

ANALYSING CRIMINAL NEGLIGENCE IN INDIAN LAW: A STUDY OF BNS SECTION 106(1) & (2) IN RELATION TO THE RESPONSIBILITIES OF HEALTHCARE PROFESSIONALS.

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ABSTRACT

Criminal negligence under Section 106(1) & (2) of the BHARATIYA NYAYA SANHITA has become an important issue in Indian criminal judication particularly in cases involving healthcare professionals. While professional negligence may result in civil liability, criminal liability requires a much higher fault. This paper shows the concept of criminal negligence under Indian law with specific reference to the BNS Section 106(1) & (2). The study involves offence and explains the distinction between civil and criminal negligence as developed by Indian courts. The paper further discusses the legal responsibilities of healthcare professionals and the judicial safeguards evolved to prevent misuse of criminal law. It argues that criminal prosecution should not be based on adverse outcomes alone but must be supported by clear evidence of culpable negligence. The study concludes that judicial precedents play a crucial role in balancing professional accountability with protection against unwarranted criminal prosecution.

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INTRODUCTION

- Criminal negligence occupies a significant place in Indian criminal law mostly under Section 106(1) & (2) of the BHARATIYA NYAYA SANHITA which deals with causing death by rash or negligent act.
- In recent years there were slightly increase of criminal cases filed against healthcare professionals following their treatment issues and activities
- The criminal law has raised concern regarding fairness and professional authority from this noticed carefully judicial interpretation to conclude that the criminal liability is imposed only in during deserving cases or filed only in it.
- Judicial safeguards have therefore become crucial in preventing the misuse of criminal prosecution while maintaining public confidence in the justice system.

CONCEPT AND MEANING OF CRIMINAL NEGLIGENCE UNDER LAW

- The criminal negligence means not being careful enough in situations where care is important.
- Criminal negligence is more serious than just being careless it involves actions that show a complete disregard for people safety or lives.
- In India courts make a clear difference between negligence and rashness. Rashness means acting while knowing there's a risk but not being cautious enough
- While negligence means not even realizing there's a risk when you should have. Section 106(1) & (2) of Indian law doesn't need the traditional idea of intention to find someone guilty, but courts have pointed out that not intending to cause harm doesn't lower the need for a high level of negligence to be held responsible for a crime

STATUTORY FRAMEWORK OF BNS SECTION 106(1) & (2)

Section 106(1) & (2) of the BHARATIYA NYAYA SANHITA (BNS) deals with cases where someone's death is caused by careless or negligent actions that do not amount to murder. This law applies only when the death happens without any intent or knowledge of causing harm. To fall under this section, three main things need to be present:

1. A death must have occurred.
2. There must be a careless or negligent act.

3. There has to be a direct link between the careless action and the death.

The punishment for this offense is serious, but it is less severe than for more serious crimes outlined in Sections 299 and 300 of the BNS. Courts have made it clear that Section 106(1) & (2) is separate from the laws regarding murder, which involve more serious blame.

DIFFERENCE BETWEEN CIVIL AND CRIMINAL NEGLIGENCE

- The difference between civil negligence and criminal negligence is important in law.
- Civil negligence deals with making someone pay for harm they caused, and decisions are based on what is more likely to be true.
- On the other hand, criminal negligence involves punishment and requires strong proof that goes beyond just likely facts.
- For someone to be criminally negligent, their actions have to show serious carelessness—this is called gross negligence.
- While civil law focuses on compensating victims, criminal law is about punishing behaviour that could seriously harm people or society. Courts have helped clarify these two types of negligence.

JUDICIAL INTERPRETATION OF BNS SECTION 106(1) & (2)

- The interpretation of Section 106(1) & (2) has changed over time to make sure it's not misused in cases of professional negligence.
- Courts have made it clear that not every act of negligence that leads to death is a criminal offense.
- They have established that only gross negligence can lead to criminal charges. Several tests have been created to determine if a person's behaviour was so careless that it deserves punishment.
- This approach has helped avoid unnecessary prosecutions and has reinforced the idea that criminal law should be applied carefully.

ANALYSIS IN KEY JUDICIAL PROCEDENTS

- (A) Supreme court decisions
- (B) High court decisions

(A) Supreme Court Decisions

The supreme court has played a role in strengthening the law on criminal negligence.

CASE LAW

- i. In Jacob Mathew v. state of Punjab, the court held that criminal negligence requires a very high degree of negligence and that had more error of judgement does not constitute a criminal offence.
- ii. In Kusum Sharma V. Batra hospital, the court reiterated that criminal prosecution should not be initiated lightly and emphasized the need for judicial restraint.

Thus, these decisions have laid down guidelines and proved unwanted criminal proceedings

(B) High Court Decisions

- Various high courts have applied these principles while enquiring criminal proceedings where the element of gross negligence was absent.
- Such decisions reinforce the supreme court's approach and demonstrate judicial consistency in protecting professionals from the case against them.

RESPONSIBILITIES OF HEALTHCARE PROFESSIONALS UNDER CRIMINAL LAW

- Healthcare professionals have a duty to provide care that meets industry standards.
- This means they are expected to act with skill and caution that a reasonable professional would in similar situations, just because a treatment doesn't work out well doesn't mean that the healthcare worker is guilty of a crime.
- The law looks at how the professional acted, not just the final results. This ensures that they aren't blamed simply for unexpected outcomes.

JUDICIAL SAFEGUARDS AGAINST MISUSE OF CRIMINAL LAW

- To protect healthcare professionals from false accusations, courts have set up some important rules.
- One key rule is that an expert medical opinion must be obtained before any criminal charges can be filed.
- This helps prevent baseless complaints. The courts also examine cases carefully at the beginning to make sure that criminal charges are only brought when they are truly warranted.
- This careful approach by the judiciary is important for upholding justice and maintaining trust in the healthcare profession.

CONCLUSION

The judicial interpretation of BNS Section 106(1) & (2) reflects a cautious and balanced approach to criminal negligence in healthcare-related cases. Courts have consistently held that criminal law must be invoked only as a measure of last resort in cases of gross negligence. Strengthening awareness among healthcare professionals, investigators, and judicial officers is essential to ensure fair application of the law. Criminal prosecution should protect public interest without undermining professional judgment and ethical practice.

KEYWORDS

Criminal Negligence, BHARATIYA NYAYA SANHITA, Section 106(1) & (2), Criminal Liability, Gross Negligence, Rash and Negligent Act, Judicial Interpretation, Supreme Court Judgments, High Court Decisions, Healthcare Professionals, Medical Negligence, Allied Health Professionals, Civil and Criminal Negligence, Men's Rea, Culpable Homicide, Judicial Precedents, Criminal Prosecution, Legal Duties of Professionals, Standard of Care, Judicial Safeguards, Professional Accountability, Indian Criminal Law