

CODE OF PRACTICE FOR MOTOR VEHICLE SALVAGE DISPOSAL (INDIA)

Suggested By www.isalvageauction.com

Insurance salvage disposal in INDIA for registered motor vehicles is governed by laws of the land. The applicable provisions under MV act which regulate the salvage disposal are section 52, Section,53,Sec 54 and Sec 55 of MV ACT.

The provisions of MV act are for safety of the public and said provisions are made so that only fit vehicles ply on the road. All vehicles which are unfit or temporarily unfit there registration certificates need to be cancelled or suspended.

The insurers and surveyors loss assessors should consider such provisions at time of disposal of salvage so that they do follow the law of the land.

Based on the above provisions of MV Act, Insurers and surveyors loss assessors are introduced to the available provisions under MV Act 1988 of Govt. Of India under Sec 53 of the Act. Using the said provision of the act the insurers can get the registration of vehicles suspended also instead of getting the same cancelled under Sec 55 of MV act.

The suspended registration certificates can be revoked as per the provision of the sec 53 of MV act after the registration authority is satisfied that the vehicles has been repaired satisfactorily to its requirements.

Using the available provisions of the MV Act 1988 the code has been prepared and the IRDA approved surveyors loss assessors can comment on the state of damaged vehicles which are likely to be considered as Total Loss or Constructive Total loss and using the code can categories the vehicles and thereby the insurers can easily take the necessary actions which are required for the registration authorities and thereby can make suitable arrangements for disposal of salvage.

At present no code exists and no one has used the provisions available under Sec 53 of MV Act 1988. The insurers in India need to study the code in-depth and may look for means of implementation of the same as using such code will be in interest of the insurers in India. At present there seem no rule being followed for salvage disposal and sometimes the Section 55 of MV act is being used but most of the times while disposal of salvage the insurers are not themselves certain of disposal of vehicles with or

without registration certificates. This has lead to some loopholes being created in salvage disposal and some criminal elements have misused the salvage and thereby caused troubles for surveyors and insurers alike.

THE TABLE FOR CONSULTATION IS APPENDED BELOW

CATEGORY	A	B	C	D	E	F	G
Type of Damages	Vehicle Engine Body shell, Chassis Badly damaged and beyond repairs. Total Burnt Vehicle Cases	Vehicle badly damaged and opined that same can by no means made fit to ply on roads again	Vehicle major damage, May require replacement of either engine or chassis and may get repaired	Vehicle major damage, settlement made considering new parts, but can be repaired and made fit to ply on roads	Vehicle damage settled due to less IDV or being nil dep policy and vehicle can be repaired and is still roadworthy	Vehicle theft cases	Accidental or Non Accidental, But completed the life and life not further extended by registration authority.
Condition	Vehicle having become junk / scrap only	Most of vehicle will be junk/scrap but some parts will be re-useable as safe	REPAIRABLE Replacement with engine or chassis and used and new parts	REPAIRABLE Repairs instead of replacement of parts and use of used and new making viable the repairs	REPAIRABLE Normal means of repairs	Vehicle not traceable	Not being further used as completed its useful life
Example	Total burnt, Complete vehicle crushed	Extensively damaged and can not be repaired	Requires veh. ID part replacement	Body shell damaged and can be repaired does not require veh ID parts replacement	Normal repairs	Entire vehicle stolen	Old vehicle and not being in use further
ROAD WORTHINESS	NEITHER ROADWORTHY NOR REPAIRABLE		Disabled and may become roadworthy after repairs		REPAIRABLE AND WILL BE ROADWORTHY	NA	MAY OR MAYNOT BE ROADWORTHY
Type of settlement	Total Loss Cases		Constructive Total cases			Total loss	Abandoned Vehicle
Registration certificate status	R/C must be cancelled and as per provision of Sec 55 of MV Act The owner be advised to inform the RTO and get the		Insurers to Request for suspension of R/C with RTO under Sec 53 of MV Act . Any change in veh. Identification details be done as per		No Action except for change of ownership if	As in Case A type	R/C validity has expired

	<i>R/C Cancelled.</i>		<i>provisions of sec 52 of MV act.</i>	<i>required</i>		
<i>What should be done for Registration certificate</i>	<i>The VIN No. plate be removed and submitted with RTO. After cancellation of R/C the Chassis no and Engine numbers may be got destroyed and photo records be kept by the owner.</i>		<i>R/C to be submitted with RTO & will remain suspended and buyer will either get suspension revoked under sec 53 of MV act or may get the R/C cancelled as per Sec 55 of MV act and follow mode as in Category A and B.RC details may be rectified as per sec 52 of MV act.</i>	<i>No action</i>	<i>R/C must be got cancelled</i>	<i>Public may be notified and R/C be kept in own possession in records</i>
<i>What should be done with security number plate</i>	<i>The Security Registration Number Plate should be damaged and submitted with RTO and photo records of same be kept.</i>		<i>The Number plates must be removed and submitted with the RTO during the suspended R/C period and buyer if opts for repairs then he on getting revoked the R/C can get the same from RTO issued or reissued</i>	<i>No Action</i>	<i>No Action can be taken</i>	<i>The same be removed and either kept in records or destroyed and record of same be kept</i>
<i>Sale value will be for</i>	<i>The Sale of wreck/ junk be made and valuation of same will be based on saleable vehicle by weight.</i>	<i>The sale will be based on the wreck value along with salvage value of re-useable parts</i>	<i>Salvage or wreck as per the buyers decision</i>	<i>Salvage in repairable condition</i>	<i>No Sale value . Only if recovered the same will be applicable as per condition on recovery as category A, B, C,D or E.</i>	<i>For junk of vehicle</i>
<i>Documentation with the buyer</i>	<i>Cancelled RC Copy be provided to buyer and Affidavit be obtained from buyer for dismantling the vehicle along with ID and Address proof of buyer</i>		<i>Letter for request for suspension of R/C be provided and RTO may after passing of fitness tests for roadworthiness and mode and means of repairs used scrutiny, allow R/C restoration and may charge applicable registration taxes and record change in identification numbers of vehicle as</i>	<i>R/C and transfer papers be provided to buyer after getting full payments and clearance of hyp</i>	<i>If recovered sale will be as per category applicable</i>	<i>Only photocopy of R/C be provided to buyer with remarks sale for dismantling of vehicle on it</i>

		<i>per sec 52 of MV act.</i>			
<i>Registration taxes</i>	<i>Owner on cancellation of RC may apply for refund of lifetime tax if applicable in his case.</i>	<i>Owner may apply for refund of lifetime tax if applicable in his case The buyer if repairs and gets R/C revoked will have to pay the taxes for further periods opted as annual or life long</i>	<i>Owner may negotiate for same with the buyer</i>	<i>Owner on cancellation of RC may apply for refund of lifetime tax if applicable in his case.</i>	<i>Not Applicable</i>

The Section 53, 54 and Sec 55 of MV Act 1988 are reproduced below

53. Suspension of registration. – (1) **If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction - (a) is in such a condition that its use in a public place would constitute a danger to the public**, or that it fails to comply with the requirements of this Act or of the rules made thereunder, or (b) has been, or is being, used for hire or reward without a valid permit for being used as such, the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgment due at his address entered in the certificate of registration), for reasons to be recorded in writing, **suspend the certificate of registration of the vehicle- (i) in any case falling under clause (a), until the defects are rectified to its satisfaction**; and (ii) in any case falling under clause (b), for a period not exceeding four months.

(2) an authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of such suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of

the suspension. (3) Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension.

(4) **The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration.** (5) A certificate of registration surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

Corresponding Law. – Section 53 corresponds to section 33 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 54 empowers the registering authorities to suspend the certificate of registration of a motor vehicle, if the vehicle is used for hire or reward without a permit. **It also empowers the registering authority to suspend the certificate of registration of a vehicle if the vehicle is mechanically defective or if its use on public road will endanger public safety until the defects are rectified and the vehicle is certified to be road worthy.**

54. Cancellation of registration suspended under section 53. – Where the suspension of registration of a vehicle under section 53 has continued without interruption for a period of not less than six months, the registering authority within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel the registration.

Corresponding Law. – This is a new provision in the 1988 Act.

55. Cancellation of registration. – (1) If a motor vehicle has been destroyed or has

been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business

where the vehicle is normally kept, as the case may be, and shall forward to the authority the certificate of registration of the vehicle. (2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration. (3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration. (4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration. (5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the registration. (6) A registering authority cancelling the registration of a motor vehicle under section 54 or under this section shall communicate such fact in

writing to the owner of the vehicle, and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle. (7) A registering authority making an order of cancellation under section 54 or under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records. (8) The expression “original registering authority” in

this section and in section 41,49,50,51,52,53 and 54 means the registering authority in whose records the registration of the vehicle is recorded. (9) In this section “certificate of registration” includes a certificate of registration renewed under the provisions of this Act. Corresponding Law. – Section 55 corresponds to section 34 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 55 contains provisions for the cancellation of the certificate of registration by the registering authorities where the vehicle has been destroyed or has been rendered permanently incapable of use or has been lost and not recovered or is otherwise not traceable or its use will constitute a danger to public safety. It also provides that the registering authorities may cancel the certificate of registration if the registering authority is satisfied that engine number and chassis number noted in the certificate of registration differs from that found in the vehicle, or that the registration has been obtained by misrepresentation or fraud.

2[52. Alteration in motor vehicle. - (1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer : Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed:

32. S.52 substituted by Act 27 of 2000, S.2 (w.e.f. 11-8-2000). Prior to its substitutin, S. 52 read as under :-

“52. **Alteration in motor vehicle** .- (1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are no longer accurate, unless.-

(a) **he has given notice to the registering authority within whose jurisdiction he has the residence or the place of business where the vehicle is normally kept, as the case may be of the alteration he proposes to make; and**

(b) **he has obtained the approval of that registering authority to make such alteration :**

Provided that it shall not be necessary to obtain such approval for making any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration :

***[Provided further that modification of the engine, or any part thereof, of a vehicle for facilitating its operation by a different type of fuel or source of energy including battery, compressed natural gas, solar power or any other fuel or source of energy other than liquid petroleum gas shall be treated as an alteration but that shall be subject to such conditions as may be prescribed.]**

73

(2) Where a registering authority receives a notice under sub-section (1), it shall, within seven days of the receipt thereof, communicate, by post, to the owner of the vehicle its approval to the proposed alteration or otherwise : Provided further that the Central Government may prescribe specifications conditions for approval, retrofitment and other related matters for such conversion kits; Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose. (2) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notifications, and permit any person owing not less than ten transport vehicles to alter any vehicle owned by him so as to replace the engine thereof with engine of the same make and type, without the approval of registering authority. (3) Where any alteration has been made in motor vehicle without the approval of registering authority or by reason of replacement of its engine without such approval under sub-section (2), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein. (4) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority. (5) Subject to the provisions made under sub-section (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner. Explanation. - For the purpose of this section, "alteration" means a change in the structure of a vehicle which results in change in its basic feature.]

74

Corresponding Law.- Section 52 corresponds to section 32 of the Motor Vehicles Act, 1939.

136. Inspection of vehicle involved in accident. – When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the State Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable

162

time any premises where the vehicle may be, and may remove the vehicle for examination : Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned 84[after completion of the

formalities to the owner, driver or the person in charge of the vehicle within twenty-four hours.] Corresponding Law. – Section 136 corresponds to section 90 of the Motor Vehicles Act, 1939. Objects and Reasons. – Clause 136 prescribes that a motor vehicle involved in accident should be produced for inspection before the person authorised by the State Government and for this purpose it empowers the officers to enter into any premises and remove the vehicle for inspection.