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An Assessment on the Legal Framework (Preventive Measures) of Motorcycles Road Accident in Tanzania; the law and practice:

By

Benedicto Samweli¹ Dr. Theresia C. Numbi²



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Corresponding author

Benedicto Samweli

Abstract

Motorcycle transportation, particularly known as bodaboda, has become an essential component of urban and rural mobility in Tanzania. Despite its socioeconomic benefits such as employment creation and flexible transport, motorcycle use is strongly associated with an alarming increase in road traffic accidents. According to national statistics, motorcycles account for a substantial proportion of road injuries and fatalities in Tanzania. While rider behaviour, poor road infrastructure and socioeconomic factors are widely acknowledged contributors, the legal and institutional frameworks governing road safety also play a significant role. This essay critically examines how gaps, weaknesses and systematic failures in Tanzania's legal and institutional arrangements contribute to motorcycle road accidents.

1.0 Introduction

In low- and middle-income countries, Tanzania being the same, the common means of transportation used by the majority of citizens are motorcycles common known as bodaboda in nickname due to their economic status. Motorcycles are often used for recreational purposes; it is one of the major transportation modes in developing countries. Tanzania has experienced an increased use of motorcycles in the last decade; the same has been influenced by the ruling political manifestation especially in 2010 (better life for all) and 2015 (youth employment). Most of these motorcycles are used as taxis since 2010 when the government, officially, recognized motorcycles and tricycles to be used for commercial purposes by enacting The Transport Licensing (Motorcycles and Tricycles) Regulationsⁱ and 2020 by enacting The Land Transport Regulatory Authority (Private Hire Service) Regulationsⁱⁱ. Motorcycles often operate where conventional services are uneconomical and physically impossible to maneuver due to poor roadway infrastructure. Despite the role that motorcycles play in improving mobility, but it brought the violations of road traffic rules hence road accidents country wise. Approximately 398,640 people die each year in motorcycle crashes, which constitute over 37% of all traffic crashes.ⁱⁱⁱ The situation is more serious in developing

countries which led the researcher to investigate and come up with the results on the research titled an assessment on the legal framework (preventive measures) of motorcycles road accident in Tanzania; the law and practice, Mwanza city being selected as an area for case study.

1.1. Statement of the Problem

Road traffic accidents involving motorcycles are a serious problem with serious ramifications. They cause deaths, injuries and property loss accompanied by severe financial and social complications on those involved, their immediate families and the community at large. On the health aspect WHO has estimated that approximately 1.3 million people die and 9 million are maimed each year worldwide as a result of motorcycles road accidents^{iv}. Moreover according to studies conducted by the World Bank 75% of all road accidents occurs in the developing countries, though such countries own 46% only of the total fleet of motorcycles in the world. Further according to the Bank, developing countries lose US\$ 100 billion each year due to road accidents. Therefore WHO has warned that accidents will rise up to 28% of Health Ministry's budget by year 2024 if urgent measures are not taken to arrest the situation as then the countries will have to care for 60 million people injured every year through motorcycles' road accidents and

bury another 20 million people killed in accidents. It is anticipated that road accidents would be the third most deadly health problem, outweighing even the deadliest HIV/AIDS and other infectious diseases such as tuberculosis.^v

In Tanzania, as in many other developing countries, motorcycles' accidents are increasing at an alarming rate commensurate with the increase or rise in the number of vehicles. The fatality rates are twenty to forty times greater than in the developed countries.^{vi} In addition studies have shown that in the developed countries like Norway only 14.6% of 100,000 motorcycles are involved in accidents annually, whereas in Ivory Coast and Benin it is 278.5% and 232.6% respectively.^{vii} Reasons given for such difference is that developed countries have good cycling rules and are more respect and are strict on monitation of traffic rules e.g. motorcyclists training, speed limits, allowable BAC, use and wearing safety equipment like steel helmets and vehicular and tyres safety control. Other reasons include maintenance of road standard and sign posting practices. A sit can be observed from the statistics of road accidents in Tanzania from 1975 to 2024, the enactment of the Road Traffic Act, and the subsequent amendments has not been a panacea for those incidences. Motorcycles accidents have continued to increase steadily from 24,850 in 2010, after the Government legally accepted motorcycles to be used as official public transport countrywide^{viii}, to 234,335 in 2024 and the resultant number of casualties escalated from 29,960 in 2010 to 403,115 in 2024. This experience is not heartening enough, as the number of accidents is still high. Indeed, going by the day-to-day reports in the media, the high state of carnage is still subsisting. With reference to the Traffic Police (2024) the top ten leading regions between 2023/2024 were DaresSalaam, Mwanza, Morogoro, Mbeya, Kilimanjaro, Tanga, Coast, Arusha, Iringa, and Mara.^{ix}

The overall objective of the Road Traffic Act at 1973 was to give a 'death blow' to the problem of road accidents. It was observed during the Parliamentary debates on the Road Traffic Bill that road accidents and the rate of their increase had reached an alarming state and therefore the need to enact anew legislation to reverse the trend. Gathered from the speech of the Minister for Home Affairs when presenting the Bill to the National Assembly,^x the Act was designed to do the following functions:

1. To repeal and replace the Traffic Ordinance, Cap. 168.
2. To improve provisions for the regulation of road traffic,
3. To simplify prosecution of offences,
4. To provide minimum penalties for some of the road traffic offences,
5. To provide for mandatory cancellation and suspension of driving licenses and disqualification of holding or for applying for a driving license,
6. To establish the National Road Safety Council with the responsibility of advising the Government on all matters pertaining to road traffic and to educate the public on road safety,

7. To empower the Minister responsible for road traffic to make regulations relating to the management of road traffic.

However, basing on the statistics available the objective of reducing road accidents has not been achieved. On the contrary, road accidents have continued to increase unabated, year after year, despite the existence of the Road Traffic Act, [Cap 168 R.E. 2023] regardless of its several amendments. Therefore, the same concerns, which formed grounds for the enactment of the Act, still exist and underscore the importance of re-examination of the Road Traffic Act. Consequently, the issue of road traffic safety has continuously been high in the national agenda and dictates that the Nation should hasten to find solutions to reverse the current trend. Otherwise, road accidents will continue to deal disastrous blows at our social and economic fabric.

1.2. Legal Framework

1.2.1 The Road Traffic Act, [Cap 168 R.E. 2023]

The Road Traffic Act, [Cap 168 R.E. 2023] is divided into eight Parts. Part I deal with preliminary matters such as the title of the Act, interpretation, administrative matters, e.g. appointment of a Registrar of Motor Vehicles and other Traffic Officers, and keeping records of motor vehicles.

Part II thereof provides mainly for registration of motor vehicles. When motor vehicles arrive in the country, are subjected to registration and transport licensing procedures. Moreover, their owners have to observe requisite obligations and standards. Section 13 of the Road Traffic Act, prohibits use of motor vehicles without registration. However, section 22 thereof empowers the Minister to exempt certain vehicles from certain requirements by making Regulations or by order in the Gazette. Section 23 provides for offences and penalties whereby use of motor vehicles without identification marks, false information upon registration, alteration of mileage records, as well as failure to surrender the Certificate of Registration for alteration on change of ownership, are all punishable. A fine not exceeding shs.10,000/= or imprisonment for a period not exceeding two years or both is thereby provided for the said offences.

Provisions relating to driving licenses are contained in Part III of the Act. Section 24 prohibits driving without a valid driving licence. Sections 26 to 32 provide the procedure for obtaining a driving licence, a learner's driving licence, a conditional driving licence for the disabled and for renewal of these licences. The right age for a person to obtain a driving licence is eighteen years unless in respect of mopeds, in which case the minimum age is sixteen years. As regards a driver of a public service vehicle or a heavy commercial vehicle, the person must have a minimum age of twenty-one years and be credited with driving experience of at least three years. Moreover International Driving Permits issued according to the Geneva Convention or the Vienna Convention are recognised. Section 33 deals with mandatory cancellation or suspension of a driving licence. Under this section the courts are obliged to cancel or suspend a driving license and disqualify a person from obtaining a driving licence during the period of

cancellation or suspension of his driving license for the following offences;

1. Causing bodily injury or death through reckless or dangerous driving c/s 49
2. Causing bodily injury or death through careless driving c/s 50
3. Driving a motor vehicle while under the influence of drink or drugs c/s 53.
4. Careless or inconsiderate use of motor vehicle c/s 61.
5. Driving while disqualified or without a driving license c/s 63.
6. Contravention of the provisions relating to drivers' duties in case of accidents c/s 68.
7. Where it appears to the court that a person holding a driving licence is likely to be a source of danger to the public while driving on a public road as per Section 33(1)(h)(vi). The period of minimum cancellation or suspension of a driving licence and disqualification is provided and ranges from three months to ten years.

However, the Court is empowered to give an order for a shorter period for "special reasons". What amounts to "special reasons" will be discussed later in this report. When an order of cancellation or suspension of a driving licence and disqualification is given in terms of section 33(2) of the Road Traffic Act it must be endorsed on the driving licence. Section 34 provides when a Court may exercise its discretionary power of cancellation or suspension of a driving licence and order the disqualification. The relevant offences are:

1. Obstructing an official motorcade c/s 52,
2. Speeding c/s 62
3. When the convict had already been convicted under ss. 49, 50, 51, 53, 54, 61, or 63. Any offence under the Act when the convicted person's driving licence is already endorsed. The period of cancellation/suspension of a driving licence or disqualification varies per offence between a period not exceeding six months to one not exceeding two years. Such order has to be endorsed in the driving licence.

Under S.35 the court may also endorse the particulars of the conviction on the convict's driving license for all offences under the Act except offences under Part VI and the endorsement period shall be for up to two years only. Addition, police officers also have powers of suspension and endorsement of a driving licence. Under S.34(3) a police officer of or above the rank of Assistant Superintendent, can suspend a driver's licence for six months who after a period of suspension by a court on endorsement under S.35 and 38 continues to contravene the provisions of S.52, 63(d) and 70. The Police officer may warn and thereafter endorse the contravention and the warning on a person's driving licence that contravenes the provisions of S.13, 23(a) and (c), 53, 61, 67 or 68. He may, if despite the warning the contravention continues,

suspend the person's driving licence for six months. The police officer has to suspend the driving licence of a driver, pending the decision of the court, who is prosecuted for causing death while driving, driving a motor vehicle when under the influence of alcohol or drug, or for leaving the scene of an accident where another person was killed or injured, without rendering due assistance. The disqualification from obtaining or holding a driving licence can be removed by an appeal to the High Court either in the normal appeal (S.41) or by application to the High Court after expiration of twelve months after conviction or six months after such an application was refused by the High Court. A person so disqualified in Uganda or Kenya is automatically disqualified in Tanzania (S.42). While Section 44 declares it an offence to apply or obtain a driving licence or to drive while disqualified, section 43 provides for offences related to contravention of provisions under this Part of the Act and specifies a general punishment of a fine of up to Tshs. 10,000/= or imprisonment for up to three years, or to both such fine and imprisonment.

Provisions related to use of motor vehicles are contained in Part IV of the Act. The offences under this Part can be grouped into two categories on the basis of the seriousness of the penalties prescribed. The first group comprises of offence that are provided with minimum sentences under section 75 which also happen to be virtually the same covered by minimum period of mandatory cancellation or suspension of a driving licence and disqualification from holding such a licence under section 33 of the Act. The second group is of offences, which are neither subjected to minimum sentence nor saddled with mandatory cancellation or suspension of driving licences. Subject only to the maximum penalty provided, Courts are in the latter case, given wide discretion in awarding sentences and in deciding whether or not to give any order of cancellation or suspension of driving licences.

The relevant offences in the first group are those falling under sections 49, 50, 51, 52, 53, 54, 61, 62, 63, and 68. Under Section 49, causing bodily injury or death through driving attracts a penalty of imprisonment ranging from two to five years, and in addition a court may impose a fine not exceeding Tshs.100,000/=. Another offence is causing death or bodily injury through careless driving contrary to section 50. Under S.75(2)(b) this offence is punishable with a fine which varies between Tshs. 15, 000/= and Tshs.50, 000/=-, or to a term of imprisonment of between one and three years. The sentence applies also to the offence of reckless or dangerous driving under S.51 and driving a motor vehicle while under the influence of drink or drugs contrary to section 53.

The manner of driving on approaching or during the passing of an official motorcade is covered by S.52. The obstruction of an official motorcade is also an offence under S.52, the penalty for which, under S.75(2)(c), is a fine of between Tshs.10,000/= and Tshs.20,000/= or imprisonment for between three months and two years. At the same time section 54 makes it an offence to drive a motor vehicle with BAC above the prescribed limit the penalty for which is a fine of up to Tshs.20,000/= or imprisonment for between one and three years. Any person who gives intoxicating liquor to a person who drives or is in charge of a commercial motor vehicle is

liable under the same section to a fine up to Tshs. 20, 000/= or imprisonment for between six months and two years.

Section 60 provides conditions of driving while S.61 creates the offences of careless or inconsiderate use of a motor vehicle, In Ibrahim Amin V. R.^{xi} it was held by BIRON J. as he then was), that an offence of driving without due regard to other users c/s. 61 and 75(2)(d) of the Road Traffic Act, is committed only when there are other persons using the road at the time other than the accused, which are punishable under S.75(2)(d) with a fine of between Tshs. 10,000/= and Tshs. 20,000/= respectively. In addition it is provided under S.62(5) that all public service vehicles except taxicabs are required to be fitted with speed limits, e.g. speed governors. On the other hand, S.67 provides an offence of driving unreasonably slowly in a manner likely to cause obstruction to traffic on the road or annoyance to other road users. This offence is punishable by a fine of up to Tshs. 5000/=.

There are two more offences created by sections, 63 and 68, which are subject to a minimum sentence under the Act. According to section 63 of the Act, driving while disqualified or driving without a valid license is punishable by fine ranging from Tshs.1,000/= to Tshs.20,000/= depending on whether the offender has committed such offence for the first, second or subsequent time. The offence also carries a term of imprisonment ranging from two (2) to five (5) years. Contravention of a driver's duties in case of an accident is also an offence carrying a minimum sentence. These duties are provided under section 68 of the Road Traffic Act, whereby, when an accident occurs, it is mandatory for the driver to stop (if it is safe in the circumstances for him to do so), and is required to ascertain whether any person has been injured. A mandatory duty is also there by imposed on the driver to render all practicable assistance to the injured person. The section contains a specific provision as to the duty to report an accident. It is thereby provided that, in case a driver does not stop because it is unsafe, he has the duty to report the accident at the nearest police station. In R. v. Samwel Shepua^{xii} it was held that the requirement to report an accident under S.68(2)(b) within 12 hours is absolute except only where the driver is physically incapacitated by accident. Though in Ep. V. Said^{xiii} it was decided that failure to report an accident does not include accident causing damage to a dwelling house, in Uganda V. Mayombwe^{xiv} it was held that there is no obligation to stop or report an accident where no one is injured or no other vehicle or property damaged. It would seem that the obligation extends to even where the property is damaged.

The contravention of these duties invites an extremely low penalty under S.75(2) (d) of a fine of between Tshs.2,000/= and Tshs.5,000/=. Two other matters related to the penalty need to be noted in respect of these offences. Under section 75(3) and (4), where a court decides to impose a sentence of both fine and imprisonment where a minimum penalty is provided, the second aim of the sentence, be it a fine or imprisonment, should not exceed one half of the maximum penalty prescribed. Further, under section 75(2) courts can only award less sentence than the minimum only when there are "special reasons". This aspect will be discussed later.

It should also be borne in mind that in addition to the sentences mentioned in each offence herein above, there are additional orders in terms of cancellation or suspension of driving licenses and as to disqualification of obtaining such a license under section 34 for periods ranging from twelve months to ten years. As pointed out above the remaining offences under this Part are penalty wise less serious. These offences fall under sections 45,54(4) and (5),63,65,66,68-74. With regard to use of motor vehicles, section 54 requires a motor vehicle, which is intended for use on the road to be in a fit condition. This condition as to fitness extends to the vehicles chassis, engine, and gear system, brake system, bodywork or any other part of the vehicle. Contravention of the provisions under this section invites a penalty of only a fine of upto Tshs.20,000/= for the first conviction, up to Tshs.30,000/= for second conviction and up to shs.50,000/= for third and subsequent convictions.

The other offences in this group are; a driver of a public service vehicle or a public carrier drinking intoxicating liquor while on duty S.54(4), giving a driver or a person in charge of a public service vehicle or a public carrier intoxicating liquor S54(5), failure to stop at railway crossing (s.66), driving unreasonably slowly (s.67), a driver failing to stop in case of an accident or failing to report an accident within 12 hours (s.68), riding in dangerous position (s.69), restriction on pillion riding (s.70), obstructing a driver of a motor vehicle (s.71), causing damage to a motor vehicle (s.72), as well as taking a motor vehicle without the owner's consent (s.73).

Specific and general penalties are provided for only some of the offences in the proceeding paragraph. An offence under s.54(4) and (5) attracts a fine of up to Tshs. 10,000/= or a term of imprisonment not exceeding two years for subsection. (4), and up to twelve months for subsection. (5). The sentence can also be for both such fine and imprisonment. Section 67 provides a fine not exceeding Tshs.5, 000/=. while contravention of section 73 carries a sentence of a fine of up to Tshs.15,000/= and imprisonment for up to five years. The rest of the offences are punishable with a fine of up to a mere Tshs. 2,000/= (s. 127). In addition the court has the discretion to cancel or suspend a driving licence for up to one year and disqualify a person convicted of any of the offences mentioned above, from obtaining a driving licence for that period if he is thus convicted while his licence is endorsed. Under section 33(2) the court is then obliged to order endorsement of such conviction on the driving licence. However, if the driving licence of a person convicted is not otherwise endorsed, the court has discretion to endorse it under section 34, for a period of up to two years

Control of traffic depends partly on traffic signs and police signals. This aspect is the subject of Part V of the Act. The Act empowers the Engineer in-Chief to cause traffic signs to be erected or marked on the ground (s.76) including pedestrian crossings (s.78) at place she may determine. The Minister is also empowered to make regulations for temporary speed restriction (s.80), closure of a road (s.81), restriction of traffic on use of a road (s.82), restriction of use of a road to one way traffic (s.83), setting aside parts of a road as special parking areas, (s.84).

Section 79(1) prohibits the herd exceeding fifty animals and procession (other) than a funeral procession) or parade continuing two hundred or more persons or fifty or more vehicles, excepting military vehicles of the Defence Forces or vehicles of the police force, to occupy, march or proceed along any road or street except in accordance with a permit issued by the Inspector General of Police, and subject to such conditions as may be specified on such permit. Likewise section 79(2) requires persons in charge of domestic animals to keep them under proper control and not to allow them to become a danger or annoyance to the public. Contravention of these provisions invite a penalty of a fine not exceeding Tshs. 1, 000/=.

Provisions of enforcement under Part VI include those relating to the duties of Police Officers to regulate traffic (s.87), to keep record of traffic offences which shall be public records (S. 88 & 89), and the duty of the Inspector General of Police to submit annual traffic accidents and safety reports to the Minister. Police officers have powers to demand production of a driving licence, certificate of registration, insurance cover and particulars of the owner of a vehicle, to examine and to detain a motor vehicle on a road or order examination by a vehicle inspector (S.95-97), remove or cause to be removed a vehicle from any road if abandoned for more than three consecutive days (S.98), to remove or cause to be removed a broken down motor vehicle from a road or from a parking place if so parked in contravention of regulations (S..99 & 100).

The powers include also requiring a motor vehicle to be driven to a police station if used or reasonably suspected of having been used in the commission of an offence and detained until investigation has been made on the related case (S.101). In addition the owner or hirer of a motor vehicle is obliged to keep record of the driver and give such particulars to a police officer if so required (S. 93 & 94). Section 102 read together with S.103(c) makes it an offence to give false or misleading information when required to give a statement. Contravention of provisions under this Part attracts a penalty of a fine of up to Tshs.10, 000/= or to imprisonment not exceeding two years or to both such fine and imprisonment.

Part VIII of the Act provides for various aspects. It declares its application to a person propelling a pushcart and riding an animal or an animal-drawn vehicle (s.114) and to public vehicles service employers and vehicles of the Government unless expressly exempted. The Minister is empowered under s. 126 to exempt any person, vehicle or class of vehicles from application of the Act and to make regulations for better application of the provisions and purpose of the Act. He also has power of delegation of his powers (S.129). Additional offences have been created under this Part as follows: Driving a vehicle to common danger (S.119) Driving a carriage or an animal on a road whilst drunk or efficiency impaired by drink or drug (S.120)

Further, aiders and abettors to a commission of an offence under the Act, if present in the vehicle during such commission to be dealt with, for the purpose of disqualification of obtaining a driving license, as if they were driving the vehicle (S.125) Other provisions

deal with obligation for bicycle or tricycle to have a bell and the same is used to sound other road user (S.121). The person in charge of a vehicle standing or plying for hire is obliged to take any lawful passenger and any such passenger is obligated to pay the fare due (S.123). It prohibits the use of an animal, whose vision is defective, for drawing a vehicle on a road (S.122). A Police officer is also empowered under S.124 to arrest without warrant, any person in charge of a vehicle whom he witnesses committing any offence under the Act. General penalties for contravention of the Act are provided under S.127, and the Minister is empowered under S.128 to make regulations for the better carrying into effect the provisions and purpose of the Act.

1.2.2 The Imports Control Act, [Cap 276 R.E. 2023]

Prior to trade liberalization and de-confinement of importation of certain types of goods, the State Motor Corporation had quite a wide mandate in importing various motor vehicles and their spare parts. In view of provisions of the Open General License^{xv}, the State Motor Corporation could import various types of motor vehicles such as motorcars, caravans, minibuses and the like. After de-confinement, importation of motor vehicles is no longer the sole prerogative of the State Motor Corporation. The door is now open for other licensed dealers to undertake the business of importation of motor vehicles. However, not just any kind of motor vehicle can be imported and allowed to operate on road. The Ministry responsible for Transport, the Bank of Tanzania, the Treasury and other government departments do provide some restrictions which may influence the type of vehicle to be imported and conditions related thereto. Moreover certain conditions which apply to private vehicles do not necessarily apply to government vehicles

1.2.3 The Land Transport Regulatory Authority Act, [Cap 413 R.E. 2023]

After motor vehicles have arrived in the country, apart from requirements as to registration, they are also subjected to transport licensing, if the owner of such motor vehicle intends to use it for commercial purposes. The Act has been enacted in 2019,^{xvi} to repeal and replace the Transport Licensing Act, 1973 with a view to make provisions for the establishment of LATRA to regulate land transport sector and to repeal the SUMATRA designed to regulate commercial road transport for goods and passengers. In that regard there are requirements provided as to route direction, type of service, e.g. "road service licence" or "seasonal licences" etc.

1.2.4 The Motor Vehicle Driving School (Licensing) Act, [Cap 163 R.E. 2023]

This Act provides for the licensing of motor vehicle driving schools and the prescription of qualifications for driving instructors and for matters connected thereto. Under the Minister for Home Affairs is empowered to make regulations for licensing of proprietors of driving schools, driving instructors and other matters connected therewith S.3(1), 4(1) and 5(1). According to Government Notice No.529 of 2/7/1983 the office of the Commanding Traffic Division, Tanzania Mainland is given the authority of a competent institution to register Driving Schools and Driving Instructors. The Act prohibits a proprietor of a driving

school to operate for reward without a licence S.3(3)) and from employing an instructor who is not properly qualified. It also prohibits a driving instructor to give driving instructions for reward without the requisite qualification set by regulation S.4). Several offences are created under the Act as follows; a proprietor of a driving school operating for reward without license S.3 (4), a proprietor of a driving school employing a person who is not properly qualified to give driving instructions S.4 (3)), and an instructor giving instruction for reward without proper qualifications. Contravention of regulations made under S.5 (2) is an offence which attracts a fine of up to Tshs. 2,000/=, while the rest of the offences carry a penalty of a fine of up to Tshs. 5,000/=

1.2.5 The Motor Vehicle Insurance Act, [Cap 169 R.E. 2023]

The Act provides for insurance provisions for motor vehicles. Under the Act it is provided that anyone using a motor vehicle on a road, without a policy of insurance in respect of legal liability to third parties for bodily injury, commits an offence S.4(1). Section 4 (3) exempts government vehicles from the requirement to take third party insurance policy, further, section 5 provides for more exclusion from third party insurance. A policy of insurance is not required to cover;

- i. Liability in respect of death or bodily injury arising out and in the course of his employment of a person insured by the policy,
- ii. Except in the case of a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to person being carried in or upon or entering or getting on to or alighting from the vehicle at the time of the occurrence of the event out of which the claim arise, or
- iii. any contractual liability.

The Act makes it an offence to use a motor vehicle on a road without a valid third party insurance S.4(1)). Apart from a penalty of a fine not exceeding £100 or imprisonment for not more than six months or both such fine and imprisonment, S.4(2) provides for mandatory minimum period of disqualification from holding or obtaining a driving licence. The minimum period provided is twelve months from the date of conviction, but the Court may order a longer period. However, the court may not apply the mandatory disqualification if there are "special reasons". As is the case with the Road Traffic Act, the Ordinance does not define the term and seems to have left it to the wisdom of judicial interpretation.

1.3 Institutional Framework

1.3.1 The Tanzania Police Force

The force as a body corporate is established by Section 3 of the Police Force and Auxiliary Services Act.^{xvii} The main function of the body is the preservation of peace, the maintenance of the law and order, the preservation and detection of crime, the apprehension and guarding offenders, the protection of properties

of the society and public at large and performing any other duties as directed by the authority of the state as per Section 5(1).^{xviii}

Any Tanzania uniformed police officer, within the Tanzania territory, has given powers to stop and detain any person who is doing any act, thing or being in possession of anything for which a licence is required by the law and require such person to produce such licence, also has power given to stop and search any vehicle which he has reasonable ground for suspecting is being used against any law of the land.^{xix}

The Road Traffic Act being the specific law regulating traffic matters has vested powers to police officers to carry out the duties and responsibilities to regulate all traffic and to keep order and to prevent obstruction in all roads, parking places, thoroughfares and other place of public resort, to divert traffic temporarily, to close and deny public access to any road as per the law^{xx} in due case, has mandated the police officers' instructions to take precedent over any other instructions conveyed by traffic signs, signals and road marking and other traffic regulations. The Act has established and gives powers to the vehicle inspector, whose must be appointed by the minister responsible to inspect the worthiness of all vehicles regarding the purposes for which is being used and to issue the certificate of its fitness. Vehicle inspectors has power to give advice on whether the vehicle is fit to carry out its business or not and recommendations of the vehicle inspector must be taken into consideration for the purposes of insuring any licence or changes the uses of such vehicle.

For the efficiencies, within the police force, the has been established an official department responsible for traffic with which legally bound to carry all activities concerning the control and regulation of road traffic.^{xxi}

1.3.2 The Land Transport Regulatory Authority

Licensing of public and commercial vehicles is performed by the LATRA established under S.4 with its legal duty under S. 5 of the Act. The institution prepares also schedules for up-country buses. There are also, in every region in Mainland Tanzania, a Regional Licensing Authority comprising of a Chairman appointed by the Minister responsible for transport, a Deputy Chairman and one other member who acts as a Secretary. The Regional Licensing Authorities perform the work of issuing transport licensing in the regions. Among the activities of LATRA is to issue, renew and cancel permits or licence of transportation, to coordinate land transport safety activities, to register crew and certify drivers of regulated sectors and all functions concerned with land transport within Tanzania mainland as per Section 5.^{xxii} The authority is working together with the board established under Section 7 read together with Section 8 and 9.^{xxiii}

1.3.3 The Tanzania Revenue Authority

The Tanzania revenue authority has been vested the task of registration of the motor vehicles in Tanzania mainland and thus become of the authority dealing with traffic matters. TRA through the registrar of the motor vehicle appointed by the minister for finance has vested such task as per Section 3(1) of the Road Traffic Act.^{xxiv} The duty of the registrar is to register all motor vehicles

and all driving licences issued under the Road Traffic Act as per Section 5(1)(a) and (b).^{xxv}

1.3.4 The National Road Safety Council

The council is another body established by Section 110^{xxvi} with the authority of promoting research into causes of road accidents, collection, preparing and disseminating education material on road safety, to identify local accidents hazards, devices and suggests remedies and advises the authority concerned to promote action and take the like matters for the developing and efficiency carrying traffic regulations. The council consist ten members appointed by the ministry of home affairs.

2.0 Assessment of legal framework effectiveness on preventive measures of motorcycles' road accidents.

In Tanzania there are several laws directly and indirectly providing the preventions of motorcycles' road accidents in Tanzania such as the Constitution of the United Republic of Tanzania,^{xxvii} The Road Traffic Act,^{xxviii} the Transport Licensing Act,^{xxix} the Criminal Procedure Act,^{xxx} the Motor Vehicle Insurance Act^{xxxi} and other substantive and procedural laws. For the purposes of the study, I discuss only few of them to wit they are mother law in the implementation of the matter at hand. Despite the existence of conducive legal and institutional framework on the protection and prevention of motorcycles' road accidents, their implementation and effect were found to be limited. Only half, and mostly are those from state offices, of the study population were aware of the existing laws.

2.1 The Constitution of the United Republic of Tanzania of 1977 [Cap 02 R.E. 2023]

The Constitution is referred as a grundnorm, is the supreme law than any other law, therefore regarded as the mother law of the state from which other laws of the land, both legislative and procedural, and derives their legitimacy. It sets out the framework of the government, postulates how it ought to operate and makes declaration about the purposes of the state and the society. The most importantly the Constitution recognizes and guarantees the rights (e.g. equality before the law, the right to life, right to freedom of movement, right to work, right to just remuneration, right to own property) and duties (e.g. duty to participate in work and duty to abide by the laws of the land) of the individual from and to the state organs. It gives the rights, duties as well as obligations of the person being a citizen or non for all procedures before, during and after being arraigned for any legal action.^{xxxii} in the circumstance above and to the aforementioned through different decision arrived before the court of law, it is clear to simply come up with the conclusion that the Constitution is therefore effective in protecting and prevention of motorcycles' road accident in Tanzania.

2.2 The Road Traffic Act, [Cap 168 R.E. 2023]

2.2.1 Offences and punishment/penalties

As aforesaid above, the efficacy of the law has been brought into question and consequently the emergence of ideas on the need to provide for more regulations, new offences and review of

punishments with a view of enhancing them. On the enforcement front there are criticisms of laxity, corruption and non-adherence to the law. The institutional arrangement of the regulatory mechanism in this sector has also come into the minds of stakeholders. The issue in this area is whether an arrangement in which there is a focal point would enhance efficiency and effectiveness.

The adequacy of the law relates also to the punishments provided and how they are applied as a means of reducing road accidents. Punishments are supposed to be, inter alia, punitive, deterrent and reformatory. Doubts abound as to the effectiveness of the punishments both as provided in the law and as applied by the courts. Concerns have been raised that offending drivers have often been treated with lenience and that a good number of them usually pay small fines and go back to the roads without having been impressed with the need to adhere to road safety measures. This is an issue which relates to the kind of prescribed penalties and their application. Thus, the propriety of punishments prescribed for road traffic offences by the Act and related legislation requires consideration.

Traversing through the Act one discovers that punishments provided are on the low side and therefore even if properly applied they would still appear lenient e.g. in the case of drivers convicted of causing bodily injury or death under section 49 may be imprisoned for a maximum period of five years and a minimum of not less than 3 years. In addition he/she may pay a fine up to only Tshs.100,000/=. On the other hand a convict under section 50 is liable to a fine of not less than Tshs. 15,000/= but not exceeding Tshs. 50,000/= or to a term of imprisonment of not less than 3 years but not exceeding 5 years. This is so even where the driver has caused death to a bus-full of passengers in a single accident.

In addition, there are many offences punishable by a fine as low as Tshs. 1,000/= Such punishment cover even driving while disqualified or without a valid driving license (S. 63), contravention of a driver's duties in case of accident (S.68), careless and inconsiderate use of a motor vehicle (S. 61) and speeding (S. 62). Whether as a minimum sentence or otherwise, due to inflation and current road safety requirements such punishments appear grossly out of tune, and consequently not deterrent.

The other problem is the fact that sometimes even what has been prescribed is rarely imposed. For example, the mandatory cancellation and, or suspension of driving licence and disqualification under the provision of Section 33 of the Act.^{xxxiii} This is surprising given the high rate of road fatality and the public outcry. As Turner J., said in such a situation "...courts are expected to respond to justified public concerns and to pass tough sentences on drivers.... If the courts were not, and were not seen to be sensitive to public concern in respect of such cases they would be failing in their public duty."^{xxxiv} Therefore, courts have to rise to the occasion and pass stiff punishments to match with both the offences and the public concerns.

The importance of mandatory cancellation or suspension of driving license and disqualification was underscored by Slattry in one

portion of his discussion on punitive sentences. While commenting that "traffic offences are notoriously easy to commit but they are difficult to deter, and too frequently, disastrous in their consequences", he also said: "Perhaps the most effective penalty which can be imposed for such offences is to deprive the offender of the right to drive for a period of time. Not only does this protect the public at least for a while, from careless or reckless drivers, but also it saves as constant, grueling reminder to the offender of his offence."^{xxxv}

At times such cancellation, suspension and disqualification may be applied in a manner in which its punitive and deterrent effect is not utilized. For example where it applies only for the period the convicted driver is in prison. A case in point is *Jeremiah S/O Mhindi V. R.*^{xxxvi} in which it was held that where the accused is sentenced to a period of imprisonment the period of disqualification from driving should not be of such length as would expire while he was still in prison.

The laxity in imposing tougher sentences and non-adherence to such mandatory provisions may be attributable to several factors, inter alia, utter disregard of the law due to non-appreciation of the import of the punishment, considering punishment a futile exercise given the porous and inefficient driving licensing system, corruption or confusion as to the meaning and practical difficulties of application of the phrase "special reasons". Under s. 33(1) a court can ignore mandatory cancellation or suspension of licenses of drivers convicted of offences under sections 49, 50, 51, 53, 62, 69 and 33(iv) of the Act where there are "special reasons". Equally under S. 75(2) a court can impose a less punishment than the one prescribed due to "special reasons". Under s.4(2) of the Motor Vehicle Insurance Act,^{xxxvii} where a driver has been convicted for driving a vehicle on the road without third party insurance a court is empowered to order disqualification from holding or obtaining a driving licence for a shorter period than the prescribed twelve months for "special reasons".

Unfortunately there is no statutory definition of that phrase. Therefore, courts have endeavoured to fill the lacuna through case law such as in *N.J.M. Mendoza V.R.*^{xxxviii} by defining what amounts to special reasons entitling the court to mitigate the normal consequences of a conviction, by exempting a case from mandatory minimum sentence and mandatory cancellation or suspension of a driving licence and disqualification of the accused from holding or obtaining a driving licence. The generally accepted definition of the phrase which has been upheld by domestic courts is the one originally approved by Lord Goddard in the *Whittall V. Kirby*^{xxxix}, that 'special reasons' must be special to the offence and not to be mitigating or extenuating circumstances related to personal circumstances. However, it would appear that the phrase 'special reasons' has acquired a double meaning. The Court of Appeal dealt with this matter in the case of *Kalisto Makumbuli V. R.*^{xl} after considering similar cases^{xli}, which were to the same effect that special reasons must relate to the Commission of the offence rather than to personal circumstances, the Court of Appeal stated;

"The above quoted cases show that whereas under section 75(2)(i)(ii) of the Road Traffic Act the question as to what amounts to special reasons is wholly left to the courts to decide, and such special reason may be special to the accused as was in this case, case law shows that under section 33 of the Act special reasons must be special to the offence and not to the accused."

In this case the accused had been convicted of several traffic offences including reckless driving on a public road C/S 51(1) and 75(2)(b) and causing bodily injuries through reckless driving C/S. 51(1)(a) and 75(b) of the Road Traffic Act. The Court found that the fact that the accused had serious injuries as a result of the accident, was a first offender and had dependants, were special reasons under S.75 (1)(b) of the Act calling for a lesser sentence than the minimum sentence prescribed under the law. However, these facts did not constitute special reasons for disqualification under S.33 of the Act as they were circumstances special to the accused rather than the case.

This means the phrase has a double meaning under different section of the same Act. Under S. 75 (2)(i)(ii) of the Act it is equated to 'special circumstances' under the Minimum Sentence Act,^{xlii} while in S.33 the meaning is more restrictive. The double meaning of the phrase 'special reasons' may be the cause of confusion even in considering disqualification. For example in *Joachim Gregory V. R.*^{xliii} the High Court considered the fact that the accused had never been convicted of a similar offence, of reckless and dangerous driving of which he was convicted, to be a special reason to be considered in disqualification from driving. This fact appears to be personal rather than relating to the commission of the offence.

In addition, in some cases it is not clear whether the 'special reasons' refer to the offence or the offender himself as in *Eli Nsambila's vs. R.*^{xliiv} where a driver after office hours went to a Pombe shop but later he was summoned by his superior officer, who ordered him to drive to Mbeya, though he knew that the accused had been drinking. He was involved in an accident, was convicted of driving under the influence of drink and disqualified from driving for a period of 12 months. On appeal, *Georges, C.J.* set aside the disqualification order because the facts amounted to 'special reason'. Thus from *Nsambila's* case one may note difficulties as to identification of 'special reasons' relating to the offender and those relating to the commission of the offence. It is no great wonder then that in some cases courts have categorically decided that the "special reasons" relate to both the offence and the offender. Indeed in *R. V. Nkana Ndaro*^{xliiv} and *Sadrudin K. M. Parani V. R.*^{xliiv} it was held that "special reasons" may be special facts which constitute the offence and or facts that are personal to the offender. One wonders as to what was really the intention of the legislature. The consequence of such an interpretation is to accord the term "special reasons" the same meaning as would apply to mitigating factors under the Minimum Sentences Act.

2.2.2 Training aspect of the drivers

It is the requirement of the law that before a person to be certified as a competent driver for the purposes of obtaining the qualifications and rights of being a driver, such person must attend and pass driving training at the driving school in the supervision and direction of a certified driving instructor as per Section 26(1) of the Road Traffic Act^{xlvii} read together with the Motor Vehicle Driving School (General) Regulations, 1966.^{xlviii} Any person, before making an application of the learner's driving licence, must make an arrangement for receiving instructions in driving from a driving school or a certified driving instructor. After the Registrar being certified and the applicant after made an application accompanied by the prescribe fee, in the case of an application of the licence to drive a motor vehicle, he/she may issue a learner driving licence for the period of not more than three months to the applicant. This shows that learning is a prior and mandatory requirement for the insurance of the road users' right of life to the effect that it prevent the increases of road accidents in Tanzania.

After the examining officer certifies himself that the applicant is competent to drive a motor vehicle of the class of which he desires a driving licence and he has a good knowledge of the road traffic laws, the road signals and road signs, the examining officer shall issue to the applicant a certificate of competence in a prescribed form upon payment of the prescribed fee by the applicant as per Section 26 of the Road Traffic Act.^{xlix} After the applicant being awarded the certificate of competence, he has right to make an application of the driving licence but subject to the age in respect to the type of the type of the Driving licence, for example, an applicant of the driving licence in respect of the motorcycle to wit is driving licence class A, A1 and A2 must attain the age of sixteen of age as per Section 30 of the Road Traffic Act.

On the side of the applicant of the motorcycles' learner licence, the law is expressly and it is quite different that the law excludes the person intends to learn to the effect that the learners of motorcycles have legal room to learn without obtaining the learner's driving licence and they are not bound to learn under the supervision or direction of a certified instructor or driving school, not only that but also the owner of a motorcycle is not legally bound and it is not an offence for the owner of the motorcycle to allow any person by using his motorcycle to learn on his own and without any directions, instructions or guarding and supervisions of a competent instructor as it is a mandatory legal requirement to the learners of the motor vehicle as per Section 26(1) and 43(a) of the Road Traffic Act.¹

3.0 Assessment of effectiveness of the Institutional on the preventive measures of the motorcycles' road accidents in Tanzania.

3.1 The Tanzania Police Force

The Tanzania Police Force is established by Section 3 of the Police Force and Auxiliary Service Act^{li} with different legal powers, among of those powers is the maintenance of law and orders, prevention and detection of crime, apprehension and guarding of

offenders and preservation of peace. Being a legal power given to the force as the maintenance of law and orders, it is legally the duty and it is mandatory requirement to investigate, apprehension and prosecuting the traffic offender as other criminal offenders against the state.

The Road Traffic Act has vested its powers to the Police Force to enforce traffic laws within the Tanzania territory, among those duties given to the force is to regulate all traffic and to keep order and prevent obstruction in all roads, record of traffic offences, filing of accident reports and drivers' files, powers to stop any vehicle and make inspection as per the law, powers to make an examination on the road worthiness as to the purposes of the intended vehicle, powers to prosecute traffic offences as per Part VI of the Act^{lii} and powers to make examination of the intending applicant of the driving licence, by the Vehicle Inspector, and issue a certificate of competence before the application so as to certifies that such applicant is competent enough on the skills of driving and is aware on the traffic laws and signs and signals in road as required by Section 29 and 30 of the Act.^{liii}

There has been established special department within the force called the Traffic unit/department for the furtherance, efficiency and effectiveness to cure the problem by the Police General Order 23.^{liv} The General Order establishes the commanding officer with his office at the Police Headquarter and divides in each regional and districts the same office with different obligations for different officer/office, the main duties among others is dealing with and monitoring all traffic matters in the respective area, carrying out vehicle inspections as may be required due to accidents or other reasons as may be directed by the authority, carrying out and monitoring driving qualifying tests for application of driving licence, coordination and monitoring traffic escorts and official motorcades, conducting and monitoring investigations on road traffic violations, controlling traffic during major incidents and disasters, conducting public awareness campaigns on traffic matters and others as per the requirement and direction of the laws and lawful order from the authorities.

Traffic police officers has powers to provides punishment to any wrongdoer or person violating the traffic laws and rules (Section 109 of the Act) if has reason to believes that such person is committing or has committed an offence to which the minister responsible has made by order published in the **Gazette** by serving the offender with a prescribed notice in writing offering the opportunity of the discharge of any liability to conviction for that offence by payment of a fixed penalty under the law. If the offender wishes and after paying such penalty, he/she cannot be prosecuted in the court of law for such offence but if the offender does not wish or agree with the direction of the traffic officer, the officer has power to draft the charge and bring such offender before the court of law

3.2 The National Road Safety Council

The National Road Safety Council is a board established by Section 110 of the Road Traffic Act^{lv} which vested with many functions and among of those function, to mention few of them, is

to provide an effective central organization, to intensify continuously available knowledge and experience in all matters connected with the road safety, promote research into causes of road accidents, encourage and provide training and education for road users and induce a more positive attitude to road safety through lectures, demonstrations, campaigns or any other means.

The law does not provide qualifications to be possessed by the person to be appointed in the council. It is the discretion of the minister to create his own qualifications of a person so as to appoint him to be in the council either a chairman, a vice chairman or among ten members of the members of the council. This shows that the law has lacunas because a person must possess some qualifications to be appointed so as to have knowledge in the matter in due cause, the council is ineffective to conduct its functions due to lack of traffic knowledge on causes especially legal cause and how and to what extent can be resolved to cure motorcycles' road accident within the state.

3.3 The Central Transport Licensing Authority

The central transport licensing authority established under Section 4 of the Transport Licensing Act,^{lvi} whose members are appointed by the Minister responsible for transport. In addition under the same provision there are in every region in Mainland Tanzania a Regional Licensing Authority comprising of a Chairman, a Deputy Chairman and one other member who acts as a secretary appointed by the Regional Commissioner of each respective region. This organization structure several defects including the appointment and tenure of its members, status of the Secretaries of Regional Licensing Authorities. The Chairman of the Central Licensing Authority is an appointee of the Minister and not the President and the Act does not prescribe a specific period of tenure. Such an appointment may be revoked by a new Minister whenever there is a cabinet reshuffle or change therefore resulting infrequent changes and thereby uncertainty and lack of continuity. In the same vein the Act does not provide for the qualification of a Secretary. Often he is not an engineer, lawyer nor knowledgeable/competent in the administration or management of road transport to be able to advise the Chairman, Deputy Chairman or the Minister on issues relating to licensing of public service vehicles or commercial vehicles in general. In addition, Regional Licensing Authorities are manned by part-time secretaries on voluntary basis. Therefore, no one actually oversees the day-to-day administration of the Regional Licensing Authority affairs.

The provisions of Section 22 of Act imposes a duty to the Minister to consult with the President before making an order and publishing it in the Gazette to delegate to a Regional Licensing Authority the jurisdiction of the Central Licensing Authority or any other Regional Licensing Authority to entertain, consider, determine and grant or refuse to grant any particular application for a licence or application of any category of licences specified in such an order.

At the moment the applicants of licences are not required to show or provide information relating to criminal record of the operator or performance record of a driver, for example, if they have problems with speed, etc. There is no way to check competence of the driver

and no certificate to show the applicant is conducting its business in a professional way. This show that the authority is a toothless dog it cannot bite.

4.0 Conclusion

Based on the findings of study, the following conclusions are drawn. The study reveal that the legal causes of motorcycle accident in Tanzania reveal a systematic problem. The laws themselves are not fundamentally flawed rather the challenges lies in implementation, enforcement and modernization. A disconnect between written law and actual practice creates a legal vacuum. Riders exploit this vacuum through dangerous riding habits, operating without licences, using unsafe motorcycles and ignoring safety gear requirements. Thus, legal reform must go beyond revising statutes. It must strengthen institutions, modernize enforcement mechanisms and reduce corruption.

4.1 Recommendations

4.1.1 Legal recommendations.

Based on the finding of the study, there are different proposed issues recommended to be introduced within our cycling laws. One, it is proposed the state authorities to amend the traffic laws to be useful and updated to cure the problem as herein under.

1. A mandatory riders training and re-testing system should be established with a national syllabus, classroom instruction and passing of a written examination before issuance of a learner driver licence, updating driving manual for learner drivers and for driving instructors. Special instructors' and refresher courses for driving instructors at designated institutions to keep them abreast with new technologies, legislation, rules and regulations should be in place.
2. The phrase 'special reasons' should be defined in the Road Traffic Act to restrict its meaning to special circumstances related only to the commission of the offence and omits ambiguity in the provisions. This is because the duty of the court is to interpret the laws enacted by the legislature and no providing/adding words of the statute.
3. The organization structure of testing and issuing of driving licenses should be centralized and computerized and the standard of driver licences and related documents should as well be upgraded within the statute.
4. The law should provide for a mandatory regular and systematic service inspection of all vehicles.
5. An offence of 'motor manslaughter' punishable with life imprisonment and likewise disqualification from holding a driving licence should be introduced into the Road Traffic Act.
6. Punishments provided in the Road Traffic Act and other pieces of legislation should be reviewed upwards.

4.1.2 Institutional recommendations

As it seen above there are several weaknesses of institutional framework that creates the spread of motorcycles accident in Tanzania. Herein the researcher came up with recommendations

which, if regarded, the problem can be tackled as herein recommended.

1. The transport licensing system should be strengthened by providing for specific tenure of office of the Chairman, Deputy Chairman and other members and along term Secretary in the regional licensing authorities.
2. The Ministry of Works, Transport and Local Government should take serious action to upgrade preventive measures by installing and placing traffic signs, road markings, traffic lights and barrier at railway crossings and other dangerous spots, and where necessary section 121 of the Penal Code should be employed whereby a person employed in the public service who willfully neglects to perform the duty bound by the law may be prosecuted before the courts of law.
3. Government efforts towards capacity building and ridding the traffic police of corruption should continue.
4. The National Road Safety Council should be restructured and strengthened. Members of the council should possess some qualifications to be appointed in the council.
5. Strengthen institutional coordination by develop motorcycle safety strategy and integrate databases across government agencies.
6. The government should employ more traffic personnel and provide adequate, current and technological instruments.
7. More legal and practical training and refreshers should be established for all institutional framework so as the traffic enforcers to be knowledgeable to the maximum.

4.1.3 Mechanical recommendation

It is recommended that, the Government should implement both or either of GPS or speed governor in the motorcycles. There should be created and developed system which should be accessible for all traffic law enforcers that will be used to switch off the vehicle in motion if such vehicle stopped for inspection and the motorcyclist fail to obey or comply with the order of the officer.

The first recommended mode is that the GPS vehicle security should be fixed to all motorcycles in fuel system. The motorcycle truck radar should be created for such purpose which can track the motorcycle in motion, whereby it can scan the vehicle for providing, both, the registration and chassis numbers (because there are some motorcyclists removing or change the registration numbers in their vehicle for purposes that their vehicles should not be known by law enforcers) of intended vehicle in motion and those numbers will be used in system to switch off the vehicle for easy traffic officers to apprehend the wrongdoer instantly. This will be useful because the vehicles' power start from alternator and transmits to the battery after that spread to other system through fuse box such as fuel system. Therefore, GPS vehicle tracker has power to stop the fuel system to operate hence the vehicle cannot operate or if it is in operation can switch off.

The second one is that, the manufacturers of the motorcycles should create speed governors within the motorcycles' engines for speed control whereby all motorcycles, except for special

circumstances, speed limits can be fixed into seventy speed limits. This is because most of motorcycles' crashes occur at high speed

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^l Ibid
^{li} Cap 322 [R.E. 2023]
^{lii} Cap 168 [R.E. 2023]
^{liii} Ibid
^{liv} GN no. 325/2021
^{lv} Cap 168 [R.E. 2023]
^{lvi} Cap 317 [R.E. 2023]