

Walking on footpaths a fundamental right: SC

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The Supreme Court on Friday declared that every citizen has a fundamental right to walk on a demarcated footpath, holding that this right is primary and takes precedence over the movement of motorised vehicles, as it delivered a far-reaching judgment that could reshape urban planning and road design across the country.

A bench of justices PS Narasimha and Atul S Chandurkar ruled that the existence of a road necessarily casts a corresponding legal duty on public authorities to provide and maintain foot paths for pedestrians, making the right judicially enforceable against government agencies that fail to discharge this obligation.

“If a road exists, there must then be a duty to ensure that a footpath is demarcated and maintained for the walkers. This is an enforceable duty. The fundamental right to walk on demarcated footpaths shall override the privilege of a motorised vehicle,” held the bench. The court declared that the right to walk is a fundamental right flowing from the guarantees of free movement, free expression, assembly, association, and the right to life under the Constitution.

“The right to walk is a fundamental right under Part III of the Constitution. It is integral to the right to movement guaranteed under Article 19(1)(d), read with Article 19(1)(a), Article 19(1)(b), Article 19(1)(c) and Article 21 of the Constitution of India. The fundamental right to walk will take within its sweep the right to demarcated footpaths. These rights are primary and shall have priority over movement by motorised vehicles,” it declared.

The ruling came in a motor accident compensation case involving the death of a child pedestrian but evolved into a broader constitutional examination of the rights of walkers and the duties of public authorities.

The court held that urban development authorities, municipal corporations, municipalities and even panchayats are constituted obligated to create, maintain and safeguard pedestrian infrastructure wherever roads exist. “The duty bearers are the urban development authorities, municipal corporations, municipalities and even panchayats, who must endeavour to demarcate, construct, maintain, and safeguard footpaths and other necessary pedestrian infrastructure, as walking is integral to life,” said the judgment, authored by justice Narasimha.

In another notable declaration, the bench held that violation of the right to walk on demarcated footpaths would entitle citizens to seek constitutional and civil remedies, including restitution and compensation, against authorities responsible for the breach.

“The violation of the right to walk on demarcated footpaths will entitle the citizens to invoke constitutional and legal remedies against duty bearers for restitution and compensation. This remedy is independent of the remedies that are available under the Motor Vehicles Act, 1988,” ruled the court.

The judgment is likely to have wide ramifications because it converts what was traditionally viewed as a matter of urban governance into an enforceable constitutional entitlement. Citizens who suffer injury or loss due to the absence, encroachment or poor maintenance of footpaths may now have an independent public law remedy against civic authorities in addition to claims available under motor accident laws. The bench was critical of the existing statutory framework, observing that despite decades of road safety regulation, Parliament has not adequately recognised pedestrian rights. Assisted by advocate Mamidipudi V Mukunda as amicus curiae, the court noted that existing provisions under the Motor Vehicles Act and allied regulations merely prescribe duties for drivers and road users but stop short of recognising a fundamental right to walk or prioritising pedestrian movement over motor traffic.

Recognising that the declaration of a right would be ineffective without an institutional framework for implementation, the court called for the creation of a dedicated regulatory mechanism to protect pedestrian interests.

“To enhance and effectuate the fundamental right to walk on demarcated footpaths, it is necessary to establish a regulatory body,” said the bench, emphasising the need for institutional expertise, accountability, transparency and continuity in protecting pedestrian infrastructure. Noting the absence of a comprehensive law governing pedestrian rights and responsibilities of authorities, the Supreme Court directed that a copy of the judgment be forwarded to the ministries of housing and urban affairs, rural development, and road transport and highways for consideration of an appropriate statutory framework.