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Analysis of Section 304A of the Indian Penal Code while comparing Case Laws Sushil Ansal vs State Thr. Cbi on 5 March, 2014 & Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811 (2001)

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ABSTRACT

The following research paper examines death by negligence under Section 304A of the Indian Penal Code, specifically. The case law Sushil Ansal v. State Thr.CBI and Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811 (2001) serves as the basis for the analysis.

This paper tries to look at both the case laws that are based on death by negligence and tries to explain 304A i.e. the concept of death due to negligence, in a more detailed manner.

Keywords: *Death, Negligence, IPC, section 304A, Wrongful death, Uphaar Cinema tragedy, Norfolk.*

I. BACKGROUND OF THE CASES

Sushil Ansal vs State Thr.Cbi on 5 March, 2014

A significant fire erupted at the Uphaar Cinema in Delhi's Green Park on June 13, 1997, as the result of the DVB transformer experienced a lot of intense sparking, which eventually caused the transformer fin to break. The transformer oil escaped through this slit, caught fire, and subsequently engulfed several nearby vehicles parked on the stilt floor.

The audience on the ground floor of the auditorium immediately fled as the smoke exited the auditorium through the staircases, air conditioning ducts, and the area beneath the screen. Due to a lack of power, there were no lights or emergency lights, making it difficult for the audience in the balcony to escape.

The spectators occupying the balcony fled in haste as a result of panic caused by the closure of one exit and other obstacles. One of the two exits was open, while the second was closed due to the placement of additional seats. The appropriate authorities granted permission for the placement of the additional seats.

Soon after, the fire was declared major, and rescue efforts continued until about 7:30 p.m. In

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total, 59 people were killed and nearly 100 were injured in the incident. After being trapped in the hall, 59 people died of asphyxiation, and 103 were seriously hurt in an ensuing stampede to escape.

The appellant (Sushil Ansal) and his brother Gopal Ansal were indicted in accordance with sections 304, 337, and 338 of the Indian Penal Code (IPC), as well as section 14 of the Cinematograph Act, for their careless deeds of allowing the installation of a DVB transformer, ignoring various rules regarding structural and fire safety, and preventing patrons from fleeing, resulting in the deaths of 59 people and injuries to 100 others.

Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811 (2001)

After Christopher Garris died from injuries sustained while working on the ship, his mother filed a negligence lawsuit against Norfolk Shipbuilding and Drydock Corporation. Damages were sought in accordance with general maritime law because the deceased's injuries occurred while he was working on the ship. According to the District Court's ruling, Norfolk could not be charged with wrongful death due to negligence under general maritime law. The appeals court of the circuit reversed. Certiorari was granted by the United States Supreme Court.

II. INTRODUCTION

The Sushil Ansal vs State Thr. CBI on 5 March, 2014 & the Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811 (2001) are two different types of cases but they are similar in nature as they both deal with wrongful death caused by negligent behaviour.

Negligence is a general law in both countries - it to be considered as a non-codified one in the US but in India death which has been caused by negligence is considered to be a criminal one, hence It's presence is justifiable under the Indian Penal code.

Indian penal code- India's primary criminal code is the Indian Penal Code (IPC). In 1860, it was passed, and it went into effect in 1862. It specifies the laws and penalties for various offenses, including robbery, murder, and theft. All Indian citizens, regardless of religion, race, or gender, are subject to the IPC.

The IPC is broken up into 23 chapters, each of which focuses on a different kind of crime. Sections 299 (defining the crime of murder), 376 (dealing with rape), 420 (dealing with cheating), and 498A (dealing with cruelty committed by a husband or his relatives against a wife) are among the IPC's most significant provisions.

Not only is the Indian Penal Code (IPC) an essential piece of legislation for the country's citizens, but it also serves as a model for other nations in the region. The provisions of the IPC

have frequently been adopted by other nations and incorporated into their own criminal codes.

Over the course of its history, the Indian Penal Code (IPC) has undergone a number of revisions in order to keep up with shifting social norms and incorporate new forms of criminal activity. For instance, the Indian Penal Code (IPC) was revised in 2013 to include provisions for cybercrime and to impose harsher penalties for crimes committed against women.

Section 304 comes under CHAPTER XVI of the IPC, this chapter contains all the offences regarding the human body.

CHAPTER XVI of the Indian penal code contains Infractions involving the human body. It includes things like culpable homicide, which is not the same as murder, murder, causing death by carelessness, doing things with the intention of hurting someone, and others. The penalties for each of these crimes are specified, as are the intricacies of their definitions.

Chapter XVI of the Indian Penal Code (IPC) plays a crucial role in protecting individuals' rights and maintaining law and order in India. The IPC is an important document that lays out the laws that govern crime and punishment in the country.

Now talking about the main section for this following paper, Section 304 one has to know about section 299 and 300 of bare act-

In accordance with this section, a person is guilty of culpable homicide if they act with the intention of causing the death of another person, with the intention of causing such bodily injury that it is likely to cause death, or with the knowledge that they are likely to cause death by acting in this manner.

The term "murder" and various aspects associated with it are discussed in Section 300 of the IPC. This holds that while every culpable homicide is considered murder, the reverse is not true. The primary distinction between culpable homicide and murder is not the type of crime but rather the degree of the offense. In essence, their gravity or intensity differs. The severity of murder is significantly greater than that of culpable homicide.

Section 304 of the Indian Penal Code goes more over this idea of culpable homicide not amounting to murder.

The Indian Penal Code did not include this section in 1860; rather, it was added in 1870. It covers offenses that do not fall under Sections 299 or 300 but do not constitute a new offense. There is no intention or knowledge to kill in this situation but it marly happens due to negligent behaviour.

Section 304 of IPC States - “[304A. 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 with both.] ” This section basically talks more about any death which has being caused without actual intention to causing any damage (death) but has occurred due to the behaviour of negligence. Now as stated before negligence is a non codified law hence the elements of the law can be changed by the court to hold the accused accountable if they’re reasonably responsible of the negligent act.

Negligence by winfield is defined as:- “Negligence is the breach of a legal duty to take care which results in damage, undesired by the defendant to the plaintiff.”

To know if one can be held accountable for negligence there are some general-

A. Duty to care towards plaintiff

B. Breach of the duty

C. Causation

D. Damages caused to the plaintiff

A) Duty to care cannot only have the direct said relationship between the plaintiff, it can be applied according to a situation, and the concept of duty to care comes from the concept of the well known caparo test. Caparo test is is a list of elements which needs to be fulfilled to know if a defendant owed duty to care or not to the plaintiff.

The elements are as follows-

1) Foreseeability

2) Proximity

3) Fair just and reasonable

1) Foreseeability is a concept of the likelihood of a person could have anticipated the actual or potential outcomes of their actions is the question posed by foreseeability.

Eg - A foreseeable risk is present If someone buys fireworks, handles them incorrectly, and burns their finger

2) Proximity means the legal relationship between 2 parties depending upon the type of case, Additionally, this is utilised in closeness situations that are not spatial.

Eg- in the case of vs Donoghue vs Stevenson, the customer who bought the ginger beer with snail remnants, and gave it to her friend was a close of close proximity.

3) Fair, just and reasonable is basically what a fair just and reasonable person would do to tackle the situation.

Eg- A is driving a car and he can see children walking the zebra crossing from far away enough even though It's green light , a reasonable man would'nt run over the car over kids but stop.

But to know more about what law considers fair just and reasonable, the concept of negligence calculus exists-

Negligence calculus is basically a way to know what to be considered fair just and reasonable in the eyes of the law and the following includes-

I. Size of the risk

II. Gravity of the risk

III. If any costs were involved to take the precaution (last opportunity call)

I) Size of the risk- how big was the risk.

Eg-A drove the car on the road which was not open for people to use but just messed up the road as it was under construction, not hurt someone.

If A hurt someone then the size of the risk is greater than messing up the road.

II) Gravity of the risk- how will the risk effect if the act done which causes the risk.

Eg- A drove the car on the road which was not open for people to use but just messed up the road as it was under construction, not hurt someone.

If A hurt someone then the magnitude of the risk is greater than messing up the road.

III)If any costs were involved to take the precaution (last opportunity call)- If any precaution was taken to avoid the foreseeable risk.

Eg- A, a nanny went to the park with B and was holding hands with her the whole time to avoid her from running away, while were in the park and the act of holding hands can be considered as the last opportunity rule.

B) breach of duty- if the duty which has been owed to the plaintiff has a gap then it is considered as breach of duty

C) Causation- The damage that has been caused to the plaintiff due to the breach of duty that has occurred by the defendant.

D) Damage caused to the plaintiff - The actual damage that has been caused to the plaintiff will be accounted in this element.

Negligence is caused without the actual intent to cause to harm one and if an act is done intentionally to harm one then it can't be classified as negligence.

Section 304A talks about death which has been caused by negligence, and if one person fulfills the above-mentioned category of negligence for the cause of death then they can be held liable under section 304A of the IPC.

Loopholes in the law

There was no provision in the 1860 draft of the Indian Penal Code for a punishment for negligent death.

Loophole in section 304A can be the definition of negligent act because negligence is a general law which is open to interpretation of the court, court can hold one liable for negligence if they feel the accused has committed a negligence, even if they fit in the elements which are necessary for negligence.

Negligence is a tort law and unlike criminal not everything is played by the book rule, this law is open to interpretation unlike crimes, but 304A section of IPC is a law which is related to crimes and negligence both.

Changes made by law/changes to be made in the law

As said above, There was no provision in the 1860 draft of the Indian Penal Code for a punishment for negligent death. As a result, the Indian Penal Code (Amendment) Act of 1870 added Section 304A to the Code in 1870.

Negligent death and intentional death are 2 very different things, negligent death isn't by intention and happens due to recklessness whereas intentional death caused to one by another is done directly, hence the punishment needs to be different which wasn't as the concept of death caused by negligence was not recognised by the law (even though there were numerous cases of such act) and Culpable homicide and negligent death were the same thing even though they are very different and should be treated individually and cases of the following sections should be decided individually without mixing the concepts.

As Time passed by the laws were getting more specific and with the breakdown of the section of 304, the laws became more specific and clear which is needed with the evolving society which is on the path to be better.

Example with a case of the same bare act- ²“Ambalal D. Bhatt v. State of Gujarat, 1972”

² Ambalal D. Bhatt vs the state of Gujarat on 7 March, 1972 - Indian kanoon (no date). Available at: <https://indiankanoon.org/doc/315089/> (Accessed: February 8, 2023).

The Supreme Court explained the section, in the well-known case of *Ambalal D. Bhatt v. State of Gujarat* that a person is only liable under Section 304A of the Indian Penal Code if the principle of *causa causans* (the immediate cause which caused death) is met.

This case involves medical malpractice. In this instance, the appellant, who was the chemist in charge of a chemical industry, and five other members were accused of violating Section 304A of the Indian Penal Code. They were found to have been careless in the process of making the glucose solution, which was later consumed by patients in a variety of hospitals. Thirteen patients died as a result of receiving the solution by injection. It was discovered that the solution has a higher concentration of lead nitrate than was allowed. The Chief Analyst of the Testing Laboratory was Prabhakaran here. Because he did not prepare the solution in accordance with the Drug Control Act, he was found to have been negligent. In this case, the Supreme Court decided that Prabhakaran, the appellant, cannot be held liable alone. The court went on to say that the appellant was not only careless, but that it was also the responsibility of several other people to keep the solution's quality up. The causal chain, which is based on the principle of the *causa causans* and consists of numerous links (acts), talks about the act that ultimately contributes to the consequence. In this instance, it was determined that the appellant's action was the only cause of all causes. To put it another way, it can be explained that the appellant's action was one of the causes of death, but it wasn't enough to be the cause of all 13 deaths.

III. ANALYSIS OF THE CASES

(A) Sushil Ansal vs State Thr.Cbi

ARGUMENTS FROM APPELLANT'S SIDE:

A. The accused was not the owner of the Uphaar Cinema and did not owe any duty of care to the people who came to watch the movie that fateful day, so his client would not be held liable in any way—civil or criminal—for the alleged breach of such a duty. GPTA Pvt. owned the cinema. Ltd., which was later purchased by Ansal Theaters & Clubotels Pvt. Ltd., who alone could be considered the Cinema's occupiers.

B. The transformer that caught fire as a result of the DVB officials' neglect—they lacked even a crimping machine to properly repair the transformer—was the cause of the deaths. The fact that no one died inside the balcony indicates that the people sitting there had left that area and died from the gas's poisonous effects.

C. The appellant was protected by Section 79 of the IPC because they believed they were legally allowed to show movies with the seating and other arrangements allowed by the license. They

were entitled to the assumption that the licensing authority had performed its duties and was satisfied that the location was sufficiently secure for visitors.

D. In addition, the occupants of the cinema were not obligated to remove the additional seats that had been permitted by the said notification, which dated September 30, 1976 and permitted the addition of 100 seats.

E. The counsel relied on the Keshub Mahindra case and argued that the fact situations are not comparable for identifying the rash or negligent act and that a case in which a drunk driver drives a vehicle recklessly is completely distinct from the case at hand.

ARGUMENTS FROM RESPONDENT'S SIDE:

- A. Because the Appellants committed the acts of omission and commission by which the patrons' egress was obstructed, it was argued that they should be convicted of both the offense punishable under Section 304 Part II and the offense punishable under Section 304A IPC because the acts were committed with the knowledge that death was likely to result.
- B. The Court also ordered a retrial of the Ansal brothers because they were aware that by installing an eight-seater box in the balcony that completely blocked the right-side exit, they were likely to kill patrons in a fire.
- C. Regarding, the *causa causans* was not the transformer fire, but rather the breaches committed by the cinema's occupants, which prevented or rather delayed the rapid dispersal of patrons, resulting in their deaths from carbon monoxide-laden smoke.
- D. The immunity granted by section 79 of the Indian Penal Code is based on good faith, which was completely absent in this case because the people who were in charge of the theater and even the people who helped make the grant broke the duty to care that was imposed by law and common law. Additionally, the person in charge of a public entertainment center catering to the general public owes a duty to maintain a safe environment in accordance with their duty to care. A claim that a person who manages a cinema hall and collects a fee from the public does not have a duty of care to ensure that the public can enjoy the facility in a safe environment would, in fact, be very far-fetched.

Case laws used in the legal proceeding-

During its decision, the supreme court cited a number of precedents. Considering a few of them in terms of issues will be interesting.

The appellants relied on ³ *Rosston v. Sullivan*, which defines the duty of a theater owner as "The general duty to use ordinary care and diligence to put and keep this theatre in a reasonably safe condition, having regard to the construction of the place, character of the entertainment given, and the customary conduct of persons attending," when determining the meaning of rash or negligent within the scope of s.304A.

The court relied on the case of ⁴ *Ankush Shivaji Gaikwad v. State of Maharashtra*, in which it noted a global shift from retributive justice to victimology, when determining the severity of the sentence and the amount of damages. While the court cited a number of precedents in this regard, Ansal Brothers has deposited the award from the High Court. The improvement of the sentence must be guided by sound logic. There is no legal requirement to do so. Any individual's years of life are at stake when the sentence is improved. The severity of the offense determines the sentence, which is disproportionate when considering that the case itself took 16 years to resolve.

The ownership of Ansal Brothers depends on how much control the management has over the place and its day-to-day operations. The decision in ⁵ *H & N Emanuel Ltd. v. Greater London Council & Anr.* was considered by T.S. Thakur, the judge. which stated, "Any person was an occupier for the purposes of fire if he had a sufficient degree of control over the premises and could say with authority to anyone who came there." After determining the occupier's position, the occupier's liability was decided with ⁶ *Mclenan v. Segar's* common law decision in mind. It says that the occupier has an implied contract with the party to provide safe premises, and it says that he has to take reasonable care to avoid all possible flaws.

The preceding case demonstrates that common law imposes a duty of care on the property owner. This is also supported by a legal requirement, whose violation would be sufficient evidence of negligence. The legislation's very purpose was to make a particular safety measure uncontroversial. In ⁷ *Lochgelly Iron & Coal Co. Ltd. v. Mullan*, this was established.

Critical Analysis of the Decision-

The case before the SC's two eminent judges occupies a significant place in legal history. At first glance, the situation resembled the Bhopal Gas Tragedy. The tragic fire that left 59 people dead and more than 100 injured is the subject of the case.

³ 278 Mass 31 (1932)

⁴ (2013) 6 SCC 770

⁵ (1971) 2 All ER 835

⁶ (1917) 2 KB 325

⁷ (1934) AC 1

The verdict rendered by T.S. Thakur J. took into account practically everything, upholding the Ansal Brothers' conviction and carrying out their remaining sentences. In a similar vein, Justice G.S. Misra upheld the conviction in accordance with the provisions of the IPC; however, in regard to the issue of the sentence, J. Misra substituted a fine of Rs. 100 crore to be paid by both brothers on an annual basis.

The author agrees with the view and findings of the court that the death of 59 innocent people is directly related to the accused's negligent act and omission. An equal amount of one hundred crore will be paid by Ansal Brothers for the construction of a trauma center in memory of Uphaar victims called the "Victims of Uphaar Memorial Trauma Centre."

It is clear that the carelessness amounts to criminal negligence. The appellants argued that the fire and the transformer's poor repair were the direct causes of death; however, this is not true; the death was caused by the inability to escape the balcony, not the fire. Therefore, in terms of *causa causans*, the failure to exit was the immediate cause of death. The accused violated their statutory and common law duty of care, which was sufficient to establish culpable criminal rashness and that they acted with awareness and the necessary knowledge of the consequences of their actions.

By adding additional seats, the occupiers not only violated their duty to maintain the hall but also committed deviations and compromised safety. There were no emergency lights, fire alarm, managing staff, or public announcement system. In this situation, it is easy to say that they were not only negligent, but that their negligence was so severe that no reasonable person would have taken such a course of action, especially considering that they were in the business of running a movie theater, where the lives of the general public were intertwined with those of visitors to the theater every day.

The defense of penal immunity could not cover the aforementioned carelessness. The accused grossly breached their duty as public place occupants. Even though a license was issued, this kind of failure cannot be excused.

Legal analysis of the case-

1. Negligence u/s 304A of IPC

The entire case focuses on the accused's actions and omissions while performing their responsibilities as cinema owners. The Ansal brothers had ownership and control at all times, and they were involved in the movie theater's day-to-day operations.

Negligence in accordance with Section 304A of the Indian Penal Code The court defined

negligence as the gross and culpable failure to take reasonable and appropriate precautions to prevent harm. The accused acted foolishly and without consciousness. It constitutes a breach of duty and is distinct from intent. The court combined the meaning of negligence from multiple sources with the current case. In any civil or criminal action based on negligence, the first and most fundamental elements are the existence of a duty to care, breach of that duty, and the consequences that follow. In the event of a theater owner: The general obligation to use normal care and diligence to maintain this theater in a reasonably safe condition, taking into account the location's construction, the nature of the entertainment, and the typical behavior of those who attend.

2. *Degree and nature of care expected of an occupier*

The degree and nature of care that should be taken by an occupier, varies based on the facts and the kind of person to whom this duty is owed. Is the individual a trespasser, invitee, licensee, or visitor? In our nation, occupiers are obligated to care for various visitor categories. The occupier is responsible for keeping the place safe. He must fulfill the responsibilities imposed by statutes or rules in order to fully perform his duty. According to sections 10, 12, and 16 of the Cinematograph Act and the Delhi Cinematograph Rules, the current occupier of the premises is required by law to "ensure safety." In addition to the common law obligation to care, the statutory provisions cast the same shadow. The purpose of the care is to protect against any and all foreseeable threats and harm. In the case of a cinema occupant, the nature of an occupier's duty to care may, among other things, require him to ensure quick exit from the hall in the event of a fire or other emergency.

For this purpose, he must provide appropriate gangways and keep them clear of obstructions; he must also provide appropriate exits, keep the exit signs illuminated; he must provide emergency lighting; he must also provide fire fighting and alarm systems; and he must employ and keep trained personnel on duty whenever.

(B) Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811 (2001)

Basic facts of the case-

The victim, Christopher Garris, died while working on a ship for Norfolk Shipbuilding & Drydock Corporation. Christopher Garris was also the mother of the victim's son. Because the ship was in navigable waters of the United States when Christopher was injured, the suit was brought under federal admiralty jurisdiction and damages were claimed under general maritime law. Christopher's mother, who is the plaintiff, sued Norfolk, the defendant, for negligence.

Issue-

If a law specifies remedies for a breach of duty to act, can a plaintiff be prevented from bringing a wrongful death action for breach of duty?

Held-

No. Affirmed.

Summary of the Argument by the defendant -

The defendant, Norfolk Shipbuilding and Drydock Corporation, asserts that negligence-caused deaths are not included in the definition of wrongful death.

Decision by the court -

In *Norfolk Shipbuilding & Drydock Corp. v. Garris*, 532 U.S. 811 (2001), the Supreme Court ruled that if a worker gets hurt because his employer doesn't take enough safety precautions, the worker can sue for damages. The court argued that the worker's injury was foreseeable due to the employer's failure to provide a safe workplace and that the employer had a duty to do so. The Court also said that federal maritime law didn't stop the worker from filing a claim for negligence because the worker could still get compensation from his employer even if the worker was negligent and caused his injury. In the end, the court came to the conclusion that the worker was entitled to compensation from his employer for his injuries.

They used the case law of ⁸*Moragne v. States Marine Lines*. According to this case law's decision, general maritime law provides compensation for the death resulting from a breach of maritime duties. Under general maritime law, actions for wrongful death caused by negligence are not barred by *Moragne*. The Circuit Court of Appeals' decision is upheld.

Analysis of the Judgement-

The United States Supreme Court case "*Norfolk Shipbuilding & Drydock Corp. v. Garris*" was decided in 2001. The issue of whether the Longshore and Harbour Workers' Compensation Act (LHWCA), which provides compensation to employees who are injured while working on navigable waters, applies to an injury sustained while the employee is working on a pier or another adjacent area connected to navigable waters, was the focus of the Supreme Court's decision in this case.

The court decided that employees who get hurt working on piers or other adjacent areas that are connected to navigable waters are covered by the LHWCA. The Court emphasised the extensive

⁸ *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375 (1970)

coverage provided by the LHWCA and the significance of ensuring that workers injured while working on navigable waters receive the Act's benefits. The "Norfolk Shipbuilding & Drydock Corp. v. Garris" case has had a significant impact on how the LHWCA (Longshore and Harbor Workers' Compensation Act) is interpreted and applied. This case is regarded as a significant decision in the field of maritime law, this broadened the boundaries I.e increased the spatial proximity just so employees or the employees families can gain compensation for the damages that has been caused due to someone else fault. This allows the family members to pay costs for the victim who died due to negligent acts or pay for injuries which have been sustained by one. As the law broadened up it allowed the needy ones to get compensation after being in a situation because of someone else negligent act.

Comparative analysis of the laws in both the countries –

The legal meaning of negligence-caused death varies from nation to nation. Negligence is defined as failing to act with reasonable care and causing harm to another person in the United States. Negligence-caused death is a criminal offense in India, and it may be prosecuted as such.

In the United States, the term "death by negligence," also known as "wrongful death," refers to a death that was brought on by the negligent or careless conduct of another individual or entity. According to the Indian Penal Code, a person can be held criminally liable if they cause another person's death through negligence or wrongful conduct.

The surviving family of a person who died as a result of the carelessness of another person or entity may file a wrongful death lawsuit in the United States. This kind of lawsuit is meant to get the surviving members of the family money to cover things like funeral costs, lost wages, and medical bills. In India, the concept of wrongful death has been expanded to include situations in which the family of the deceased can sue the person who caused their loved one's death in court. The purpose of this kind of lawsuit is to compensate the family members of the deceased for their mental and physical suffering .In this regard, the primary distinction between the two nations is that, whereas in India, the accused may face criminal prosecution, negligence-caused deaths in the United States are subject to civil lawsuits. In the United States, the family of the deceased typically sues for negligence, seeking compensation for their loss. Depending on the degree of carelessness, criminal proceedings can be brought in India by the police or the victim's family.

Wrongful death cases are typically decided in accordance with the laws of the state in which the death occurred in the United States. The Supreme Court of India is the ultimate authority on wrongful death cases in India, where the laws regarding wrongful death are more general. In

most wrongful death cases in India, the plaintiff must demonstrate that the deceased person died as a result of the negligence of the defendant.

In general, the aim of wrongful death cases in India and the United States is the same: to secure financial compensation for the surviving family members of the deceased. However, the specific rules, regulations, and procedures that must be followed in order to properly pursue a wrongful death case vary depending on the nation's wrongful death laws.

In the United States, the plaintiff must demonstrate that the defendant's actions violated the standard of care and were the proximate cause of the death in order to win a negligence case. Prosecutors only need to demonstrate that the accused acted carelessly or recklessly and that this carelessness or recklessness resulted in the death in India, where the burden of proof is significantly lower.

In addition to compensatory damages, punitive damages may be awarded in either nation. The United States is more likely than India to award punitive damages, which are meant to punish the defendant for their actions.

In general, the burden of proof, the possibility of punitive damages, and the available legal options are what differentiate India and the United States when it comes to deaths caused by negligence.

IV. CONCLUSION

All things considered, nothing can fill the void left in the victim's family. By imposing a sufficient punishment for retribution within the permitted parameters, justice is served. The court has a right to make the aforementioned decision because it will not only keep other people from doing the same thing and make the accused pay for their actions. Believe it or not, their reputation was also significantly damaged.

Every effort would be in vain if the person entrusted with this responsibility did not exercise reasonable care with the foresight of a prudent man in order to avoid such mishaps. The administration must remain vigilant at all times to prevent them. In a nutshell, such incidents can only be avoided if people work carefully and prioritize social goals over personal ones.

V. BIBLIOGRAPHY

The following research paper was made using the help of following cites, articles, research paper and books-

1. Gearty, C. (no date) *The Place of Private Nuisance in a Modern Law of Torts*, JSTOR. Available at: <https://www.jstor.org/stable/4507285> (Accessed: February 8, 2023). (no date)
2. *Sushil Ansal vs State Thr.cbi on 5 March, 2014 - Indian kanoon*. Available at: <https://indiankanoon.org/doc/9513811/> (Accessed: February 8, 2023).
3. *Ambalal D. Bhatt vs the state of Gujarat on 7 March, 1972 - Indian kanoon* (no date). Available at: <https://indiankanoon.org/doc/315089/> (Accessed: February 8, 2023).
4. Goudkamp, J. and Nolan, D. (2020) *Winfield and jolowicz on tort*. London: Thomson Reuters.
5. *Law of torts: Nature and concept of tort, nuisance as a tort - TOPPR-guides* (no date). Available at: <https://www.toppr.com/guides/legal-aptitude/law-of-torts/> (Accessed: February 8, 2023).
6. *Legislative* (no date). Available at: <https://legislative.gov.in/sites/default/files/A1860-45.pdf> (Accessed: February 8, 2023).
7. *Norfolk Shipbuilding & Drydock Corp. v. Garris*, 532 U.S. 811 (2001) (no date) Justia Law. Available at: <https://supreme.justia.com/cases/federal/us/532/811/> (Accessed: February 8, 2023).
8. *Norfolk Shipbuilding & Drydock Corp. v. Garris* (no date) Casebriefs *Norfolk Shipbuilding Drydock Corp v Garris Comments*. Available at: <https://www.casebriefs.com/blog/law/torts/torts-keyed-to-twewski/wrongful-death-torts-keyed-to-twewski/norfolk-shipbuilding-drydock-corp-v-garris/> (Accessed: February 8, 2023).
9. *Section details* (no date) India Code. Available at: https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688&orderno=463 (Accessed: February 8, 2023).
10. *Wrongful death* (no date) Legal Information Institute. Legal Information Institute. Available at: https://www.law.cornell.edu/wex/wrongful_death (Accessed: February 8, 2023).