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The Right to Walk: Analysing the Paradigm Shift from Statutory Compensation to Constitutional Wrongs under Articles 32 and 226

Ujjwal Ekka^a

^aHidayatullah National Law University, New Raipur, India

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For an extended period, Indian citizens who are harmed on a poorly constructed road or a road that does not possess a footpath have been left with one option: the Motor Accident Claims Tribunal, which is fundamentally organised on the principles of motor vehicle negligence and insurance of the victim instead of relying on the falling apart of public facilities. The upcoming article explains that the Supreme Court's ruling of June 2026 in the case of Maniyar Iliyaz @ Shaik Riyaz v P. Ayyappan marks an important change in the principles of law concerning tort claims for pedestrians.¹ The mention of “right to walk” on designated footpaths is interpreted by the Supreme Court as a constitutionally guaranteed right through the means of Articles 19(1)(a), 19(1)(d), and 21, whereby the conventional claim for compensation can be changed into an Article 32 petition of significant importance due to the acceptance of infrastructural liability by the Supreme Court of India in the judgment on the said case. The work identifies the new principles for pedestrian issues as well as a new approach to the allocation of tort liabilities related to it.

Keywords: *right to walk, constitutional tort, writ jurisdiction, urban governance, pedestrian rights.*

¹ *Maniyar Iliyaz @ Shaik Riyaz & Anr v P Ayyappan & Ors* (2026) INSC 647

INTRODUCTION

The Crisis of the Commons: The Indian footpath does not exist in many places, and where it does, it is often obstructed, dismantled, or simply non-existent. Unfortunately, this issue is not looked at as a constitutional matter. Instead, it is looked at in terms of the failure of urban planning, where the emphasis is on budgets, contractor performance and local authorities. As a result, the pedestrians (most of whom belong to poor sections of society, children, older people and others who do not possess vehicles) end up losing their lives or getting injured in the process. The poor state of urban footpaths is not a developing country phenomenon but is actually a case of constitutional injustice and inequality where walking is seen as a privilege instead of a right.

The Catalytic Event: On 19 June 2026, the Supreme Court, acting through a Division Bench of Justice P.S. Narasimha and Justice A.S. Chandurkar, delivered a judgment in *Maniyar Iliyaz*. The case stemmed from what appeared to be a simple motor accident compensation case which involved the child of 5 years old who died after being hit by a tanker while walking towards school without a footpath or pedestrian crossing. The Motor Accident Claims Tribunal made a ruling under the Motor Vehicles Act, 1988,² which was reduced by the High Court. In addition to restoring and increasing the compensation amount to ₹11,44,628, the Supreme Court went a step further, declaring that the right to walk on safe and marked footpaths was a fundamental right under Part III of the Constitution.

The Central Hypothesis: In this paper, it is shown that *Maniyar Iliyaz* has clearly departed from the fault-based doctrine under the Motor Vehicles Act. Unlike the provisions of the Act, which view every case of injury to a pedestrian as one of liability of the driver of the vehicle, the order of the Court in this case is that injuries to pedestrians should also be interpreted as breaches of Article 21 independently of any reference to the facts and circumstances of the incident.

Scope and Roadmap: The second chapter clears the air about the failure of the Motor Vehicles Related Laws and tort law in general in providing pedestrians with adequate protection from infrastructural injury. The third chapter explains the inherent flaws in the judgment of *Maniyar Iliyaz* and the doctrinal realignment it produces. The fourth chapter attempts to analyse the

² Motor Vehicles Act 1988

genesis of the constitutional tort that has emerged as a consequence of the judgment delivered in this case. The fifth part evaluates the position of the judgment with regard to other legal systems from the United States of America, England, France, and Colombia. Finally, the sixth part provides a structural outline of remedial measures which may be taken up by courts and authorities concerned.

THE INADEQUACY OF LEGACY FRAMEWORKS: THE MVA AND COMMON LAW BOTTLENECKS

Structural Bias of the Motor Vehicles Act 1988: The Act is intended to regulate traffic as well as provide compensation to vehicle accident victims through no-fault insurance schemes to be conducted by a motor accident claims tribunal. An accident, which has been defined in the Act, is the unit of analysis in the Act. The Motor Vehicles Act is biased in relation to accident cases, because the harm caused is always assumed to have been caused by the vehicle rather than by the road itself. The Motor Accident Claims Tribunal, while computing compensation, has the skill and experience of calculating the amount of dependency loss; however, it is not competent to find out how it happened that a person was on the road when there was no pedestrian way. The absence of a walking way is treated as a mere peripheral fact contributing to negligence or quantum but never anything that can lead to the state or local government being accountable for not building or maintaining road infrastructure.

Traditional Tort Law and Municipal Immunity: The two problems that have historically created problems for common law negligence cases against urban local bodies (ULBs) are related to each other. One is about the difference between misfeasance and non-feasance: Indian courts have generally been more willing to establish the liability of a public authority for carrying out an act which creates a dangerous situation (misfeasance) rather than for being guilty of not repairing any infrastructure in place or not providing new infrastructure (non-feasance), as the latter is treated as an act of omission. Second, the procedural delays involved in civil suits against government bodies have made the entire process of seeking redress ineffective for a person with a broken leg and no resources to go through tedious litigation.

The Statutory Disconnect: The construction and maintenance of footpaths is usually included among the discretionary or general functions of the municipalities listed under the State Municipal Corporation Act, which contains phrases like ‘may’ or ‘shall’, making it a wish

rather than an obligation on the part of municipalities to perform such functions as building. In effect, a disconnect is created between the obligation that exists in the statute book and whether a pedestrian can institute legal proceedings against the municipality if the obligation is not followed. Consequently, legal remedies for vehicular negligence are available, while there are none for infrastructural negligence.

MANIYAR ILIYAZ VS P. AYYAPPAN: THE DOCTRINAL REALIGNMENT OF ARTICLE 21

Factual and Legal Matrix of the Case: The appeal started as a proceeding in front of the MACT following the death of a five-year-old child hit by a tanker truck on a road where there was no footpath or pedestrian crossing. The Tribunal awarded a sum of ₹7.82 lakh, later reduced to ₹4.70 lakh by the High Court. The father filed a petition before the Supreme Court challenging the award reduction. What could have remained a simple issue relating to the multiplier and prospects became an occasion for the Court to deal with the issue of rights of pedestrians, which in its own words was categorised as a ‘larger issue’. The Court found that the High Court had committed an error in reducing the award amount and restored it under the computation method laid down in *Karuna Parmar*³ and converted the case into a petition under Article 32 directed towards the realisation of the right to walk on roads.

The Constitutional Anchoring of Pedestrian Dignity: As the court decided, the fundamental right to walk comes within the broader right of movement granted by Article 19(1)(d), and it has had to be given more strength owing to Article 21⁴. However, this new decision of the Court seems to be a culmination of a trend that started way back in the *Olga Tellis v Bombay Municipal Corporation* case, where the Court held that the right to life under Article 21 also included the right to earn one’s livelihood, emphasizing the connection between the two rights and subsequent cases like those of *Francis Coralie Mullin* and of *Bandhua Mukti Morcha* which recognized the interpretation of Article 21 solely in terms of individual dignity. Just as in *Subhash Kumar v State of Bihar*⁵, the Court interpreted Article 21 as incorporating the right to clean and potable drinking water, and in *Vellore Citizens' Welfare Forum*, it assimilated the

³ *Karuna Parmar v Prakash Sinha & Ors* (2025) INSC 1244

⁴ *Maniyar Iliyaz @ Shaik Riyaz & Anr v P Ayyappan & Ors* (2026) INSC 647

⁵ *Subhash Kumar v State of Bihar & Ors* (1991) 1 SCC 598; *Vellore Citizens' Welfare Forum v Union of India & Ors* (1996) 5 SCC 647

principles of environmental precautionary into the same article, *Maniyar Iliyaz* has interpreted it as meaning physical safety while walking on the streets, considering footpaths literally as a public asset under the guardianship of the municipal authority.

Intersectional Constitutional Protections: The Bench did not limit its reasoning to Article 21 only. It said that right to walk safely is a prerequisite for exercising right to speak and express oneself as guaranteed by Article 19(1)(a), right to assemble as under Article 19(1)(b), and right to associate as provided under Article 19(1)(c) along with the right to free-movement under Article 19(1)(d) because if the citizen is not able to go fearlessly in public, he/she cannot use any of these rights meaningfully. This cross-cutting analytical reading has significance because it shows that footpath petition is not simply a personal-injury complaint disguised in constitutional form, but raises issues of transformation of the conditions of exercising the rights encompassed under Part III of the Constitution from neighbourhood processions to protest marches.

Walking as Cultural, Spiritual, and Political Expression: Reclaiming the Public Square: The legal advancement made by the Division Bench in the case of *Maniyar Iliyaz* goes further than just the physical movement or spatial economics. It rather brings out the great socio-political and historical significance of walking when practised in the Indian context. While delivering the judgment, Justice P.S. Narasimha, who is a member of the Bench, remarked that walking is more than just the physical movement or transportation. It is an important way of resisting any illegal acts, be it in nature or in thought, apart from being a form of spirituality and community-building as well. The recognition of the fact by the Court that the practice of walking is an extension of both Articles 19(1)(a), 19(1)(b), and 19(1)(c) demonstrates how walking was used as the best possible way of regaining public space and exercising constitutional rights by those who belong to downtrodden sections of people even from historical perspectives.

The historical progress of the Indian state can be traced back to the act of walking. This conclusion was strongly stated by the Court, as it quoted great historical events associated with walking, including Mahatma Gandhi's Dandi March of 1930, during which the simple manoeuvre of walking turned into a significant symbol of civil disobedience against colonial power. In addition, the Court referred to Gandhi's contemporary Acharya Vinoba Bhave and his Bhoodan Movement, the public walking campaign of over 70,000 kilometres that aimed at

attaining agrarian justice and equitable land distribution. The new concept also reminds one of old indigenous practices of collective movement, such as different forms of the Pandharpur Wari pilgrimage and Nagar Sankirtan, during which representatives of various communities visit sacred places and demonstrate their right to walk.

THE ANATOMY OF A CONSTITUTIONAL TORT FOR PEDESTRIANS: CRITICAL FINDINGS

The Mechanics of Public Law Remedies: India's public law compensation jurisprudence did not originate with *Maniyar Iliyaz*, and it is traced to the case of *Rudul Sah v State of Bihar* when the Supreme Court awarded monetary compensation as a remedy for infringement of a fundamental right by virtue of its Article 32. In this case, the Supreme Court held that the power to award compensation was implicit in its writ jurisdiction, even when an ordinary civil suit was in place. In *Nilabati Behera v State of Orissa*⁶, public law compensation was established as a distinct doctrine, particularly in cases related to violation of fundamental rights based on strict liability. In this case, it was asserted that public law principles are distinct from private law jurisprudence. *Maniyar Iliyaz*⁷ traces this principle of compensation under public law to urban affairs by treating unsafe footpaths as a violation of fundamental rights.

Bypassing the Statutory Regime: On this interpretation, Articles 32 and 226 are exceptionally appropriate to infrastructural damage because, by nature, they work outside the realm of the MVA. A writ application does not aim to pinpoint a negligent motorist, create an insurance liability chain, or abide by the default measure used by the MACT. The writ has to be lodged against the agency which has committed the omission causing the danger and is not limited to obtaining damages but also demands proactive relief or some form of mandamus that will force the public authorities to build footpaths.

From Negligence to Strict Public Law Liability: Among the various conclusions drawn under the Court's judgment, one of the more significant results is related to the Court's approach to the defence raised by the public authorities in the municipal context. The defence mentioned in this type of litigation is not as relevant after the decision in *Maniyar Iliyaz* because the case

⁶ *Rudul Sah v State of Bihar & Anr* (1983) 4 SCC 141; *Smt Nilabati Behera v State of Orissa & Ors Alias Lalit Behera (Through The)* (1993) 2 SCC 746

⁷ *Maniyar Iliyaz @ Shaik Riyaz & Anr v P Ayyappan & Ors* (2026) INSC 647; Motor Vehicles Act 1988; Specific Relief Act 1963

does not present the issue based on negligence; rather, it presents the question of whether there is a constitutional violation under Article 21 of the Constitution, which makes it clear that the wrong itself is treated as action like a continuing tort against the applicant, which means that the case can be made out as long as there exists a hazardous condition on the public highway. This is in line with the idea which has been recently developed in the context of Article 21 that when there are dangers that may threaten one or another person while driving on the road, the municipal authorities have an obligation to make sure that safe passage is granted.

The Intersection with Disability Jurisprudence and Universal Accessibility: One of the significant aspects of the constitutional tort concept established by Maniyar Iliyaz is its intersection with the disability laws and universal design. Before this judgment, the lack of accessibility in sidewalks caused by high curbs, missing ramps, dangerous surfaces, and so on, would have been seen in a neutral, non-enforceable light in terms of either administrative discretion or progressive infrastructural development. However, the shift made by the Supreme Court towards a rights-based perspective under the 21st Article radically turns the infrastructural deficiencies into a kind of systemic state-sponsored discrimination against vulnerable road users.

With this new interpretation of the constitution, the state must do more than simply place a concrete slab next to a busy highway. In order for a sidewalk to conform to the standards of Article 21, it must comply with the specific needs involved in the fundamental requirement of ‘universal accessibility,’ which relates to the individual's right to live with dignity. The constitutional tort is committed the instant when a person in a wheelchair, a visually impaired person, or a person with a stroller is forced to leave the safety of the pedestrian area because of some structural obstacle and enter the flow of moving vehicles. By shifting the burden of proof from negligent behaviour of the individuals involved to the failure of the state to provide adequate infrastructure for pedestrians, the decision made in Maniyar Iliyaz applies the principle of strict liability to the state.

INTERNATIONAL COMPARATIVE JURISPRUDENCE: MAPPING PEDESTRIAN RIGHTS

The United Kingdom: The responsibility of maintaining the highway is laid down in Section 41 of the Highways Act of 1980, which, according to courts in England, entails an absolute non-

delegable requirement for the highway authority with respect to repairs. On the contrary, Section 58⁸ provides an affirmative defense to the authority to prove that it has taken all necessary care not to let the highway be in a dangerous condition. The outcome is the obligation that is formally stated to be absolute but actually is waived only upon putting forward the due diligence defence focused on the inspection system, budgets, and reasonableness ratio. Meanwhile, the constitutional standard in India, on the contrary, does not allow for the same budgetary defences as per the court reasoning in *Maniyar Iliyaz* when once it is established that the characterisation in Article 21 is followed through.

The United States: The landscape formulated for pedestrians in America appears to be different and unique in comparison to the other parts of the world. The complexities of liabilities on behalf of municipalities in reference to the sidewalks are determined following the classification of the state Tort Claims Acts that include some clauses referring to the ‘public duty doctrine’. It holds that if there exists a duty towards the public, this does not necessarily mean that a duty towards a specific individual exists too, since the existence of a ‘special relationship’ with the injured person is necessary. The key elements of the concept of sovereign and municipal immunity have been changing through the years, and the legal regulations associated with them still restrict the ability of individuals to receive compensation for damages caused to them on certain territories of the USA. There is also no connection between any Federal law and Article 21 that would help pedestrians avoid the implications of the public duty doctrine. In India, however, the tort law model is different as it eliminates the need for the definitions of the duties through respective assertive legislation in its Constitution.

France and Civil Law Regimes: In stark contrast, French law took a different route determined by the Loi Badinter of 5th July 1985 (Law No. 85-677)⁹ that created a near-automatic and strict compensation scheme for victims of road accidents involving motor vehicles, designed specifically to protect pedestrians, cyclists and passengers without requiring any proof of the fault of a driver. The main purpose of the law was to compensate more victims, to ensure a faster compensation process and to simplify the administrative and judicial procedure of compensation claims, which has largely displaced the common law system of tort liability pertaining to claims in connection with such damage. As far as vulnerable users of the road are

⁸ Highways Act 1980, ss 41(1) and 58(1)

⁹ Loi no 85-677 du 5 juillet 1985

concerned, they are able to benefit from an almost unchallengeable presumption in their favour, only subject to the case of ‘unforgivable fault’. The Loi Badinter serves as a relevant example of protective legislation, even if it is not like the *Maniyar Iliyaz* case, i.e., not a system of rights, but rather a compensation system, which is based on the notion of an accident involving the vehicle and does not deal with the problems of pure neglect.

The Global South (Colombia): Despite being distinct from each other, like developments can be observed in Colombia, where the broad interpretation of the social and urban articles of the Constitution of 1991¹⁰ by the Constitutional Court was used by scholars and parties to defend the ‘right to the city’ – the fair distribution of urban public spaces, with pedestrian movement as a feature of the constitutional right to dignity, rather than an administrative decision. The Colombian experience of urban equity litigation is effectively analogous to India's socioeconomic conditions, where the informal nature of settlements, the issue of land grabbing, and a dismal state of urban infrastructure mean that the urban commons are mainly used by the poorest of road users, which is exactly what the focus of *Maniyar Iliyaz* is.

REMEDIAL ARCHITECTURE AND POLICY SUGGESTIONS

The Tripartite Judicial Test: High Courts that hear petitions pertaining to Article 226 related to pedestrian infrastructure can effectively implement the principles of *Maniyar Iliyaz* in their rulings by adopting a tripartite standard:

- (1) The existence of a public asset under the control of the city council or the roads authority, which could be either a roadway or pathway;
- (2) The existence of a structural omission such as not constructing, maintaining or cleaning the path from obstructions, encroachment or hazards;
- (3) A direct causation linked to the omission whereby such an omission placed or would foreseeably place the pedestrian in bodily danger by forcing him to a road with no safe walkway or surface. Proving all three elements will be sufficient to establish a claim under Article 21 warranting compensatory and mandamus reliefs without going for evidence of fault on the part of the authority.

¹⁰ Constitución Política de Colombia 1991

Quantification of Public Law Damages: A clear approach for measuring damages in public law on this subject should combine the usual method for determining economic loss developed by *Karuna Parmar* in her work, which uses minimum wage figures that are reported, prospects of the future, and deductions for dependency with a new, non-financial ‘constitutional premium’ that embodies the denial of people's dignity and the right to travel and is given on its own merits in addition to economic loss, similar to the cases already seen in the judicial system on responsibility for violating Article 21 in *Nilabati Behera*.

The Pedestrian–Hawker Balancing Model: One significant concern regarding the idea of an unqualified ‘right to walk’ is that it may conflict with Article 19(1)(g) of the constitution, as well as the provisions in favor of street vendors in the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act of 2014, which sees vending as a legitimate form of urban livelihoods and calls for it to be allowed reasonable space instead of obliteration. The right answer here is not simply to expel vendors wholesale from the public sphere but to map out vending zones separate from the pedestrian right-of-way, with an appropriate plan developed through the city vending committees envisaged in the 2014 Act, which at the same time would secure the protection of the pedestrian's rights as well as the vendor's interests.

Institutional Reform: Lastly, the judicial body's own institutional message its request for a dedicated legislative and regulatory framework suggests that the establishment of a National Pedestrian Rights Act would have the positive effect of bringing together various footpath maintenance requirements presently distributed among the various municipal laws, as well as an independent regulatory authority with the legislative power to impose fines from the budget of the relevant department for breaches, instead of relying on sporadic and costly private lawsuits.

The Suo Motu Mandamus and Ongoing Structural Interventions: The last of the elements, and perhaps the most disruptive to institutions, of the *Maniyar Iliyaz* framework is the method used by the Supreme Court to ensure that the declaration of rights does not remain just empty words. The Court has determined that any historical award of damages under the Motor Vehicle Act cannot fix the systemic problems with urban planning and has taken the unprecedented step of ordering its registry to change the nature of the civil appeal to be a permanent and independent writ petition under Article 32 of the Constitution, with a name ‘Re:

Fundamental Right to Walk and Footpath’. By making this move from an isolated private law litigation to a general public law case, the Court signals that it has adopted the concept of continuing mandamus.¹¹ By adding necessary ministries to the case, namely the Ministry of Urban Development, the Ministry of Rural Development and the Ministry of Transport and Highways, and engaging the Additional Solicitor General's legal services, the Supreme Court has constructed the process of systemic monitoring.

CONCLUSION

The case of *Maniyar Iliyaz v P. Ayyappan* started as a simple compensation appeal but ultimately resulted in the re-ordering of the hierarchy of road users in India. Through its interpretation of the right to walk in Articles 19 and 21, as well as its approach to converting individual misfortune into a matter of great public importance under Article 32, the Supreme Court has helped to elevate pedestrians from being passive and vulnerable bystanders in vehicular law to become the main bearers of constitutional rights that the State is obliged to secure and guarantee. The compensation scheme envisaged by the MVA still exists; however, the debt owed to pedestrians is not exhausted by it; Articles 32 and 226 perfectly serve as other avenues for getting justice without having to prove the fault of a driver. The most profound purpose of the ruling is that it is more institutional than doctrinal since it demands urban planning and budgeted development to adopt a pedestrian as the default and not the vehicle when designing the streets and urban areas of India.

¹¹ *In Re: Phalodi Accident v National Highways Authority of India* (2026) INSC 388