Para.4.1. of AIS-052 (Rev.1) 2008 - Code of Practice for Bus Body Design and Approval -

deals with lighting, signalling and indicating systems.

Para.4.1.1. deals with external lighting and light-signaling devices. As per Para.4.1.1.1., external lighting and light-signaling devices of the bus shall comply with the Rules laid down under the Central Motor Vehicle Rules, 1989, and as amended from time to time. As per Para.4.1.1.2., all lighting and light-signaling devices shall be type approved. The provisions in Chapter 4 of AIS-052 (Rev.1) 2008 deals with every minute details lighting and light-signaling devices of buses with seating capacity of 13 or more passengers excluding driver. Since use of vehicles without complying with the requirements of lighting and light-signalling devices under Chapter 4 of AIS-052 (Rev.1) 2008 is likely to endanger the safety of the passengers and other road users, such vehicles shall not be permitted to be used in any public place.

39. In **Jijith [2019 (1) KHC 463]** this Court was dealing with a case in which the passenger compartment of the contract carriages were fitted with continuously blinking multi-coloured LED/laser lights, in order to convert it as a dancing floor for the passengers. The petitioners therein contended that such lights are required to illuminate the passenger

compartment of their vehicles for the benefit of the passengers, which cannot be said to be impermissible under any of the provisions of the Motor Vehicles Act.

40. As per sub-rule (1) of Rule 108 of the Central Motor Vehicles Rules, no motor vehicle shall show a red light to the front or light other than red to rear. Going by clause (i) of the proviso to sub-rule (1), the provisions under this rule shall not apply to the internal lighting of the vehicle. Rule 128 of the Central Motor Vehicles Rules deals with special provisions for tourist vehicles, which are granted tourist permits under sub-section (9) of Section 88 of the Motor Vehicles Act, read with Rule 82 of the Central Motor Vehicles Rules, by the State Transport Authority. Sub-rule (12) of Rule 128 deals with lighting of tourist vehicles. As per clause (i) of sub-rule (12), the passenger compartment of a tourist vehicle shall be adequately illuminated; arrangement shall be provided to eliminate reflection of the light from the passenger compartment on the windscreen; and in addition to the lights in passenger compartment, at least two night-lights with coloured domes, shall be provided in the passenger compartment. As per clause (iii) of sub-rule (12), one

independently operated light fitting shall be provided for illumination of the driver's or attendant's seat area.

41. Kerala Motor Vehicles Rules, 1989 made by the State Government, in exercise of its rule making power under the relevant provisions of the Motor Vehicles Act was published vide notification dated 25.07.1989. As per sub-rule (1) of Rule 249, no person shall use and no person shall cause or allow to be used or to be in any public place any motor vehicle which does not comply with the rules contained in Chapter VII or with any order thereunder made by the competent authority. Part III of Chapter VII of the Kerala Motor Vehicles Rules deals with special rules applicable to every public service vehicle other than an autorickshaw. Rule 286 of the said Rules, which deals with internal lighting, provides that every vehicle shall be furnished with one or more electric lights adequate to give reasonable illumination throughout the passenger compartment or compartments but of such power or so screened as not to impair the forward vision of the driver.

42. The Motor Vehicles Rules framed by other States contain provisions similar to Rule 286 of the Kerala Motor Vehicles Rules. Rule 350 of the Andhra Pradesh Motor Vehicles

Rules, 1989 deals with electric lighting compulsory in public service vehicle. As per sub-rule (1) of Rule 350, no light other than an electric light shall be fitted to any public service vehicle. As per sub-rule (2) of Rule 350, every public service vehicle other than a motor cab shall be furnished with one or more electric lights adequate to give reasonable illumination throughout the passengers compartment or compartments but of such power or so screened as not to impair the forward vision of the driver.

43. In **Jijith [2019 (1) KHC 463]** this Court held that the internal lighting in a contract carriage, which is a public service vehicle, is for the purpose of providing reasonable illumination throughout the passenger compartment. As provided under Rule 286 of the Kerala Motor Vehicles Rules, the passenger compartment of a public service vehicle shall be furnished with electric lights adequate to give reasonable illumination throughout the passenger compartment. Therefore, the passenger compartment of a contract carriage cannot be fitted with continuously blinking multi-coloured LED lights, laser lights, etc., in order to convert it as a dancing floor. Plying vehicles fitted with DJ rotating LED lights,

continuously blinking multi-coloured LED lights, laser lights, etc. for internal lighting will certainly cause distraction to other drivers and also to road users. Moreover, the continuously blinking multi-coloured LED lights, laser lights, etc. used for internal lighting in the passenger compartment pose a potential health hazard to the passengers. Contract carriages, which are fitted with DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. for internal lighting cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of grant of certificate of fitness.

44. It is pertinent to note that, as per Para.4.1.2. of AIS-052 (Rev.1) 2008 - Code of Practice for Bus Body Design and Approval – applicable to the testing and approval for body building of new models of buses with seating capacity of 13 or more passengers excluding driver, internal lighting and light-signaling devices shall provide adequate illumination inside the bus for the safe operation by the driver and the passengers, during darkness and other conditions of reduced visibility. As per Para.4.1.2.2.1 of AIS-052 (Rev.1) 2008, cab lamp or courtesy lamp and passenger area lamps are to be placed on

the roof of the bus, above the head of the observer. As per Para.4.1.2.4.1.1.2, the lighting devices used for dash board shall be discreet and shall not disturb the driver when driving in the dark.

45. Para.4.1.2.4.1.2. of AIS-052 (Rev.1) 2008 deals with driver cabin lighting. As per Para.4.1.2.4.1.2.1. cab lamp or courtesy lamp, locker lamp and electrical distribution lamp fall in this category. As per Para.4.1.2.4.1.2.2, the lighting devices used for cabin interior should be sufficient enough for clearly distinguishing each component part of the cabin. The driver should be in a position to read signages written on the walls, door of the cabin. He should also be in position to read any instructions printed on paper. As per Para.4.1.2.4.1.2.3, the luminous flux of all the lamps provided for cabin lighting to light up the equipment, components and to read, shall not be less than 30 lux and shall not be more than 150 lux, when measured at 500 mm above the driver seat base.

46. Para.4.1.2.4.1.3. of AIS-052 (Rev.1) 2008 deals with passenger compartment lighting. As per Para.4.1.2.4.1.3.1. exit lamps and passenger area lamps fall in this category. As per Para.4.1.2.4.1.3.2., the lighting devices used

for passenger area should ensure reading of signages inside the passenger area and other important signs like emergency signs. The illumination should light up handles, latches, knobs, rods, hand-holds, etc facilitating easy access to passenger. The illumination should be adequate for reading printed matter by the passenger. As per Para.4.1.2.4.1.3.3., the illumination of these lamps shall not be less than 50 lux, when measured at any seating location of the bus and at 500 mm above the seat base. As per Para.4.1.2.4.1.3.4., at least two night lights shall be provided in the passenger compartment of all buses except Type I buses. The interior lighting shall be designed such that the glare and reflections caused does not affect the driver.

47. The provisions in Chapter 4 of AIS-052 (Rev.1) 2008 deals with every minute details lighting of driver cabin and passenger cabin of buses with seating capacity of 13 or more passengers excluding driver. Use of DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. inside the driver cabin or the passenger cabin is legally impermissible. The installation of booster amplifiers, equalizer, DJ mixer, etc. inside the driver cabin, with illuminated control panel, causing glare and reflection of light

on the windscreen of the vehicle, is also legally impermissible. Since use of vehicles without complying with the requirements of lighting of driver cabin and passenger cabin under Chapter 4 of AIS-052 (Rev.1) 2008 is likely to endanger the safety of the passengers and other road users, such vehicles shall not be permitted to be used in any public place.

48. As per clause (o) of subsection (1) of Section 110 of the Motor Vehicles Act, the Central Government may make rules with respect to the placement of audio-visual or radio or tape recorder type of devices in public vehicles. Clause (g) of sub-section (2) of Section 111, which empowered the State Government to make rules with respect to the placement of audio-visual or radio or tape recorder type of devices in the vehicle, was omitted by the Motor Vehicles (Amendment) Act, 1994, with effect from 14.11.1994.

49. Rule 289 of the Kerala Motor Vehicles Rules, which deals with prohibition of audio-visual or radio or tape recorder type of devices, provides that no public service vehicle other than a contract carriage shall be installed with any audio-visual devices. In **George v. State of Kerala [2005 (2) KLT 717]** this Court held that, Rule 289 of the Kerala Motor Vehicles

Rules framed by the State Government, in exercise of its power under clause (g) of sub-section (2) of Section 111 of the Motor Vehicles Act, shall continue to be in force until repealed or replaced by new rules framed by the Central Government.

50. Regulation 5 of the Motor Vehicles (Driving) Regulations deals with duties of drivers and riders. As per sub-regulation (3) of Regulation 5, the driver shall at all times maintain a good lookout and concentrate on the road and traffic and avoid any activity which distract or is likely to distract his attention. As per sub-regulation (6) of Regulation 5, the driver shall ensure that his view is not obstructed and his hearing is not impaired by passengers, animals, load, equipment in the vehicle or by the conditions of the vehicle. Sub-regulation (10) of Regulation 5 mandates that the driver shall ensure that loud music is not played in the vehicle. Sub-regulation (11) of Regulation 5 mandates that the driver shall not watch digital motion pictures or videos while driving, except where required for route navigation.

51. As per sub-rule (1) of Rule 125C of the Central Motor Vehicles Rules, on and after the dates specified in the said rule, the testing and approval for body building of new

models of buses with seating capacity of 13 or more passengers excluding driver shall be in accordance with AIS: 052 (Rev.1) 2008 as amended from time to time, for vehicles mentioned therein, till corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986. As per the said specifications, all Type I, Type II and Type III public service buses shall be provided with Audio/Visual or Audio-Visual Information System permitting driver or recorded or digitized human speech/visual messages, to inform passengers inside the bus regarding emergency escape provisions, destination, bus stops, etc., in order to enhance passenger safety. (Para.2.2.25.1 of AIS-052 (Rev.1) 2008 (Amalgamating amendments 1 to 8) published in May, 2017)

52. In **Jijith [2019 (1) KHC 463]** this Court held that, neither the provisions of Rule 289 of the Kerala Motor Vehicles Rules nor the provisions under AIS-052 (Rev.1) 2008 enable installation of high-power audio system with multiple power amplifiers, speakers and sub-woofers in a contract carriage. Loud music from such high-power audio systems will certainly endanger the safety of other road users and will cause inconvenience to them; will distract the attention of the

attention of the driver of the vehicle and impair his hearing; thereby violating the provisions under Regulations 3 and also sub-regulations (3) and (6) of Regulation 5 of the Motor Vehicle (Driving) Regulations. Loud music from such high-power audio systems will also violate the provisions of sub-regulation (10) of Regulation 5, which provides that the driver shall ensure that loud music is not played in the vehicle.

53. In **Jijith** this Court was dealing with a case in which contract carriage bearing registration No.KL-44/D-7473 was fitted with an audio system comprising of 1 amplified audio player, 5 booster amplifiers, 10 speakers/ woofers, 2 heavy box sub-woofers having 1350 watts PMPO; contract carriage bearing registration No.KL-17/N-7374 was fitted with an audio system comprising of 1 amplified audio player, 6 booster amplifiers, 1 equalizer, 10 speakers/ woofers, 2 heavy box sub-woofers having 1350 watts PMPO; and contract carriage bearing registration No.KL-45/R- 959 was fitted with an audio system comprising of 1 amplified audio player, 4 booster amplifiers, 1 equalizer cum amplifier, 12 speakers/woofers. The audio player, booster amplifiers, equalizer, etc. were installed in the driver's compartment, without eliminating reflection of

light from the control panel of the equipment on the windscreen of the vehicle.

54. In **Jijith** this Court held that, installation of high-power audio system with multiple booster/power amplifiers, speakers and sub-woofers cannot be permitted in a motor vehicle, since the loud sound produced by such audio systems with rating of several thousand watts PMPO will not only impair the hearing of the driver and the passengers, but also cause distraction to other drivers and road users. Therefore, no motor vehicle can be fitted with high-power speakers or sub-woofers with multiple booster/power amplifiers. Fixing high-power speakers or sub-woofers, with enclosures made of wood or other materials, inside the passenger compartment of a motor vehicle cannot be permitted. Similarly, installation of DJ (Disc Jockey) sound system with DJ mixer, DJ rotating LED lights, laser lights, Karaoke systems, etc. which are typically meant for dance party, cannot be permitted in the passenger compartment of a transport vehicle. The continuously blinking DJ rotating LED lights, multi-coloured LED/laser lights fitted in the passenger compartment, in order to convert it as a dancing floor for the passengers, will certainly cause distraction to

other drivers and also to road users. Moreover, mixing up of AC and DC power supply for such high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, poses a potential fire hazard to the passengers.

55. In **Jijith** this Court found that, the loud sound produced by such high-power audio systems in the passenger compartment of a motor vehicle poses a potential health hazard to the passengers. The use of high-power audio system with multiple booster/power amplifiers, speakers and sub-woofers producing such loud noise is legally impermissible in a motor vehicle, in view of the provisions under the Motor Vehicles (Driving) Regulations, 2017 and also the provisions under Noise Pollution (Regulation and Control) Rules, 2000. This Court held that contract carriages, which are fitted with high-power audio system having multiple booster/power amplifiers, speakers and sub-woofers producing loud noise, and also DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of grant of certificate of fitness. Therefore, in order to use the vehicles as

contract carriages, the petitioners therein will have to remove such high-power audio system having multiple booster/power amplifiers, speakers and sub-woofers producing loud noise, and also DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. and maintain an audio system with four or six speakers, depending upon the size of the passenger compartment, with sufficient power to distribute reasonable sound throughout the passenger compartment.

56. Rule 360 of the Kerala Motor Vehicles Rules deals with restriction regarding use of lamps. As per sub-rule (1) of Rule 360, the driver of a motor vehicle shall at all times when the lights of the motor vehicle are in use so manipulate them that danger or undue inconvenience is not caused to any person by dazzling. As per the proviso to sub-rule (1) of Rule 360, the Inspector General of Police, or the concerned District Magistrate may, by notification in the Official Gazette, and by the erection of suitable notice in English and Malayalam either prohibit or restrict the use of lamps giving powerful or intense light within such areas and such places and for this purpose stipulate the extent to which such lamps may be screened or shrouded. As per sub-rule (2) of Rule 360, save when left

within twenty-three metres of the nearest lighted lamp or the side of a public road having a system of lighting by electric lamps no person shall keep stationary any motor vehicle without exhibiting the parking lights thereon within the hours during which lights are otherwise required under these rules. As per sub-rule (3) of Rule 360, no person shall drive any motor vehicle in any public road lighted by a system of electric lamps in the cities of Trivandrum, Cochin and Calicut or in any Municipal town without dimming or dipping the head lamps of the vehicle.

57. In **Saji K.M. [2019 (3) KHC 836]** this Court held that, in view of the provisions under Rules 102 to 111 of the Central Motor Vehicles Rules, Rules 249 and 360 of the Kerala Motor Vehicles Rules, the provisions under the Motor Vehicles (Driving) Regulations, and also the law laid down by the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** and **S. Rajaseekaran [(2018) 13 SCC 516]**, every motor vehicle shall be fitted with signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. as per the mandate of the provisions under the Central Motor Vehicles Rules and such signalling devices, direction indicators,

reflectors, reflective tapes, lamps, parking lights, etc. have to be maintained as such. As per the mandate of Rule 124 of the Central Motor Vehicles Rules, every manufacturer shall get the prototype of the part, component or sub-assembly used in the manufacture of a vehicle, for which standards have been notified, approved from any agency referred to in Rule 126. Therefore, the signalling devices, direction indicators, reflectors, lamps, parking lights, etc. fitted on a motor vehicle by the manufacturer, after obtaining prototype approval for those parts under Rule 124 of the Central Motor Vehicles Rules, has to be maintained as such.

58. As per clause (xviii) of sub-section (2) of Section 92 of the Motor Vehicles Act, a State Government may make rules for regulating the painting or marking of transport vehicle and display of advertising matters thereon, and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails. In exercise of the rule making power under the said clause, the State Government made Rule 191 of the Kerala Motor Vehicles Rules, which deals with prohibition of advertisement or writing on

vehicles; and Rule 264, which deals with paintwork or varnish.

59. Sub-rule (1) of Rule 191 of the Kerala Motor Vehicles Rules provides that, no advertising device, figure or writing shall be exhibited on any transport vehicle, save as may be specified by the State or Regional Transport Authority by general or specific order, and on payment of the fee prescribed in sub-section (1), for a period of one year or part thereof for each vehicle. The Motor Vehicles Rules framed by other States contain provisions similar to Rule 191 of the Kerala Motor Vehicles Rules. As per Rule 361 of the Andhra Pradesh Motor Vehicles Rules, no advertising device, figure or writing shall be exhibited on any public service vehicle save as may be specified by the Regional Transport Authority or the State Transport Authority, as the case may be, by general or specified order. As per Regulation 26 of the Motor Vehicles (Driving) Regulations, which deals with bar on traffic impairment, unless validly permitted by the competent authority under the Motor Vehicles Act or the rules made thereunder, no driver shall display any advertisement on the vehicle.

60. In **Hindustan Petroleum Corporation Ltd.,**

Kochi v. State of Kerala and others [2016 (3) KHC 693 : AIR 2016 Kerala 187], in the context of Rule 191 of the Kerala Motor Vehicles Rules, this Court held that the said Rule provides for imposition of fee not only for advertisements, but also for figures or writings. After referring to the provisions under Rule 134 of the Central Motor Vehicles Rules, which deals with 'emergency information panel' for goods carriages used for transporting any dangerous or hazardous goods, this Court held that the writings contained in tanker trucks operated by Hindustan Petroleum Corporation Limited by exhibiting its name in large and bold letters, even though has the characteristics of imposing with fee as prescribed under Rule 191 of the Kerala Motor Vehicles Rules, in view of the stipulations and prescriptions contained under Rule 134 of the Central Motor Vehicles Rules, are not liable to be imposed with fee for such writings made on the tanker trucks. However, this Court made it clear that, if any inscriptions or writings are made on such transport vehicles inviting public attention for the products of the petitioner company, Rule 191 of the Kerala Motor Vehicles Rules will come into play.

61. Section 74 of the Motor Vehicles Act deals with

grant of contract carriage permits. Section 84 of the said Act deals with general conditions attaching to all permits. As per clause (g) of Section 84, the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permits relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centred as high as practicable below the window line in bold letters. Similarly, the particulars enumerated in clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules have to be legibly painted on every transport vehicle, save in the case of a motor cab or any motor vehicle belonging to the State or Central Government, on the left hand side of the vehicle, in English letters and numerals, each not less than two and a half centimetres square. In the case of educational institution bus and private service vehicle, Rule 291 of the Kerala Motor Vehicles Rules provides that the name of the institution shall be written conspicuously at the top of the front and rear ends and on the left side of the body of the vehicle and the writings shall be horizontal.

62. Rule 264 of the Kerala Motor Vehicles Rules deals with paintwork or varnish. As per Rule 264, the paintwork or

varnish of every transport vehicle shall be maintained in a clean and sound condition and in accordance with the specifications, if any, laid down by the State or Regional Transport Authority. The Motor Vehicles Rules framed by other States contain provisions similar to Rule 264 of the Kerala Motor Vehicles Rules. As per Rule 326 of the Andhra Pradesh Motor Vehicles Rules, every public service vehicle and all parts thereof, including paintwork or varnish, shall be maintained in a clean and sound condition and the engine mechanism and all working parts in reliable working order.

63. In **Jijith [2019 (1) KHC 463]** this Court found that, the paintwork or varnish of every transport vehicle shall be maintained in a clean and sound condition, which is the mandate of Rule 264 of the Kerala Motor Vehicles Rules. If the State or Regional Transport Authority has laid down any specifications like uniform colour scheme, the paintwork of the transport vehicle shall be in accordance with that specifications. Any figure or writing exhibited on the transport vehicle, other than the name and address of the operator to be painted or otherwise firmly affixed as per clause (g) of Section 84 of the Motor Vehicles Act; the 'emergency information

panel' provided under Rule 134 of the Central Motor Vehicles Rules for goods carriages used for transporting any dangerous or hazardous goods; the particulars enumerated in clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules, painted on the body of the vehicle; the name of the institution exhibited in educational institution bus and private service vehicle as per Rule 291 of the Kerala Motor Vehicles Rules; etc., falls within the scope of Rule 191 of the Kerala Motor Vehicles Rules. Any such figure or writing exhibited on the transport vehicle with an object to invite public attention and to promote the contract or stage carriage service of the operator will attract the provisions of Rule 191 of the Kerala Motor Vehicles Rules. The exhibition of writings and figures on vehicles by its very nature are intended to attract attention, which would cause distraction to the drivers of other vehicles, cyclists and even pedestrians on the public road. Driver distraction is one of the major causes of road accidents, which is a situation where the attention of the driver is diverted to any other forms of activities, which may affect the concentration of driving activity as well as the safety of the passengers and others on public road. Earning of revenue by the State by the levy of fee under

Rule 191 of the Kerala Motor Vehicles Rules or generation of some additional income by the operator of the transport vehicle should not be at the cost of public safety. Therefore, this Court held that, exhibition of writings or figures with the sole object to invite public attention and to promote the contract or stage carriage service should not be permitted by levying fee under Rule 191 of the Kerala Motor Vehicles Rules.

64. In **Jijith** this Court held that, the paintwork of every transport vehicle shall be maintained in a clean and sound condition, as contemplated by Rule 264 of the Kerala Motor Vehicles Rules. While approving the matter intended to be exhibited on the vehicle, in exercise of the powers under sub-rule (2) of Rule 191 of the Kerala Motor Vehicles Rules, the State or the Regional Transport Authority shall ensure that it does not cause distraction to the drivers of other vehicles and also cyclists and pedestrians on public road. No approval under sub-rule (2) of Rule 191 shall be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the body of a transport vehicle, at places intended for exhibiting the name and address of the operator as per clause (g) of Section 84 of the Motor Vehicles Act; the 'emergency information panel' as

per Rule 134 of the Central Motor Vehicles Rules for goods carriages used for transporting any dangerous or hazardous goods; the particulars enumerated in clauses (a) to (g) of Rule 93 of the Kerala Motor Vehicles Rules; the name of the institution exhibited in educational institution bus and private service vehicle as per Rule 291 of the Kerala Motor Vehicles Rules; etc. In the case of a stage carriage in respect of which uniform colour scheme has been implemented under Rule 264 of the Kerala Motor Vehicles Rules, vide the decision of the State Transport Authority dated 04.01.2018, no approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc., over the three equally spaced white lines painted below the height of the wheel arch.

65. Rule 100 of the Central Motor Vehicles Rules deals with safety glasses. As per sub-rule (2) of Rule 100, the glass of the windscreen and rear window of every motor vehicle shall be such and shall be maintained in such a condition that the visual transmission of light is not less than 70%. The glasses used for side window are such and shall be maintained in such condition that the visual transmission of light is not less than

50% and shall conform to the standards specified in sub-rule (2).

66. In **Avishek Goenka v. Union of India [(2012) 5 SCC 321]** the Apex Court prohibited the use of black films of any visual transmission of light percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of all vehicles throughout the country. The Apex Court ordered that the Home Secretary, Director General/Commissioner of Police of the respective States/Centre shall ensure compliance with the direction contained in the judgment, which shall become operative and enforceable with effect from 04.05.2012. The Apex Court held that, the legislative intent attaching due significance to the 'public safety' is evident from the object and reasons of the Motor Vehicles Act, the provisions of the said Act and more particularly, the rules framed thereunder. The Apex Court noticed that use of black films certainly helps the criminals to escape from the eyes of the police and aids in the commission of heinous crimes like sexual assault on women, robberies, kidnapping, etc. If these crimes can be reduced by enforcing

the prohibition of law, it would further the cause of Rule of Law and Public Interest as well.

67. In **Avishek Goenka (2) v. Union of India [(2012) 8 SCC 441]** the Apex Court, while dismissing all applications filed seeking clarification and modification of the judgment in **Avishek Goenka [(2012) 5 SCC 321]** reiterated that, in terms of Rule 100 of the Central Motor Vehicles Rules, no material including films of any visual transmission of light can be pasted on the safety glasses of the car and this law is required to be enforced without demur and delay. In the applications seeking clarification filed by the manufacturers and distributors of 'tinted films', one of the contentions raised was that, in the day time when 'tinted films' are pasted upon the safety glasses, still the face and the body of the occupant of the car is visible from outside. In order to substantiate the said fact, certain photographs were placed on record. The Apex Court, while dismissing the interlocutory applications observed that, the case put forward by the applicants is a case of change in law and not one of improper interpretation, which is not the function of the Apex Court, and that, the Court has

interpreted Rule 100 of the Central Motor Vehicles Rules as it exists on the Statute book.

68. In **Saji K.M. [2019 (3) KHC 836]** this Court reiterated the law laid down in **Jijith [2019 (1) KHC 463]** that, in view of the provisions under Rule 100 of the Central Motor Vehicles Rules and the law laid down by the Apex Court in **Avishek Goenka**, tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of a motor vehicle, either by pasting any material upon the safety glass or by fixing sliding 'cloth curtains', etc. are legally impermissible. No approval under sub-rule (2) of Rule 191, shall be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the safety glasses of a transport vehicle, which shall always be maintained in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100.

69. Rule 278 of the Kerala Motor Vehicles Rules provides that, every vehicle shall be so constructed that save for the front pillars of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees

to his right or left-hand side, as the case may be. The front pillars of the body shall be so constructed as to cause the least possible obstruction to the vision of the driver. The Motor Vehicles Rules framed by other States contain provisions similar to Rule 278 of the Kerala Motor Vehicles Rules. As per Rule 339 of the Andhra Pradesh Motor Vehicles Rules, every Public Service vehicle shall be so constructed that, save for the front pillar of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees to his right hand side and his left hand side. The front pillar of the body shall be so constructed as to obstruct the vision of the driver to the least possible extent.

70. In **Saji K.M. [2019 (3) KHC 836]** this Court reiterated the law laid down in **Jijith [2019 (1) KHC 463]** that, as per the mandate of Rule 278 of the Kerala Motor Vehicles Rules, every vehicle shall be so constructed that save for the front pillars of the body, the driver shall have a clear vision both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be, and the front pillars of the body shall be so constructed as to cause the least possible obstruction to the vision of the driver. In order to use

the vehicles as contract carriages, the petitioners therein will have to remove all writings, figures, etc. and maintain the safety glass in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules, and with a clear vision to the driver, both to the front and through an angle of ninety degrees to his right or left-hand side, as the case may be, as prescribed under Rule 278 of the Kerala Motor Vehicles Rules.

71. In **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]** this Court noticed that, in violation of Rule 278 of the Kerala Motor Vehicles Rules, the safety glasses of the windscreen of public service vehicles are being pasted with stickers, graphics, etc. Various objects are being placed/hanged in front of the windscreen of such vehicles, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side. Therefore, this Court directed the Transport Commissioner, Kerala to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no public service vehicle is permitted to be used in any public place after placing/hanging various objects

in front of the windscreen, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side, in violation of Rule 278 of the Kerala Motor Vehicles Rules.

72. In **Avishek Goenka [(2012) 5 SCC 321]** the Apex Court noticed that use of black films has proved to be a criminal's paradise and a social evil. The unanimous view of various police authorities right from the States of Calcutta, Tamil Nadu and Delhi to the Ministry of Home Affairs that use of black films on vehicles has jeopardised the security and safety interests of the State and the public at large. This certainly helps the criminals to escape from the eyes of the police and aids in commission of heinous crimes like sexual assault on women, robberies, kidnapping, etc. If these crimes can be reduced by enforcing the prohibition of law, it would further the cause of the rule of law and public interest as well. Therefore, the Apex Court directed the Home Secretary, Director General/Commissioner of Police of the respective States/Centre to ensure compliance with the directions contained in this judgment, which shall become operative and enforceable with effect from 04.05.2012.

73. Justice Verma Committee was constituted by the Government of India, vide Notification No.SO(3003)E dated 23.12.2012 to look into possible amendments of the Criminal Law to provide for quicker trial and enhanced punishment for criminals committing sexual assault of extreme nature against women. The immediate cause for the constitution of the Committee was the brutal gang rape of a young woman in Delhi, in a public transport vehicle, in the late evening of 16.12.2012. Chapter 10 of the report dated 23.01.2013 deals with provision of adequate safety measures and amenities in respect of women. After referring to the law laid down by the Delhi High Court in **Court on its Own Motion v. Union of India [(2007) 139 DLT 244]** and also the law laid down by the Apex Court in **Avishek Goenka v. Union of India [(2012) 5 SCC 321]** prohibiting the use of black films of any visual transmission of light percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses of all vehicles throughout the country, the Committee observed as follows in Para.6 of the report;

“6. A cursory glance on any of India's roads at any time of day or night will show that these directions of the Supreme Court are being openly flouted by all and

sundry. It saddens the Committee to note that the police forces of this country enforce these directions, and indeed law, only when orders are passed by various courts, and then again, only take action for a few days."

(underline supplied)

74. In **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]** this Court directed the Transport Commissioner, Kerala, among other things, to take necessary steps to ensure through the concerned officers in the Motor Vehicles Department that no motor vehicle, including a Government vehicle, is permitted to be used in any public place, after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films upon the safety glass or by fixing sliding cloth curtains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules.

75. In the order dated 09.04.2021 in W.P.(C)No.23021 of 2018 [**Principal, Sabari PTB Smaraka H.S.S.**], this Court noticed that, as evident from the statement filed on behalf of the Transport Commissioner, Kerala dated 23.03.2021, in terms of the direction contained in the judgment dated 28.10.2019 [**2020 (2) KLJ 662**] to file action taken report,

large number of vehicles are being permitted to be used in public place with cooling films and curtains, in contravention of the directions contained in the judgment of the Apex Court and this Court, prohibiting the use of such materials on the windscreen, rear window and side windows of motor vehicles. In the said order, this Court noticed that, even after the filing of the action taken report on 24.11.2020, large number of vehicles including Government vehicles are being permitted to be used in public place using cooling films, curtains, etc., which is evident from the fact that 5775 vehicles were booked for using cooling films, curtains, etc., in the special drive 'Operation Screen' conducted for the period from 17.01.2021 to 20.01.2021, as stated in the statement dated 10.02.2021 filed by the learned Special Government Pleader. Paragraphs 11.13 and 11.14 of the order dated 09.04.2021 in W.P. (C)No.23021 of 2018 read thus;

“11.13. In the judgment dated 28.10.2019 (Paras. 126 to 131), this Court issued various directions to the additional 3rd respondent Transport Commissioner, who was directed to file an action taken report on or before 04.04.2020. On behalf of the additional 3rd respondent, the Joint Transport Commissioner (Enforcement) has filed action taken report on 24.11.2020. As evident from the

statement filed by the Joint Transport Commissioner (Enforcement) on 23.03.2021, large number of vehicles were being permitted to be used in public place with cooling films and curtains, in contravention of the directions contained in the judgment of the Apex Court and that of this Court prohibiting the use of such materials on the windscreen, rear window and side windows of motor vehicles. The State Police Chief has to issue circular dated 14.12.2020, after the action taken report filed by the Joint Transport Commissioner (Enforcement) on 24.11.2020, directing removal of window curtains, bull bars, sun films, etc., from the vehicles of Police Department. The said circular was followed by circular dated 30.12.2020 issued by the Home Department, whereby all Government Departments are instructed to ensure that none of the vehicles under their administrative control use curtains/dark films or any materials, which affects the visual light transmission percentage, through the windscreens/windows.

11.14. The fact that 5775 vehicles were booked for using cooling films, curtains, etc., in the special drive 'Operation Screen' conducted for the period from 17.01.2021 to 20.01.2021 would make it explicitly clear that even after the filing of the action taken report on 24.11.2020, large number of vehicles including Government vehicles were being permitted to be used in public place using cooling films, curtains, etc.”

76. As already noticed, as per the report dated 04.01.2022 of the Nodal Officer, Safe Zone Project,

Sabarimala, in the Safe Zone areas, namely, Elavunkal, Erumeli and Kuttikkanam, total number of accidents during the current Mandala-Makaravilakku season is 65, in which 2 pilgrims died, 3 sustained major injuries and 42 sustained minor injuries. As per the report dated 10.12.2021 of the Joint Regional Transport Officer, Vandiperiyar, addressed to the 2nd respondent-Transport Commissioner, the accident in question occurred on 09.12.2021 at 11.45 am at Amalagiri in State Highway-220, in between Kuttikkanam and Mundakkayam. The width of the road near the spot of accident is between 5.4 meters and 5.8 meters. As per that report, after a minor accident involving two vehicles bearing Nos.KL-38/J-4092 and AP-39/TB-1599, the passengers in those vehicles came out for inspecting the damages caused to the respective vehicles. At that time contract carriage bearing No.AP-05/TT-7929 came from Kuttikkanam towards Mundakkayam, hit on the rear of Tempo Traveller bearing No.AP-39/TB-1599. In that impact the Tempo Traveller moved forward and hit on the rear of Maruti Ertiga car bearing No.KL-38/J-4092, which hit on the front of a goods carriage bearing No.TN-76/Q-8556, which came from Mundakkayam side. The Tempo Traveller, which moved forward

in that impact, ran over two passengers who were standing on the road in front of that vehicle, who died on the spot.

77. The image of the vehicles involved in the accident which occurred on 09.12.2021 at 11.45 am, at Amalagiri in State Highway-220, taken from the news report that appeared in an online media (referred to in the order of this Court dated 05.01.2022) is reproduced hereunder;



As evident from the image, various objects have been placed/hanged in front of the windscreen of contract carriage bearing No.AP-05/TT-7929, causing obstruction to the clear vision of the driver to the front, in violation of the provisions under the Central Motor Vehicles Rules and also the rules made by the State Government, in exercise of its rule making power under the relevant provisions of the Motor Vehicles Act. As per

the report of the Joint Regional Transport Officer, the said contract carriage hit on the rear of Tempo Traveller bearing No.AP-39/TB-1599, which moved forward and ran over two passengers who were standing on the road, in front of that Tempo Traveller.

78. Another accident occurred on 22.12.2021, along Edappally-Vyttila stretch of Ernakulam bypass in National Highway-66, involving Sabarimala pilgrims. The image of the vehicle involved in that accident, taken from the news report that appeared in an online media is reproduced hereunder;



In that accident, sixteen Sabarimala pilgrims from Telangana, which included two children aged 11 and 13 years, sustained injuries. As per the news report that appeared in an online

media, the Tempo Traveller in which they were travelling rammed into a lorry, around midnight, while the driver of that lorry was taking a reverse.

79. Despite the specific directions contained in the decisions of this Court in **Jijith [2019 (1) KHC 463]**, **Saji K.M. [2019 (3) KHC 836]** and **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]** large number of motor vehicles, including contract carriages, stage carriages and goods vehicles are being permitted to be used in public place, flouting the safety standards prescribed in AIS-008/AIS-009/2001/AIS-030/2001 and even the safety standards in AIS-052 (Rev.1) 2008. Large number of motor vehicles are being permitted to be used in public place after replacing the prototype approved reflectors on the rear bumper with after-market LED lights. Flashing lamps are being permitted to be used in lamps other than direction indicators and hazard warning signal, in violation of Para.5.9 of AIS-008. Large number of motor vehicles, especially contract carriages, stage carriages and goods vehicles are being permitted to be used in public place with red flashing stop lamps, flashing lamps inside headlight assembly, multi-coloured LED/laser/neon lights,

flashing lamps on the roof top of the cabin, etc. Such vehicles are being used in public place after tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films, etc. upon the safety glass, fixing sliding cloth cutrains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. Lighting and light-signalling devices (i.e., headlights, tail lights, indicators, etc.) or reflectors of such vehicles are 'tinted' with vinyl tint film sticker, which violates the standards prescribed in AIS-008 in relation to road safety. In addition to this, large number of motor vehicles, especially contract carriages, stage carriages and goods vehicles are being permitted to be used in public place without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008, which is likely to endanger the safety of other road users. Video contents of the alterations made on motor vehicles and use of such vehicles in public place are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles

or by vloggers. Two images of such vehicles (contract carriages) uploaded on online video platforms are reproduced hereunder;



The light emitted from the additional headlamps/lamps installed on such vehicles is capable of dazzling the drivers of the oncoming vehicles directly, and also the drivers of the vehicles proceeding in front, indirectly, through the rear-view mirrors and/or other reflecting surfaces of their vehicle. The light emitted from such additional headlamps/lamps is also capable of dazzling the pedestrians and other road users, which poses potential threat to their safety.

80. Such vehicles are fitted with high-power audio systems with rating of several thousand watts PMPO, with

multiple booster/power amplifiers, speakers and sub-woofers. Loud sound produced by such audio systems impairs the hearing of the driver and passengers of that vehicle, which also causes distraction to other drivers and road users. An image of the passenger compartment of a contract carriage fitted with high-power audio systems, uploaded on online video platforms is reproduced hereunder;



The continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights fitted in the passenger compartment of contract carriages fitted with high-power audio systems, in order to convert it as a dancing floor for the passengers, will certainly cause distraction to the driver of that vehicle and also to other drivers and road users. Sub-regulation (10) of Regulation 5 of the Motor Vehicles Driving

Regulations mandates that the driver shall ensure that loud music is not played in the vehicle. Moreover, mixing up of AC and DC power supply for such high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, poses a potential fire hazard to the passengers of such vehicles.

81. In violation of the provisions under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules and the law laid down in **Avishek Goenka [(2012) 5 SCC 321]**, **Jijith [2019 (1) KHC 463]**, etc., the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of such vehicles are tampered with, by pasting materials upon the safety glass, by fixing sliding 'cloth curtains', etc.

82. The images of contract carriages fitted with additional headlamps/lamps capable of dazzling the drivers of the oncoming vehicles and high-power audio systems with continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights fitted in the passenger compartment, capable of causing distraction to the driver of that vehicle and also to other drivers and road users, which met with major

accidents, are uploaded on online video platforms like 'YouTube'. Few images taken from a video with the caption "Kerala top 5 bus accident" are reproduced hereunder;





83. Multi-coloured LED/laser/neon lights and also booster amplifiers, equalizer, DJ mixer, etc., with illuminated control panels are fitted in the driver cabin of the contract carriages, causing glare and reflection of light on the windscreen of the vehicle, endangering the safety of the passengers and other road users. In violation of the provisions under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules and Rule 278 of the Kerala Motor Vehicles Rules, the name of the bus is written in the middle of the windscreen, above the level of the dashboard, obstructing the clear vision of the driver.

84. Section 194F of the Motor Vehicles Act, inserted by Section 79 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019, deals with use of horns and silence zones. As per Section 194F, whoever, while driving a motor vehicle, sounds the horn needlessly or continuously or more than necessary to ensure safety; or sounds the horn in an area with a traffic sign prohibiting the use of horn; or drives a motor vehicle which makes use of a cut out by which exhaust gases are released other than through silencer, shall be punishable

with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.

85. Rule 119 of the Central Motor Vehicles Rules deals with horns. As per sub-rule (1) of Rule 119, on and after expiry of one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, every motor vehicle, agricultural tractor, power tiller and construction equipment vehicle] manufactured shall be fitted with an electric horn or other devices conforming to the requirements of IS:1884-1992, specified by the Bureau of Indian Standards for use by the driver of the vehicle and capable of giving audible and sufficient warning of the approach or position of the vehicle. As per the first proviso to Rule 119, vehicles manufactured on and from the 1st October, 2014, the horn installation requirements for motor vehicles shall be as per IS:15796-2008, specified by the Bureau of Indian Standards, as amended from time to time. As per sub-rule (2) of Rule 119, no motor vehicle including agricultural tractor and combine harvester shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or

alarming noise.

86. As sub-rule (3) of Rule 119 of the Central Motor Vehicles Rules, nothing contained in sub-rule (2) shall prevent the use on vehicles used as ambulance or for fire-fighting or salvage purposes or on vehicles used by police officers or operators of construction equipment vehicles or officers of Motor Vehicles Department in the course of their duties or on construction equipment vehicles of such sound signals as may be approved by the registering authority in whose jurisdiction such vehicles are kept. As per the proviso to sub-rule (3) of Rule 119, requirements for sirens of Road Ambulances shall be in accordance with AIS:125 (Part 1) 2014, as amended from time to time, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986.

87. In violation of the provisions under sub-rule (2) of Rule 119, contract carriages and stage carriages are fitted with multi-toned horn giving a succession of different notes and horn giving unduly harsh, shrill, loud or alarming noise. Motor vehicles fitted with multi-toned horn or horn giving unduly harsh, shrill, loud or alarming noise, which violates the standards prescribed in relation to road safety, control of noise

and air-pollution, which do not comply with the requirements of the Motor Vehicles Act and the Rules made thereunder, are issued with fitness certificate based on false certification by the inspecting authority or the authorised testing stations. Video contents of use of contract carriages and stage carriages, which are fitted with multi-toned horn giving a succession of different notes and horn giving unduly harsh, shrill, loud or alarming noise, in public place, are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles or by vloggers, who are permitted to record such videos inside the driver cabin, even while the vehicle is moving in a higher speed, disturbing the concentration of the driver while driving, posing potential threat to the safety of the passengers and other road users.

88. Section 177A of the Motor Vehicles Act, inserted by Section 59 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019, deals with penalty for contravention of regulations under Section 118, i.e., the Motor Vehicles (Driving) Regulations, 2017. As per Section 177A, whoever contravenes the regulations made under Section 118, shall be

punishable with fine which shall not be less than five hundred rupees, but may extend to one thousand rupees.

89. Section 182A of the Motor Vehicles Act, inserted by Section 65 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019, deals with punishment for offences relating to construction, maintenance, sale and alteration of motor vehicles and components. As per sub-section (1) of Section 182A, whoever, being a manufacturer, importer or dealer of motor vehicles, sells or delivers or alters or offers to sell or deliver or alter, a motor vehicle that is in contravention of the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine of one lakh rupees per such motor vehicle or with both. As per the proviso to sub-section (1) of Section 182A, no person shall be convicted under this section if he proves that, at the time of sale or delivery or alteration or offer of sale or delivery or alteration of such motor vehicle, he had disclosed to the other party the manner in which such motor vehicle was in contravention of the provisions of Chapter VII or the rules and regulations made thereunder. As per sub-section (2) of Section

182A, whoever, being a manufacturer of motor vehicles, fails to comply with the provisions of Chapter VII or the rules and regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one hundred crore rupees or with both.

90. As per sub-section (3) of Section 182A, whoever, sells or offers to sell, or permits the sale of any component of a motor vehicle which has been notified as a critical safety component by the Central Government and which does not comply with Chapter VII or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine of one lakh rupees per such component or with both. As per sub-section (4) of Section 182A, whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both.

91. Section 190 of the Motor Vehicles Act, which deals with using vehicle in unsafe condition was amended by Section 72(i) (a) to (c) of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019. As per sub-section (1) of Section 190, any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine of one thousand five hundred rupees, or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine of five thousand rupees, or with both and for a subsequent offence shall be punishable with imprisonment for a term which may extend to six months, or with a fine of ten thousand rupees for bodily injury or damage to property.

92. As per sub-section (2) of Section 190, any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in

relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.

93. As per sub-section (3) of Section 190, any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence with a fine of ten thousand rupees and he shall be disqualified for holding licence for a period of three months, or with imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine of twenty thousand rupees, or with imprisonment for a term which may extend to three years, or with both.

94. Section 200 of the Motor Vehicles Act, which deals

with compounding of certain offences, was amended by Section 86 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.09.2019. As per sub-section (1) of Section 200, any offence whether committed before or after the commencement of this Act 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, Section 198, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf. As per the proviso to sub-section (1) of Section 200, the State Government may, in addition to such amount, require the offender to undertake a period of community service.

95. As per sub-section (2) of Section 200, where an

offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence. As per the first proviso to sub-section (2) of Section 200, notwithstanding compounding under this section, such offence shall be deemed to be a previous commission of the same offence for the purpose of determining whether a subsequent offence has been committed. As per the second proviso to sub-section (2) of Section 200, compounding of an offence will not discharge the offender from proceedings under sub-section (4) of Section 206 or the obligation to complete a driver refresher training course, or the obligation to complete community service, if applicable.

96. Section 206 of the Motor Vehicles Act deals with power of police officer to impound document. As per sub-section (4) of Section 206 of the Motor Vehicles Act, inserted by Section 88 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.10.2020, a police officer or other person authorised in this behalf by the State Government shall, if he has reason to believe that the driver of a motor vehicle has committed an offence under any of Sections 183, 184, 185,

189, 190, 194C, 194D, or 194E, seize the driving licence held by such driver and forward it to the licensing authority for disqualification or revocation proceedings under Section 19. As per the proviso to sub-section (4) of Section 206, the person seizing the licence shall give to the person surrendering the licence a temporary acknowledgement therefor, but such acknowledgement shall not authorise the holder to drive until the licence has been returned to him.

97. In view of the provisions under sub-section (1) of Section 56 of the Motor Vehicles Act, a transport vehicle shall not be deemed to be validly registered for the purposes of Section 39, unless it carries a certificate of fitness issued by the prescribed authority or by an authorised testing station, in the prescribed form. The certificate of fitness of a transport vehicle, issued under sub-rule (1) of Rule 62 of the Central Motor Vehicles Rules, in Form No.38, contains a certification by the inspecting authority or the authorised testing station that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder. The certificate of fitness issued under Section 56 of the Motor Vehicles Act in respect of a transport vehicle is liable to be cancelled at any time, for

reasons to be recorded in writing, if the prescribed authority is satisfied that the vehicle to which it relates no longer complies with all the requirements of the Act and the Rules made thereunder.

98. Rule 62 of the Central Motor Vehicles Rules provides for checking the condition of head lamp beams, other lights, reflectors, bulbs, rear view mirror, safety glass, horn, silencer, dash board equipment, windshield wiper, exhaust emission, braking system, etc. Rule 62 provides for checking the functioning of all the items, except the reflectors, bulbs, rear view mirror, safety glasses, etc. Rule 62 provides for checking the make/rating, etc. of spark plug/suppressor cap/high tension cable, bulbs and safety glass as per original equipment recommendations. As per the remarks column of the Table given below the proviso to sub-rule (1) of Rule 62, beam focus of head lamp beams has to be checked as per Annexure VII. While checking other lights it has to be ensured that unauthorised lights are not fitted; while checking reflectors it has to be ensured that the colour of reflectors and reflective tapes are as per Rule 104; while checking bulbs it has to be ensured that head light bulbs wattage, especially halogen, is

not higher than those indicated in IS 1606-1993 and also that halogen bulbs with P45t caps are not used in all vehicles; while checking safety glasses it has to be ensured that laminated windscreen glass is used for vehicles manufactured from April, 1996 onwards; etc.

99. In view of the prohibition contained in the first proviso to sub-rule (1) of Rule 62 of the Central Motor Vehicles Rules, the renewal of fitness certificate in respect of a transport vehicle shall be made only after an Inspecting Officer or authorised testing stations as referred to in sub-section (1) of Section 56 of the Motor Vehicles Act has carried the tests specified in the Table given below the first proviso to sub-rule (1), in order to certify that the vehicle complies with the provisions of the Motor Vehicles Act and the Rules made thereunder. A transport vehicle fitted with unauthorised lights cannot be granted fitness certificate. A transport vehicle governed by AIS-008, which is not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0, conforming to the individual specifications for such lighting and light-signalling devices and also for retro-reflectors prescribed in Paras.6.1 to 6.20, or a transport vehicle governed

by AIS-008, which is installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, cannot be granted fitness certificate, since such a vehicle cannot be treated as a vehicle which complies with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of grant of certificate of fitness.

Similarly, a transport vehicle which is fitted with high-power audio system having multiple booster/power amplifiers, speakers and sub-woofers producing loud noise, DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. in the passenger compartment and the driver cabin, cannot also be granted fitness certificate. A transport vehicle in which safety glass is not maintained with the visual transmission of light not less than that prescribed under sub-rule (2) of Rule 100 or with a clear vision to the driver, both to the front and through an angle of ninety degrees to his right or left-hand side, cannot also be granted fitness certificate. In case, fitness certificate is granted to any such vehicle, which cannot be treated as a vehicle that complies with the provisions of the Motor Vehicles Act and the rules made thereunder, the certificate of fitness granted to such vehicle is

liable to be cancelled by the prescribed authority, in accordance with the provisions under sub-section (4) of Section 56 of the Motor Vehicles Act. In appropriate cases, the registering authority shall initiate proceedings to suspend or cancel the letter of authority granted or renewed under sub-rule (5) of Rule 63 of the Central Motor Vehicles Rules or forfeit security deposit, after affording the holder of letter of authority an opportunity of being heard.

100. As held by this Court in **Saji K.M. [2019 (3) KHC 836]** every motor vehicle shall be fitted with signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. as per the mandate of the provisions under the Central Motor Vehicles Rules. Such signalling devices, direction indicators, reflectors, reflective tapes, lamps, parking lights, etc. fitted on a motor vehicle by the manufacturer, after obtaining prototype approval for those parts under Rule 124 of the Central Motor Vehicles Rules, from any agency referred to in Rule 126, has to be maintained as such.

101. As held by this Court in **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]**, use of a motor vehicle in a public place without complying with the installation

requirements of lighting and light-signalling devices and also retro-reflectors as per AIS-008 is likely to endanger the safety of other road users. In the said decision, this Court noticed that, AIS-008 deals with every minute detail of installation of lighting, light-signalling devices and retro-reflectors for a motor vehicle having more than three wheels, trailer and semi-trailer excluding agricultural tractor and special purpose vehicle, in order to ensure the safety of road users. Para.6.3 to Para.6.20 of AIS-008 deal with individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. of various lamps and retro-reflectors. As per Para.5.9, in the absence of specific requirements, no lamps other than direction indicator lamps and the hazard-warning signal and amber side-marker lamps complying with Para.6.18.7. below, shall be flashing lamps. As per Para.5.10, no red light in the forward direction and no white light in the rearward direction shall be emitted from a lamp (which could give rise to confusion), other than from a reversing lamp and a rear registration plate lamp. As per Para.5.16.1, the number of lamps mounted on the vehicle should be equal to the number(s) specified in each of Para.6.1. to Para.6.20.

102. As per sub-section (4) of Section 182A, whoever, being the owner of a motor vehicle, alters a motor vehicle, including by way of retrofitting of motor vehicle parts, in a manner not permitted under the Act or the Rules and Regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine of five thousand rupees per such alteration or with both. Similarly, as per sub-section (2) of Section 190, any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.

103. As per sub-regulation (5) of Regulation 5 of the Motor Vehicles (Driving) Regulations, the driver shall ensure

that his vehicle, while moving or when stationary, does not cause any hindrance or undue inconvenience to other road users or to the occupants of any properties. As per sub-regulation (6) of Regulation 5, the driver shall ensure that his view is not obstructed and his hearing is not impaired by passengers, animals, load, equipment in the vehicle or by the conditions of the vehicle. Sub-regulation (10) of Regulation 5 mandates that the driver shall ensure that loud music is not played in the vehicle.

104. As held by this Court in **Jijith [2019 (1) KHC 463]**, use of high-power audio system with multiple booster/power amplifiers, speakers and sub-woofers producing such loud noise is legally impermissible in a motor vehicle, in view of the provisions under sub-regulations (5) and (10) of Regulation 5 of the Motor Vehicles (Driving) Regulations and also the provisions under Noise Pollution (Regulation and Control) Rules, 2000. Loud sound produced by such audio systems with rating of several thousand watts PMPO will not only impair the hearing of the driver and the passengers, but also cause distraction to other drivers and road users. Therefore, no motor vehicle can be fitted with high-power

speakers or sub-woofers with multiple booster/power amplifiers. Moreover, mixing up of AC and DC power supply for such high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, poses a potential fire hazard to the passengers. Fixing high-power speakers or sub-woofers, with enclosures made of wood or other materials, inside the passenger compartment of a motor vehicle cannot be permitted. Therefore, contract carriages, which are fitted with high-power audio system having multiple booster/power amplifiers, speakers and sub-woofers producing loud noise, and also DJ rotating LED lights, continuously blinking multi-coloured LED lights, laser lights, etc. cannot be treated as vehicles which comply with the provisions of the Motor Vehicles Act and the rules made thereunder, for the purpose of grant of certificate of fitness.

105. In view of the provisions under sub-rule (1) of Rule 119 of the Central Motor Vehicles Rules, every motor vehicle shall be fitted with an electric horn or other devices conforming to the requirements of IS:1884-1992, specified by the Bureau of Indian Standards for use by the driver of the vehicle and capable of giving audible and sufficient warning of the

approach or position of the vehicle. In view of the provisions under sub-rule (2) of Rule 119, no motor vehicle shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise. In violation of the provisions under sub-rule (2) of Rule 119, contract carriages and stage carriages are fitted with multi-toned horn giving a succession of different notes and horn giving unduly harsh, shrill, loud or alarming noise.

106. As per sub-rule (1) of Rule 359 of the Kerala Motor Vehicles Rules, no driver of a motor vehicle shall sound the horn or other device for giving audible warning with which the motor vehicle is equipped, or shall cause or allow any other person to do so to an extent beyond that which is reasonably necessary to ensure safety. In view of the provisions under Section 194F of the Motor Vehicles Act, inserted by the Motor Vehicles (Amendment) Act, 2019, whoever, while driving a motor vehicle, sounds the horn needlessly or continuously or more than necessary to ensure safety; or sounds the horn in an area with a traffic sign prohibiting the use of horn; or drives a motor vehicle which makes use of a cut out by which exhaust

gases are released other than through silencer, shall be punishable with a fine of one thousand rupees and for a second or subsequent offence with a fine of two thousand rupees.

107. Contract carriages and stage carriages fitted with multi-toned horn or horn giving unduly harsh, shrill, loud or alarming noise, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, which do not comply with the requirements of the Motor Vehicles Act and the Rules made thereunder, are issued with fitness certificate based on false certification by the inspecting authority or the authorised testing stations. Video contents of use of contract carriages and stage carriages, which are fitted with multi-toned horn giving a succession of different notes and horn giving unduly harsh, shrill, loud or alarming noise, in public place, are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles or by vloggers.

108. In violation of the provisions under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules and the law laid down in **Avishek Goenka [(2012) 5 SCC 321]**, **Jijith [2019 (1) KHC 463]**, etc., the percentage of visual transmission of

light of the safety glass of the windscreen, rear window and side windows of contract carriages and also stage carriages plying in the State are tampered with, by pasting materials upon the safety glass, by fixing sliding 'cloth curtains', etc. As held in **Jijith [2019 (1) KHC 463]**, no approval under sub-rule (2) of Rule 191 of the Kerala Motor Vehicles Rules can be granted for exhibition of any advertisements, writings, figures, graphics, etc. on the safety glasses of a transport vehicle, which shall always be maintained in such a condition that the visual transmission of light is not less than that prescribed under sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. In violation of Rule 278 of the Kerala Motor Vehicles Rules, the safety glasses of the windscreen of public service vehicles are being pasted with stickers, graphics, etc. Various objects are being placed/hanged in front of the windscreen of such vehicles, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side.

109. In **Jijith [2019 (1) KHC 463]** it was held that, exhibition of writings or figures with the sole object to invite public attention and to promote the contract or stage carriage

service should not be permitted by levying fee under Rule 191 of the Kerala Motor Vehicles Rules. The exhibition of writings and figures on vehicles by its very nature are intended to attract attention, which would cause distraction to the drivers of other vehicles, cyclists and even pedestrians on the public road. Driver distraction is one of the major causes of road accidents, which is a situation where the attention of the driver is diverted to any other forms of activities, which may affect the concentration of driving activity as well as the safety of the passengers and others on public road. Earning of revenue by the State by the levy of fee under Rule 191 of the Kerala Motor Vehicles Rules or generation of some additional income by the operator of the transport vehicle should not be at the cost of public safety.

110. The images of such contract carriages which met with major accidents, are uploaded on online video platforms like 'YouTube'. Few images taken from a video with the caption "Kerala top 5 bus accident" are reproduced hereinbefore at paragraph 82. An image of the passenger compartment of a contract carriages fitted with high-power audio systems, continuously blinking DJ rotating LED lights, multi-coloured

LED/laser/neon lights, etc., uploaded on online video platforms is reproduced hereinbefore at paragraph 80. Two images of such vehicles fitted with after-market multi-coloured LED/laser/neon lights, flash lights, etc., capable of dazzling the drivers of other vehicles, pedestrians and other road users are reproduced hereinbefore at paragraph 79. The use of such vehicles in public place, flouting the standards in relation to road safety, is likely to endanger the safety of the passengers of such vehicles and also other road users.

111. Video contents of use of contract carriages on public place flouting the safety standards prescribed in AIS-008 and even the safety standards in AIS-052 (Rev.1) 2008, after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc., which are fitted with multi-toned horn giving a succession of different notes or horn giving unduly harsh, shrill, loud or alarming noise, are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles or by vloggers, who are permitted to record such videos inside the driver cabin, even while the vehicle is moving in a higher speed, disturbing the concentration of the driver

while driving, thereby posing potential threat to the safety of the passengers and other road users.

112. The percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of such vehicles are tampered with, by pasting stickers, tint films, etc. upon the safety glass, fixing sliding cloth cutrains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules. Various objects are being placed/hanged in front of the windscreen of such vehicles and the name of the bus is written in the middle of the windscreen, above the level of the dashboard, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side, in violation of Rule 278 of the Kerala Motor Vehicles Rules.

113. Justice Verma Committee, in Chapter 10 of its report dated 23.01.2013, observed that, a cursory glance on any of India's roads at any time of day or night will show that the directions of the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]** prohibiting the use of black films of any visual transmission of light percentage or any other material upon the safety glasses, windscreens (front and rear) and side glasses

of all vehicles throughout the country are being openly flouted by all and sundry. The police forces of this country enforce these directions, and indeed law, only when orders are passed by various courts, and then again, only take action for a few days. The immediate cause for the constitution of the Committee was the brutal gang rape of a young woman in Delhi, in a public transport vehicle, in the late evening of 16.12.2012. Chapter 10 of the report dated 23.01.2013 deals with provision of adequate safety measures and amenities in respect of women.

114. Lighting and light-signalling devices (i.e., headlights, tail lights, indicators, etc.) or reflectors of such vehicles are 'tinted' with vinyl tint film sticker, which violates the standards prescribed in AIS-008 in relation to road safety. Such vehicles are being used in public place without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008. The use of such vehicles in public place, flouting the standards in relation to road safety, is likely to endanger the safety of other road users. The light emitted

from the additional headlamps/lamps installed on such vehicles is capable of dazzling other road users, which poses potential threat to their safety.

115. Loud sound produced by high-power audio systems fitted in such vehicles, with rating of several thousand watts PMPO, impairs the hearing of the driver and the passengers, which also causes distraction to other road users. The continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights fitted in the passenger compartment of contract carriages fitted with high-power audio systems, in order to convert it as a dancing floor for the passengers, causes distraction to the driver of that vehicle and also to other drivers and road users. Moreover, mixing up of AC and DC power supply for such high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, poses a potential fire hazard to the passengers of such vehicles. Multi-coloured LED/laser/neon lights and also booster amplifiers, equalizer, DJ mixer, etc., with illuminated control panels are fitted in the driver cabin of the such contract carriages, causing glare and reflection of light on the

windscreen of the vehicle, endangering the safety of the passengers and other road users.

116. In **S. Rajaseekaran [(2018) 13 SCC 516]** the Apex Court observed that all States and Union Territories are expected to implement the Road Safety Policy with due earnestness and seriousness. The responsibility and functions of the Road Safety Council constituted in terms of Section 215 of the Motor Vehicles Act will be as recommended by the Committee on Road Safety constituted as per the order of the Apex Court dated 22.04.2014 and the Road Safety Councils should periodically review the laws and take appropriate remedial steps whenever necessary. In paragraph 94.13 of the said decision, the Apex Court held that, the provisions under the Motor Vehicles (Driving) Regulations should be implemented by the State Governments and Union Territories strictly. In paragraph 95 of the said decision, the Apex Court has made it clear that, if there is any doubt or clarity is required in implementing those directions, the State Government or Union Territory concerned is at liberty to move the Committee on Road Safety constituted as per the order of the Apex Court.

117. In view of the decision of the Apex Court in **S. Rajaseekaran [(2018) 13 SCC 516]** the 1st respondent State is duty bound to enforce strictly the Road Safety Policy and also the provisions under the Motor Vehicles (Driving) Regulations. The prohibition contained in the decision of the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]**, against tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of a motor vehicle, and also the law laid down in the decisions of this Court in **Jijith [2019 (1) KHC 463]**, **Saji K.M. [2019 (3) KHC 836]** and **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]** prohibiting the use of contract carriages and other transport vehicles on public place flouting the safety standards prescribed in AIS-008 and AIS-052 (Rev.1) 2008; without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications in AIS-008; with high-power audio systems producing loud sound with rating of several thousand watts PMPO; with continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights in the passenger compartment; with multi-coloured LED/laser/neon lights and also booster

amplifiers, equalizer, DJ mixer, etc., with illuminated control panels in the driver cabin; mixing up of AC and DC power supply for high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc.; tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows; placing/hanging various objects in front of the windscreen and writing the name of the bus in the middle of the windscreen, above the level of the dashboard; and exhibiting writings, advertisements, graphics, figures, etc. with the sole object to invite public attention and to promote the contract carriage service, causing distraction to the drivers of other vehicles and also cyclists and pedestrians on public road has also to be enforced strictly, since use of such vehicles in public place, flouting the standards in relation to road safety, is likely to endanger the safety of the passengers of such vehicles and also other road users.

118. The images of contract carriages which met with major accidents, uploaded on 'YouTube' with the caption "Kerala top 5 bus accident", which are reproduced hereinbefore at paragraph 82, the image of the passenger compartment of a

contract carriage fitted with high-power audio systems, continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights, etc., uploaded on an online video platform, which is reproduced hereinbefore at paragraph 80, two images of contract carriages fitted with after-market multi-coloured LED/laser/neon lights, flash lights, etc., capable of dazzling the drivers of other vehicles, pedestrians and other road users, which are reproduced hereinbefore at paragraph 79, would make it explicitly clear that, flouting the standards in relation to road safety, contract carriages are being permitted to be used on public place. As already noticed hereinbefore at paragraph 111, video contents of use of contract carriages on public place which are fitted with multi-toned horn giving a succession of different notes or horn giving unduly harsh, shrill, loud or alarming noise, are being uploaded on online video platforms like 'YouTube', by registered owners of such vehicles or by vloggers, who are permitted to record such videos inside the driver cabin, even while the vehicle is moving in a higher speed, disturbing the concentration of the driver while driving, thereby posing potential threat to the safety of the passengers and other road users.

119. As evident from the image of the vehicles involved in the accident which occurred on 09.12.2021, at Amalagiri in State Highway-220, which is reproduced hereinbefore at paragraph 77, various objects have been placed/hanged in front of the windscreen of contract carriage bearing No.AP-05/TT-7929, causing obstruction to the clear vision of the driver to the front, in violation of the provisions under Rule 339 of the Andhra Pradesh Motor Vehicles Rules, which is pari materia to Rule 278 of the Kerala Motor Vehicles Rules. As per the report of the Joint Regional Transport Officer, the said contract carriage hit on the rear of Tempo Traveller bearing No.AP-39/TB-1599, which moved forward and ran over two passengers (Sabarimala pilgrims) who were standing on the road, in front of that Tempo Traveller. The image of another Tempo Traveller involved in an accident, which occurred on 22.12.2021, along Edappally-Vyttila stretch of Ernakulam bypass in National Highway-66, is reproduced hereinbefore at paragraph 78. In that accident, sixteen Sabarimala pilgrims from Telangana, which included two children aged 11 and 13 years, sustained injuries. As per the news report, the Tempo Traveller in which they were travelling rammed into a lorry,

around midnight, while the driver of that lorry was taking a reverse. Most of the transport vehicles in the State are being used on public place without maintaining lighting and light-signalling devices and also retro-reflectors, at rear, as per the individual specifications specified in AIS-008. Transport vehicles, which do not have proper reverse lamp with white light, poses potential threat to the safety of other road users.

120. In the aforesaid circumstances, we deem it appropriate to dispose of this SSCR with the following directions;

- (I) The 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department, and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts shall ensure strict enforcement of the Road Safety Policy and also the provisions under the Motor Vehicles (Driving) Regulations, 2017, in terms of the directions contained in the decision of the Apex Court in **S. Rajaseekaran [(2018) 13 SCC 516]** and they shall also ensure strict enforcement of the prohibition contained in the decision of the Apex Court in **Avishek Goenka [(2012) 5 SCC 321]**, against tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows of motor vehicles.

(II) In view of the law laid down in the decisions in **Jijith [2019 (1) KHC 463]**, **Saji K.M. [2019 (3) KHC 836]** and **Principal, Sabari PTB Smaraka H.S.S. [2020 (2) KLJ 662]** the 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department, and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts, shall prevent the use of contract carriages and other transport vehicles on public place **(i)** flouting the safety standards prescribed in AIS-008 and AIS-052 (Rev.1) 2008, after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc.; **(ii)** without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008; **(iii)** with high-power audio systems producing loud sound with rating of several thousand watts PMPO, impairing the hearing of the driver and the passengers and causing distraction to other road users; **(iv)** with continuously blinking DJ rotating LED lights, multi-coloured LED/laser/neon lights in the passenger compartment, by converting the passenger compartment as a dancing floor, causing distraction to the driver of that vehicle and also to other road users; **(v)** with multi-

coloured LED/laser/neon lights and also booster amplifiers, equalizer, DJ mixer, etc., with illuminated control panels in the driver cabin, causing glare and reflection of light on the windscreen of the vehicle, endangering the safety of the passengers and other road users; **(vi)** mixing up of AC and DC power supply for high-power audio systems with DJ mixer, DJ dancing lights, laser lights, etc., violating safety standards, posing a potential fire hazard to the passengers of such vehicles; **(vii)** tampering with the percentage of visual transmission of light of the safety glass of the windscreen, rear window and side windows, by pasting stickers, tint films, etc. upon the safety glass, fixing sliding cloth cutrains, etc., in violation of sub-rule (2) of Rule 100 of the Central Motor Vehicles Rules; **(viii)** placing/hanging various objects in front of the windscreen and writing the name of the bus in the middle of the windscreen, above the level of the dashboard, causing obstruction to the clear vision of the driver, both to the front and through an angle of ninety degrees to his right or left hand side, in violation of Rule 278 of the Kerala Motor Vehicles Rules; and **(ix)** exhibiting writings, advertisements, graphics, figures, etc. with the sole object to invite public attention and to promote the contract carriage service, causing distraction to the drivers of other vehicles and also cyclists and pedestrians on public road; since use

of such vehicles in public place, flouting the standards in relation to road safety, is likely to endanger the safety of the passengers of such vehicles and also other road users.

- (III) The 2nd respondent Transport Commissioner, through the Enforcement Officers in the Motor Vehicles Department, and the 3rd respondent State Police Chief, through the District Police Chief of the concerned Districts, shall prevent the use of contract carriages and other transport vehicles on public place with multi-toned horn giving a succession of different notes or horn giving unduly harsh, shrill, loud or alarming noise, in violation of sub-rule (2) of Rule 119 of the Central Motor Vehicles Rules.
- (IV) In view of the provisions under sub-section (2) of Section 190 of the Motor Vehicles Act, any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and he shall be disqualified for holding licence for a period of three months and for any second or subsequent offence with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both. Therefore, any

person, who drives or causes or allows to be driven in any public place a contract carriage or other transport vehicle, violating the standards prescribed in AIS-008 and AIS-052 (Rev. 1) 2008, without maintaining lighting and light-signalling devices and also retro-reflectors as per the individual specifications, namely, number, position, width, height, length, geometric visibility, orientation, etc. specified in AIS-008; or after replacing the prototype approved lights, light-signalling devices and reflectors with after-market multi-coloured LED/laser/neon lights, flash lights, etc., shall be proceeded against under sub-section (2) of Section 190 of the said Act for an offense punishable with the imprisonment and fine specified in that sub-section and he shall be disqualified for holding licence for a period of three months and for any subsequent offence with imprisonment and fine as specified in that sub-section.

- (V) In view of the provisions under sub-section (4) of Section 206 of the Motor Vehicles Act, inserted by Section 88 of the Motor Vehicles (Amendment) Act, 2019, with effect from 01.10.2020, a police officer or other person authorised in this behalf by the State Government shall seize the driving licence held by the driver of a motor vehicle who has committed an offence under Section 190 and forward it to the licensing authority for

disqualification or revocation proceedings under Section 19.

- (VI) A transport vehicle governed by AIS-008, which is not installed with lighting and light-signalling devices and also retro-reflectors referred to in Para.6.0, conforming to the individual specifications for such lighting and light-signalling devices and also for retro-reflectors prescribed in Paras.6.1 to 6.20, or a transport vehicle governed by AIS-008, which is installed with lighting and light-signalling devices or retro-reflectors other than those referred to in Para.6.0, cannot be granted fitness certificate, since such a vehicle cannot be treated as a vehicle which complies with the provisions of the Motor Vehicles Act and the Rules made thereunder, for the purpose of grant of certificate of fitness. The certificate of fitness granted to such vehicle shall be cancelled by the prescribed authority, in accordance with the provisions under sub-section (4) of Section 56 of the Motor Vehicles Act. In appropriate cases, the registering authority shall initiate proceedings to suspend or cancel the letter of authority granted or renewed under sub-rule (5) of Rule 63 of the Central Motor Vehicles Rules or forfeit security deposit, after affording the holder of letter of authority an opportunity of being heard.

121. The 2nd respondent Transport Commissioner and the 3rd respondent State Police Chief shall file action taken reports

before this Court on or before 01.07.2022, which shall be placed before the Bench on 11.07.2022.

Registrar General shall forward a copy of this judgment to the Secretary of Supreme Court Committee on Road Safety for information.

Sd/-

**ANIL K. NARENDRAN
JUDGE**

Sd/-

**P.G. AJITHKUMAR
JUDGE**

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