



# DISCOVERY

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## Crime caused by negligence, punishment of the accused and social responsibility!

**Dr. Prakash Laxmanrao Dompale,**

[M.Com., L.L.M., NET, Ph.D.] Assistant Professor,

Shri Shivaji Law College, Kandhar, Dist.-Nanded. 431714.

[prakashdompale@gmail.com](mailto:prakashdompale@gmail.com) Mo.9860273778,7021086598

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### Abstract:

*Leaders, common man and activists always come in contact with police stations and government offices for work. Sections imposed during police action are imposed as per the Indian Penal Code. The Code of Criminal Procedure is the procedure required in the investigation of police action and is abbreviated as Cr.P.C. Section 279 of the Indian Penal Code deals with negligent driving of any vehicle, in which, subject to the provisions mentioned in this section, any person drives a vehicle on any public road in any manner, rashly or negligently, which by reason of such negligence causes any danger or injury to any other person or to human life. or is likely to cause injury, such person is booked under Section 279 of the Indian Penal Code. And under the provisions of this section provision has also been made for giving appropriate punishment to such a person.*

**Keywords:** Negligence, Loss of life, Punishment according to seriousness, Responsibility of the accused;

### Introduction:

The Indian Penal Code is the numerically directed rules for taking action by the police department against Indian citizens or people of caste for crimes committed by them. It was created and drafted as Act 45 in 1860 in the first session of the legislature presided over by Lord Macaulay. But this Penal Code was actually implemented from the year 1862. The Indian Penal Code is an Act of 1860, but it has not yet become a new Act without being repealed. But the Code of Criminal Procedure (Cr.P.C.)

was enacted in the year 1882 and came into force in 1973 with new amendments. But though this code has been renewed, its general meaning is the same as the old code. Only chronological changes have been made. In this article we are going to study the provisions of Section 279 of the Indian Penal Code. Under the said section, provision has been made for the offense of causing any harm to another person due to the negligence of the driver. A person who has committed an offense under Section 279 of the Indian Penal Code. He is punishable with imprisonment of up to six months, and a fine. Which the court can decide depending on the seriousness of the charge and the history of the accused. But a fine of Rs. Can't be more than 1000.

#### **Amendment In Section 279 Of IPC:**

**Existing Provisions:** The act of endangering life or causing injury to the life of others by intentionally or negligently driving unsafe vehicles in public places comes under this section. If convicted, the punishment is imprisonment for a maximum of three months and a fine of one thousand rupees or both.

**Proposed Amendment:** In Section 279 of IPC, 279 is now added with amendment. Under this provision, the punishment for driving unsafely on public roads or endangering the life of others by driving with a load exceeding the prescribed load limit is seven years instead of three months. Now the provision of fines up to one thousand rupees is being cancelled in section 279. Magistrates will now be able to impose fines without limit depending on the seriousness of the incident.

#### **Rash driving or cycling on public road under IPC Section 279:**

To understand this provision, there are three essential things to know. Section 279 of the Indian Penal Code makes it illegal to drive a vehicle illegally or negligently on a public road which endangers human life or is likely to cause injury or injury to any person.

For example, if a person drives a vehicle on the road without due care and attention, he has violated this section. That means the person was driving without taking precautions. To understand Article 279 there are three essential things to know.

1. **Rash Driving or Riding:** Section 279 It is unlawful to drive rashly or carelessly on a public road. It endangers human life or is likely to cause harm or injury to anyone.

2. **Public way:** Any road or passage open to the public is known as a public way. Be it is seen as a direct connection to the city or as a route between cities.

3. **Rash or careless driving:** In law, the phrase 'careless' means that a person drives a vehicle at a speed exceeding reasonable speed and without due care and attention. This principle in Ravi Kapoor v. State of Rajasthan (2012). Rash or careless driving need not result in injury to a person's life or property due to speeding. Because in most cases, speed is not the most important factor in determining whether a driver was reckless or negligent. Even if a person drives at a low speed but carelessly and recklessly, it amounts to reckless and negligent driving under this provision.

For example, on a straight road with no other cars or pedestrians, driving too fast or honking the horn cannot be said to be rash or negligent.

State of Himachal Pradesh Vs. In Amar Nath [2018] it was held that an accused person cannot be held liable for death caused by wrongful- adventure if he did not drive at high speed or recklessly or negligently. On the other hand, he will be liable if his driving causes harm or injury or endangers people's lives. When determining whether a person is driving rashly or carelessly, speeding on a public road can be prima facie evidence of rash driving.

### **How Section 279 is related to Sections 304A, 337 and 338 of IPC:**

The Indian Penal Code has provisions to punish acts of carelessness and rash driving apart from Section 279, which are as follows:

#### **Section 304A IPC:**

Section 304A of the IPC deals with causing death by negligence or reckless conduct. If a person causes the death of another person by negligence or reckless conduct, he is guilty of an offense punishable with imprisonment for a term which may extend to two years, with fine or with both.

The following are the four primary conditions that a person must satisfy in order to commit an act of negligence:

1. Duty: The defendant has a legal duty to take care of the plaintiff. The defendant must accept some responsibility for the negligent conduct. It is necessary to assess whether anyone will suffer from you.

2. Breach of duty: The plaintiff must prove that the defendant has breached a legal duty owed to him. The defendant's misconduct constitutes a breach of his duty. Which he expected her to violate. Because he/ she owes some legal duty to the plaintiff.

3. Action to cause a thing: If the plaintiff has been damaged by the action of the defendant. Or the defendant may commit an act that he did not foresee or failed to perform an act expected of him which showed negligence.

4. Damages: The plaintiff must have suffered some kind of injury due to the defendant's actions.

Section 304A has the following essential elements:

1. The person must die.
2. The death must have been caused by the act of the accused.
3. The death must have been caused by the negligent act of the accused, and
4. The conduct of the accused must have been the direct cause of the death. Where the rashness or careless conduct of the accused has a direct relation to the death of the person concerned.

#### **Section 337 IPC:**

Section 337 of the Indian Penal Code strictly prohibits "the act of a person endangering the life of another or causing injury by an act which endangers the life of another." Under this section, if a

person's rashness or negligence endangers the safety or life of another, he shall be punished with imprisonment for six months or with a fine of five hundred rupees or with both. can Punishment for the said conduct is a cognizable and bailable offence.

The elements of Article 337 are as follows:

1. According to Section 337 the conduct of the said offender must be rash or negligent. Under Section 304A of the IPC, the concepts of rashness and negligence are defined.
2. The offender's conduct must cause physical harm to others and endanger the lives or personal safety of others.
3. But the cause of action is not contemplated in this section.

### **Section 338 IPC:**

This section is used only to punish an offender who causes serious harm by acting recklessly or negligently and endangering the life or personal safety of others. According to this section, whoever causes serious harm to another person in such a manner as to endanger the life or personal safety of others, recklessly or negligently, The court shall be punish up to two years simple or rigorous imprisonment or fine up to one thousand rupees, or with both. The said offense is a bailable and cognizable offense triable by any Magistrate.

### **Inter-relation in between 279, 304A, 337 and 338 IPC:**

A motorist can be punished under Section 279 of the Indian Penal Code if a driver causes death or bodily injury due to reckless or negligent driving. A person will be charged with causing harm by an act endangering personal safety or life of others and causing grievous hurt by an act endangering personal safety or life of others, respectively under Sections 337 and 338 of the IPC. And if the driver negligently causes an accident resulting in the death of another person, he will be booked under Section 304A of the IPC.

It clearly states that Section 279 of the IPC applies only to those who act recklessly on public roads and endanger the lives of others. On the other hand, if the driver causes death or bodily harm to another person, he or she is punished under Sections 337 and 338 of the Indian Penal Code.

### **Why lawyer required in Section 279 IPC:**

All types of legal matters require a skilled and qualified lawyer, as a lawyer may be the only person who can represent you before a judge in court. And in view of that, the offense under Section 279 of the Indian Penal Code is also considered grave and great, because under this section it is an offense to cause any harm to any other person due to the negligence of the person driving the vehicle. A person convicted of this offense is punishable under Section 386 for the negligence of any driver causing harm to any other person.

It becomes very difficult for any accused to escape from such a crime, in which it becomes very difficult to prove the accused innocent. To face such a dire situation, a lawyer can be the only person

who can prove to be reasonably beneficial to the defence of any accused and if that lawyer is an expert lawyer in his field, he can help the accused in his defence. Can be acquitted even from charges. And the offense of causing any harm to any other person due to the negligence of the person driving the vehicle, in such cases, appoint a skilled lawyer in advance and can be resolved in a proper manner in cases like Section 279. That can increase your chances of winning the case even more.

### **Important cases under Section 279 IPC**

Brahma Das v. State of Himachal Pradesh

The facts:

The facts of this case are that the appellant is a bus driver of Himachal Pradesh Road Transportation Corporation. During the journey, the vehicle stopped at a bus station. A passenger got off the bus and went to the roof to retrieve some belongings. While the passengers were on the roof, the driver started the bus without waiting for the bus conductor's signal and without checking whether the passengers who had disembarked had boarded or not. Falling off the roof from a moving bus and getting injured. The passenger was then shifted to a nearby hospital, where he died.

Held:

In this case, the court noted that Section 279 deals with rash driving or riding on public roads. In the basic understanding of this provision, the accused has to prove that he was either driving any vehicle in a public area in such a manner as to endanger human life or was likely to cause harm or injury to any person. The charge under Section 279 IPC is not based on negligence. But, Section 279, requires showing that there is an element of negligence.

Prafulla Kumar Raut Vs. State Of Orissa

The facts:

A student of Girls High School, Khantapade was on her way home from school when a speeding bus named "Madhbika" driven by the accused hit the deceased and killed her on the spot. The accused who was driving the bus fled from the vehicle.

Held:

The accident happened in front of the school. The Orissa High Court, after convicting the accused, also directed motorists to slow down and drive cautiously while passing by educational institutions.

### **Conclusion:**

Every day, many people die due to careless or reckless driving. The support of those who depend on the dead is gone. So when the family of the deceased comes to be hungry they have to beg on the streets or they have to live a very poor life. This has caused widespread concern in society as it has threatened the lives of many people. To reduce the increasing number of deaths, the law makers should revise the policies under the Indian Penal Code related to reckless driving. The family of the deceased

should be rehabilitated by imposing a lifetime fine on the accused. Or the accused should be entrusted with the full responsibility of taking care of the family of the deceased. Only then such crimes will reduce.

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