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## RASH AND NEGLIGENT DRIVING: IS THERE NEED TO RE-LOOK AT SENTENCING POLICY?

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### ABSTRACT

Law is a living concept that adjusts to society demands; if it fails to evolve or does not do so successfully, it will be ineffectual and worthless. The best laws are those that best meet the demands of the large population, but while creating any legislation, two things must be taken into account: first, the law must not be too strict to prevent evolution, and second, it must not be too accommodating to permit changes at whim by any party. Prior to the arrival of the emperors or other foreign invaders, India had a strong legal system that was comparable to the government system of the Great Kautaliya. Every Indian emperor also governs his kingdom in a straightforward manner, with no place for ambiguity in society and the reverence of every subject. The only country in the world that tolerates all people and all faiths is India. Invaders obliterate India's laws, customs, and civilizations. Simply destroying a nation's culture and civilization and waiting for it to fall is one of the most effective methods to do away with it without recourse to war or battle. With the use of the legal framework that the British established for themselves, we seek to highlight section 304-A of the Indian Penal Code, show how someone may use murder to come within its scope, and provide a solution to make it proper. And to talk about what the governing body has to do to address this sort of issue. This paper proceeds to analyze the reasons behind the number of fatalities brought on by hasty and careless driving is rising every day. Precious lives are lost, leaving the victim's dependents without a means of support and almost forced to beg on the streets. This paper examines raised serious concerns in society which endangers the lives of many other people, including those who use footpaths and came up with certain solutions and recommendations.

**Keywords:** Section 304-A, Rash, Negligent, law, society, government, etc.

### [A] INTRODUCTION

Every day, a story in the newspaper describes how someone was hit and killed by a vehicle that was going too fast, or how the victim may have been injured, but that was the only result of the reckless and impulsive action. The most regrettable feature of the present situation is that, despite several laws and clauses being deleted from different acts and statutes, this particular portion has remained in place, and anybody breaking it is eligible to apply for bail at the local police station. No one has the authority to murder another person because of Killing by Negligence just because they possess a legal license. People in today's culture use this

section to exact vengeance on others because they are aware that breaking the law is a good defense and that the maximum sentence if the law was broken is two years in prison because it is difficult to prove reckless and irresponsible behavior. Rash and careless conduct may differ from case to case, and under this clause, criminals who committed an offence with the intent to kill someone will not be charged for either culpable homicide or murder. Sections 279, 337, and other provisions of the Indian Penal Code, 1860 allow us to punish offenders who committed crimes in hasty or careless ways.

## [B] STATEMENT OF THE PROBLEM

On a daily basis out, more people die as a result of reckless and careless driving. Precious lives are lost, leaving the victim's dependents without a means of support and almost forced to beg on the streets. This has caused a lot of concern in the community and puts many other people's lives at peril, including those of people using footpaths and other cars that are being driven, as well as causing significant property damage. In a recent case<sup>86</sup>, the Supreme Court made note of the inherent risks to which people is exposed and the unlimited and irreparable harm caused to human lives, and it suggested various remedies. It also emphasized the need to reevaluate the sentencing guidelines for offences under Sec. 304-A of the IPC (dealing with death cannot be accomplished by hasty and negligent act).

## [C] RESEARCH HYPOTHESIS

The fundamental assumption in the study is that though there is an interrelation between crime and society, the existing legal regime is unable to accommodate and resolve issues pertaining to rash and negligent deaths. Priority should be given to deterrence when determining the punishment for professional drivers who cause fatalities by hasty and careless driving.

## [D] SIGNIFICANCE OF THE STUDY

Driving is useful. I want to call the responsible authorities' and the parents' attention to the need to prevent their children from engaging in reckless driving. Most kids at this age are exposed to the joys of speed, which may sometimes end in deadly accidents. One of a teen's most gratifying experiences—and sometimes one of the most hazardous—is owning or operating a two- or four-wheeled vehicle. Maximum roads of India are not very conducive to driving. Nowadays, traffic accidents claim more lives than any other cause of death. One of the highlights of a teen's

life is getting their driver's licence. However, what we see now is that parents let their kids drive without a licence. Teens under the age of 18 shouldn't be permitted to drive. Individuals should adhere to all driving Nearly 100 traffic violations and road accidents occur every day. However, in today's dynamic society, individuals are breaking the norms. Teenagers are the most reckless drivers on the road, thus only adequate parental supervision and severe administrative restrictions will be able to regulate reckless driving.

## [D] RESEARCH OBJECTIVES

The research has the following objectives:

1. To mobilize the public in favor of safe conduct and traffic laws and regulations in order to alter drivers' attitudes and behaviors.
2. To highlight the reasons behind increase in rash and negligent act in different cities in India.
3. To propose the government to adopt new road safety techniques as adopted by other developed countries.
4. To examine risk perception of road users regarding road accidents.
5. To study attitude towards risky driving behavior.

## [E] RESEARCH METHODOLOGY

The methodology suggested shall be basically Doctrinal in nature. Analytical method shall be adopted to explore the objectives of the research. The study is predominantly based on international and national legislations and policy papers. The relevant legislations and statutory instruments which are in force in India and other jurisdictions shall also be thoroughly examined. Adapting the method of doctrinal research legal concepts and principles shall be examined and analyzed to reach the conclusion. The study of different legislations pertaining to prohibit rash and negligent act in various countries shall also be made in order to suggest and explore if a model law suitable for it which may be brought forth in India.

<sup>86</sup> State of Punjab Vs. Surabh Bakshi 2015 Cr LJ P.2459 (SC).

**[F] LITERATURE REVIEW**

**Citation:** R. Alan Thompson, (2001) "Driving While Black: Highways, Shopping Malls, Taxicabs, Sidewalks – What to Do if You Are a Victim of Racial Profiling", Policing: An International Journal of Police Strategies and Management, Vol. 24 Issue: 2, pp.263-266, <https://doi.org/10.1108/pijpsm.2001.24.2.263.1>

**Citation:** Kara Kockelman, Jianming Ma, (2018), Aggressive Driving and Speeding, in Dominique Lord ,Simon Washington (ed.) Safe Mobility: Challenges, Methodology and Solutions (Transport and Sustainability, Volume 11) Emerald Publishing Limited, pp.37-55

**Citation:** Edith Gulian-Minshull, (1992) "The Stress of Driving", Employee Councelling Today, Vol. 4 Issue: 1, pp.12-17, <https://doi.org/10.1108/13665629210011917>

**Citation:** Linda Lemarie, Jean-Charles Chebat, Fran ç ois Bellavance, (2018) "Reckless driving promotion and prevention: priming effects", Journal of Social Marketing, Vol. 8 Issue: 2, pp.220-236.

**[G] CHAPTERISATION**

The study is divided into the following five parts excluding the above introduction:

**CHAPTER I**

**HISTORICAL RELEVANCE AND INTRODUCTION**

This part of the code was initially missing. Act 27 of 1870 added Section 304-A to the Indian Penal Code, 1860. This part has to be introduced since, in the 1870s, only monarchs and people from the United Kingdom drove cars, and they only did so on their orders. Due to their reckless driving, carelessness, or use of intoxicants, they routinely drove over individuals, usually ending in deaths. In order to protect the accused from criminal accountability and maintain public confidence in the legal system, the aforementioned provision was included. Furthermore, it serves as a reminder to the

broader public that no one is ever above the law.

Causing death by negligence is defined in section 304-A as "doing any rash or negligent act not amounting to culpable homicide, which results in the death of any person, shall be punished with imprisonment of either description for a term which can go up to two years, with fine, or with both<sup>87</sup>."

The terms "rash" and "negligent," as used in provision 304-A, must be read in the context of modern society in order for the individual to be held accountable under this provision. Rashness is not the same as being careless. Simple carelessness cannot include deliberate rashness. They are distinct from one another, hence a single act cannot be both hasty and careless<sup>88</sup>.

In the case of *Istlingappa v. Emperor*<sup>89</sup>, it was established that "a negligent or rash act is not done with intent or design."

Even in the *Nga Myat Thin v. Emperor*<sup>90</sup> case, it was determined that "A rash act is primarily an over-hasty act and is therefore in contrast to a deliberate act, but it also includes an act that, even though it may be said to be deliberate, is yet done without deliberation and caution."

| Sr. No. | RASHNESS   | NEGLIGENCE  |
|---------|--|---|
| 1.      | It is a hurriedly performed action.  | It is an inability to fulfil a duty that a sane person would do <sup>91</sup> . |
| 2.      | It is a species.   | It is the Genus.  |
| 3.      | A person with this attitude does not consider the consequences of their actions. | It is a way of thinking that is aware of the effects of behavior but            |

<sup>87</sup> See section 304-A Indian Penal Code, 1860.

<sup>88</sup> Shakir Khan, A.I.R 1931 Luck 54.

<sup>89</sup> 17 I.C (Bom) 542.

<sup>90</sup> (1898) P.J.L.B.426.

<sup>91</sup> Blyth v. Birmingham Water Works Co. 11 Ex.784

|  |  |                          |
|--|--|--------------------------|
|  |  | chooses to disregard it. |
|--|--|--------------------------|

Rashness and neglect have also been described to be of such a kind or degree that they may harm a person or put them in danger<sup>92</sup>. And the act of haste and neglect may result in death; in fact, it is quite likely to do so.

### TRIANGLE OF THREE SECTIONS

The Indian Penal Code, 1860, Section 279, states.

"Racing or driving erratically on a public road. Anyone who operates a vehicle or rides a bicycle on a public road in a reckless or careless manner that endangers human life or is likely to inflict harm or injury on another person will be punished with either general or specific imprisonment for a term up to six months, a fine up to one thousand rupees, or both<sup>93</sup>.

**Ingredient** – The following conditions must be met in order for a person to be held accountable under this section:

- a) Operating a vehicle or riding in a public place.
- b) The operating of the vehicle must be so negligent or reckless as to endanger human life or be likely to harm or injury any other person.
- b) The meaning of word "manner"

The court ruled in *Ravi Kapoor v. State of Rajasthan*<sup>94</sup> that "speed is not the test for careless and rash driving under section 279." Determiners are the kind of drivers who endanger human life.

According to this regulation, it would be reckless and negligent to drive an automobile slowly yet recklessly. The Legislature intended for the term "manner" to have the following definition when it was used in this section:

It depends on how the car is operated; it may be done carelessly or rashly. Such careless or rash driving should put people's lives in risk.

The Indian Penal Code, 1860, Section 337.

Causing harm by endangering the lives or personal safety of others is punishable by up to six months in jail, a fine up to 500 rupees, or both<sup>95</sup>.

Meaning: This provision protects the accused by asserting that there was no criminal intent—just rashness and negligence—when the death did not follow from the reckless and negligent conduct under section 304-A; instead, only harm had to occur.

In the authority of *Emperor vs. Gulam Hyder Panjabi*<sup>96</sup>, it was decided that the accused had behaved carelessly and rashly while having no malicious intent to harm anybody, making him liable to be found guilty in accordance with this provision.

### SECTION 304A OF THE INDIAN PENAL CODE, 1860

If an act of hasty and negligent death has been committed, the case of the individual should fall under this provision, but the prosecution must provide evidence of the accused's very high level of carelessness<sup>97</sup>.

Additionally, it must be shown if the accused acted recklessly or negligently or with the criminal intent to murder the victim.

This means that section 279 of the Indian Penal Code, 1860, may apply in cases where the driver of a vehicle endangers the life of another person, section 337 may apply when another person is injured, and section 304-A of the Indian Penal Code, 1860 may apply when a death occurs.

<sup>92</sup> Chamman Lal, 1954 Cri. L.J. 405.

<sup>93</sup> See section 279 of the Indian Penal Code, 1860.

<sup>94</sup> (2012) IV Cri. L.J.4403 (S.C).

<sup>95</sup> See Section 337 of the Indian Penal Code, 1860

<sup>96</sup> (1915) 17 BOMLR 384.

<sup>97</sup> Suresh Gupta v. Government of N.C.T of Delhi, 2004 Cri. L.J 3870 (S.C).

## IT IS NOT A CULPABLE HOMICIDE BUT A NEGLIGENCE ACT

The Allahabad High Court noted in the matter of *Idu Beg*<sup>98</sup> that Section 304-A is intended to address offences that are not covered by Sections 299 and 300, and it surely takes these circumstances into account.

Since the hurried and careless conduct that is classified as a crime does not constitute culpable murder, it must be considered that intentionally or deliberately inflicted injury, directly and willingly created, is excluded.

### THIS SECTION IS REQUIRED TO MODIFIED

"If the person committing the act knows that it is so imminently dangerous that it must, in all likelihood, cause death, or such bodily injury as is likely to cause death, and commits such act without any justification for incurring the risk of causing death, or such injury as aforesaid," states clause 4 of section 300 of the Indian Penal Code, 1860<sup>99</sup>.

**Comments:** By using the rules of interpretation, it has been determined that if a person performs an act that includes any of the following characteristics, his case may qualify as murder:

Committing an act makes it risky immediately after.

There is a strong likelihood that the conduct will result in death or bodily harm that kills, and the act is carried out without a good reason to justify the risk involved.

### Examples

**a)** A person fires a loaded cannon into a crowd of people without cause, killing one of them. Even though A didn't have any particular targets in mind when he performed the act, he is nevertheless guilty of murder.

**b)** Assume a drunk driver struck someone with his automobile, maybe killing them.

It must be clear that the driver was aware of the possibility that he might lose control of his vehicle and that anything may go wrong in this situation. We are unable to assert that he was acting in accordance with section 300-A of the IPC when he sought shelter there. Because this is a murder case, he should be prosecuted in accordance with section 300 of the Indian Penal Code.

The court found that, "According to the usual course of nature, the act that was committed will have a higher degree of likelihood of death, which suggests that death will be the most likely outcome of the harm," in the case of *State of Andhra Pradesh v. Rayavarpu Punayya*<sup>100</sup>.

### KNOWLEDGE AND INTENTION ARE DIFFERENT THINGS

In the matter of *Kesar Singh v. the State of Haryana*<sup>101</sup>, the court gave a clear definition of the two terms, stating that "the term "knowledge" refers to a simple state of conscious awareness of specific facts, during which the human brain itself may be inert or dormant. Although intention refers to a state of consciousness in which the mental faculties are activated and united into action to be purposefully directed towards a certain target that the human mind imagines and sees before itself.

In the case of *Sarabjeet Singh and others v. State of Uttar Pradesh*<sup>102</sup>, the court found that the suspect was guilty under Section 299 of the IPC and held that this case was unable to fall under Section 304A of the IPC but would instead be covered by the second part of Section 304. The accused knew exactly what he was doing and how it might have culminated in death and that he was aware of the crime.

<sup>98</sup> (1881) 3 All. 776.

<sup>99</sup> See section 300 of the Indian Penal Code

<sup>100</sup> AIR 1977 SC 45.

<sup>101</sup> 2008 15 SCC 753.

<sup>102</sup> Criminal Appeal No. 608 of 1982.

**CHAPTER 2**

**RECENT 2021 DATA ON RASH AND NEGLIGENT ACT IN DIFFERENT CITIES IN INDIA**

**Table 1**

**Road Classification – wise Number of Road Accidents, Injuries and Deaths during 2021  
(City - wise)**

| Sl. No. | City              | National Highways |         |      | State Highways |         |      |
|---------|-------------------|-------------------|---------|------|----------------|---------|------|
|         |                   | Cases             | Injured | Died | Cases          | Injured | Died |
| (1)     | (2)               | (3)               | (4)     | (5)  | (6)            | (7)     | (8)  |
| 37      | AGRA              | 60                | 7       | 64   | 14             | 15      | 14   |
| 38      | AHMEDABAD         | 143               | 67      | 58   | 0              | 0       | 0    |
| 39      | ALLAHABAD         | 124               | 88      | 62   | 153            | 123     | 84   |
| 40      | AMRITSAR          | 29                | 9       | 3    | 0              | 0       | 0    |
| 41      | ASANSOL           | 144               | 55      | 142  | 34             | 4       | 45   |
| 42      | AURANGABAD        | 28                | 20      | 26   | 66             | 60      | 34   |
| 43      | BENGALURU         | 518               | 507     | 117  | 245            | 228     | 57   |
| 44      | BHOPAL            | 53                | 53      | 8    | 331            | 331     | 10   |
| 45      | CHANDIGARH (CITY) | 29                | 21      | 21   | 0              | 0       | 0    |
| 46      | CHENNAI           | 721               | 720     | 193  | 467            | 467     | 88   |
| 47      | COIMBATORE        | 280               | 221     | 83   | 257            | 210     | 68   |
| 48      | DELHI (CITY)      | 565               | 361     | 232  | 302            | 198     | 126  |
| 49      | DHANBAD           | 107               | 55      | 73   | 52             | 40      | 38   |
| 50      | DURG BHILAINAGAR  | 152               | 100     | 40   | 69             | 38      | 22   |
| 51      | FARIDABAD         | 119               | 97      | 61   | 0              | 0       | 0    |
| 52      | GHAZIABAD         | 142               | 111     | 47   | 37             | 15      | 25   |
| 53      | GWALIOR           | 240               | 193     | 71   | 0              | 0       | 0    |
| 54      | HYDERABAD         | 304               | 294     | 51   | 125            | 113     | 24   |
| 55      | INDORE            | 385               | 343     | 47   | 601            | 454     | 44   |
| 56      | JABALPUR          | 612               | 514     | 53   | 646            | 523     | 80   |
| 57      | JAIPUR            | 581               | 450     | 254  | 111            | 112     | 37   |
| 58      | JAMSHEDPUR        | 18                | 13      | 10   | 30             | 39      | 15   |
| 59      | JODHPUR           | 163               | 113     | 88   | 47             | 36      | 14   |
| 60      | KANNUR            | 248               | 270     | 31   | 245            | 423     | 33   |
| 61      | KANPUR            | 237               | 104     | 237  | 205            | 114     | 205  |
| 62      | KOCHI             | 374               | 334     | 67   | 291            | 296     | 36   |
| 63      | KOLKATA           | 14                | 0       | 16   | 24             | 9       | 15   |
| 64      | KOLLAM            | 760               | 762     | 97   | 0              | 0       | 0    |
| 65      | KOTA              | 37                | 30      | 19   | 5              | 9       | 4    |
| 66      | KOZHIKODE         | 458               | 453     | 67   | 211            | 214     | 17   |
| 67      | LUCKNOW           | 355               | 176     | 181  | 176            | 110     | 85   |
| 68      | LUDHIANA          | 168               | 53      | 140  | 43             | 11      | 42   |
| 69      | MADURAI           | 41                | 32      | 13   | 359            | 306     | 91   |
| 70      | MALAPPURAM        | 238               | 286     | 24   | 163            | 163     | 29   |



|                       |                    |              |             |             |             |             |             |
|-----------------------|--------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| 71                    | MEERUT             | 181          | 116         | 77          | 2           | 2           | 0           |
| 72                    | MUMBAI             | 25           | 0           | 25          | 4           | 0           | 4           |
| 73                    | NAGPUR             | 161          | 114         | 87          | 167         | 121         | 43          |
| 74                    | NASIK              | 0            | 0           | 0           | 13          | 8           | 14          |
| 75                    | PATNA              | 114          | 113         | 106         | 213         | 45          | 41          |
| 76                    | PUNE               | 50           | 16          | 44          | 52          | 9           | 50          |
| 77                    | RAIPUR             | 246          | 109         | 54          | 135         | 99          | 27          |
| 78                    | RAJKOT             | 64           | 59          | 41          | 77          | 62          | 31          |
| 79                    | RANCHI             | 0            | 0           | 0           | 0           | 0           | 0           |
| 80                    | SRINAGAR           | 99           | 102         | 14          | 0           | 0           | 0           |
| 81                    | SURAT              | 60           | 30          | 38          | 43          | 19          | 22          |
| 82                    | THIRUVANANTHAPURAM | 489          | 554         | 50          | 256         | 264         | 18          |
| 83                    | THRISSUR           | 209          | 225         | 49          | 729         | 777         | 83          |
| 84                    | TIRUCHIRAPPALLI    | 165          | 167         | 67          | 9           | 11          | 2           |
| 85                    | VADODARA           | 117          | 58          | 72          | 1           | 1           | 0           |
| 86                    | VARANASI           | 56           | 42          | 71          | 48          | 26          | 43          |
| 87                    | VASAI VIRAR        | 150          | 87          | 83          | 9           | 7           | 5           |
| 88                    | VIJAYAWADA         | 623          | 542         | 177         | 74          | 56          | 17          |
| 89                    | VISHAKHAPATNAM     | 659          | 424         | 133         | 54          | 33          | 9           |
| <b>TOTAL (CITIES)</b> |                    | <b>11915</b> | <b>9670</b> | <b>3884</b> | <b>7195</b> | <b>6201</b> | <b>1791</b> |

☒ As per data provided by States/UTs.

**Table 2 (Concluded)**

**Road Classification – wise Number of Road Accidents, Injuries and Deaths during 2021 (City - wise)**

| Sl. No. | City              | Other Roads |         |      | Total |         |      |
|---------|-------------------|-------------|---------|------|-------|---------|------|
|         |                   | Cases       | Injured | Died | Cases | Injured | Died |
| (1)     | (2)               | (12)        | (13)    | (14) | (15)  | (16)    | (17) |
| 37      | AGRA              | 86          | 31      | 88   | 160   | 53      | 166  |
| 38      | AHMEDABAD         | 1287        | 996     | 342  | 1433  | 1063    | 403  |
| 39      | ALLAHABAD         | 317         | 195     | 118  | 594   | 406     | 264  |
| 40      | AMRITSAR          | 69          | 39      | 62   | 98    | 48      | 65   |
| 41      | ASANSOL           | 107         | 13      | 113  | 285   | 72      | 300  |
| 42      | AURANGABAD        | 384         | 286     | 141  | 478   | 366     | 201  |
| 43      | BENGALURU         | 2450        | 2085    | 480  | 3213  | 2820    | 654  |
| 44      | BHOPAL            | 1507        | 1194    | 86   | 1891  | 1578    | 104  |
| 45      | CHANDIGARH (CITY) | 179         | 151     | 75   | 208   | 172     | 96   |
| 46      | CHENNAI           | 3839        | 3826    | 715  | 5034  | 5020    | 998  |
| 47      | COIMBATORE        | 329         | 256     | 83   | 866   | 687     | 234  |
| 48      | DELHI (CITY)      | 3630        | 3265    | 809  | 4505  | 3827    | 1172 |
| 49      | DHANBAD           | 28          | 13      | 12   | 187   | 108     | 123  |



|                       |                    |              |              |             |              |              |              |
|-----------------------|--------------------|--------------|--------------|-------------|--------------|--------------|--------------|
| 50                    | DURG BHILAINAGAR   | 404          | 375          | 33          | 625          | 513          | 95           |
| 51                    | FARIDABAD          | 403          | 321          | 168         | 538          | 423          | 244          |
| 52                    | GHAZIABAD          | 48           | 43           | 33          | 296          | 219          | 129          |
| 53                    | GWALIOR            | 794          | 717          | 94          | 1034         | 910          | 165          |
| 54                    | HYDERABAD          | 1844         | 1744         | 222         | 2273         | 2151         | 297          |
| 55                    | INDORE             | 1632         | 1418         | 182         | 2618         | 2215         | 273          |
| 56                    | JABALPUR           | 544          | 915          | 90          | 1802         | 1952         | 223          |
| 57                    | JAIPUR             | 1445         | 1217         | 316         | 2166         | 1791         | 625          |
| 58                    | JAMSHEDPUR         | 104          | 82           | 40          | 152          | 134          | 65           |
| 59                    | JODHPUR            | 385          | 272          | 134         | 595          | 421          | 236          |
| 60                    | KANNUR             | 617          | 634          | 58          | 1110         | 1327         | 122          |
| 61                    | KANPUR             | 151          | 81           | 151         | 593          | 299          | 593          |
| 62                    | KOCHI              | 1116         | 1128         | 38          | 1781         | 1758         | 141          |
| 63                    | KOLKATA            | 1481         | 1316         | 180         | 1519         | 1325         | 211          |
| 64                    | KOLLAM             | 792          | 885          | 87          | 1552         | 1647         | 184          |
| 65                    | KOTA               | 326          | 328          | 52          | 368          | 367          | 75           |
| 66                    | KOZHIKODE          | 708          | 724          | 47          | 1377         | 1391         | 131          |
| 67                    | LUCKNOW            | 469          | 324          | 163         | 1063         | 655          | 459          |
| 68                    | LUDHIANA           | 267          | 105          | 198         | 478          | 169          | 380          |
| 69                    | MADURAI            | 218          | 168          | 50          | 618          | 506          | 154          |
| 70                    | MALAPPURAM         | 285          | 308          | 42          | 686          | 757          | 95           |
| 71                    | MEERUT             | 158          | 113          | 53          | 348          | 238          | 141          |
| 72                    | MUMBAI             | 464          | 22           | 443         | 493          | 22           | 472          |
| 73                    | NAGPUR             | 696          | 562          | 150         | 1024         | 797          | 280          |
| 74                    | NASIK              | 129          | 14           | 128         | 142          | 22           | 142          |
| 75                    | PATNA              | 57           | 127          | 63          | 384          | 285          | 210          |
| 76                    | PUNE               | 202          | 69           | 130         | 304          | 94           | 224          |
| 77                    | RAIPUR             | 551          | 358          | 64          | 932          | 566          | 145          |
| 78                    | RAJKOT             | 222          | 167          | 63          | 363          | 288          | 135          |
| 79                    | RANCHI             | 183          | 129          | 102         | 183          | 129          | 102          |
| 80                    | SRINAGAR           | 232          | 245          | 26          | 331          | 347          | 40           |
| 81                    | SURAT              | 567          | 464          | 212         | 670          | 513          | 272          |
| 82                    | THIRUVANANTHAPURAM | 693          | 697          | 49          | 1438         | 1515         | 117          |
| 83                    | THRISSUR           | 781          | 873          | 69          | 1719         | 1875         | 201          |
| 84                    | TIRUCHIRAPPALLI    | 225          | 199          | 61          | 399          | 377          | 130          |
| 85                    | VADODARA           | 345          | 289          | 73          | 464          | 349          | 146          |
| 86                    | VARANASI           | 29           | 18           | 31          | 133          | 86           | 145          |
| 87                    | VASAI VIRAR        | 193          | 162          | 62          | 352          | 256          | 150          |
| 88                    | VIJAYAWADA         | 531          | 483          | 93          | 1228         | 1081         | 287          |
| 89                    | VISHAKHAPATNAM     | 1626         | 1076         | 226         | 2339         | 1533         | 368          |
| <b>TOTAL (CITIES)</b> |                    | <b>36129</b> | <b>31522</b> | <b>7600</b> | <b>55442</b> | <b>47523</b> | <b>13384</b> |

☒ As per data  
provided by States/UTs.

### CHAPTER 3

#### JUDICIAL STAND ON CASES OF RASH AND NEGLIGENT DRIVING

The Indian Penal Code's section 304-A has to be redefined in light of the current state of society, and the Hon'ble Apex Court has repeatedly ordered the legislature to do so.

Because the law is a notion that changes depending on the state, society, and culture, only those laws can endure if they serve the needs of society.

The supreme court made the following observations in the case *State of Punjab v. Saurabh Bakshi*<sup>103</sup>.

**a)** "Just punishment is meant to stop repeat victims of such acts among the individuals who comprise society as a whole. It serves as a deterrent. The perpetrator may sometimes be given the opportunity to change for the better, but it is also true that the proportionality of the penalty imposed to the crime committed must be taken into consideration. When doing this challenging exercise, the court must take into account the offense's impact on the victim, the local community, and society as a whole.

**b)** Being intoxicated promotes irresponsible driving, which makes other drivers their target. While pedestrians worry for the future and the impoverished fear their lives are in jeopardy, civilized people are perpetually terrified as they drive and are startled by the noisy behavior of individuals who believe they are "bigger than life."

**c)** A guy with the means could have developed the idea that by paying back the victim, he might escape serving the substantive term. The law and the court that upholds the law must never forget that these incidents often result in the loss of valuable lives or the lifelong disability of the survivors, which is, in some respects, worse than death. Such idea formation is a

hazardous phenomenon in an orderly society. Being young is not always a good reason to embrace someone. Life is equally valuable to the poor as it is to the affluent or extravagantly temperamental.

**d)** Justice is, in Cicero's words, "the crowning splendour," "the sovereign mistress," and "queen of virtue."

Such a crime has an impact on numerous other people's lives in addition to the victim's own. In the end, it undermines public confidence in the justice system.

According to the High Court of Kerala's decision in *Mohammed Ashraf v. State of Kerala*<sup>104</sup>, "a death resulting from rash driving caused by drunken, careless, or adventurous drivers cannot be dismissed based on the compromise afterwards entered between the parties and taking a lenient stance for an offence under Section 304A of IPC will leave an erroneous impression about the criminal justice system and promote further criminal acts."

In the authority of *State, Tr PS Lodhi Colony, New Delhi v. Sanjeev Nanda*<sup>105</sup> the court declared that the accused will be charged under Section 304 Part II IPC "when the accused has knowledge that the act he is about to engage in is likely to result in the death of another individual, and he commits the act with this awareness, and the victim dies as a result." A person commits a culpable homicide when they do so with the aim to kill them or with knowing that they are likely to die as a consequence of their actions.

In the case of *Alister Anthony Pareira v. the State of Maharashtra*<sup>106</sup>, the court stated that "Section 304-A may be invoked in cases where negligence or recklessness is the sole cause of death; however, if the reckless or negligent act is accompanied by the knowledge that such act is probably going to cause death, Section 304 Part II I.P.C may be invoked; and if such a

<sup>104</sup> Cr. M.C NO.2880 of 2016.

<sup>105</sup> CRIMINAL APPEAL NO. 1168 OF 2012

<sup>106</sup> CRIMINAL APPEAL NOS. 1318-1320 OF 2007.

<sup>103</sup> CRIMINAL APPEAL NO.520 OF 2015.

reckless and negligent act is accompanied by real intention on the part of the wrongdoer to cause

"The law is unequivocal on this point: if the suspect has knowledge that the conduct he is about to commit is likely to end up in the death of another person, and he commits the act with this knowledge in mind, and the sufferer dies as a result, the matter falls under Section 304 Part II of the I.P.C.," the court stated in the case of *Martin @ Jinu Sebastian and Anr. V. the State of Kerala*<sup>107</sup>.

#### **CHAPTER 4**

#### **COUNTRIES WHICH AMENDED THE PROVISION OF RASH AND NEGLIGENT ACT**

##### **SRI LANKA**

The Sri Lankan Penal Code, 1883, Section 298, states that anyone who kills someone by engaging in any reckless or careless behaviour that does not constitute culpable murder must be punished with imprisonment of either description for a period of time that may not exceed five years, with time served, or with both<sup>108</sup>.

According to Section 304A of the Singapore Penal Code from 1871, "Whoever causes the death of any person by engaging in any reckless or negligent act that does not constitute culpable homicide shall be punished –

**(a)** in the case of a rash act, with imprisonment for a term that may extend to 5 years, with fine, or with both; or

**(b)** in the case of a negligent act, with imprisonment for a term that may extend to 2 years<sup>109</sup>,

##### **BANGLADESH**

Section 304-A, "Causing Death by Negligence," states that

**a)** anybody who kills someone by acting recklessly or negligently without first committing culpable murder would be penalised with either a fine or a term sentence in jail<sup>110</sup>.

**b)** "304-B-Causing death by rash riding or driving on a public way- Whoever causes the death of any person by rash or negligently operating any motor vehicle or by riding on any public way without constituting culpable homicide shall be condemned with imprisonment of either description for a term which may extend to three years, with fine, or with both"

#### **CHAPTER 5**

#### **REQUIREMENT TO AMEND SECTION 104A OF THE INDIAN PENAL CODE, 1860**

The section must be seen from two perspectives in the present.

**a)** First, criminals are using the provision to great effect to shield them from the panel requirement.

**b)** Additionally, it is the simplest method to commit murder or a crime. By claiming that the accused had no intention to committing the crime, the Accident.

#### **PRECISE DEFINITION OF "IMMINENTLY DANGEROUS"**

A guy who stabs someone in the neck must be considered to know that his acts are immediately dangerous to the sufferer's life and that it is probable that they will end in the victim's death, according to the court's definition of the term in the case of *Judagi Mallah*<sup>111</sup>. Given the aforementioned facts, the individual should face punishment under section 300 of the IPC.

Although clause 4 of section 300 is typically used when there is no desire to harm a specific person, the apex court noted in the *Ram Prasad case*<sup>112</sup> that the clause "may, according to its

<sup>107</sup> CRL.A NO. 1557 OF 2007

<sup>108</sup> See section 298 of the Sri Lankan Penal Code, 1883.

<sup>109</sup> See section 304A of the Singapore Penal Code, 1871.

<sup>110</sup> See section 304-A of the Bangladesh Penal Code, 1860.

<sup>111</sup> (1929) 8 Pat.911.

<sup>112</sup> A.I.R. 1968 S.C.881.

terms, be used when there is a callous disregard for the outcome and the risk is such that it may be claimed that the person knows that the act is likely to result in death or other serious injury that is likely to result in death."

In the case of *Budhihal v. the State of Uttrakhand*<sup>113</sup>, the application of clause 4 of section 300 was also mentioned as follows: "This provision would be applicable if the criminal knew with a high level of confidence that his imminent dangerous act would likely result in the death of a number of individuals, rather than just one specific person. Such knowledge on the side of the criminal must be present in the greatest degree of likelihood given that the behavior was conducted by the offender without reason for running the danger of causing death or the aforementioned harm.

#### **MAKE THE OFFENCE NOT SUBJECT TO BAIL**

Because the crime is penalized by bail, if someone murders one or more people, they could be able to get bail right away from the police station. The victim cannot get justice since the suspect has little reason to fear going to court as a consequence.

Every citizen has the fundamental right to get justice, which is to do so in a fair and timely manner, according to the Indian Constitution.

#### **NEED TO INCREASE THE PENALTY**

The third reason the provision has to be revised is that it was introduced in 1870, but because it is now 2022 and the means of committing the offence has changed, we are still following a regulation that is nearly 150 years old. The sanctions under this article must now be raised given the present circumstances. The prescribed punishment for this section should be between two and ten years in jail. so that the individual could dread the court.

#### **KEEPING THE INFRACTION BEYOND THE SCOPE OF A COMPOUNDABLE OFFENCE.**

Section 320 of the Code of Criminal Procedure deals with offences that may be committed repeatedly. It simply suggests that in order to resolve the conflict, the victim or his legal heirs could get remuneration from both parties or the legal heirs. The real concern here, however, is whether or not the accused, who is asking for compounding, will show up in court with a clean conscience. Therefore, the same offence should no longer be considered a compoundable offence in the future.

#### **[H] CONCLUSION**

Any individual has the right to fight for justice, which can't be denied to them or insulted by claiming another legal justification merely because it is possible or by making the victim seem foolish by letting them off the hook for the crime. One does not have the authority to kill someone out of haste or carelessness just though they have a valid licence that was provided by the proper authorities.

The suspect, who chooses to plead guilty under section 304-A of the Indian Penal Code, 1860, instead of section 300, must pass a fair test to determine whether or not they have criminal intent and whether or not they will be in good standing when they show up in court. It must also be determined if the mishap was due to a mistake or a deliberate conduct that was recklessly and hurriedly carried out.

Additionally, the Parliament of India has received multiple suggestions from the Honorable Apex Court and Law Commission of India emphasizing the urgent need to alter this provision to reflect the contemporary status of society.

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