

Causing Death by Negligence

Section 304A of The Indian Penal Code

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 with both.

Section 106 of The Bharatiya Nyaya Sanhita, 2023

(1) Whoever causes 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 five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Explanation. — For the purposes of this sub-section, “registered medical practitioner” means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

(2) Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine.

This provision (causing death by negligence) in the new law marks a significant departure from the old one in terms of its quantum as well as its ambit.

Firstly, it increases the upper limit of imprisonment for the offence from 2 (under the IPC) to 5 years (under the BNS).

Secondly, it widens the scope of the offence as well by adding a sub-section which makes non-reporting of the offence an offence (punishable by an imprisonment of up to 10 years) as well.

Rash and Negligent Driving

Whoever drives any vehicle, or rides, on any public way in a manner so rash or 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 279 of The Indian Penal Code*)

Whoever drives any vehicle, or rides, on any public way in a manner so rash or 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 281 of The Bharatiya Nyaya Sanhita, 2023*)

The offence was earlier cognizable, bailable and triable by any magistrate under the IPC. It is still cognizable, bailable and triable by any magistrate under the BNS.

There is virtually no change in the offence of “Rash and Negligent Driving” under the new law.

Accident in Doing a Lawful Act

Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution. (*Section 18 of The Bharatiya Nyaya Sanhita, 2023*)

Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution. (*Section 80 of The Indian Penal Code*)

This is one of the general exceptions granted to a person under the penal code. This has also not been altered.

These were the few notable aspects that could possibly affect the lives and business of the Transport community. (Mentioned herein only after a cursory reading and not a detailed analysis)