

# Compensation for road crash victims is a means to accountability

Catherine Masud is an American-born filmmaker and road safety activist. Until her late husband-director Tareque Masud's death in a road crash in 2011, they worked together to produce numerous award-winning documentaries and features. In this interview with Badiuzzaman Bay of The Daily Star, Catherine Masud talks at length about Bangladesh's new transport act, the disruptive influences of transport leaders and owners and their demands for amendments to the act, and the need for compensation for road crash victims.

The transport sector is going through a period of relative calm after a countrywide strike enforced in November by the transport leaders and workers, including those in the road-freight business, demanding changes in the new transport act. As you know, the strike had paralysed the country for nearly three days, causing immense public sufferings. There were other disruptive activities as well. What are your thoughts on this?

Over the course of our legal action to hold those responsible for the crash that killed Tareque, Mishuk Munier and three other colleagues, we witnessed on several occasions the devastating effects of transport strikes called by transport owners and workers to protest our legal process. Often these strikes were instigated by certain powerful political figures with their own narrow interests at stake, while the real sufferers were ordinary transport workers and the general populace. In the wake of the implementation of the new Road Transport Act, again we have seen transport strikes being weaponised to press for the demands of leaders and workers in this sector. This kind of weaponisation, which inflicts immense suffering on ordinary people who are in no way responsible for the provisions of the act, is highly objectionable. Most of the demands being made relate to reductions in fines, punishments and educational requirements, areas where reforms have for too long been postponed. Only two demands—to make all offenses bailable and to end harassment of drivers/workers by police on the roads—I consider defensible.

As of now, the row over the new act remains unresolved, while road crashes continue to take lives. Shajahan Khan, the executive president of Bangladesh Road Transport Workers Federation and a senior politician of the ruling Awami League, thinks there are "flaws" in the act and has reportedly given the government until June 30 to remove them. Do you think there is any merit in the demands and claims made by the protesters?

The Road Transport Act 2018 does contain some constructive reforms. But as a person who lost her life partner and close friends and colleagues due to reckless driving on the roads, I feel it is important to understand the root causes of the lack of safety on the roads, and then to evaluate whether the new act adequately addresses these factors. Before pinning the blame on the drivers, we should look at the conditions under which they have to drive, as per the system imposed on them by their employers and transport company owners. As many have noted, public transport drivers are paid on a per-trip basis rather than on a fixed-salary basis, a system that encourages them to make the maximum number of trips in the least amount of time. The driver who was speeding and on the opposite side of the road when he hit our microbus had just completed a 12-hour trip from Chuadanga to Dhaka, and after a short 1-hour break, had turned around to make the journey back without sleep. This is the norm rather than the exception on the roads, and is the result of policies enforced



Catherine Masud

accountability. Without accountability, we allow those who are responsible for the ongoing flood of deaths and injuries on the roads to operate with impunity. Without being held to account through financial liability, those who have the power have no incentive to reform practices that encourage reckless driving and indifference to safety standards.

Compensation is also an important recognition of the devastating financial losses many people suffer due to these crashes. The loss of a family's breadwinner and the costs of medical treatment, not to mention persistent psychological trauma, are disasters that affect multiple members of a family over extended periods of time. Many of these losses are clearly quantifiable, and procedures and guidelines have been established in many countries for estimating claims. There is no reason, other than lack of political will, that similar procedures can't be applied in Bangladesh.

So much hope is being pinned on the new act. But can a law, however stringent, dramatically improve our road safety? I am asking this because despite all the public protests, increasing awareness, stern warnings by the court, and even tougher legislation in recent years, Bangladesh still has one of the world's highest road-fatality rates.

There are two aspects to determining the potential impact of any legislation in this area. The first aspect is the content of the law itself, which, as I've already mentioned, is fundamentally flawed due to the removal of any mechanism that would hold transport owners liable in cases of crashes that result in death or serious injury to others. This form of *civil* liability is distinct from *punitive* laws and regulations that almost exclusively target motor vehicle drivers/workers. Effective legislation should address both ends, ensuring that drivers are incentivised to drive safely on the one hand, while on the other, ensuring that those who ultimately have the decision-making power regarding things like working conditions, driver training, and vehicle maintenance are motivated to follow best practices. But comprehensive legislation alone is not adequate to ensure a positive outcome.

Another key aspect of effective legislation is enforcement, both on the *preventative* side and the *punitive* side. Enforcement is weakened by corruption, as well as by lack of adequate oversight, manpower, and training, so we may see limited results of even the best legislation. Not that there have been many legislative efforts on this front; in fact, since the enactment of the MVO in 1983, the Road Transport Act 2018 is the first substantial piece of legislation that attempts to regulate the transport sector. The new act just came into effect last month after a year of stalling, so it is too early to measure its effect vis-à-vis the rate of road crashes or fatalities.

On the positive side, the mobilisation of civil society leaders, NGOs, the media, and a broad cross-section of ordinary citizens (including school children!) around road safety issues is creating a tidal force for change, and it is difficult to roll back this kind of awareness once it has taken root in the public consciousness. As people begin to understand the deeper causal factors behind the deadly situation on the roads, and the way in which this danger potentially affects each and every one of us, our collective willpower can create an irreversible impetus. It may take time, but I am hopeful that real change will come.

glaring, indeed criminal shortcoming of the act: unlike the previous Motor Vehicle Ordinance of 1983, the owners and insurers are entirely let off the hook. The MVO 1983 outlined a provision for holding transport company owners and their insurers liable by granting road crash victims and their families the right to sue for monetary compensation due to losses suffered. Globally, this is a standard practice for ensuring accountability in cases of gross negligence. Simply requiring drivers to pay damages will not solve the problem as: i) They lack the monetary resources; and ii) They are not the ones making the decisions. So, as a result of the new act, our essential right to legal recourse to hold to account those responsible for road crashes, has been stripped from us.

It is perhaps no coincidence that this provision has been stripped in the wake of the landmark judgment in our compensation case at the High Court in December 2017. In its place is now a vaguely defined government-run "financial aid fund", with no guidelines for minimum compensation. The sad thing is that *anyone*, even the sons and daughters of the wealthy and powerful, can fall victim to a road crash at any time. We are all stakeholders in this tragedy which is being perpetuated on the roads by ill-advised policies and short-sighted leaders. The kinds of changes being demanded by the transport leaders and workers have nothing to do with addressing the crux of the problem; rather, as I have already pointed out above, most of their demands would further erode whatever few checks and balances remain by rolling back the increased fines, punishments, and educational requirements introduced by the new act.

Let's talk about the High Court verdict that paved the way for compensation for the 2011 road crash which killed your husband, among others. Do you think it has set a legal precedent that will help families of victims to get

justice in the future?

I believe a historic precedent was clearly set by the judgment delivered by the High Court in 2017. We are currently waiting for the hearing of the appeal against this judgment. Although the judgment was largely in our favour, we were concerned about two points, namely the fact that the judgment did not take account of the long-term damage to my eyesight, and the failure to address the larger point of principle regarding liability of the insurer. Nevertheless, this judgment has established a precedent not only for victims of road crashes, but also for victims of gross negligence generally, in all sectors, whether with respect to road crashes, medical malpractice, or industrial accidents. I do believe that if we are to evolve as a people, as a nation, not just in terms of per capita income but as a just society, it is crucial to strengthen systems of accountability in order to ensure the safety and well-being of all citizens.

I do believe people felt empowered by that judgement, and in fact, following the verdict there has been a nationwide trend of similar cases being filed under the 1983 MVO. Most of these cases never made it to trial, but the mere fact of their filing often prompted transport company owners to settle out of court for generous sums to avoid lengthy legal battles. However, with the implementation of the Road Transport Act 2018, this positive trend will be brought to a screeching halt. The only people who can now make use of the precedent are road crash victims from before November 2019, who must file their claims within six months of the incident.

Why do you think compensation is important?

Of course, nothing can ever fully compensate for the loss of my life partner, or my son's loss of his father, but compensation is a means to



PHOTO: RASHED SHUMON/RAJIB RAIHAN

Transport workers enforce a strike on Dhaka-Chattogram Highway in the capital's Matuail area as part of protests against certain clauses of the new transport act, on November 20, 2019.

But a more constructive way to press these demands must be established that doesn't require taking the entire nation hostage, particularly the vulnerable general public who have no access to private cars and are left without any means to go to school or work. The real responsibility for these strikes lies with the government, for not enabling a process of changing laws that involves open consultations and hearings from the stakeholders. Further complicating the situation is the blatant conflict of interest where certain senior members of the ruling coalition are also leaders of the transport workers' unions.

by employers and transport company owners. In addition, poor vehicle maintenance and fitness standards of vehicles and lack of training and licensing for drivers are major root problems.

The new act attempts to address these issues through punitive measures against the workers, but the real problem lies at the apex of the transport sector, namely the bosses and owners who are ultimately responsible for the way their drivers are paid and trained, and how their vehicles are maintained, and the insurers who underwrite these bad practices. And here we find the most

**QUOTABLE Quote**

**VICTOR HUGO**  
(1802–1885)  
Poet, novelist, and dramatist who was the most important of the French Romantic writers.

*To put everything in balance is good, to put everything in harmony is better.*

**CROSSWORD BY THOMAS JOSEPH**

**ACROSS**

- 1 Dark fur
- 6 Singer Brooks
- 11 Some messages
- 12 Hilo hello
- 13 Artless
- 14 Reject
- 15 Ancient Mexicans
- 17 Tacit approval
- 18 Sock part
- 19 Mardi Gras, e.g.
- 22 Conclude
- 23 Humorously
- 24 Ancient manuscript
- 25 Serving as a symbol
- 27 Cart puller
- 30 Really bothers

**DOWN**

- 1 Capitol group
- 2 Warring woman
- 3 Like some traps
- 4 Not recorded
- 5 Ends of races
- 6 Empty talk
- 7 Mont Blanc, for one

**ACROSS**

- 31 Dogpatch
- 8 Bar buys
- 9 Gullet
- 10 Convenient
- 16 Outdoor time-piece
- 20 Bouncers' acts
- 21 Scandal subject
- 24 Farm grazer
- 25 Shortly
- 26 Second-largest country
- 27 White rat, e.g.
- 28 Second place
- 29 Like winter weather
- 30 Disgusting
- 34 Heaps
- 36 Singer Tormé
- 37 Invite

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**YESTERDAY'S ANSWERS**

L A M A R B E L L E  
A G A T E E M A I L  
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O A T H G Y M S  
S O F T A F R O  
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B L O C S O I L  
A O R T A P L A Z A  
R I L E D T O K E N  
E N D E D S T E E D

**BEETLE BAILEY** by Mort Walker

**BABY BLUES** by Kirkman & Scott