CHAPTER- III

PASSENGER TRANSPORT ENACTMENTS IN KERALA - AN ASSESSMENT

3.1 Introduction

The activities and functions of the state in the field of passenger protection form a space where the interactions among the Government, market relations and rights of the citizens converge.¹ A scrutiny of the participation of the state in the process of protecting passenger's rights discloses the spaces where the markets fail to meet the needs of the consumer's rights. It has been well established that the welfare state cannot refrain from intervening in the market. "In a mixed economy, like ours, the state has four functions – as provider, regulator, entrepreneur and umpire".² Following the conventional schematisation, the activities of the State can be classified into three broad roles. State takes the roles of protector, preventer and provider/producer. Hence a welfare State has an obligation to ensure that passengers are getting a satisfactory service from the providers of the road transport passenger service.

Article 21 of the Indian Constitution lays down that "every citizen of India should live free from all types of exploitation". Article 38 makes it obligatory on the part of the Government to enact necessary laws to ensure the welfare measures. So the Government, from time to time, shall make different

¹ Friedman, The State and the Rule of Law in a Mixed Economy, Cambridge University press, 1971, p. 3
² Ibid
legislations to ensure an efficient passenger service system. These Rules and Statutes are to be enforced through different modes by the Government.

In India both private and public sector provide passenger service. Both these sectors have to be well regulated through proper Government mechanism in order to cater to the passenger service needs of the population at large. The need for regulatory devices has much relevance in the private sector as they handle more than seventy-five percent of the passenger traffic. Therefore it is imperative to evolve a strong regulatory mechanism in the private sector, particularly,

a. to ensure safety of passengers.
b. to enforce punctuality in the time schedule.
c. to stop the practice of missing trips during lean hours.
d. to prevent shortening the routes during peak hours
e. to avoid overloading
f. to reduce pollution level etc.

Moreover, the users of the private and public stage carriages are of the poorer section of the population. In order to curtail the exploitation of the bus operators and to protect the interest and rights of passengers, the central and State Governments have passed Acts and Rules for the proper control of road transport passenger service.

This chapter attempts to portray the different agencies in regulatory mechanism and the regulations provided by them in having an effective passenger service.

5 Workshop on Rail and Road Transport: Development and Co-ordination, Federation of Indian Chambers of Commerce and Industry, New Delhi, December 1986, p. 106.
3.2 Regulatory Mechanism

The regulatory mechanism covers the Motor Vehicles Act and Rules, Government orders and Court verdicts. It includes provisions for ensuring safety and convenience to passengers. It specifies the offences of various parties related to passenger service as well. The main agencies of regulation on the road transport passenger service are: Motor Vehicle Department, State Police Department and Judiciary.

Historical aspects of Motor Vehicle Regulation

The first All-India enactment dealing with the operational control of motor vehicles came into force in 1914, by the name Indian Motor Vehicles Act 1914. This Act could not cope up with the new pressures and had to be supplemented by enactments made in various provinces in order to have more regulation and control over motor vehicles. On the basis of the recommendation of Mitchell-Kirkness Committee in 1932 and Wedgewood Committee in 1936, the Government passed a new legislation in 1939, known as Motor Vehicles Act of 1939. This Act was a landmark in the history of motor vehicle regulation in the country.

The Motor Vehicles Act 1939 consolidates the law relating to motor vehicles. This has been amended several times to up-date it. After independence, due to the increased significance of road transport and with the change in the socio-economic conditions, the Motor Vehicles Act of 1939 underwent continual amendments in 1951, 1956, 1960, 1963, 1968, 1969, 1977, 1978, 1982, and 1986. The justification for these amendments were also backed by improvement in road development technology, change in the pattern of
passenger movement, improved techniques in the motor vehicle management etc.\textsuperscript{6}

Various committees\textsuperscript{7} like National Transport Policy Committee, National Police Commission, Road Safety Committee, Low- powered Two-Wheelers Committee, and Law Commission etc. recommended the updating, simplification and rationalisation of this law. A working-group was constituted in January 1984 to review all the provisions of the Motor Vehicles Act 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. The important modifications suggested were for taking care of the following matters.\textsuperscript{8}

a) The fast increasing number of both commercial and personal vehicles in the country.
b) The need for encouraging adoption of higher technology in the automotive sector.
c) The greater flow of passenger and freight.
d) Concern for road safety standard and pollution control measures.
e) Simplification of procedure and policy of liberalisation in private sector operation in the road transport.
f) Need for effective ways of tracking down traffic offenders.

The suggestions made by the Hon’ble Supreme Court regarding the safety aspects were also taken into account in drafting new motor vehicles legislation in India.\textsuperscript{9}

\textsuperscript{6} M. Ganesan, \textit{An Integrated Approach to Transport in India}, Indian Journal of Transport Management, CIRT, Pune, April 1999, pp. 237-241
\textsuperscript{7} M. Ganesan, \textit{An Integrated Approach to Transport in India}, Indian Journal of Transport Management, CIRT, Pune, April 1999, pp. 237-241
\textsuperscript{8} “Report on the National Transport policy committee,” Planning Commission, Government of India, New Delhi, May 1980, p. 31
\textsuperscript{9} The Supreme Court, made certain suggestions to raise the limit of compensation payable as the result of motor accidents in respect of death and permanent disablement in the event of there being no proof of fault on the part of the person involved in the accident and also in “hit and run” motor accidents, (M.K. Kunhimohammed \textit{Vs.} P.A. Ahmedkutty, (1987), 4 SCC 284 : AIR 1987, SC 2158.)
On the basis of the draft report submitted by the working group, a new bill was submitted in the parliament.

Some of the provisions of the bill were related to the following matters.

1. Stricter procedures relating to the granting of driving license and the period of validity
2. Laying down standards for the components and parts of the vehicles
3. Standard for anti-pollution control devices
4. Provision for issuing fitness certificates of vehicles and the granting of authorised testing stations
5. Enabling provision of updating the system of registration mark.
6. Liberalised scheme for grant of stage carriage permits
8. Maintenance of State registers for driving licenses and vehicle registration
9. Constitution of Road Safety Councils
10. Provision for more deterrent punishments in case of offences.

The Bill passed by both houses of Parliament received the assent of the President of India on 14th October 1988 and soon there after became an Act of Parliament under the short title ‘The Motor Vehicles Act 1988’. Central Motor Vehicle Rules were also made in 1989. These Act and Rules came into effect from 1st July 1989.\(^\text{10}\)

Now the operations of motor vehicles and passenger service are regulated by the parent Act which is The Motor Vehicles Act of 1988 and Central Motor Vehicle Rules 1989. Substantial amendments have been made

\(^{10}\) M K Thomas, Public Sector Bus Transport in India in the New Millennium – A Historical perspective, 2000, Ebenezer Publishers, Pune, p. 27.

Every State in India has made its own motor vehicle department and formulated its own motor vehicle rules. In Kerala Motor Vehicle Department, under the direct control of the Government, regulates the entire motor transport activities. The main functions of the department are registration of vehicles, licensing drivers and conductors, collection of taxes on vehicle, and regulation of motor vehicles in accordance with the provisions of Motor Vehicles Act and Rules. The passenger complaints reported to Regional Transport Authorities are either settled mutually or penally according to the Motor Vehicles Act, like canceling license, permit and imposing fine etc.

3.2.1 Kerala Motor Vehicles Rules 1989


Having realised the responsibility to provide an economic and efficient passenger service, the Central and State Governments envisaged different provisions in the Motor Vehicles Act of 1988 and Kerala Motor Vehicle Rules 1989, for the smooth passenger mobility. For a more detailed analysis these provisions can be studied in six heads, viz.

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11 In exercise of the powers conferred by sections 26,28,38,65,96,107,111,138,159,176 and 213 of the Motor Vehicles Act 1988 (Central Act 59 of 1988), the Government of Kerala hereby made the following rules, the same having been previously published as per Notification No.57129/M3/88/PW & T dated the 14th June 1989 in the Kerala Gazette Extraordinary No.554 dated the 14th June 1989 and Notification No. 57129/M3/88/PW & T dated the 19th June 1989 in the Kerala Gazette Extraordinary No.574 dated 19th June 1989 and Notification No. 57129/M3/88/PW & T dated the 19th June 1989 in the Kerala Gazette Extraordinary No. 578 dated the 20th June 1989, as required by sub-section (1) of section 212 of the said Act.
1. Provisions relating to the duties of driver
2. Provisions relating to the duties of conductor
3. Provisions relating to the duties of vehicle owners
4. Provisions relating to the duties of passengers and
5. Other general provisions
6. Provision relating to fares in stage carriages

3.2.1.1 Duties of Drivers of a Passenger Vehicle

The driver being the captain of the bus, though not directly interacting with the passengers, his entire functions and behavior shall contribute to the smooth running of passenger service. Rule 46 of the Kerala Motor Vehicle Rules 1989, stipulates the code of conduct of the drivers of a passenger vehicle.

Accordingly, the driver of a passenger vehicle, while on duty, shall behave in a civil and orderly manner to the passengers and intending passengers in his vehicle and shall maintain the vehicle in a clean and sanitary condition. The driver shall not drive or attempt to drive any transport vehicle after the consumption of any kind of alcohol or any intoxicants. Moreover he shall bring the vehicle to rest for a sufficient period of time in a safe and convenient position on demand or signal by the conductor or by any passenger desiring to alight from the vehicle and unless there is no room in the vehicle, upon demand or signal by the intending passengers.

It shall be the duty of the driver to exercise all reasonable care and diligence to maintain his vehicle in a fit and proper condition and shall be responsible for the observance of the duties of a conductor during his absence or inability to perform his duties. Further, he is not supposed to, when bringing his vehicle to rest for the purpose of picking up or setting down any passengers at or near the places where another public service vehicle is at rest for the same

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12 Rule 46 (1) of the Kerala Motor Vehicle Rules, 1989
13 Rule 46 (2) (b), (c), and (d) of the Kerala Motor Vehicle Rules 1989
purpose, drive the vehicle so as to endanger, cause inconvenience to other vehicle or passengers boarding there on or alighting there from and shall bring the vehicle to rest behind the other vehicle and on the left-hand side of the road.\textsuperscript{14}

From the safety point of view, the driver shall not allow any person, animal or things to be placed near the driver’s seat which will impede him from having a clear vision for proper driving,\textsuperscript{15} shall not shout in order to attract passengers, shall not smoke or chew-pan while on duty, shall not carry in the vehicle any persons reasonably suspect to be suffering from any infectious or contagious decease and shall not replenish the fuel tank when the passengers are in the vehicle.\textsuperscript{16}

The rules further states that the driver shall not loiter or unduly delay any journey, but shall proceed to his destination with all reasonable dispatch, adhering to the route and time schedule specified and he shall not demand or collect fares in excess of the rates fixed by the Government from time to time.\textsuperscript{17}

Apart from the provisions applicable to drivers in passenger vehicles as specified in Rule 46, the drivers in motor vehicles shall not drive a vehicle, which do not have registration, insurance, fitness certificate, pollution certificate, proper permit etc.

The Motor Vehicles Act specifies that no person shall drive a motor vehicle in any public place unless he/she holds an effective driving license.\textsuperscript{18}

\subsection*{3.2.1.2 Duties of Conductor of a Passenger Vehicle}

The role of the conductor is very important, as he is the person who really controls the vehicle of passenger service. He is expected to be a man of

\textsuperscript{14} Rule 46 (2) (i) of the Kerala Motor Vehicle Rules 1989
\textsuperscript{15} Rule 46 (2) (g) of the Kerala Motor Vehicle Rule 1989
\textsuperscript{16} Rule 46 (2) sub Rules (g), (j), (n) and (o) of the Kerala Motor Vehicle Rules 1989
\textsuperscript{17} Rule 46 (2) (m) and (p) of the Kerala Motor Vehicle Rules 1989
\textsuperscript{18} Section 3 (1) of the Motor Vehicles Act of 1988
gentleness and patience as he interacts with hundreds of people every day. The Rule 89 of the Motor Vehicle Rules envisages many provisions to be observed by the conductors of a public passenger vehicle.

Accordingly, every conductor of a stage carriage while on duty shall behave in a civil and orderly manner to passengers and intending passengers and they are responsible for maintaining the vehicle in a clean and sanitary condition.\(^{19}\) It is the duty of the conductor to take all reasonable precautions to ensure that the passengers are not endangered or unduly inconvenienced, when goods are carried on the vehicle in addition to the passengers and the conductor shall, in the event of a stage carriage being unable to proceed to its destination on account of mechanical break down or other causes beyond the control of the driver or the conductor, arrange to convey the passengers to their destination in some other similar vehicle or if unable so to arrange within a reasonable period after the failure of the vehicle, shall on demand refund to each passenger the fare required for the completion of the journey for which the passenger had paid the fare.\(^{20}\)

To provide a safe journey the conductor shall also take much care in many respect such as helping the driver to cross an unguarded railway level crossing, not allowing any passenger to be in the vehicle when the fuel tank is being replenished, not allowing to carry the passengers in any public service vehicle in excess of the passenger capacity specified in the permit, not to carry in the vehicle any person reasonably suspected to be suffering from any infectious or contagious disease etc.\(^{21}\)

A conductor of a public passenger vehicle can do a lot in providing an efficient and comfortable travel. The Motor Vehicle Rules 1989 empowers the conductor in this regard. According to Rule 89, the conductor shall be

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\(^{19}\) Rule 89 (b) and (e) of Kerala Motor Vehicle Rules 1989.

\(^{20}\) Rule 89 (d) and (e) of Kerala Motor vehicle Rule 1989.

\(^{21}\) Rule 89, sub- Rules (f), (w), (p) and (v), of the Kerala Motor Vehicle Rules 1989.
responsible for exhibiting the proper destination board and for their illumination. In providing a comfortable journey the conductor shall ensure that the passengers shall not carry any goods liable to foul the interior of the vehicle, shall not cause or allow any thing to be placed in the vehicle in such a manner as to obstruct the entry or exit of passengers, shall not allow to carry more than the permitted luggage by the passengers in the vehicle, shall not smoke or chew pan or take any intoxicating drinks, while on duty.22

The above rule further provides that the conductor shall not, without good and sufficient reason, refuse to carry any person tendering the legal fare and shall not, without good and sufficient reason, require any person, who has paid the legal fare, to alight from the vehicle before the completion of the journey. Moreover the conductor shall not cause the driver to loiter or unduly delay on any journey.23

Apart from the provisions in Rule 89, the conductors shall not perform his duty without wearing uniform, without giving proper ticket or by issuing invalid ticket etc.

The motor vehicle regulations stipulate the necessity of conductor’s license. It says that no person shall act as a conductor of a stage carriage unless he/she holds an effective conductor’s license.24

3.2.1.3 Duties of Owners of Passenger Vehicles

In order to provide an efficient and safe passenger transport service to the public, various provisions have been included in the Motor Vehicle Rules with regards to the duties of owners of passenger vehicles. Here discussion is made in two heads viz. provisions relating to the construction and maintenance

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22 Rule 89, sub-Rules (k), (t), (l) and (m) of the Kerala Motor Vehicle Rules 1989
23 Rule 89, sub Rules (q), (s) and (s) of the Kerala Motor Vehicle Rules 1989
24 Section 29 (1) of the Motor Vehicles Act of 1988
of vehicles and provisions relating to the facilities to be provided in the vehicles.

Provisions relating to the Construction and Maintenance of Passenger Buses

The passenger buses shall be constructed in such a way that it should facilitate the proper passenger service. The following are the main provisions in this respect.

a) **Body of the stage carriages** Every stage carriage shall have a body of the saloon type unless otherwise permitted by State or Regional Transport Authorities. But it is not applicable to stage carriage registered prior to 16th May 1961

b) **Body dimension and guardrails** Every passenger bus shall be so constructed that the height of the body side from the floor or the height to the sills of the windows as the case may be, shall not be less than 71 cms. If the bottom of any open window or other opening is less than 66 cms above the seats, provision shall be made by means of guards rails otherwise to prevent passengers from putting their arms out.

c) **Size of seat of passengers** A comfortable journey is a wish of every passenger. Convenient and comfortable seating is a major factor in this respect. Rule 267 deals with the size of seat of passengers. Accordingly in every vehicle there shall be a provision for each passenger, a reasonably comfortable seating space of 38 cms square measured on straight line along and at right angles to the front of each seat.

d) **Cushions on seats of stage carriages** The seats and back rests of every vehicle shall be provided with foam cushions covered with suitable

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26 Rule 285 of the Kerala Motor Vehicle Rules 1989
27 Rule 267 of the Kerala Motor Vehicle Rules 1989
28 Rule 283 of the Kerala Motor Vehicle Rules 1989
materials capable of being kept in a clean and sanitary condition. The seat shall be provided with foam cushions of not less than 80 mm thickness and the back rest with foam cushions of not less than 30 mm thickness. In case of all express stage carriages, back rests shall be provided with comfortable head rests.

e) **Distance between two seats**\(^{29}\) When seats are placed along the vehicles, the back of each seat on one side shall be at least 137 cms distant from the back of the seat on the other side. When the seats are placed across the vehicle and are facing in the same direction there shall be every where a clear space of not less than 68.5cms between the back of the seats, when the seats are placed across the vehicle and are facing each other there shall be a clear space excluding padding and upholstery between the such surface of any portion of the seat against which the back of the passenger is to rest and the surface of the corresponding portion of the seat facing it of a minimum width of 124.5 cms and a clear space between the front of facing seats of a minimum width of 48.5 cms.

f) **Grab rails.**\(^{30}\) A grab rails shall be fitted to every entrance and exit of a vehicle. An overhead grab rails with or without hanger straps shall also be provided within the body for standing passengers.

g) **Steps of stage carriages.**\(^{31}\) In every vehicle the top of the tread of the lowest step for any entrance shall not be more than 40 cm or less than 25 cm above the ground when the vehicle is empty. All steps shall be fitted with non-slip treads. Fixed steps shall not be less than 23cms wide and shall in no case project beyond the body.

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\(^{29}\) Rule 267 1 (a), (b) and (c). of the Kerala Motor Vehicle Rules 1989.

\(^{30}\) Rule 281 of the Kerala Motor Vehicle Rules 1989

h) **Location of the fuel tank.** No fuel tank be placed in any passenger vehicle under any part of any gangway which is within 61 cms of any entrance or exit.

i) **Gangways** In every compartment of a vehicle the entrance to which is from the front door rear there of, there shall be a gangway along the vehicle and its minimum width is 61 cms where seats are placed along the sides and minimum 35 cms if seats are arranged across the vehicle.

j) **Protection of passengers from weather.** Every vehicle shall be constructed with a fixed and water tight roof and suitable windows, venetians or screens capable at all times of protecting the passengers from the weather without preventing adequate ventilations.

k) **Entrance and exit.** In case of city and town services every bus shall have a separate entrance and exit, one at the front and the other at the rear, each having at least 63 cm width and sufficient height. In all other cases the opening for entrance and exit may be common.

l) **Conductors seat** On every stage carriage there shall be provision for the conductor a reasonably comfortable seating space of 38 cms square so located as to allow him at all times a complete view of the inside of the vehicle.

m) **Internal lighting in passenger buses** Every passenger vehicle shall be furnished with one or more electric lights, adequate to give reasonable illumination throughout the passenger compartment but of such power has not to impair the forward vision of the driver.

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According to motor vehicle regulations all stage carriages are liable to be tested for fitness every year but for new vehicles the first fitness certificate issued is valid for two years. The condition of the vehicle both in engine and body are tested and the fitness certificate is issued accordingly.

**Provisions relating to facilities provided in the passenger buses**

With a view to giving more amenities to the passengers, Kerala Motor Vehicle Rules included the following rules.

a) **Complaint book.** A complaint book, the pages of which are serially numbered and sealed or signed by the permit holder shall be kept in every stage carriage on service in a clean and tidy condition by the conductor and notice shall also be displayed. It shall be made available on demand by any passenger to make an entry. A passenger making an entry in the complaint book shall note at the foot of his entry therein, his full name and address and details of authorisation or ticket he holds for the journey and shall put his signature. The permit holder shall take the action on the complaint within fifteen days of making the complaint or any person authorised by him and shall be notified to the complainant.

b) **Standing capacity in stage carriages** The State or Regional Transport Authority may fix the number of standing passengers, the vehicle may be permitted to carry provided that the internal height is not less than 167.5cms and the number of standing passengers shall not exceed 25 percentage of the number of passengers for whom there is seating capacity as specified in sub rule (1). Provided further is that, fifty percentage standing passengers may be allowed in city and town services. Moreover no standing passengers were be allowed in luxury services, super deluxe services, super express

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38 Section 56 of the Motor Vehicles Act 1988.
services and super fast services till 1999, but it got amended by a Government order\textsuperscript{41} and thereafter standing facility be also allowed in these types of buses.

c) **Maximum passenger capacity**\textsuperscript{42} Subject to the provisions of Rule 267, the number of passengers including standing, if any, that may be permitted to carry in a vehicle shall not exceed the number determined by the following formula.

\[ N = \frac{G - (U+C)}{60} \]

Where  \( N \) = No. of passengers

\( G \) = Gross vehicle weight in Kilograms

\( U \) = Unladen weight in Kilograms

\( C \) = Weight in Kilograms of the crew including driver, conductor and one checking inspector, if any, at the rate of 55 kg per head.

d) **Minimum seating capacity in stage carriage**\textsuperscript{43} Minimum seating capacity shall be directly proportional to the wheelbase of the vehicle.

**Table 3.1**

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<thead>
<tr>
<th>Wheel Base</th>
<th>Minimum Seating Capacity</th>
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<tr>
<td>254 to 293 cm</td>
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<td>294 to 305 cm</td>
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<td>306 to 343 cm</td>
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<td>344 to 407 cm</td>
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<td>408 to 432 cm</td>
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<td>433 to 496 cm</td>
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<td>506 to 550 cm</td>
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<td>Above 550 cm</td>
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\textsuperscript{41} GO (P) No.4/99/Tran dtd.1-2.1999, published as SRO No. 118/99 in K.G.Ex228 dtd.3-2-99.

\textsuperscript{42} Rule 268 of the Kerala Motor Vehicle Rules 1989.

\textsuperscript{43} Rule 269 of the Kerala Motor Vehicle Rules 1989.
c) **Protection of luggage on stage carriages**\(^{44}\) Luggage carried on the outside of the stage carriage shall be protected from rain by a suitable waterproof covering securely fastened to the vehicle.

f) **Communication with driver**\(^{45}\) Every vehicle in which the driver seat be separated from the passenger’s compartment by a fixed partition and shall be furnished with effective means to enable the passengers and the conductors to signal the driver to stop the vehicle.

g) **Drinking water facility in Buses**\(^{46}\). Drinking water facility shall be provided in luxury services, super deluxe services and super expresses.\(^{47}\)

h) **Fire extinguishers in stage carriage.**\(^{48}\) As a pre-condition for the granting of permit, the state transport authority and regional transport authority may insist on fire extinguishers in a passenger vehicle and it shall be inspected at such periods and by such persons as it may specify.

i) **Prohibition of audio-visual devices.**\(^{49}\) No public service vehicle other than a contract carriage shall be installed with any audio-visual devices.

j) **Stopping places of stage carriage**\(^{50}\). The state or RTO can fix such places for such carriages after consultation with such authority, as it may deem desirable. Stopping places shall be indicated by means of notice boards. The driver of a stage carriage shall stop at such places when so required by any person wishing to alight or board. But the driver need not stop the carriage for a person wishing to enter if the vehicle is already full.

k) **Uniform and name badge for any person other than driver and conductor.** In exercise of the powers conferred by the Rule 153 C of the Kerala Motor Vehicle Rules 1989, the Transport Commissioner of Kerala

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\(^{47}\) Amendments in rule 288, notification number 118/99, Kerala Gazette, Govt. of Kerala, 1999.


\(^{50}\) Rule 296 of the Kerala Motor Vehicle Rules 1989.
specified the following uniform and badge for employees other than driver and conductor:\footnote{Kerala gazette extraordinary No: C1-4412/TC/97 dated 6th June 2002, Govt. of Kerala.}

- Pants and half-sleeved shirt with two breast pockets in navy blue colour.
- Name badge above the right breast pocket. The name badge shall be a plastic plate having a size 7.5 cm x 2 cm, on which the name shall be etched in black letters on white background. The size of the letters shall be 0.5 cm.

1) **Seating arrangement and emergency exit.**\footnote{Kerala Gazette Extraordinary No: G.O. (P) No. 16/02 dated 13th June 2002, Govt. of Kerala.} In order to facilitate a comfortable passenger service, the Government of Kerala amended the Motor Vehicles Act regarding the seating facility and structure in which the public stage carriages have to be built. This amendment came into effect from 1st August 2002. Accordingly,

- All the seats shall be arranged in configuration of either 3 x 2 or 2 x 2 or a combination of both, leaving the gangway at the middle throughout the length of passengers compartment and that the rear-most row of seats shall also be of the same configuration as the other seats.
- Every door of the stage carriage shall be provided with shutters, which can be opened outwards from inside as well as outside, except in case of town and city services.
- Every stage carriage shall be provided with an emergency exit in the form of a door hinged at the top with dimensions 150 cms horizontally and 120 cms vertically capable of being operated both from inside and outside fitted at the rear wind screen. This exit shall be inscribed in yellow colour “EMERGENCY EXIT” both inside and outside.

The provision of this rule shall not apply to a stage carriage registered before 1st August 2002.
• In all stage carriages 25 per cent of the seats excluding those provided for the driver and conductor shall be set apart for woman.

Apart from the above mentioned provisions, owners of the motor vehicle shall not make any alteration in the shape of the vehicle, shall not allow to run the vehicle without fitness certificate, without registration, without proper permit and without insurance. Moreover, the owners of the vehicles has to keep trip registers, not to run vehicle without observing road safety and air and sound pollution measures etc.

3.2.1.4 Duties of Passengers

Even though the service providers of passenger service hold the major role in the effective performance of the road transport passenger service, the role of the passengers cannot be ignored. The State Government realised that the passenger service would be effective only if the passengers behave properly. Thus the code of conduct to be observed by the passengers was also included in the Motor Vehicle Rules. The Rule 227 explains the norms to be followed by a passenger during the journey. Accordingly, the passengers in a public service vehicle shall do or perform certain things. Similarly they are not permitted to do or perform certain acts. The code of conduct of the passengers can be broadly divided into two: namely the acts, which are prohibited to do and the acts, which ought to be performed.

The acts, which are prohibited to do by a passenger

According to Rule 227 of Motor Vehicle Rules 1989, passengers in a public service vehicle shall not use obscene or offensive language or conduct himself in a riotous or disorderly manner and they are not supposed to board or alight from the vehicle other than by doors or openings provided for the purpose. Moreover, a passenger shall not, when entering or attempting to enter the vehicle, willfully and unreasonably impede other passengers seeking to
enter in to the vehicle or to alight there-from. Further, the passengers shall not smoke in the bus. Another restriction regarding the entry into the bus is that, the passenger shall not enter the vehicle when requested not to do so by an authorised person for the reason that the vehicle is carrying its full complement of passengers or that the operator is debarred from picking up passengers at the place in question by the reason of the condition attached to the permit.

With regard to the seating, there are some restrictions. A passenger inside the bus shall not occupy more than one seat or without lawful excuse occupy any seat exclusively reserved for any one or reserved for ladies and shall not travel on the top of the vehicle or in or on any part of the vehicle not provided for the conveyance of passengers.

The prohibition of distractive activities is also included in the code of conduct of passengers. Accordingly, a passenger shall not spit upon or from the vehicle or willfully damage, spoil or defile any part of it and the passenger shall not damage any part of the vehicle or cause injury or discomfort to other passengers. While sitting inside the bus, a passenger shall not distract the drivers' attention without reasonable cause or speak to him unless it is necessary and give any signal which might be interpreted by the driver as a signal from conductor to start the vehicle. Further they shall not when in or on the vehicle, to the annoyance of other passengers, use or operate any noisy instrument or allow person to make any excessive noise by singing or shouting.

On a moving vehicle, a passenger shall not, distribute printed or similar matter of any description or distribute any article for the purpose of advertisement or announcement or publicity and shall not beg, sell or offer for sale any article. The passengers are not supposed to throw any money to be scrambled for by any person on the road or footway or throw out of the vehicle any bottle, liquid or any article likely to annoy persons. During the journey the passenger shall not willfully obstruct or impede any authorised employee of the
permit holder in the course of his duties and are not supposed to travel with
loaded fire arms or any dangerous or offensive articles. Passengers are not
allowed to travel in a bus if his condition is such as to be offensive to other
passengers or if the condition of his dress or clothing is such that it may
reasonably be expected to spoil or injure the cushions of the vehicle or the
clothing of other passengers and they shall not place any goods or article of
luggage in a seat intended for passengers. Moreover, no passenger shall use or
attempt to use any pass or ticket which has been altered or defaced or issued to
another person. These are the prohibitory rules to be followed by a passenger
and now the positive rules are looked into.

The acts ought to be performed by a Passenger. 

Every passenger shall, unless he is the holder of a pass or ticket, pay the
conductor the fare for the journey and accept the ticket and leave the vehicle on
the completion of the journey, unless he intends to continue the journey by
paying extra fare for the extended portion and he shall produce the ticket on
demand by any person authorised to examine the ticket and on failure to
produce the ticket, the passenger is liable to pay the fare from the starting point
of the bus. After the journey, the passenger has to surrender the ticket also.

During the journey, a passenger shall occupy the seat pointed out by the
conductor and abstain from travelling in a standing posture, while there is a
seating accommodation. Any passenger contravening the provisions of these
rules may be removed from the vehicle by the driver or conductor or on request
of them, by a police officer. Any passenger, who is reasonably suspected of
contravening these rules, shall give their name and address, on demand, to the
police officer or driver or conductor.

53 Rule 227, sub Rules (a) to (u) of the Kerala Motor Vehicle Rules 1989.
54 Rule 227, Sub Rule (3) (a) to (g) and Rule (4), of the Kerala Motor Vehicle Rules 1989.
3.2.1.5 Other General Provisions

Apart from the specific provisions relating to passenger service, the Act also contains other Motor Vehicle Rules, which have direct bearing on a safe and effective passenger service. It includes:

a. One shall not drive a motor vehicle in contravention of the speed limit imposed by the authorities.\(^55\)

b. One shall not drive the vehicle after consuming alcohol or any other drugs causing intoxication. \(^56\)

c. No person shall drive a motor vehicle in any public place unless he holds a valid driving license.\(^57\)

d. No person shall drive or cause or allow to be driven any vehicle with more than the permitted load.\(^58\)

e. No person shall drive a vehicle in a manner, which is dangerous to the public.\(^59\)

f. No person shall drive the vehicle by disregarding the traffic rules.\(^60\)

3.2.1.6 Provision relating to Fares in Stage Carriages

As the public passenger service is commonly used by the low-income and middle-income groups, fares charged in passenger vehicles assumes great significance. The fares charged should be reasonable and affordable to the general public.

The Motor Vehicles Act and Rules confer powers to the State Government to fix the fare of stage carriages and other vehicles. Section 67 of the Motor

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\(^{55}\) Section 1112 and 183(1) of the Kerala Motor Vehicle Rules 1989.

\(^{56}\) Section 185 of the Motor Vehicles Act of 1988 says that whoever, while driving or attempting to drive a motor vehicle has in his blood, alcohol exceeding 30 mg per 100 ml of blood detected in a test by the breath analyser or under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle.

\(^{57}\) Section 3,4 and 181 of Motor Vehicles Act of 1988.

\(^{58}\) Section 113,114, 115 and 194 of Motor Vehicles Act 1988.

\(^{59}\) Section 184 of Motor Vehicles Act 1988.

\(^{60}\) Section 116 and 121 of Motor Vehicles Act 1988.
Vehicles Act 1988\(^61\) says that the State has the power to fix the minimum and maximum fares for the stage and contract carriage, having regard to,

- The advantages offered to the public, trade and industry by the development of motor transport.
- The desirability of co-ordinating road and rail transport.
- The desirability of preventing the deterioration of the road system and
- The desirability of preventing uneconomic competition among holders of permits.

The extent and scope for making decisions by the State Government under section 67 has also been defined in several High Court judgments.\(^62\)

While fixing fares for stage carriages of different types, the Government can insist on the permit holders to offer more amenities and comforts to the travelling public.\(^63\)

As per Rule 211 of the KMVR 1989,\(^64\) all stage carriage should charge fares according to fare stages fixed by Transport Authorities. The responsibility with regard to the fixation of fare stages rests with the State / Regional Transport Authorities. The rule also refers to the maximum distance between two successive fare stages, which is 6.5 kilometers.

**3.2.2 Motor Vehicle Department**

The Motor Vehicle Department performs its responsibility through the implementing authorities like Transport Commissioners, Regional Transport


\(^{64}\)The Rule 211 of Motor Vehicle Rules 1989 read as “In the case of stage carriages, the State or Regional Transport Authority, shall after such enquiry as it may deem desirable, fix fare stages on all routes. The maximum distance of each such stage shall not ordinarily exceed six kilometers and five hundred meters. When stages are so fixed, fare shall be collected according to stages. When the passenger gets into or gets down from a stage carriage at a place lying in between two stages, fare shall be collected from him from the stage preceding the place from where he gets into the bus to the stage succeeding the place where he gets down.
Officers, Vehicle Inspectors etc. through the power envisaged under Motor Vehicles Act and Rules.

This department is the major agency, which regulates motor vehicles and their services in the country, and is the main body, which enforces the Motor Vehicles Act and Rules in the State. The Motor Vehicle Department is the administrative body formed in each State in accordance with the Motor Vehicles Act. The efficiency of a good passenger system depends largely on the effective working of this department.

3.2.3 State Police Department

This is the second machinery, which can exercise regulatory control over road transport and passenger service. The Motor Vehicle Department enforces its Acts and Rules mainly through the police force. It is the co-responsibility of the Police Department to ensure that all the Acts and Rules governing the transport operation are duly implemented. The passenger related complaints coming up in the police station are either settled mutually or registered and forwarded to the Criminal Court.

A police officer, in not less than the rank of a Sub- Inspector in uniform, can demand from the vehicle owners to produce registration certificate, insurance certificate, certificate of fitness, permit, pollution certificate etc for inspection. This will facilitate a healthy conduct of transport service, especially passenger service.

Motor vehicle offences based on Acts and Rules are mainly handled by the police department. The provisions regarding the punishment for these offences are fixed by the Motor Vehicle Department.

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65 Section 12 of the Kerala Police Act 1971.
3.2.4 Judiciary

The judiciary of the country also has played a predominant role in establishing an effective passenger service. The Court by self-initiation, either by observing the report in the newspaper or something else or on a petition by a passenger or somebody else can issue an order directing the Government to take those steps which will provide an efficient, adequate, economical and properly co-ordinated passenger road transport service. The direction may be to alter, modify, delete or add one or more provisions in the existing Act and Rules, which control and regulate the road transport passenger service.

The Court has interfered in the passenger service activities, having felt that the existing rules are not sufficient for the functioning of an effective passenger service. A few of such instances are cited below.

To ensure a speedy and safe road transport service, the Hon. High Court of Kerala had issued an order to ban the overtaking of four wheelers by passenger vehicles in the main streets of the cities of Thiruvananthapuram, Kochi and Kozhikkode. In order to reduce the motor vehicle accidents at night, the Hon’ ble High Court had ordered to fit automatic dimmers on the head lights of the vehicles. In this connection, the Court has reminded of the strict enforcement of provisions in section 2 and 3 of the Central Motor Vehicles Act, about the fitting of automatic dimmers in every vehicle.

According to a latest order by the Supreme Court, all pre-1990 model auto rickshaws and taxis are to be replaced with “new vehicles on clean fuel from 1st April 2000.” This order is issued to prevent accidents caused by over-aged auto rickshaws and taxis.

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68 The Times Of India, Daily, March 26, 2001
An aggrieved party of passenger service can approach the Court of law for the redressal of their grievances of a criminal or civil nature. An ample number of cases have come up in various courts concerning passenger related cases. For instance, the Hon. High Court of Kerala issued an order in 1997 insisting the state Government take deterrent actions against the strike of private bus operators. Many cases have been filed relating to the fixing of fares and fare stages. Thus it is clear that the Courts do play an important role in regulating passenger service effectively.

3.2.5 Other Agencies Regulating Transport services.

In addition to Motor vehicle Department there are other agencies, which indirectly help/guide passenger service operations in the State. They include both Government and semi-Government bodies. Some of them are Government Departments and some others are autonomous institutions.

The agencies involved in the road sector include Public Works Department (PWD), Central Road Research Institute (CRRI), Indian Road Congress (IRC) etc. PWD, under the control of the State Government, performs the function of construction and maintenance of roads, putting up of road signs etc. The CRRI, under the control of Central Government, carry out research studies on road related topics. IRC brings out codes, specifications, standards etc. for roads and road signs.

Other agencies that are involved in the passenger transport related matters are Association of Indian Automobile Manufacturers (AIAM), Automobile Components Manufacturers Association (ACMA), All India Motor Transport Congress (AIMTC), Central Institute of Road Transport (CIRT),

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69 Case filed by Centre of Consumer Education, Pala and Kerala state Bus Passengers Association, requesting the Hon. High Court to interfere in the private Bus operators strike, vide OP 17034/19997C of 30.9.97

Automotive Research Association of India (ARAI) etc. The AIAM, ACMA and AIMTC are associations of manufacturers, who supply a variety of passenger vehicles of different size and make, where as CIRT and ARAI are research institutions providing inputs for modernisation and up gradation of vehicles and allied matters.

The pollution control of the motor vehicles is carried out by State/Union Territory Pollution Control Boards. Thus in one way or another these agencies help the functioning of the passenger service system.

Having discussed the regulatory mechanism and the role of different agencies involved in passenger service, it is appropriate to go on to the matter of adherence to the same by various parties in the passenger transport system.