

Where the Deceased, a labourer sustained injuries at construction site of petitioner during the course of demolition of house and succumbed to his death, Evidence showing that in spite of repeated warnings and caution notes, petitioner did not pay any heed and continued the work without care and caution which ought to have been exercised by a reasonable and a prudent person. The Delhi High Court confirmed the conviction under section 304A.^{467.}

[s 304A.20] Accidental fire from rifle.—

Fire occurred from rifle of the accused when he was about to take metal powder kept under cot. Deceased sustained bleeding injuries on his head and fell down on the cot and the accused being unconscious was lying on his cot. Two versions were given by the witnesses. The High Court took the view favouring the acquittal.^{468.}

[s 304A.21] Death of caddie by player's stroke.—

A golf-player missed the ball and instead struck the caddie to his death. Two other caddies, who were not around, expressed the opinion that there was negligence in the stroke. This opinion was not accepted because neither they were experts nor they were around. The Court felt that the incident must have been due to accidental omission to hit the ball. The charge under section 304A was not likely to succeed and, therefore, it was quashed.^{469.}

[s 304A.22] Death of child by slipping on school stairs.—

A child slipped on school stairs and sustained head injury. He was taken to the school dispensary where the pharmacist applied ice and ointment and instructed that the child be taken home. The Court said it was the duty of the pharmacist to either make proper diagnosis or advice for medical check-up by an expert doctor. The child died. The head master or class teacher were held not liable for causing death by negligence.^{470.}

Where a Maruti van carrying number of children was driven by accused/owner, lid of dicky was open and fire crackers were stored in dicky. Fire crackers stored in dicky caught fire resulting to death of children. It was held that the incident took place purely by accident. Accused were liable to be charged only under [sections 304A](#) and [435](#) of [IPC, 1860](#).^{471.}

[s 304A.23] Death of a child in swimming pool.—

Complainant's son drowned in swimming pool and died due to negligent attitude of owner, supervisor and observer of swimming pool. In the FIR, it was specifically mentioned that proposed accused is owner of Resorts. Accused was present in resort at time of admission of deceased boy and on date of incident too. Plea that the accused had already leased out the resort is of no consequence. High Court directed the magistrate to proceed against accused under [section 319, Cr PC, 1973](#).^{472.} A boy entered into the swimming pool of a club surreptitiously and without notice of the *chowkidar*. He was lost in drowning. The secretary of the club and *chowkidar* were prosecuted under this section. It was alleged that the club had no caution board and no life-saving guard. The Court dismissed the case. If the entry of the boy could be due to want of these precautions, only then there could have been a finding of negligence. The negligence, if at all, was of civil nature.^{473.} In another case, where death of deceased boy was due to drowning in swimming pool, the evidence showed that the deceased boy himself had unauthorisedly and surreptitiously entered in pool which was meant for adult trained swimmers and drowned. There was no nexus between the death of boy with only rash and negligent act of accused. Accused acquitted.^{474.}

[s 304A.24] Distinction between sections 304 and 304A.—

The Supreme Court stated as follows: There is distinction between sections 304 and 304A. Section 304A deals with homicidal death by rash or negligent act. It does not create a new offence. It is directed against the offences outside the range of sections 299 and 300 and covers those cases where death has been caused without *intention* or *knowledge*. Section 304A carves out cases where death is caused by doing a rash or negligent act which does not amount to culpable homicide not amounting to murder within the meaning of section 299 or culpable homicide amounting to murder under section 300. In other words, section 304A excludes all the ingredients of section 299 as also of section 300. Where intention or knowledge is the "motivating force" of the act complained of, section 304A will have to make room for the graver and more serious charge of culpable homicide not amounting to murder or amounting to murder as the facts disclose. The words "not amounting to culpable homicide" in section 304A are significant and clearly convey that the section seeks to embrace those cases where there is neither intention to cause death nor knowledge that the act done will in all probability result into death. It applies to acts which are rash or negligent and are directly the cause of death of another person.⁴⁷⁵ Undoubtedly, "rashness" does contain an element of knowledge. But a distinction has to be made between [section 304, IPC, 1860](#), requiring knowledge, with regard to the consequences of the act and [section 304A, IPC, 1860](#), "rashness", having an element of knowledge about the consequences, but with the hope that the consequences would not follow. Furthermore, in order to understand the distinction between [sections 304 and 304A, IPC, 1860](#), it is pertinent to note that while the former section deals with an act 'amounting to culpable homicide', the latter section deals with an act 'not amounting to culpable homicide'. Although "rashness" does contain an element of "knowledge", even then the case would not fall within the ambit of [section 304, IPC, 1860](#). For, in [section 304, IPC, 1860](#), the knowledge is about the consequences as the consequences would naturally and obviously follow from the nature of the act. But in "rashness", although there is a knowledge that the consequences may follow or are likely to follow, the doer hopes that the consequences would not follow. Thus, even if the element of knowledge is common in [sections 304 and 304A, IPC, 1860](#), the extent and ambit of "knowledge" differs in its nature. Therefore, the element of "knowledge" should not lead to any confusion between the scope of [section 304, IPC, 1860](#) and scope of [section 304A, IPC, 1860](#).⁴⁷⁶ If a person wilfully drives a motor vehicle into the midst of a crowd and thereby causes death to some person, it will not be a case of mere rash and negligent driving and the act will amount to culpable homicide. Doing an act with the intent to kill a person or knowledge that doing an act was likely to cause a person's death is culpable homicide. When intent or knowledge is the direct motivating force of the act, section 304A, has to make room for the graver and more serious charge of culpable homicide.⁴⁷⁷

[s 304A.25] Bhopal Gas Tragedy Case.—

On the night of 2 December 1984, there was a massive escape of lethal gas from the MIC storage tank at the Bhopal plant of the Union Carbide (I) Ltd. (UCIL) into the atmosphere causing the death of 5,295 people, leaving 5,68,292 people suffering from different kinds of injuries ranging from permanent total disablement to less serious injuries. CBI filed the charge for offences under [sections 304, 324, 326, 429](#) read with [section 35](#) of [IPC, 1860](#). Additional Sessions Judge, Bhopal passed an order framing charges against the accused Nos. 5–9 under sections 304 (Part II), 324, 326 and 429 of [IPC, 1860](#) and against accused Nos. 2, 3, 4 and 12 under the very same sections but with the aid of [section 35 of IPC, 1860](#). But the Supreme Court in *Keshub Mahindra v State of MP*.⁴⁷⁸ held that on the material led by the prosecution, appropriate charges which are required to be framed against the concerned accused are under [section 304A, IPC, 1860](#) so far as the accused Nos. 5, 6, 7, 8 and 9 are concerned while so far as accused Nos. 2, 6, 4 and 12 are concerned, charges under [section 304A](#) read with [section 35, IPC, 1860](#) will have to be framed. Ultimately on 7 June 2010, the CJM vide his judgment convicted accused Nos. 2 to 5, 7 to 9 and 12 under [sections 304A, 336, 337, 338](#) read with [section 35, IPC, 1860](#) and sentenced them to two years'

imprisonment. On 29 June 2010, Criminal Appeal No. 369 of 2010 was filed by State of Madhya Pradesh before the Court of Sessions with a prayer for enhancement of sentences under the existing charges. On the same day, the State of Madhya Pradesh also filed Criminal Revision Application No. 330 of 2010 before the Court of Sessions under [section 397, Cr PC, 1973](#), challenging the alleged failure of the CJM to enhance the charges to section 304 (Part II) in exercise of his jurisdiction under [section 216, Cr PC, 1973](#), and to commit the trial of the case to Sessions under [section 323, Cr PC, 1973](#) and *inter alia* praying for a direction to enhance charges and commit. Meanwhile, CBI filed a curative petition against judgment *Keshub Mahindra v State of MP (supra)* quashing of charges under sections 304, Part II, 324 and 429, [IPC, 1860](#) and direction to the trial Court to frame charges under [section 304A, IPC, 1860](#). Dismissing the curative petition which was filed after 14 years of the judgment impugned held that if according to the curative petitioner, the learned Magistrate failed to appreciate the correct legal position and misread the decision dated 13 September 1996 as tying his hands from exercising the power under section 323 or under section 216 of the Code, it can certainly be corrected by the appellate/revisional Court.⁴⁷⁹

[s 304A.26] Three cases.—Death due to drunken driving.—offence under section 304A or section 304, Part II.—

In *State of Maharashtra v Salman Salim Khan*,⁴⁸⁰ the allegation was that the accused drove his car under the influence of alcohol, in a rash manner and caused the death of one person and caused grievous injuries to four others who happened to be sleeping on the footpath. A few days later, the charge-sheet filed came to be modified based on the additional statement of the complainant, and instead of [section 304A, IPC, 1860](#), section 304, Part II, [IPC, 1860](#) was substituted. The Sessions Court framed charges under section 304, Part II. The High Court quashed the order framing charge under section 304, Part II, [IPC, 1860](#) and directed the appropriate Magistrate's Court to frame de novo charges under various sections mentioned in the said impugned order of the High Court including one under [section 304A, IPC, 1860](#). In the appeal filed by the State, the Supreme Court held that neither of the sides would have been in any manner prejudiced in the trial by framing of a charge either under section 304A or section 304, Part II, [IPC, 1860](#) except for the fact that the forum trying the charge might have been different, which by itself, being open to the concerned Court to have altered the charge appropriately depending on the material that is brought before it in the form of evidence.

[s 304A.27] BMW Case.—

The accused in an inebriated state, after consuming excessive alcohol, was driving the vehicle without licence, in a rash and negligent manner in a high speed which resulted in the death of six persons. Trial Court convicted the accused under section 304, Part II, but High Court altered the conviction to section 304A. The Supreme Court held that the accused had sufficient knowledge that his action was likely to cause death and such action would, in the facts and circumstances of the case, fall under section 304, Part II, [IPC, 1860](#) and the trial Court has rightly held so.⁴⁸¹

[s 304A.28] Alister Anthony Pareira's case.—

In *Alister Anthony Pareira's case*,⁴⁸² in which seven persons were killed and injuries were caused to eight persons, the Court held that the case falls under section 304, Part II and not under section 304A by holding that the person must be presumed to have had the knowledge that his act of driving the vehicle without a licence in a high speed after consuming liquor beyond the permissible limit is likely or sufficient in the ordinary course of nature to cause death of the pedestrians on the road.

[s 304A.29] Uphaar Cinema Hall Tragedy.—

Answering the question of whether the negligence of Ansal brothers—the occupiers of the cinema was so gross so as to be culpable under section 304A, of [IPC, 1860](#), the Supreme Court held that its answer to that question was in the affirmative. The reasons were not far to seek. In the first place, the degree of care expected from an occupier of a place which is frequented everyday by hundreds and if not thousands is very high in comparison to any other place that is less frequented or more sparingly used for public functions. The higher the number of visitors to a place and the greater the frequency of such visits, the higher would be the degree of care required to be observed for their safety. The duty is continuing which starts with every exhibition of cinematograph and continues till the patrons safely exit from the cinema complex. That the patrons are admitted to the cinema for a price, makes them contractual invitees or visitors qua whom the duty to care is even higher than others. The need for high degree of care for the safety of the visitors to such public places offering entertainment is evident from the fact that the Parliament has enacted the [Cinematograph Act, 1952](#) and the Cinematograph Rules, 1983, which cast specific obligations upon the owners/occupiers/licensees with a view to ensuring the safety of those frequenting such places.⁴⁸³

The Supreme Court observed that in cases of negligence leading to public disaster, imposition of expiatory fine in addition to incarceration serve the penological purpose of deterrence as also public purpose. Under [section 304A of IPC, 1860](#), either imprisonment only or with fine or fine alone, is the prescribed punishment. The punishment by both imprisonment and exemplary fine would be an appropriate punishment in a case like this. The licensee and the person actually running the Uphaar cinema are equally responsible for the tragedy. Taking note of the licensee's age-related complications, sentence was reduced to the period already undergone, in case he pays Rs. 30 crores. The court held that on principle of parity, the same benefit cannot be extended to the person actually running the cinema as he never had a case of any age-related complications. Thus, his sentence of one-year imprisonment was maintained and he was also held liable to a fine of Rs. 30 crores.⁴⁸⁴

[s 304A.30] **Sentencing.—**

The Apex Court in the case of *State of Karnataka v Krishna @ Raju*,⁴⁸⁵ while dealing with the concept of adequate punishment in relation to an offence under [section 304A of the IPC, 1860](#), has held that considerations of undue sympathy in such cases will not only lead to miscarriage of justice but will also undermine the confidence of the public in the efficacy of the criminal justice dispensation system. If the accuseds are found guilty of rash and negligent driving, Courts have to be on guard to ensure that they do not escape the clutches of law very lightly. The sentence imposed by the Courts should have deterrent effect on potential wrong-doers and it should be commensurate with the seriousness of the offence.⁴⁸⁶

The Supreme Court relied upon cases emphasising deterrent effect of punishment on lax and inattentive drivers. A seven-year-old child was killed due to rash and negligent driving. Simple imprisonment for six months plus one month and fine of Rs. 1000 plus Rs. 500 was held to be proper.⁴⁸⁷

[s 304A.31] **New approach in Sentencing.—Community Service and Contribution to the relief fund for victims.—**

In the *BMW Case*,⁴⁸⁸ the Supreme Court issued the following directions instead of enhancing the jail term (1) Accused has to pay an amount of Rs. 50 lakh to the Union of India within six months, which will be utilised for providing compensation to the victim of motor accidents, where the vehicle owner, driver etc. could not be traced, like victims of hit and run cases. On default, he will have to undergo simple imprisonment for one year. This amount be kept in a different head to be used for the aforesaid purpose only.

(2) The accused would do community service for two years which will be arranged by the Ministry of Social Justice and Empowerment within two months. On default, he will have to undergo simple imprisonment for two years. But it was held that grant of compensation under section 357(3) with a direction that the same should be paid to person who has suffered any loss or injury by reason of the act for which the accused has been sentenced has a different contour and the same is not to be regarded as a substitute in all circumstances for adequate sentence.⁴⁸⁹.

[s 304A.32] **Probation of Offenders Act, 1958, when to be extended.—**

Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal Courts cannot treat the nature of the offence under [section 304A, IPC, 1860](#) as attracting the benevolent provisions of [section 4 of the Probation of Offenders Act, 1958](#). While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. This is the role which the Courts can play, particularly at the level of trial Courts, for lessening the high rate of motor accidents due to callous driving of automobiles.⁴⁹⁰. It is settled law that sentencing must have a policy of correction. If anyone has to become a good driver, he must have a better training in traffic laws and moral responsibility with special reference to the potential injury to human life and limb. Considering the increased number of road accidents, the Court, on several occasions, has reminded the criminal Courts dealing with the offences relating to motor accidents that they cannot treat the nature of the offence under [section 304A, IPC, 1860](#) as attracting the benevolent provisions of [section 4 of the Probation of Offenders Act, 1958](#).⁴⁹¹.

³⁸³. Ins. by Act 27 of 1870, section 12.

³⁸⁴. *State of Punjab v Balwinder Singh*, 2012 (2) SCC 182 [LNIND 2012 SC 8] : AIR 2012 SC 861 [LNIND 2012 SC 8] .

³⁸⁵. *Malay Kumar Ganguly v Sukumar Mukherjee*, (2009) 9 SCC 221 [LNIND 2009 SC 1647] : AIR 2010 SC 1162 [LNIND 2009 SC 1647].

³⁸⁶. *Kurban Hussain*, (1964) 67 Bom LR 447 (SC).

³⁸⁷. *Malay Kumar Ganguly v Sukumar Mukherjee*, (2009) 9 SCC 221 [LNIND 2009 SC 1647] : AIR 2010 SC 1162 [LNIND 2009 SC 1647] .

³⁸⁸. *Sushil Ansal v State Through CBI*, (2014) 6 SCC 173 [LNIND 2014 SC 527] .

³⁸⁹. *Empress of India v Idu Beg*, (1881) 1 LR 3 All 776.

³⁹⁰. *Mahadev Prasad Kaushik v State of UP*, (2008) 14 SCC 479 [LNIND 2008 SC 2043] : AIR 2009 SC 125 [LNIND 2008 SC 2043] : (2009) 1 All LJ 96.

³⁹¹. *Abdul Kalam Musalman v State of Rajasthan*, 2011 Cr LJ 2507 (Raj); *Prabhakaran v State of Kerala*, (2007) 14 SCC 269 [LNIND 2007 SC 824] : AIR 2007 SC 2376 [LNIND 2007 SC 824] .

³⁹². *PB Desai (Dr) v State of Maharashtra*, 2013 (11) Scale 429 [LNIND 2013 SC 815] .

³⁹³. *Sushil Ansal v State through CBI*, (2014) 6 SCC 173 [LNIND 2014 SC 527] .

³⁹⁴. *Nidamarti Nagabhushanam*, (1872) 7 Mad HCR 119 , 120; *Smith v State*, (1925) 53 Cal 333 ; *Rangaswamy*, (1952) Nag 93.

³⁹⁵. *Gaya Prasad*, (1928) 51 All 465 .

396. *Captain D'Souza v Pashupati Nath Sarkar*, 1968 Cr LJ 405 . *Raj Karan Singh v State of UP*, 2000 Cr LJ 555 (All), the gun of a police constable went off while he was loading it and killed a person, trigger went off because of positive act of moving belt of the gun. His failure to keep the safety catch in back position was an illegal omission within the meaning of section 22 conviction. *Sita Ram v State of Rajasthan*, 1998 Cr LJ 287 (Raj), the accused labourer was digging earth by spade, another worker was taking away the soil and was hit by the spade in that process to his death. Criminal negligence. Sentence imposed on him was reduced to the period already undergone.
397. *Omkar*, (1902) 4 Bom LR 679 , **followed** in *Akbar Ali*, (1936) 12 Luck 336 ; *Chinubhai Haridas*, (1959) 61 Bom LR 1309 . *Jaunath Sahu v Sasibhusan Rath*, 1995 Cr LJ 4070 (Ori).
398. *Kurban Hussein*, (1965) 2 SCR 622 [LNIND 1964 SC 355] : 67 Bom LR 447; See also *AD Bhatt*, 1972 Cr LJ 727 (SC).
399. *Khanmahomed*, (1936) 38 Bom LR 1111 .
400. *Akbar Ali v State*, (1936) 12 Luck 336 .
401. *Tukaram Sitaram*, (1970) 72 Bom LR 492 .
402. *Finney*, (1874) 12 Cox 625; *Sat Narain Pandey*, (1932) 55 All 263 . For an example of unconscionably lenient sentence, i.e., for two months only of simple imprisonment for causing death by rash and negligent driving, see *State of Karnataka v Krishna*, (1987) 1 SCC 538 [LNIND 1987 SC 701] : AIR 1987 SC 861 [LNIND 1987 SC 701] : 1987 Cr LJ 776 , the Supreme Court increased it to six months' RI. *Indramani Jena v State of Orissa*, 1992 Cr LJ 72 (Ori), rash and negligent driving of a bullock cart, an old man killed by a young man of 30, jail term knocked out, only fine of Rs. 5,000 imposed. *Madhab Bagh v State of Orissa*, 1992 Cr LJ 116 , speed of the vehicle is not always an important consideration.
403. *Shivder Singh v State*, (1995) 2 Cr LJ 2142 (Del), sentence of one year was reduced to that already undergone in view of the fact that the occurrence was 23 years old, a fine of Rs. 5000.
404. *Kaliaperumal v State of TN*, 1996 Cr LJ 3658 (Mad).
405. *Abdul Ise Suleman v State of Gujarat*, (1995) 1 Cr LJ 464 (SC).
406. *Idu Beg v State*, (1881) 3 All 776 , 778, 779. *Shankar Narayan Bhadolkar v State of Maharashtra*, AIR 2004 SC 1966 [LNIND 2004 SC 1370] : 2004 Cr LJ 1778 , no knowledge or intention should be there, in this case a gun was unlocked, loaded and fired to cause death from close range, intention or knowledge could not be denied, section not attracted.
407. *Ravi Kapur v State of Rajasthan*, 2012 AIR SCW 4659 : AIR 2012 SC 2986 [LNIND 2012 SC 474] ; **relied** in *Shivappa v State*, 2013 Cr LJ 1680 (Kant).
408. *Swindall*, (1846) 2 C & K 230.
409. *Kalaji v State of Gujarat*, 1992 Cr LJ 2397 (Guj).
410. *Sushil Ansal v State through CBI*, (2014) 6 SCC 173 [LNIND 2014 SC 527]
411. *PB Desai (Dr) v State of Maharashtra*, 2013 (11) Scale 429 [LNIND 2013 SC 815] .
412. *Ravi Kapur v State of Rajasthan*, AIR 2012 SC 2986 [LNIND 2012 SC 474] : (2012) 9 SCC 284 [LNIND 2012 SC 474] : 2012 Cr LJ 4403 ; *Syed Akbar v State of Karnataka*, 1980 SCC (Cr) 59 : AIR 1979 SC 1848 [LNIND 1979 SC 297] ; *B Nagabhushanam v State of Karnataka*, 2008 (5) SCC 730 [LNIND 2008 SC 1172] : AIR 2008 SC 2557 [LNIND 2008 SC 1172] .
413. *Rattan Singh v State of Punjab*, 1980 SCC (Cr) 17 : AIR 1980 SC 84 [LNIND 1979 SC 388] .
414. *Mohd Aynuddin @ Miyam v State of AP*, 2000 (7) SCC 72 [LNIND 2000 SC 1014] : AIR 2000 SC 2511 [LNIND 2000 SC 1014] : 2000 SCC (Cr) 1281 : 2000 Cr LJ 3508 .
415. *Jacob Mathew v State of Punjab*, 2005 AIR SCW 3685 : AIR 2005 SC 3180 [LNIND 2005 SC 587] .

416. *Francis Xavier Rodriguez v State of Maharashtra*, 1997 Cr LJ 1374 (Bom). The plea of compassion was not taken before the lower court. Confining punishment to fine only was not accepted. *Dwarka Das v State of Rajasthan*, 1997 Cr LJ 4601 (Raj), bus driven in a wavering manner and at high speed killing a person, the case being 16 years old, fine was enhanced instead of maintaining the sentence of imprisonment.
417. *Thakur Singh v State of Punjab*, 2003 (9) SCC 208 .
418. *Shivappa v State*, 2013 Cr LJ 1680 (Kant).
419. *State of MP v Jagdish*, 1992 Cr LJ 746 (MP). *Rajpal v State*, 1992 Cr LJ 1470 (Del), wrong side, high speed, ramming into autorickshaw claiming two lives and injuring a third, convicted, it was immaterial that he would be losing his service.
420. *Mohammed Aynuddin v State of AP*, AIR 2002 SC 2511 at p 2512 : 2000 Cr LJ 3508 .
421. *Keshavamurthy v State of Karnataka*, 2002 Cr LJ 103 (Kant), the court also said that the report of the motor vehicle inspector is no evidence unless he is examined. *Suyambhu v State of TN*, 2001 Cr LJ 1577 (Mad), high speed bus, driver losing control, hitting a jeep and killing all the passengers in it, res ipsa loquitor applied to hold the bus driver liable. *Chunnilal v State of Rajasthan*, 2000 Cr LJ 2499 (Raj), rash driving, accident, persons in the truck, some killed, some injured, no probation, one year RI & Rs. 250 fine. *Manjit Singh v State*, 1997 Cr LJ 331 (P&H), truck hitting rickshaw from behind, conviction.
422. *Guru Basavaraj v State of Karnataka*, 2012 Cr LJ 4474 : JT 2012 (8) SC 246 [LNIND 2012 SC 1561] : 2012 (8) Scale 47 [LNIND 2012 SC 1561] : 2012 AIR (SCW) 4822 : (2012) 8 SCC 734 [LNIND 2012 SC 1561] . See also *Haradhan Gope v State of Tripura*, 2012 Cr LJ 3232 (Gau); *State of HP v Manohar Singh*, 2011 Cr LJ 3402 (HP).
423. *Binoda Bihari Sharma v State of Orissa*, 2011 Cr LJ 1989 (Ori).
424. *Pradeep Kumar v State of Haryana*, 2000 Cr LJ 2394 (P&H). *K Srinivas v State of Karnataka*, 2002 Cr LJ 3865 (Kant), bus involved in accident, evidence was inconsistent. The court said that the speed of the bus could not be the sole factor for attribution of rashness or negligence.
425. *Ravi Kapur v State of Rajasthan*, 2012 AIR SCW 4659 : AIR 2012 SC 2986 [LNIND 2012 SC 474] .
426. *State v Parmodh Singh*, 2009 Cr LJ (NOC) 277 .
427. *Mehnga Singh v State*, 2012 Cr LJ 4930 (Del).
428. *Kewal Singh v State of Punjab*, 2011 Cr LJ 3004 (P&H).
429. *Sanjay Rambhau Patil v State of Maharashtra*, 2010 Cr LJ 1407 (Bom).
430. *PB Desai (Dr) v State of Maharashtra*, 2013 (11) Scale 429 [LNIND 2013 SC 815] .
431. See also *Kusum Sharma v Batra Hospital and Medical Research Centre*, (2010) 3 SCC 480 [LNIND 2010 SC 164] ; *Suresh Gupta (Dr) v Govt of NCT of Delhi*, (2004) 6 SCC 422 [LNIND 2004 SC 744] : AIR 2004 SC 4091 [LNIND 2004 SC 744] .
432. *Bolam v Friern Hospital Management Committee*, (1957) 1 WLR 582 .
433. *Shivanand Doddamani (Dr) v State of Karnataka*, 2011 Cr LJ 230 (Kant).
434. *Jacob Mathew v State of Punjab*, 2005 AIR SCW 3685 : AIR 2005 SC 3180 [LNIND 2005 SC 587] .
435. *Suresh Gupta (Dr) v Govt of NCT of Delhi*, (2004) 6 SCC 422 [LNIND 2004 SC 744] : AIR 2004 SC 4091 [LNIND 2004 SC 744] .
436. *Kusum Sharma v Batra Hospital and Medical Research Centre*, (2010) 3 SCC 480 [LNIND 2010 SC 164] .
437. *Suresh Gupta (Dr) v Govt of NCT of Delhi*, (2004) 6 SCC 422 [LNIND 2004 SC 744] : AIR 2004 SC 4091 [LNIND 2004 SC 744] .

438. *Jacob Mathew v State of Punjab*, (2005) 6 SCC 1 [LNIND 2005 SC 587] : AIR 2005 SC 3180 [LNIND 2005 SC 587] ; *ASV Narayanan Rao v Ratnamala*, 2013 (4) Mad LJ (Cr) 67 : 2013 (11) Scale 390 [LNINDORD 2013 SC 19863] .
439. *Jacob Mathew v State of Punjab*, (2005) 6 SCC 1 [LNIND 2005 SC 587] : AIR 2005 SC 3180 [LNIND 2005 SC 587] ; *ASV Narayanan Rao v Ratnamala*, 2013 (4) Mad LJ (Cr) 67 : 2013 (11) Scale 390 [LNINDORD 2013 SC 19863] .
440. *Sudesh v State of UP*, 2012 Cr LJ 1460 (All).
441. *Nizam's Institute of Medical Sciences v Prasanth S Dhananka*, (2009) 6 SCC 1 [LNIND 2009 SC 1292] : 2009 Cr LJ 3012 .
442. *Malay Kumar Ganguly v Sukumar Mukherjee*, (2009) 9 SCC 221 [LNIND 2009 SC 1647] : AIR 2010 SC 1162 [LNIND 2009 SC 1647] .
443. *Bolam v Friern Hospital Management Committee*, (1957) 1 WLR 582 , 586.
444. *Jacob Mathew v State of Punjab*, (2005) 6 SCC 1 [LNIND 2005 SC 587] : AIR 2005 SC 3180 [LNIND 2005 SC 587] .
445. *PB Desai (Dr) v State of Maharashtra*, 2013 (11) Scale 429 [LNIND 2013 SC 815] .
446. *Lakshmanan Prakash (Dr) v State of TN*, 1999 Cr LJ 2348 (Mad).
447. *Ram Niwas v State of UP*, 1998 Cr LJ 615 (All).
448. *Martin F D'Souza v Mohd Ishfaq*, (2009) 3 SCC 1 [LNIND 2009 SC 375] : AIR 2009 SC 2049 [LNIND 2009 SC 375] : (2009) 3 All LJ 165 : (2009) 1 CPJ 32 [LNIND 2009 SC 375] . The court cited the concept of gross negligence as stated in *Jacob Mathew* case, (2005) 6 SCC 1 [LNIND 2005 SC 587] : AIR 2005 SC 3180 [LNIND 2005 SC 587] .
449. *Kusum Sharma v Batra Hospital and Medical Research Centre*, (2010) 3 SCC 480 [LNIND 2010 SC 164] .
450. *Pravat Kumar Mukherjee v Ruby General Hospital*, II 2005 CPJ 35 (NC).
451. *ASV Narayanan Rao v Ratnamala*, 2013 (4) MLJ (Cr) 67 : 2013 (11) Scale 390 [LNINDORD 2013 SC 19863] . Other cases relating to medical negligence—*Marwari Maternity Hospital v Praveen Jain*, 2013 Cr LJ 307 (Gau); *M K Rai (Dr) v State of Chhattisgarh*, 2012 Cr LJ 4384 (Chh); *Saroja Dharmapal Patil v State of Maharashtra*, 2011 Cr LJ 1060 (Bom); *A R Srivastava (Dr) v State of Jharkhand*, 2010 Cr LJ 1539 (Jha); *Dashavatar Gopalkrishna Bade v State of Maharashtra*, 2010 Cr LJ 4056 (Bom).
452. *Spring Meadows Hospital v Harjol Ahluwalia*, 1998 (4) SCC 39 [LNIND 1998 SC 357] : AIR 1998 SC 1801 [LNIND 1998 SC 357] .
453. *V Marie v State of AP*, 2011 Cr LJ 3985 (AP).
454. *Juggankhan*, AIR 1965 SC 831 [LNIND 1964 SC 195] .
455. *Mohammed Aynuddin @ Miyam v State of AP*, (2000) 7 SCC 72 [LNIND 2000 SC 1014] : AIR 2000 SC 2511 [LNIND 2000 SC 1014] .
456. *Ram Asra v State of HP*, 2011 Cr LJ 1038 (HP).
457. *Rajaram v State*, 2010 Cr LJ 1644 (Mad).
458. *Braham Dass v State of HP*, AIR 2009 SC 3181 [LNIND 2009 SC 1130] : (2009) 7 SCC 353 [LNIND 2009 SC 1130] .
459. *Tukaram Sitaram*, (1970) 72 Bom LR 492 .
460. *MH Lokre*, 1972 Cr LJ 49 : AIR 1972 SC 214 [LNIND 1971 SC 662] . *State of Rajasthan v Jolta*, 2002 Cr LJ 3514 (Raj), a person sitting on the mudguard of a tractor fell off to death, persons sitting on trolley did not speak of negligence on driver's part. Acquittal.
461. *SN Hussain*, 1972 Cr LJ 496 : AIR 1972 SC 700 . See also *Renu Kunta Mallaiah v State of AP*, AIR 2009 SC 133 [LNIND 2008 SC 2037] : (2008) 10 SCC 220 [LNIND 2008 SC 2037] .
462. *Bajinath Singh*, 1972 Cr LJ 919 : AIR 1972 SC 1485 .

463. Syed Akbar, 1979 Cr LJ 1374 : AIR 1979 SC 1848 [LNIND 1979 SC 297] . Trial on a charge of rash and negligent driving was held to be vitiated by delay of 9½ years in taking cognizance. *Srinivas Pal v UT Arunachal Pradesh*, 1988 Cr LJ 1803 : AIR 1988 SC 1729 [LNIND 1988 SC 327] , reversing (1988) 1 Crimes 383 [LNIND 1987 GAU 49] (Gau).
464. *Altyarkunju & Shahajahan v State of Kerala*, 2002 Cr LJ 1981 (Ker). *State of Karnataka v Sharanappa Basnagouda*, AIR 2002 SC 1529 [LNIND 2002 SC 234] : 2002 Cr LJ 2020 , no interference in the matter of punishment awarded by the revisional court. The accused was sentenced to undergo simple imprisonment for six months for offence under section 304A (dashing against car by mini-lorry). *Niranjan Singh v State*, 1997 Cr LJ 336 (Del), a bus passenger fell to death but cause of fall, could not be proved, driver acquitted. *Sudalaimuthu v State of TN*, 1997 Cr LJ 1038 (Mad), there must be direct nexus between death and rash and negligent act. A passenger died because he tried to get down after conductor's whistle and the driver's starting of the bus. Negligence not proved.
465. *Braham Das v State of HP*, (2009) 7 SCC 353 [LNIND 2009 SC 1130] : (2009) 3 SCC (Cr) 406 : (2009) 81 AIC 265 . *State of Haryana v Sher Singh*, (2008) 15 SCC 571 [LNIND 2008 SC 2028] : AIR 2009 SC 823 [LNIND 2008 SC 2028] , another case of failure of evidence, dying declaration of a passenger did not talk of driver's negligence, nor was there any proof who the driver was.
466. *Zamir Khan v State*, 2011 Cr LJ 4044 (Bom).
467. *Ram Karan v State (Delhi Admn)*, 2010 Cr LJ 966 (Del). See also *Kumar v State of Kerala*, 2012 Cr LJ 3193 (Ker); *Geetha Ramesh v Sub-Inspector of Police, Udagamandalam*, 2010 Cr LJ 762 (Mad).
468. *Krushna Mohan Samal v State of Orissa*, 2012 Cr LJ 180 (Ori).
469. *M Shafi Goroo v State*, 2000 Cr LJ 2172 (Del).
470. *Ramesh Chandra Mohapatra v State of Orissa*, 2002 Cr LJ 3453 (Ori).
471. *Suresh Narvekar v State of Goa*, 2010 Cr LJ 2007 (Bom).
472. *Kolishetty Venkateswarlu v Bandaru Venkat Reddy*, 2010 Cr LJ 712 (AP).
473. *BP Ram v State of MP*, 1991 Cr LJ 473 , considering *Suleman Rahiman v State of Maharashtra*, AIR 1968 SC 829 [LNIND 1967 SC 354] : 1968 Cr LJ 1013 . *Joseph v State of Kerala*, 1990 Cr LJ 56 (Ker). There was the allegation that the accused carried excess passengers than capacity in his boat. The boat capsized and some passengers were lost. There was no proof that the accused was present in the boat at the time of sailing or that mere overloading was the cause of capsization. Mere negligence not sufficient for conviction.
474. *State of Maharashtra v Dhananjay Laxmanrao Bhagat*, 2010 Cr LJ 1987 (Bom).
475. *Mahadev Prasad Kaushik v State of UP*, (2008) 14 SCC 479 [LNIND 2008 SC 2043] : AIR 2009 SC 125 [LNIND 2008 SC 2043] . See also *Madhusudan v State of Karnataka*, 2011 Cr LJ 215 (Kant) for difference between sections 304 and 304A.
476. *Abdul Kalam Musalman v State of Rajasthan*, 2011 Cr LJ 2507 (Raj); *Prabhakaran v State of Kerala*, JT 2007 (9) SC 346 [LNIND 2007 SC 824] : AIR 2007 SC 2376 [LNIND 2007 SC 824] .
477. *Naresh Giri v State of MP*, (2008) 1 SCC 791 [LNIND 2007 SC 1313] : 2007 (13) Scale 7 [LNIND 2007 SC 1313] .
478. *Keshub Mahindra v State of MP*, (1996) 6 SCC 129 [LNIND 1996 SC 2462] : 1999 SCC (Cr) 1124.
479. *CBI v Keshub Mahindra*, (2011) 6 SCC 216 [LNIND 2011 SC 514] : AIR 2011 SC 2037 [LNINDORD 2011 SC 209] .
480. *State of Maharashtra v Salman Salim Khan*, AIR 2004 SC 1189 [LNIND 2003 SC 1122] : (2004) 1 SCC 525 [LNIND 2003 SC 1122] ,
481. *State Tr PS Lodhi Colony New Delhi v Sanjeev Nanda*, (2012) 8 SCC 450 [LNIND 2012 SC 459] : 2012 Cr LJ 4174 : AIR 2012 SC 3104 [LNIND 2012 SC 459] .

482. *Alister Anthony Pereira's case*, 2012 CLJ 1160 (SC) : (2012) 2 SCC 648 [LNIND 2012 SC 15] : AIR 2012 SC 3802 [LNIND 2012 SC 15] .
483. *Sushil Ansal v State through CBI*, (2014) 6 SCC 173 [LNIND 2014 SC 527] .
484. *Association of Victims of Uphaar Tragedy v Sushil Ansal*, AIR 2017 SC 976 .
485. *State of Karnataka v Krishna @ Raju*, 1987 (1) SCC 538 [LNIND 1987 SC 701] : AIR 1987 SC 861 [LNIND 1987 SC 701] .
486. *State of Karnataka v Sharanappa Basanagouda Aregoudar*, 2002 (3) SCC 738 [LNIND 2002 SC 234] : AIR 2002 SC 1529 [LNIND 2002 SC 234] .
487. *B Nagabhushanam v State of Karnataka*, (2008) 5 SCC 730 [LNIND 2008 SC 1172] : AIR 2008 SC 2557 [LNIND 2008 SC 1172] .
488. *State Tr PS Lodhi Colony New Delhi v Sanjeev Nanda*, (2012) 8 SCC 450 [LNIND 2012 SC 459] : 2012 Cr LJ 4174 : AIR 2012 SC 3104 [LNIND 2012 SC 459] .
489. *Guru Basavaraj v State of Karnataka*, (2012) 8 SCC 734 [LNIND 2012 SC 1561] : 2012 Cr LJ 4474 .
490. *B Nagabhushanam v State of Karnataka*, 2008 (5) SCC 730 [LNIND 2008 SC 1172] : AIR 2008 SC 2557 [LNIND 2008 SC 1172] ; *Dalbair Singh v State of Haryana*, (2000) 5 SCC 82 [LNIND 2000 SC 810] .
491. *State of Punjab v Balwinder Singh*, 2012 (2) SCC 182 [LNIND 2012 SC 8] : AIR 2012 SC 86 [LNIND 2011 SC 1146] ; *Sanjay Rambhau Patil v State of Maharashtra*, 2010 Cr LJ 1407 (Bom); *Zamir Khan v State*, 2011 Cr LJ 4044 (Bom).