

Hurt and Grievous Hurt

Section 114: The Definition of Hurt

Section 114 talks about the concept of "hurt." Any act causing bodily pain, disease, or infirmity falls under this category. It must be remembered that an act need not be intended or likely to cause death to qualify as hurt. In cases where there is neither an intention to cause death nor knowledge of such likelihood, and death occurs, the accused is charged with hurt if the inflicted injury is not deemed serious.

Section 116: Grievous hurt

Section 116, on the other hand, specifically designates certain kinds of hurt as "grievous." These include emasculation, permanent privation of sight or hearing, destruction of a member or joint, permanent impairment of the powers of a member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, and any hurt endangering life or causing severe bodily pain for a **period of fifteen days** (this period was 20 days as per Section 320 IPC.)

Distinguishing Grievous Hurt: Thin Line with Culpable Homicide

Distinguishing between culpable homicide not amounting to murder and grievous hurt hinges on the nature of the injuries. In the former, injuries are more serious with a risk of death, while in the latter, injuries do not pose a serious risk to life.

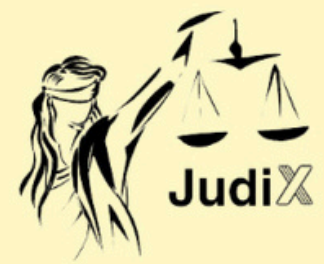
Case Law Analysis: Emperor v. Indu Beg

The case of Emperor v. Indu Beg, throws light on the fine line between grievous hurt and culpable homicide. In this instance, a husband, engaged in a heated verbal altercation with his wife, struck her forcefully on the face, resulting in her death within an hour. Here, by applying the reasonable standards rule, the court ruled that the accused was liable for voluntarily causing grievous hurt rather than culpable homicide not amounting to murder as the husband did not intend on causing death of wife neither he had knowledge that his act will cause the death of his wife.

Assault under BNS

Section 130 provides that any gesture or preparation, made with the intention or knowledge that it is likely to cause apprehension in another person, leading them to believe that criminal force is imminent, constitutes an assault. It must be noted that mere words do not amount to assault, but words accompanying gestures or preparations can lend meaning to those actions, transforming them into assault.





MURDER AND CULPABLE HOMICIDE

Introduction: Homicide, derived from the Latin words "homo" (man) and "cido" (cut), refers to the killing of a human being by another human being. It can be categorized as lawful or unlawful, the latter further classified under Sections 100, 101, 106, 80, 107, and 108 of the Bharatiya Nyaya Sanhita.

Distinction in Punishments: The Bharatiya Nyaya Sanhita draws a distinction between Section 103 (murder), Section 105 Part I (culpable homicide not amounting to murder), and Section 105 Part II (culpable homicide amounting to murder) based on mens rea. While Section 103 requires an intention to cause death, Section 105 Part I deals with cases where death is caused without such intention but with knowledge that it may cause death. On the other hand, Section 105 Part II involves the knowledge that the act is likely to cause death.

Degrees of Culpable Homicide:

1. Culpable Homicide of the First Degree: This encompasses the most severe form of culpable homicide, classified as murder under Section 101 and penalized under Section 103.
2. Culpable Homicide of the Second Degree: Representing a lower form not amounting to murder, defined in Section 100, this is punishable under the first part of Section 105 of BNS (except 100(c)).
3. Culpable Homicide of the Third Degree: The least severe type, punishable under the second part of Section 105 of BNS.

The landmark case of State v. Rayavarapee Punnayya (AIR 1977 SD 45) held that the punishment for culpable homicide varies not based on acts but on the mental state, emphasizing the importance of mens rea.

Degrees + Actus Reus + Mens Rea: The classification of culpable homicides under Sections 100, 101, along with the exceptions in Sections 101, 106, 80, 107, and 108 of BNS, revolves around varying degrees of mental elements. As mental culpability increases, so does the severity of punishment. Notably, Section 105 distinguishes between Part I (intention as the main criteria) and Part II (knowledge as the criteria), showcasing the gradation in punishment while the actus remains constant – the result of human conduct leading to death.





Order for Maintenance of Wives, Children, and Parents

SECTION 144 of BNSS: Order for Maintenance of Wives, Children, and Parents

Section 144 of the Bharatiya Nagarik Suraksha Sanhita addresses the obligation of an individual with sufficient means to maintain their wife, children, or parents who are unable to support themselves. This section forms a crucial component of the legal framework ensuring the financial well-being of dependents. Let's delve into the key aspects outlined in Section 144.

- **Maintenance Defined:**
 - Maintenance encompasses the expenses essential for survival, and its interpretation is not confined narrowly. Section 144 specifies that maintenance involves both permanent and interim support. Hence, there is a provision of interim maintenance as well under BNSS.
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Persons Covered:

- The term "any person" in Section 144 includes both males and females. However, it must be noted that a wife cannot be asked to give maintenance to husband as per Section 144 of BNSS.

Sufficient Means:

- "Sufficient means" extends beyond tangible assets and includes one's natural capacity to earn and survive. Even if a person is insolvent, a professional beggar, a minor, or a monk, they are expected to support their dependents if healthy and able-bodied.

Neglects or Refuses to Maintain:

- Neglect or refusal to maintain can be express or implied, and it implies a breach of duty. Once proven, the Magistrate has the authority to issue maintenance orders.

Eligibility to Claim Maintenance:

- The provisions empower wives, children, or parents to seek maintenance.

Wife's Right to Claim Maintenance:

- Limited to legally wedded wives. In cases of live-in relationships, a woman may claim maintenance based on a presumption of marital status arising from a long cohabitation.
- A wife abandoned by her husband can make an application. However, if the marriage is proven illegal, maintenance rights are forfeited.
- The term "wife" encompasses divorced wives, including those divorced by mutual consent. The grant of maintenance is discretionary and depends on the specific circumstances of each case.





CHAPTER XXXV - Provisions as to Bail and Bonds

SECTION 478 of BNSS- Conditions for Granting Bail in Bailable Offences

This section delineates the circumstances under which bail is to be granted, primarily focusing on bailable offenses. Bail, allowing the release of a person under certain conditions, is a fundamental right, and this section ensures its proper application. The key provisions are:

- **Release on Bail:** Any person, excluding those accused of non-bailable offenses, can be released on bail when arrested without a warrant or brought before a court.
- **Conditions for Release:** The accused must be prepared to furnish bail either to the police officer or the court, demonstrating an intent to comply with legal proceedings.
- **Indigent Persons:** In cases where the accused is indigent and unable to provide surety, the officer or court may release the individual on executing a bond without sureties.
- **Explanation:** If an accused is unable to furnish bail within a week, it can be presumed that they are indigent.

Bail Application Considerations:

- **Legal and Constitutional Right:** The right to bail for bailable offenses is a legal and constitutional right, integral to personal liberty, as reinforced in *Waman N. Ghiye v. State of Rajasthan* (2009 SC).
- **Police and Court Authority:** Both police officers and courts have the authority to grant bail. Refusal to grant bail by a police officer will violate this section and will render the detention illegal.
- **Provisos and Explanation:**
 - The first proviso emphasizes that indigent individuals, unable to furnish surety, can be released on bail by executing a bond without sureties.
 - The explanation clarifies that the inability to furnish bail within a week is grounds to presume indigency.
 - The second proviso safeguards the provisions of section 135 and section 492, pertaining to security proceedings and breach of conditions.
- **Refusal on Subsequent Occasions:** Sub-section (2) authorizes the court to refuse bail on subsequent occasions if the accused has previously failed to comply with bail-bond conditions. Such refusal doesn't preclude the court from enforcing penalties under section 491.

