



Continuous Issue - 12 | September - December 2015

Criminal Liability in Motor Vehicle Accident

Abstract :

This paper deals with criminal liability in motor vehicles accidents along with negligent act and proof of the negligence in criminal liability. It is of utmost importance owing to the alarming increase in accidental deaths, injuries to life, limbs and property as an impact of the modern civilization becomes a major problem.

INTRODUCTION:

Negligence must be distinguished from neglect. Neglect, unlike negligence does not indicate a specific attitude of mind, but states a matter of fact, which may be the result of either intentional or neglect act. A man, who knows that the brake of his scooter is defective, neglects to set it right, and knocks down a child on the road. The harm to the child is caused not by his negligence, but by his willful neglect or recklessness in not repairing the brake.¹ The principles of liability governing civil actions and criminal prosecutions based on negligence differ. Criminal Law both in England and in India recognize degree of negligence. The negligence which would justify conviction must be culpable or of gross degree and not negligence founded on a mere error of judgment or defect of intelligence. One of the grey areas of the law is that relating to the legal consequences of accidents and the action to be taken after a victim is injured, particularly in an accident caused by motor vehicles.² It is a basic principle of both Anglo – American and European Procedure that in Criminal Cases guilt must be established beyond reasonable doubt. The burden of proof in both the systems rests upon the prosecution. In the common law tradition the jury must be persuaded of the guilt of the accused “beyond reasonable doubt.”³

Law of Crimes and Motor Accidents

Had there been no law of crimes, each wrong would have been actionable in damages that are a monetary recompense for each wrong. In the primitive feeling of revenge, the rule is believed to be head for head, tooth for tooth, and eye for eye and so on. Henry Ergson has aptly ascribed this rudimentary justice to this law of retaliatory barter, but he warned that this vendetta for head for head would have continued for ages by succeeding generations, until one of the parties had to agree to measure the injury in terms of money. This explains that criminal justice, though primarily concerned with imparting punishment on the culprit for his roved offence by way of incarceration or fine has, to some extent, given recognition to this compensatory aspect even under the penal law⁴.

Section 357 of the Code of Criminal Procedure, 1973, provides for payment of compensation.

It provides that:

“When a court imposes a sentence of a fine or a sentence (including a sentence of death) of which fine forms a part, the court may, when passing judgment, order the whole or any part of the fine recovered to be applied:

- a. In defraying the expenses properly incurred in the prosecution;
- b. In the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the court, recoverable by such person in a civil court:
- c. When any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons

who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death:

- d. When any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.

When a court imposes a sentence, of which fine does not form a part, the court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

An order under this section may also be made by an appellate court or by the High Court or Court of Session, when exercising its power of revision.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take in to account any sum paid or recovered as compensation under this section ⁵”.

All wrongs are basically torts, which is the unwritten charter of universally accepted wrongs, committed by man in his conduct towards others. It is only some definite wrongs, abhorrent or shocking to the society, that are set apart as crimes in the penal codes of civilized nations, and acts affecting the body, property, health, safety or reputation are recognised as actionable both under civil and the criminal law and the wrong doer may for any such act, be made doubly liable under civil and criminal jurisdiction both.

Tort and Crime Constituted by the Same Set of Circumstances

The same set of circumstances, will in fact, from one point of view, constitute a tort, while from another point of view, amount to a crime. In the case, for instance, of an assault, the right violated is that which every man has, that his bodily safety shall be respected, and for the wrong done to this right, the sufferer is entitled to get damages. But this is not all. The act of violence is a menace to the safety of the society generally and will therefore be punished by the state. Where the same wrong is both a crime and tort e.g. assault, its two aspects are not identical, its definition as a crime and a tort may differ, what is a defence to the tort may not be so in crime and the object and result of a prosecution and of an action in tort are different. The wrongdoer may be ordered in a civil action to make compensation to the injured party and be also punished criminally by imprisonment or fine. There was a common law rule that when a tort was also a felony, the offender could not be sued in tort until he had been prosecuted for the felony or a reasonable excuse had been shown for his non-prosecution⁶. The rule did not bar an action but was a ground for staying it. It was based on the public policy that claims of public justice must take precedence over those of private reparation. The rule, however, became an anomaly after the police was entrusted with the duty to prosecute the offenders. The rule has not been followed in India⁷ and has been abolished in England.

For instance, manslaughter is the supreme crime, punishable under section 302 of the Indian Penal Code, if murder, or under section 304 of that code, if amounting only to culpable homicide, but from the mere fact of its culpability it does not follow that the parents, or widow or the children of the deceased may not sue the wrongdoer for compensation reasonably equivalent to the contribution the deceased made for and towards their maintenance⁸.

Negligence is basic element in a claim for compensation for death, bodily injury or damage to property of a third party caused by accident arising out of use of a motor vehicle, but whereas death or bodily injury caused by rash or negligent driving, and rash and negligent driving itself, are crimes defined and made punishable under the Indian Penal Code, 1860, causing damage to property by some negligent act has not been included in the catena of offences defined and described under the said penal code.

Offences in relation to use of Motor Vehicles which are punishable under Indian Penal Code.

1. *Rash Driving or Riding on Public Way*

Section 279 I.P.C. states that whoever drives any vehicle or rides on any public way in manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to any other person shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.⁹

Rash driving is, thus, an independent offence irrespective of its consequences, though if consequences of death or bodily injury also follow, the offender shall be tried in relation to such consequences also in addition to the charge under the above section¹⁰.

The offence under section 279 is cognizable and bailable and triable by the Magistrate having territorial jurisdiction over the area wherein such offence has been committed.

2. *Causing Death by Negligence*

Section 304A I.P.C. dealing with causing death by negligence, "whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years or with fine or both."¹¹

The offence under this section is cognizable and bailable and triable by the Magistrate of the first class. This section has been couched in general terms, based on the main ingredients of 'rash and negligent act' which would; naturally, include the act of 'rash and negligent driving.

3. *Act Endangering Life or Personal Safety of Others*

Section 336 I.P.C. deals with Act Endangering Life or Personal Safety of Others. It is provided in the act that whoever does any act so rashly or negligently as to endanger human life of the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Rs. 250/-, or with both¹⁵.

The offence under this section, as under section 279, is an offence independent of its consequences, and if consequences also follow, the offence would become aggravated and taken account of under section 336 and 337.

The offence under section 336 is cognizable and bailable and triable by the Magistrate having territorial jurisdiction over the area wherein such offence has been committed.

4. *Causing Hurt by Act Endangering Life or Personal Safety of Others*

Section 337 I.P.C. deals with cases causing hurt act endangering life or personal safety of others. It is as stated below:

"whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both¹²".

The offence under section 337 is cognizable and bailable and triable by the Magistrate having territorial jurisdiction over the area wherein such offence has been committed.

5. *Causing Grievous Hurt by Act Endangering Life or Personal Safety of Others*

Section 338 deals with cases causing grievous hurt by acts endangering life or personal safety of others and it states that whoever causes grievous hurt to any person by doing any act so rashly or negligence as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both¹³.

The offence under section 338 is cognizable and bailable and triable by the Magistrate having territorial jurisdiction over the area wherein such offence has been committed.

The above sections 336, 337, and 338, like that under section 304A, do not specifically refer to

rash and negligent driving but the general connotation of the word 'act' shall naturally include the act of rash and negligent driving in such manner as to endanger human life, and thereby causing hurt or grievous hurt, as the case may be, to others. In English Law the only negligence amounting to crime is one (a) Characterized by "recklessness" (b) directly leading to the death of the victim and (c) preceded by some degree of some mens rea. Whether particular act of negligence amounts to crime or not falls within the purview of juries. The nearest approximation of this English Law is to be found in Section 304A of Indian Penal Code¹⁴.

Proof of Negligence

The degree of rashness or negligence on the part of the accused required to be proved in criminal cases should be such a nature that an inference about the commission of crime may safely made against him. In Criminal Law, it is necessary to prove beyond reasonable doubt the negligent act of the accused under section 304A I.P.C. It is necessary that the death should be direct result of the negligent act of the accused and that act must be proximate of efficient cause without the intervention of another's negligence. The main criterion for deciding whether the driving which led to the accident was rash and negligent is not only the speed but the width of the road, the density of the traffic and in going to the wrong side of the road in an attempt to overtake the other vehicle and thus being responsible for the accident. In *Shakila Khaker v. Nausher Gama*¹⁵'s case it was held by the Supreme Court that even if the accident takes place in the twinkling of an eye it is not difficult for an eye – witness to notice a car overtaking other vehicle and going to the wrong side of the road and hitting a vehicle traveling on the side of the road.

In *P. Rathinam Nagbhusan Patnik v. Union of India*¹⁶'s case, it was held by the Supreme Court that in the way there is not distinction between crime and tort in as much as a tort harms an individual where as a crime is supposed to harm a society. But then, a society is made of individuals, harm to an individual is ultimately harm to the society.

Regarding the onus of the proof, it is generally on the prosecution to prove gross rash and gross negligence on the part of the accused. This onus never shifts. Sometimes res ipsa loquitur can be corroborative evidence. The circumstances may lead to inference against the accused or vice – versa. This doctrine is corroborative as far as criminal law is concerned²¹. In a case of negligent driving there may be material evidence or witnesses namely a sketch drawn was adduced, it was seen that the accident took place only on the left side of the road. The vehicle was coming from East towards West. The sketch shows that there is sufficient space about 40 feet available on the right side. Therefore, the petitioner ought to have swerved to the right side and avoided the accident. So in addition to the deposition of witness, the material relating to the rule of res ipsa loquitur is available in this case. In *K.Perumal v. State* 's case it was held that the driver running over the deceased without attempting to save the deceased by swerving to other side when there was sufficient space, is liable to be punished under section 304A I.P.C.

"A person driving a motor car is under a duty to control that car, he is prima facies guilty of negligence if the car leaves the road and dashes into a tree. It for the person driving the car to explain the circumstances under which the car came to leave the road. Those circumstances may have been beyond his control and may exculpate him, but in the absence of such circumstances the fact that the car left the road is evidence of negligence on the part of the driver"¹⁸.

The question relating to scope and ambit of section 357 of the code of Criminal Procedure, 1973 and grant of compensation there under arose in *Mangilal v. State of Madhya Pradesh* ¹⁹wherein Supreme Court interpreted and analysed all the five sub sections of that section and the same may usefully be extracted hereunder. Apart from construing its sub-sections with precision, the point emphasized is that while resorting to this section for grant of compensation, the accused must be given a hearing.

Grant of Compensation – Hearing of Accused Necessary

Section 357 (1) of Cr.P.C. deals with a situation when a court imposes a fine or sentence of which fine also forms a part. It confers a discretion on the court to order as to how the whole or any part of the fine recovered to be applied. For bringing in application of section 357 (1) it is statutory requirement that fine is imposed and thereupon make further orders as to the disbursement of the said fine in the manner envisaged therein. If no fine is imposed section 357 (1) has no application. In

Mangilal v. State of Madhya Pradesh,²⁰ case where no fine was imposed by the trial court or the High Court, then section 357 (3), on the other hand, deals with the situation where fine does not form part of the sentence imposed by the court. In such a case, the court when passing a judgment can order, the accused person to pay by way of compensation such amount as may be specified in the order to the person who has suffered a loss or injury by reason of the act for which the accused person has been so convicted and sentenced. The basic difference between Section 357 (1) and Section 357 (3) is that in the former case, the imposition of the fine is basic and essential requirement, while in the later, even in the absence thereof empowers the court to direct payment of compensation. Such power is available to be exercised by an appellate court or by the High Court or Court of Session, when exercising revisional powers. Section 357 (5) deals with a situation when the court fixes the compensation in any subsequent civil suit relating to same matter, while awarding compensation the court is required to take in to account any sum paid or recovered as compensation under section 357 of the Cr.P.C.

The crucial question then is whether the court is required to hear accused before fixing the quantum of compensation. It is urged by the learned counsel for the state that unlike a sentence of fine before imposition of which a court is required is to hear the accused while considering the question of quantum of sentence, it is but natural that the trial court after hearing on the question of sentence does not impose a fine, but in terms of section 357 (3) proceeds to award compensation, at that juncture or even during the course of hearing as to the quantum of sentence by sufficient indication made by the court concerned, that accused gets opportunity to present his version as to the relevant criteria or norms to be applied in the context of the case before the court on the quantum of compensation. The position cannot be said to be, in any way different while the appellate or revisional court also does it in terms of section 357 (4), as long as it requires to be done in the light of the criteria indicated as above, unless it is by any agreement or consent of the parties such compensation has been fixed.²¹

Criminal Injury or Murder as Accident

In *United India Insurance Co. Ltd v. Kashi Ram*²² case, where the driver of the truck was murdered by another driver, and the truck was taken away and the goods therein stolen. All these events cannot be said to be unrelated. When there was no evidence to suggest that the dominant purpose of accused was to kill the deceased and not to commit theft, murder of deceased during course of his employment was held to amount to death in accident arising out of use of motor vehicle.

However, where a person on motorcycle was shot at due to personal animosity resulting in his death, murder cannot be said to have arisen out of use of motor vehicle since dominant intention of accused was to commit murder which was not accidental murder but murder simpliciter.²³

It may incidentally be stated, with reference to the decision of the High Court of Kerla, in *Varkeychem v. Thomman*,²⁴ that the term accident for the purpose of law relating to compensation includes any injury not designed by the injured himself, and it is of no consequence that the injury was designed and intended by the person inflicting the same. The question before the Supreme Court in *Rita Devi v. New India Assurance Co. Ltd.*²⁵ was: can a murder be an accident in a given case?

The facts were that the deceased was the driver of an auto-rickshaw. Some unknown persons hired the above rickshaw from the rickshaw stand. The stand auto-rickshaw was reported stolen and the dead body of the driver was recovered by the police on the next day, though the auto-rickshaw was never recovered and the claim of the owner for the loss of auto-rickshaw was satisfied by the insurance company. The tribunal had allowed the claim but the High Court held that there was no motor accident as contemplated under the Motor Vehicles Act.

In appeal to the Supreme Court, the appellant relied on the decision in *Shankarayya v. United India Insurance Co. Ltd.*²⁶ to which the respondent contended that the meaning ascribed to the word accident in the Workmen's Compensation Act by the judicial pronouncements cannot be applied to the word accident as contemplated under the Motor Vehicles Act. The Supreme Court relied upon two passes, respectively from *Challis v. London & South Western Railway Company*²⁷ and *Nishet v. Rayne and Burn*.²⁸

In the case of *Challis*³⁴, the engine driver of a tram under a bridge was killed by a stone willfully dropped on the tram by a boy from the bridge. Rejecting the argument that the said accident cannot be treated as accident, it was held:

“ The accident which befell the deceased was, as it appears..., one which was incidental to his employment as an engine driver, in other words, it arose out of his employment. The argument for the respondents really involves the reading in to the Act of a proviso to the effect that an accident shall not be deemed to be within the Act, if it arose from the mischievous act of a person not in the service of the employer. I see no reason to suppose that the legislature intended so to limit the operation of the Act. The result is the same to the engine driver, from whatever cause the accident happened; and it does not appear to me to be any answer to the claim for indemnification under the Act to say that the accident was caused by some person who acted mischievously ²⁹”.

In the other case of *Nishet v. Rayne and Burn*, ³⁰ a cashier while travelling in a railway to a colliery with a large sum of money for the payment of his employer's workmen, was robbed and murdered. The court of appeal held:

“ That the murder was an accident from the standpoint of the person who suffered from it and that it arose out of an employment which involved more than the ordinary risk, and, consequently, that the widow was entitled to compensation under the Workmen's Compensation Act, 1906 ³¹”.

Judicial Application of the Criminal Law in the Motor Accident Cases

I. Res Ipsa Loquitur: Not a Special Rule of Substantive Law

In *Syed Akbar v. State of Karnataka*³² it was held that regarding application and effect of maxim *res ipsa loquitur* is not a special rule substantive law. It is only an aid in the evaluation of evidence, an application of the general method of inferring one or more facts in issue from circumstances proved in evidence. In this view, the maximum *res ipsa loquitur* does not require the raising of any presumption of law which must shift the onus on the defendant only, when applied appropriately, allows the drawing of a permissive inference of fact as distinguished from a mandatory presumption properly so – called having regard to the totality of the circumstances and probabilities of the case *res ipsa loquitur* is only a means of establishing probability from the circumstances of the accident.”

The presumption of *res ipsa loquitur* does not conflict with the principles of criminal jurisprudence that the burden of proving an offence lies on the prosecution. The prosecution has in the first instance the obligation of proving relevant facts from which the inference can be drawn where such facts have been proved by the prosecution inference of negligence can be drawn. It means that the circumstances are themselves eloquent of the negligence of somebody, who brought about the state of things complained of. The *res* speaks because the facts remain unexplained and, therefore, natural and reasonable. In *Allimuddin v. Emperor*³³'s case it was held that not conjectural inference from the facts shows that what was happened is reasonable to be attributed to some act of negligence on the part of somebody, that is, some want of reasonable care under the circumstance.

“The Maxim ‘*res ipsa loquitur*’ the thing speaks for itself can be applied in case of criminal law (negligence) only when the cause of the accident is unknown. But in the case of *Syad Akbar v. State of Karnataka*³⁴

where the accident was caused due to error of judgment and in spite of driver's best precautions according to his knowledge and belief to avoid accident. The principle of *res ipsa loquitur* is not attracted³⁵.”

In *State of Karnataka v. Satish*³⁶ a truck turned turtle while crossing a nalla resulting in the death of 15 persons and injuries sustained by 18 persons who were traveling in the truck. The trial court held that the driver of the truck drove the vehicle at a high speed which resulted in the accident and consequent conviction and the sentence was confirmed by the low Appellate Court. No finding recorded either by the trial court or by the first Appellate Court to the effect that the

driver was rash or negligent. Both the courts applied the doctrine of *res ipsa loquitur* a driver can be held guilty for offences under section 337, 338 and 304 A of Indian Penal Code on the finding that he was driving the truck at a high speed without specific finding to the effect that he was driving the vehicle either negligently or rashly. It was held no and added that high speed does not speak of either negligence or rashness by itself. Anand and Majumdar JJ observed as follows:

“ Both the Trial Court and Appellate Court held the respondent guilty for offence under section 337, 338 and 304A, Indian Penal Code after recording a finding that the respondent was driving the truck at a high speed. No specific finding has been recorded either by the trial court or by the first Appellate Court to the effect that the respondent was driving the truck either negligently or rashly. After holding that the respondent was driving the truck at a high speed both the courts pressed into aid the doctrine of *res ipsa loquitur* to hold the respondent guilty”.

Merely because the truck was being driven at a high speed does not speak of either ‘negligence’ or ‘rashness’ by itself. None of the witnesses examined by the prosecution could give any indication, even approximately, as to what they meant by high speed. High speed is a relative term. It was for the prosecution to bring on record material to establish as to what it meant by ‘high speed’ in the fact and circumstances of the case. In a criminal trial the burden of proving everything essential to the establishment of the charge against an accused always rest on the prosecution and there is a presumption of innocence in favour of the accused until the contrary is proved.

Criminality is always to be presumed, subject to course to some statutory exceptions. There is no such statutory exception pleaded in the present case. In the absence of any material on the record, no presumption of ‘rashness’ or ‘negligence’ could be drawn by invoking the maximum *res ipsa loquitur*. There is evidence to show that immediately before the truck turned turtle, there was a big jerk. It is not explained whether the jerk was because of the uneven road or mechanical failure. The Motor Vehicle Inspector who inspected the vehicle had submitted his report. That report is not forthcoming from the record and the Inspector was not examined for reasons best known to the prosecution. This is a serious infirmity and lacuna in the prosecution case.

There being no evidence on the record to establish ‘negligence’ or ‘rashness’ in driving the truck on the part of the respondent, it cannot be said that the view taken by the High Court is acquitting the respondent is a perverse view. To us it appears that the view of the High Court, in the fact and circumstances of this case, is a reasonably possible view. We, therefore, do not find any reason to interfere with the order of acquittal. The appeal fails and is dismissed. The respondent is on bail. His bail bonds shall stand discharged³⁷.

In *Muthu v. State*,³⁸ a water tanker lorry capsized on a turning and the water tanker fell on the pavement resulting in death of one person and injuries to others. Eye witnesses did not say anything about the speed of the vehicle. There was no evidence with regard to rashness or negligence of the driver. The lower appellate court relied upon the doctrine of *res ipsa loquitur* and the absence of any explanation about the manner of the accident by the driver found him guilty of rash and negligent driving and confirmed the conviction. The appellate court held that principle of *res ipsa loquitur* is not applicable in criminal proceedings and conviction of the driver was not maintainable. To fasten criminal liability upon the accused for either rashness or negligence has to be necessarily proved. Conviction and sentence on these counts were set aside.

Practically there is no evidence available on record either with regard to the rashness or negligence on the part of the driver of the vehicle, revision petitioner, at the relevant point of time. The learned counsel appearing for the revision petitioned contended that in criminal prosecution the burden to prove the ingredients of the offence is always on the prosecution and that the burden never shifts at all at any point of time to the accused. The principle of *res ipsa loquitur* is not applicable and the reliance be placed upon the following observation of the Supreme Court in the decision reported in *Syed Akbar v. State of Karnataka*.³⁹

“ In our opinion for reasons that follow, the first line of approach which tends to give the maxim

a larger effect than that of a merely permissive inference, by laying down that the application of the maxim shifts or casts, even in the first instance, the burden on the defendant, who in order to exculpate himself must revert to the presumption of negligence against him, cannot, a such be invoked in the trial of criminal cases where the accused stands charged for causing injury or death by negligent or rash act. The primary reasons for non application of this abstract doctrine of *res ipsa loquitur* to criminal trials are: Firstly, in a criminal trial, the burden of proving everything essential to the establishment of the charge against the accused always rests on the prosecution, as every man is presumed to be innocent, until the contrary is proved, as criminality is never to be innocent, until the contrary is proved, as criminality is never to be presumed subject to statutory exception. No such statutory exception has been made by requiring the drawing of a mandatory presumption of negligence against the accused where the accident tells its story of negligence of somebody. Secondly, there is a marked difference as to the effect of evidence, the proof, in civil and criminal proceedings. In Civil proceedings, a mere preponderance of probability is sufficient and the defendant is not necessarily entitled to the benefit of every reasonable doubt; but in criminal proceedings, the persuasion of guilt must amount to such a moral certainty as convinces the mind of the court, as a reasonable man beyond all reasonable doubt. Where negligence is an essential ingredient of the offence, the negligence to be established by the prosecution must be culpable or gross and not the negligence merely based upon an error of judgment.”

From the above observations of the Supreme Court Janarthanam, J. observed “it is crystal clear that for the proof of the offence under section 304A, Indian Penal Code, either rashness or negligence has to be necessarily proved in the manner allowed by law by the prosecution and in the absence of proof forthcoming on these aspects, it is not possible to fasten criminal liability upon the accused and the doctrine of *res ipsa loquitur* has no application at all in criminal proceedings. As such, the conviction and sentence of the revision petitioner for the offences under section 304A and 338 (2 counts) Indian Penal Code, and the violation of section 116 of motor vehicle act are liable to be set aside⁴⁰.”

In Malaysian case *Lai Kuit Seong v. Public Prosecutor*⁴¹ case the appellant had been summoned on a charge of driving a motor-bus without due care and attention, contrary to section 36(a) and punishable under section 146(1)(2) of the Road Traffic Ordinance, 1958. The prosecution based its case mainly, if not solely, on the fact that the vehicle came to halt some 66 yards after it had negotiated a sharp bent, where it was found by investigating officer, lying on it side near the drain. At the close of the prosecution the learned magistrate accepted counsel’s submission that *res ipsa loquitur* had no application in criminal cases and on that ground dismissed the charge without calling on the defence. The public prosecutor appealed against this decision and his appeal was allowed on the facts, since a vehicle does not ordinarily overturn after taking any bend, sharp curve.

Ong Hock Thye, C.J. (Malaya) observed :

“ in may view the phrasing of the question itself shows that the maxim seemed to have been misunderstood: if in the circumstances of the case, the trail magistrate can not properly find or infer from the evidence adduced how can *res ipsa loquitur* be raised? The *res* must speak for itself. If it does not, the maxim means nothing at all and can not be invoked to fill a gap or supply a missing link in the evidence.

The answer, therefore, is implicit in the question itself. Before us both counsel were agreed – we think rightly – that the maxim has no application at all in criminal cases..... in criminal proceedings, where the heavier onus of proof rests on the prosecution and facts proved must be sufficient to support the charges beyond reasonable doubt, the occasion can never arise where the facts require to be bolstered up by invocation of the doctrine. There is no mystique in application of *res ipsa loquitur* to proof of negligence.”

But the functional use of the maxim, only as a convenient rational aid in the assessment of evidence will not conflict with the provision of the Evidence Act relating to burden of proof and other cognate matters peculiar to criminal jurisprudence. This application of the maxim is subject to all the principles relating to circumstantial evidence, that is, they should be incompatible with innocence and exclude reasonable doubt as to guilt. Thus the maxim could be adopted in

marginal cases, where the facts speak clear and loud as to rashness and negligence and where there is little or no scope for any doubt being entertained as to the culpability of the accused. Therefore the maxim of *res ipsa loquitur* should be applied only in exceptional cases where there are no eye witnesses to speak to rashness or negligence, but where the facts and circumstances are clear and clinching and establish in no uncertain terms that the occurrence was for no other reason or reasons but on account of rashness or negligence exhibited by the accused.

II. Mere Careless Not Sufficient

In *Chintaram v. State of Madhya Pradesh*⁴² the deceased was walking in the middle of the road and the accused driving his motor cycle on the left side of the road tried to pass her from her left as there was a gap of about 15 feet from the left edge. When the motor cycle was very close to the deceased, she abruptly went to the left side of the road and was struck by the motor cycle. The motor cyclist was not negligent because deceased by her erratic decision to come to her left made the accident inevitable since she did not give any reasonable time for the motor – cyclist to avoid her. Therefore, the motor cyclist was acquitted.

In order to establish criminal liability, the facts must be such that the negligence of the accused showed such disregard for the life and safety of others to amount a crime. Mere carelessness is not sufficient for criminal liability. Section 304A requires a *mens rea* or guilt mind. The prosecution has to prove that rash and negligent act of the accused was the proximate cause of death. In this case the motor cyclist ran away after hitting a pedestrian. Inference of guilt cannot be drawn. The conduct of the driver may be to save himself from the fury of the approaching crowd.

In *Syed Akbar v. State of Karnataka*⁴³ the appellant was accused under Section 304 – A I.P.C. while discussing the maxim *res ipsa loquitur* the liability in torts has also been considered as follows:

“It is clear that even in an action in torts, if the defendant gives no rebutting evidence but a reasonable explanation equally consistent with the presence as well as the absence of negligence, the presumption of inference based on *res ipsa loquitur* can no longer be sustained. The burden of proving in the affirmative that the defendant was negligent and the accident occurred by negligence still remains with the plaintiff and in such a situation it will be for the court to determine at the time of judgment whether the proven or undisputed facts as a whole disclose negligence.”

It was further held that the accident has clearly happened by an error of judgment and not negligence or want of driving skill. In *Shivaputra Mahadevappa Hadapad v. State of Mysore*⁴⁴

the petitioner was an accused in the trial court. He was convicted for having committed an offence under section 304 – A, Indian Penal Code. The Session’ Judge confirmed his conviction. A vehicle left the road, went off side and met with an accident. This Appellate Court felt this fact by itself was not sufficient to prove the guilt. No such presumption could be raised. Prosecution must prove that the death was the direct result of the rash and negligent act of the accused. A motor cycle may leave the road and collide against some fixed structure under a variety of circumstances. Merely because the prosecution proves that the vehicle left the road, it does not necessarily follow that the accused drove the vehicle rashly or negligently. There may be innumerable circumstances such as a mechanical breakdown. For instance, in the present case the trailer in which the deceased was sitting went off the road as a result of the snapping of the hook which connected it with the tractor.

The High Court set aside the conviction and sentence passed on the petition for an offence under section 304 – A Indian Penal Code by taking the observations of *Anantanarayanan J. in Re Natarajan alias Natesan*⁴⁵.

His lordship has pointed out in the said decision that: -

“There could be no general presumption that the fact that a car leaves a road, is evidence of rash

and negligent driving. A motor vehicle may leave the road, proceed on the margin or collide against some fixed structure of the margin, under a variety of circumstances. Some of those circumstances certainly, may probabilise rash and negligent driving, but many other circumstances may not. There can be no burden on an accused to prove that he was not driving the vehicle in a rash and negligent manner because the prosecution proves the fact that the car has left the road. For instance, as in the case with regard to all mechanisms, there may be innumerable circumstances of defect not even within the knowledge of the driver of the vehicle.

The road may be wet, slippery, or in some manner unsafe. The connection between the steering mechanism and the propelling mechanism in the car. Might have been broken, or put out of gear, owing to a large variety of causes. In such a situation, the driver himself might not know why the car had suddenly behaved in that manner fraught with danger to the driver himself and to the other occupants of the car. It is difficult to appreciate how the driver could establish or prove a fact, such as the disconnection of a particular mechanism of which he himself might have been genuinely unaware."

III. Burden of Proof in Certain Cases

In *Mohammad Kasim Abdulgani Mesra v. State of Karnataka*⁴⁶ a goods vehicle hit a tree on the extreme right edge of the kacha portion of the wide and straight road.

Extensive damage was caused to the front portion of the truck. The driver explained that a bullock cart coming from the opposite direction was moving from side to side as the bullocks got frightened by head lights and that the accident had occurred in avoiding the bullock cart. The driver was rash and negligent. The bullock cart, if any, is not a vehicle which could emerge suddenly. The damage to the truck indicates the force of impact and excessive speed. The goods vehicle hit a tree on the extreme right end of the road. It was held by the Appellate Court that the accused driver could be asked to explain the facts, if it is impossible or disproportionately difficult for the prosecution to establish certain facts, the said facts being especially within the knowledge of the accused, he should explain the same.

N. D. Venkatesh, J. observed that "it is true the law as to force in this country does not cast on the accused the burden of proving that the crime has been committed by him. At the same time, we should not forget what is provided for under section 106 of the Indian Evidence Act 1872. Certain facts which are especially within his knowledge' should be proved by him. Say, for example, if he pleads alibi, he must prove the same. Likewise, if the prosecution succeeds in prima facie establishing the part played by the accused in the happening and if it is impossible or at any rate disproportionately difficult for the prosecution to establish certain facts, the said facts being especially with in the knowledge of the accused concerning his role in the happening, he should explain the same. It is for him to place on record and say as to what might have happened or as to how the situation had developed etc., so that the benefit of the same could be given to him⁴⁷."

The observations made in *Shambhu Nath Mehra v. State of Ajmir*⁴⁸ may be noted:

"Section 106 is an exception to section 101. The latter with its illustrations (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are especially with in the knowledge', of the accused and which he could prove without difficulty or inconvenience. The word 'especially' stresses that. It means facts that are permanently or exceptionally with in his knowledge."

In *Nageswar Shri Krishna Cho*

The Division Bench of the Supreme Court held that the manner in which the accident took place will not shift the onus to the accused to prove that he was innocent. The onus remained on the prosecution; it has to prove beyond reasonable doubt that the accused was guilty of rash and negligent driving. Prosecution left vital lacunae in the investigation of the case. The accused was given the benefit of doubt and was acquitted. The Supreme Court further observed that

"Justice would fail not only by unjust conviction of the innocent but also the acquittal of the guilty for unjustified failure to produce available evidence⁵⁰".

IV. *Rash and Negligent Driving*

In case of *Ratnam v. Emperor*⁵¹ the court held that a person driving a motor car is under a duty to control that car; he is prima facie guilty of negligence if the car leaves the road and crashes headlong into a tree and it is for the person driving the car to explain the circumstances under which the car came to leave the road. Those circumstances may be beyond control, and may exculpate him, but in the absence of such circumstances, the fact that the car left the road is evidence of negligence on the part of the driver. The accused was found guilty under section 304-A.

In this connection, the following observation regarding facts speaking for themselves in *Shakila Khader v. Nausher Gama*⁵² are as follows:

"the facts in the case speak eloquently about what should have happened. The main criterion for deciding whether the driving which led to the accident was rash and negligent is not only the speed but the width of the road, the density of the traffic and the attempt, as in this case, to overtake the other vehicle resulting in going to the wrong side of the road and being responsible for the accident."

In *Sajjan Singh v. State of Punjab*⁵³ petitioner was convicted by Judicial Magistrate under section 304A Indian Penal Code on appeal, his conviction and sentences were upheld by Additional Session Judge. He has challenged his conviction sentence by way of this appeal. The facts of the case are that an accident took place between a Matador van and tractor trolley coming from opposite directions. The right side of the van was ripped apart resulting in death of four passengers and injuries to many others. The petitioner, the tractor driver was convicted of rash and negligent driving and sentenced. The Matador driver ran away after the accident and the police were informed by the petitioner.

The petitioner controverted the prosecution and stated that the tractor was on the left side at slow speed and the van driver swerved the van to his wrong side and struck against the trolley; that the van driver was in a drunken condition and that the accident happened due to the rash and negligent driving of the van. The Matador was found on the wrong side of the road and its driver not produced to explain how the van went to the other side of the road. It was held by the Appellate Court that the version of the tractor driver more probable and that it is not safe to maintain the conviction of the petitioner. He is given the benefit of doubt and acquitted.

In *Francis Xavier Rodrigues v. State*⁵⁴ case two labourers were traveling in the body of the truck killed and three other labourers were injured two of them seriously. The petitioner was negligently driving said truck on the aforesaid day when the truck reached near the place of accident and dashed against a telephone pole, situated on the right hand side of the road. Thereafter, it went ahead and dashed against a mango tree which broke down and then again hit a coconut tree which fell on the truck. Only thereafter the truck came to half after traveling for a distance of 128 meters. The prosecution charged under 279 and 304A.I.P.C. The lower court affirmed that the driver was rash and negligent. The High Court of Bombay also affirmed the sentence appreciating the evidence since the above facts were not disputed by petitioner even by way of putting suggestions to the witnesses, itself would speak volumes about the negligent act of the petitioner. Court felt that it is a fit case where the principle of *res ipsa loquitur* should be applied. The accident as mentioned above will speak for itself for the rash and negligent act on the part of the accused.

In *Golan Jilani Khan v. The State*⁵⁵, the petitioner a driver had been convicted under section 304A and 337, Indian Penal Code and sentenced to undergo rigorous imprisonment for 6 months under the former court without any sentence being passed under the latter and the same has been confirmed in first appeal. In this case the truck ran into a stationary bus. It knocked down a pedestrian and injured several persons while negotiating a curve. The High Court of Orissa held

that the facts spoke for themselves and the doctrine of *res ipsa loquitur* was applicable.

In this case K.B.Pande, L observed that the evidence is that the accused did not blow horn. The motor vehicle expert says that there was no mechanical defect and that at the time he took trial the brake was not functioning. It is also evident that the truck dashed against the body of the standing bus so violently that the mud-guard of the truck got bent and touched the tyre. This is only possible after the front bumper has got bent. A portion of the body of the bus came out and some inmates of the bus sustained injuries. That apart, Jateswar who was sitting on the carrier of the cycle fell down and was run over where as the rider of the cycle Benudhar Das fell down and got certain injuries.

It was contended that the vehicle in question was moving at a speed of 15 miles or so per hour. If that were so, by application of the brakes with the load on, it would have stopped within 2 cubits and there could not have been such an impact of the bus after running over the cyclist sitting on the carrier. When the road was taking a curve and a bust was standing and a cyclist passing, the petitioner should have been more cautious; but as the facts speak for themselves, he was both rash and negligent; and the death of the man, injuries to others and dashing against the bus are the direct result of his rash and negligent conduct, in driving the truck. If the truck was all right and there was no mechanical defect, the petitioner was obviously guilty of rashness and negligence in not blowing the horn and not applying the brakes at the right time. In the alternative, if the brakes were defective, he should not have driven the truck with that load resulting in the death of one and injuries to the other and damages to the bus. This is a case where the principle of *res ipsa loquitur*, which means, "facts speaks for themselves" applies. In support of the decision, *Pitabas Panda v. State*⁵⁶ is mentioned.

V. Culpable Rashness

In *Mohammed Aynuddin alias M alias Miyam v. State of Andhra Pradesh*⁵⁷ the court held that "a rash act is primarily an over – hasty act. It is opposed to a deliberate act. Still a rash act can be a deliberate act in the sense that it was done without due care and caution. Culpable rashness lies in running the risk of doing an act with recklessness and with indifference as to the consequence. Criminal negligence is the failure to exercise duty with reasonable and proper care and precaution guarding against injury to the public generally or to any individual in particular. It is the imperative duty of the driver of a vehicle to adopt such reasonable and proper care and precaution."

The facts in this case are that a passenger fell down while boarding a bus as the driver moved the bus. She as crushed under rear wheel of the vehicle and died. Neither the conductor nor any other witness deposed that the driver had moved the vehicle before getting the signal to move forward. Evidence is too scanty to fasten the driver with criminal negligence. Some evidence is indispensably needed to presume that the passenger fell down due to negligence of the driver. The Trial Court, the Session Court and the High Court in revision convicted the driver and sentenced him to Imprisonment for 3 months. The Apex Court observed that it cannot be concluded that the victim had fallen down only because of the negligent driving of the bus. The conviction was set aside and the driver was acquitted.

K. T. Thomas J observed that:

"the principle of *res ipsa loquitur* is only a rule of evidence to determine the onus of proof in actions, relating to negligence. The said principle has application only when the nature of the accident and the circumstances would reasonably lead to the belief that in the absence of negligence the accident would not have occurred and that the thing which caused injury is shown to have been under the management and control of the alleged wrong doer....."

In the present case the possible explanation the driver is that he was unaware of even the possibility of the accident that had happened. It could be so. When he moved the vehicle forward his focus normally would have been towards what was ahead of the vehicle. He is not expected to move the vehicle forward when the passengers are in the process of boarding the vehicle. But when he gets a signal from the conductor that the bus can proceed he is expected to start moving the vehicle. Here no witness has said, including the conductor that the driver moved the

vehicle before getting signal to move forward. The evidence in this case is too scanty to fasten him with criminal negligence.

Some further evidence is indispensably needed to presume that the passenger fell down due to the negligence of the driver of the bus. Such further evidence is lacking in this case. Therefore, the Court is disabled from concluding that the victim fell down only because of the negligent driving of the bus. The corollary thereof is that the conviction of the Appellate of the offence is unsustainable. In the result the Apex Court allowed these appeals and set aside the conviction and sentence and he is acquitted"⁵⁸.

VI. Proof of Criminal Liability

In *Penu v. State, S. Acharya*⁵⁹, J. observed that merely because the tractor's wheel ran over the Morrum heap it cannot be said that the petitioner was recklessly driving the vehicle in a rash or negligent manner knowing that injury was most likely to be occasioned thereby. Moreover, the deceased by sitting on the tool box on the tractor in between the driver and the bonnet without any firm protection except the mudguard of the vehicle, took upon himself the risk and the consequences of his own act. As the deceased was the immediate boss of the petitioner it was not excepted of the latter to ask the deceased not to sit on the tractor in aforesaid manner, or that he would not drive the vehicle with the deceased sitting on it in that manner. There is no evidence of recklessness or indifference to the consequences on the part of the petitioner in this case. Considering the facts and circumstances of the case I am of the view that criminal rashness or negligence, which is required to constitute an offence either under section 279 or under section 304A, Indian Penal Code, cannot be attributed to the petitioner beyond reasonable doubt, more so on the admitted prosecution evidence that he was, driving the vehicle slowly and carefully, on the above considerations the conviction of the petitioner under section 279 and 304A, Indian Penal Code, cannot be maintained. Accordingly his conviction for the said offences and the sentence passed against him there under are hereby set aside, and he is acquitted of the same. In this case it was held that criminal rashness or negligence cannot be presumed merely on the application of the maxim *res ipsa loquitur*. Proof of criminal liability is essential to constitute an offence.

In *Nand Lal v. State*,⁶⁰ the petitioner was convicted of an offence under section 304A by Metropolitan Magistrate. The Petitioner while driving the motor cycle suddenly knocked against a mile stone resulting in death of woman who was a pillion rider. The learned Additional Sessions Judge has sustained the conviction of the Appellant for the said offence on the ground that the very fact that motor cycle hit the milestone showed that the accused was rash and negligent. It is pointed out that the milestone was evidently beyond the kacka brim of the road and as such the motor cycle of the petitioner could not have run into the mile stone unless he had lost complete control over it. The principle of *res ipsa loquitur* was applied. But the appellate Court was highly doubtful that the said principle would be attracted to the facts of the instant case.

J. D. Jain, J. observed as follows:

'It is well settled that in a criminal case the prosecution has to establish the guilty of the accused beyond reasonable doubt and section 304A, Indian Penal Code, cannot be held to be an exception to the rule. However, the onus on the accused, if any, is discharged on the theory of balance of probabilities. So from the mere fact that a motor vehicle leaves the road and meets with an accident resulting in death, there can be no presumption that the accused was driving the vehicle in rash or negligent manner and that he is bound to explain how the vehicle left the road. Further the negligence of the accused in a criminal case must be such that it goes beyond mere matter of compensation and shows such disregard for life and safety of people as to the commission of a crime. It must be of a high degree and not of the type which gives rise to claim for compensation. In other words, simple lack of care may give rise to a civil liability but without *mens rea* and such degree of culpability as amounts to gross negligence, there is no criminal liability.....' Hence the Court held that the mere fact that the motor cycle in this case left the road and hit against milestone would not be presumptive proof of rash and negligent driving requiring the petitioner to prove to the contrary. The prosecution must stand on its own legs rather than take advantage of the weakness of defence. At any rate, the explanation furnished

by him in this case in quite plausible and he is entitled to benefit of doubt.

Accordingly the Court affirmed this revision petition and set aside the conviction as well as sentence of the petitioner's for the aforesaid offence⁶¹". This judgment is given based upon *Sarwar Khan v. State of Andhra Pradesh* ⁶².

In *Rattan Singh v. State of Punjab*⁶³ the Supreme Court refused to interfere in the sentence imposed by the trial court. It is appropriate to extract here the observation of Justice Krishna Iyengar J. who delivered judgment.

"in our current conditions, the law under section 304A I.P.C. and under rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy duty vehicle and of speeding menaces. Thus viewed, it is fair to apply the rule of *res ipsa loquitur*, of course, with care conventional defenses, except under compelling evidence, must break down before the pragmatic court and must be given shift."

The question of evidentiary value of judgments of criminal cases in civil action torts: Chakka Jogga Rao J. has held whether the fact that the defendant has been convicted or acquitted in a criminal case would be relevant as to the fact of conviction or acquittal and it would be totally irrelevant on the question; whether conviction or acquittal was right. According to the learned judge, if the conviction was held to be right, it would forever bar an accused person from defending an action in torts on the merit. One striking example would be that a motor vehicle driver convicted of negligent driving in a criminal case would be unable to deny that he was negligent in answer to the civil court.

Review

Negligence is basic element in a claim for compensation for death, bodily injury or damage to property of a third party caused by accident arising out of use of a motor vehicle, but whereas death or bodily injury caused by rash or negligent driving, and rash and negligent driving itself, are crimes defined and made punishable under the Indian Penal Code, 1860, causing damage to property by some negligent act has not been included in the catena of offences defined and described under the said penal code. The following are the offences cognizable under the Indian Penal Code as committed by or in relation to the use of Motor Vehicle.

Section 279 I.P.C. states that whoever drives any vehicle or rides on any public way in manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to any other person shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Section 304A I.P.C. dealing with causing death by negligence, and states that whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years or with fine or both.

Section 336 I.P.C. deals with Act Endangering Life or Personal Safety of Others. It is provided in the act that whoever does any act so rashly or negligently as to endanger human life of the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Rs. 250/-, or with both.

Section 337 deals with cases causing hurt by acts endangering life or personal safety of others and states that whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Section 338 deals with cases causing grievous hurt by acts endangering life or personal safety of others and states that whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

REFERENCES :

1. K.D.Gaur, "Criminal Law: Cases and Materials", (1999) p.29.
2. P.M.Bakshi, Accident Victims and the Criminal Law, 3 JILI (1989) 566.
3. P.M.Bakshi, Continental System of Criminal Justice, 36 JILI 1994 p. 425.
4. Dr. R.G.Chaturvedi, "Law of Motor Accident Claims and Compensation" (2010) p.1115.
5. Criminal Procedure Code, 1973, Section 357
6. Smith v. Salwyn, (1954) 3 KB 98.
7. Keshab v. Nasiruddin, (1908) 13 CWN 501
8. Ratan Lal & Dhiraj Lal, " Law of Torts" (2000) p.11
9. Dr. R.G.Chaturvedi, "Law of Motor Accident Claims and Compensation" (2010) p.1116.
10. Ibid.
11. Ibid.
12. Supra note 4 at 1117.
13. Ibid.
14. N.Kumar, "The Concept of Criminality in the Tort of Negligence" 1998 Cri.L.J.136
15. AIR 1975 SC 1325.
16. AIR 1994 SC 1844
17. 1998 4 Crimes 382
18. Dr. D.K.Gaur, "A text Book on the Indian Penal Code", (2001) p. 446.
19. AIR, 2004 SC 1280
20. Ibid.
21. Supra note 14.
22. 2004 (1) ACC 527 (Del.)
23. Ranju Rani v. Branch Manager New India Assurance Co. Ltd., 2003 ACJ 1588 (Pat.)
24. 1979 ACJ 319 (Ker.)
25. 2000 ACJ 801 (SC)
26. 1998 ACJ 513 (SC)
27. (1905) 2 KB 154.
28. (1910) 1 KB 689
29. Ibid.
30. Supra note 22
31. Ibid.
32. AIR 1979 SC 1848
33. AIR 1945 Nag.242
34. Supra note 9.
35. K.D.Gaur, "Criminal Law, Cases and Materials"(1999) p.453
36. 1999, ACJ 1378, SC.
37. Ibid. at 1379.
38. 1990, ACJ. 530 Mad.
39. Supra note 26.
40. Muthu v. State, 1990 ACJ 532, Mad.
41. (1969), ACJ 341 Federal Court of Malaysia
42. 1986, A.C.J. 1043, M.P.
43. AIR 1979 SC 1848
44. 1970 A.C.J. 160 Mys.
45. AIR, 1966 Mad. 357
46. 1984, ACJ. 480 Kar.
47. Ibid. at 482.
48. AIR, 1956, SC 404
49. 1973, ACJ.108 SC
50. Ibid. at 115.
51. AIR, 1935 Mad. 209
52. 1975 ACJ. 363 S.C.
53. 1986 ACJ. 88 P & H.
54. 1997 Cri L.J., 1374 Bom.
55. 1972, ACJ 431, Ori.
56. Pitabas Panda v. State, 1972, ACJ. 432 Ori.
57. 2001, ACJ 13 SC
58. Ibid. at 15.
59. Ibid. at 115.

- 60. 1980, A.C.J. 423, Delhi
- 61. Ibid. at 425.
- 62. 1968, AP 290
- 63. 1939 1 M.L.J. 660

Rakhi K. Kataria
Assistant Professor
Motilal Nehru Law College
S.V.College Campus,
Ahmedabad.

Copyright © 2012 - 2016 KCG. All Rights Reserved. | Powered By : Knowledge Consortium of Gujarat