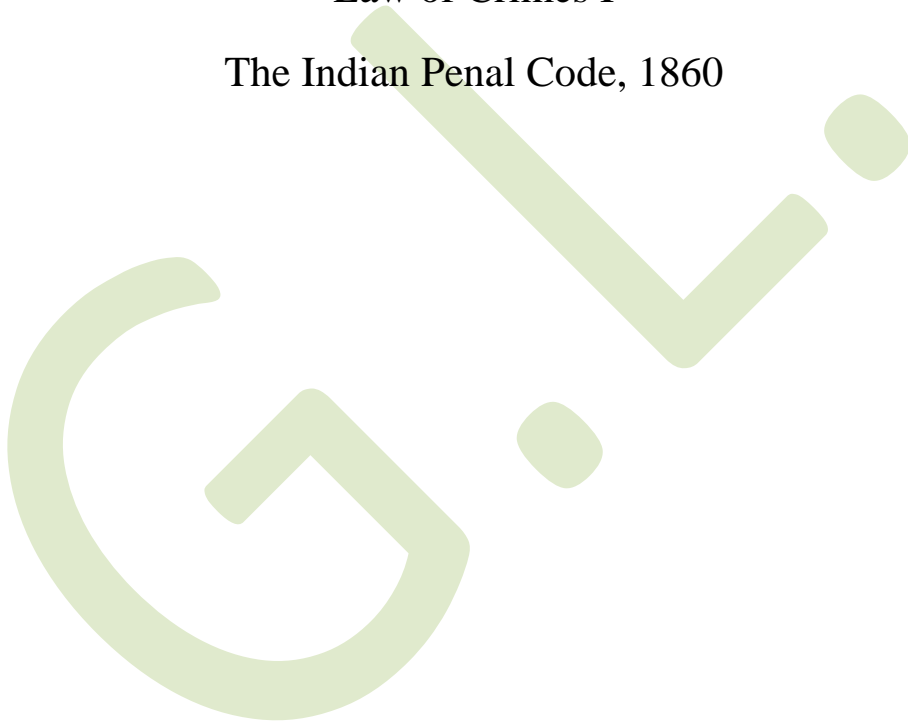


Fourth Semester

Paper IV

Law of Crimes I

The Indian Penal Code, 1860



## **OFFENCES AFFECTING THE HUMAN BODY**

The Chapter XVI of the Indian Penal Code, 1860 (I.P.C.) deals with “Offences Affecting The Human Body”. This chapter comprises of total 88 sections (Sections 299 to 377 of the Indian Penal Code, 1860). This is the largest chapter. There are several offences affecting human body which have been discussed under the following sequence:

- I) Offence affecting life (sections 299 to 318 of I.P.C.)
  - 1) Homicide
    - i) Culpable Homicide (Sections 299 and 304 of I.P.C.)
    - ii) Murder (Sections 300, 302 of I.P.C.)
    - iii) Culpable Homicide not amounting to murder (Exceptions I to V of Section 300 of I.P.C.)
    - iv) Culpable Homicide by causing death of person other than intended (Section 301 of I.P.C.)
    - v) Death by negligence (Section 304A of I.P.C.)
    - vi) Dowry Death (Section 304B of I.P.C.)
    - vii) Abetment and Attempt of Suicide (Section 306 to 309 of I.P.C.)
    - viii) Thug (Sections 310 and 311 of I.P.C.)
  - 2) Miscarriage and Injuries to Unborn Children (Sections 312 to 316 of I.P.C.)
  - 3) Exposure and Abandonment of Child under 12 Years of Age and Concealment of Birth by Secret Disposal etc. (Sections 317 & 318 of I.P.C.)
- II) Hurt (Sections 319 to 338 of I.P.C.)
  - i) Simple Hurt
  - ii) Grievous Hurt
- III) Wrongful Restraint and wrongful Confinement (Sections 339 to 348 of I.P.C.)
- IV) Criminal Force and Assault (Sections 349 to 358 of I.P.C.)
- V) Kidnapping, Abduction, Slavery and Forced Labour (Sections 359 to 374 of I.P.C.)
  - i) Kidnapping and Abduction (Sections 359 to 369 of I.P.C.)
  - ii) Slavery (Sections 370 & 371 of I.P.C.)
  - iii) Selling or Buying a Minor for Prostitution, etc. (Sections 372 & 373 of I.P.C.)

- iv) Unlawful Compulsory Labour (Section 374 of I.P.C.)
- VI) Sexual Offences (sections 375 to 377 of I.P.C.)
  - i) Rape (Sections 375, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376 DB & 376E of I.P.C.)
  - ii) Unnatural Offences (Sections 377 of I.P.C.)

### **Culpable Homicide & Murder (Sections 299, 300, 302 & 304 of I.P.C.)**

First of all it is essential to clear the meaning of 'Homicide'. The word homicide is derived from two Latin words - homo and cido.

Homo means human; and

cido means killing by a human.

Homicide means killing of a human being by another human being.

Homicide is the highest degree of bodily injury that can be inflicted on a human body.

**Homicide may be lawful or unlawful.**

However, in every case of homicide, one who causes death of other is not culpable. Culpable means blameworthy, guilty. There may be cases where law will not punish a man for committing homicide.

For example, death caused in the exercise of self defence, by reason of mistake of fact, bonafide execution of law etc. Likewise, if death is caused without any criminal intent or by an accident or misfortune, the man will be excused from criminal liability. On the other hand if the killing is not justified either by law or facts the accused will be prosecuted and punished under law. Hence, homicide may be lawful or unlawful.

Lawful homicide means where law will set the killer free from criminal liability.

**Lawful homicide may be classified as excusable and justifiable homicide.** The cases where homicide is excusable or justifiable have been listed in chapter IV of I.P.C. – General Exceptions –Sections 76 to 106.

**Excusable Homicide:** This includes cases where homicide is committed **without any criminal intention or knowledge**. Cases:

- i) Where death is caused by accident or misfortune, and with no criminal intention or knowledge in the doing of a lawful act in a lawful manner and with proper care and caution (section 80 of I.P.C., 1860)
- ii) Where death is caused by a child or a person of unsound mind or an intoxicated person (Sections 82, 83, 84 and 85 of I.P.C.)
- iii) Where death is caused unintentionally by an act done in good faith, for the benefit of the person killed, when-
  - The person killed, or if a minor, lunatic, his guardian has expressly or impliedly consented to such act (Sections 87, 88 and 89 of I.P.C.)
  - It is impossible for the person killed or his guardian to signify consent in time or the thing to be done for the benefit of the person concerned (Section 92 of I.P.C.)

**Justifiable Homicide:** A homicide is considered to be justified, if death is caused-

- i) by a person who is bound or by mistake of fact, in good faith believes himself to be bound by law (Section 76 of I.P.C.), or
- ii) by a person who acts pursuant to a lawful authority or by reason of mistake of fact in good faith he believes himself so authorized (Section 79 of I.P.C.), or
- iii) by a judge when acting judicially in the exercise of any power which he possesses or in good faith believes that he possesses under the law (Section 77 of I.P.C.), or
- iv) by a person acting in pursuance of the judgment or order of court of a justice (Section 78 of I.P.C.), or
- v) by a person acting with no criminal intention to cause harm and in good faith to avert other harm to person or property (Section 81 of I.P.C.), or
- vi) by a person exercising his right of private defence (Section 96 to 106 of I.P.C.)

Unlawful homicide may be divided into different categories according to the nature and gravity of act, mental ingredients (intention, knowledge recklessness) with which particular homicide is committed, its heinousness to attach suitable punishment for each type.

- i) Culpable Homicide (Sections 299 and 304 of I.P.C.)
- ii) Murder (Sections 300, 302 of I.P.C.)
- iii) Culpable Homicide not amounting to murder (Exceptions I to v of Section 300 of I.P.C.)
- iv) Culpable Homicide by causing death of person other than intended (Section 301 of I.P.C.)
- v) Death by negligence (Section 304A of I.P.C.)
- vi) Dowry Death (Section 304B of IPC)
- vii) Abetment and Attempt of Suicide (Section 306 to 309 of I.P.C)
- viii) Thug (Sections 310 and 311 of I.P.C.)

### **Culpable Homicide and murder**

#### **Culpable Homicide under section 299 of I.P.C.–**

“Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide”

So after analysis of section 299 of IPC the [followings are the essentials of Culpable Homicide](#)

- **Causing death:**

The very first test to decide whether a particular act or omission would be covered by the definition of culpable homicide is to verify whether the act done by an accused has **caused** the **death** of another person. ‘Death’ means the death of a human being. But the word ‘death’ does not include the death of an unborn child. It is immaterial if the person whose death has been

caused not the very person whom the accused intended to kill. The offence is complete as soon as any person is killed.

Death may be **immediate or mediate result of act**. In second situation there must be proximate connection in between act and result, the connection between act and result not to be remote.

- **By doing an act**, here act means **act of commission –positive in sense**  
**act of omission – negative in sense**, {omission raises criminal liability when one is duty bound under law to take care but he does not care of it}

Here act whether it is commission or omission is illegal. That means **actus reas / guilty act** one of the essential elements to constitute crime is present.

The **act** should be of such a nature that it would put to peril someone's life or damage someone's life to such an extent that the person would die. In most cases the act would involve a high degree of violence against the person. Instances - stabbing a person in vital organs, shooting someone at point blank range, administering poison would include instances which would constitute culpable homicide.

However this is not always the rule and there are exceptions to this rule. Remember the section says "**causes death by doing an act**", so given the special circumstances certain acts which may not involve extreme degree of violence, but may be sufficient to cause someone's death. For example, starving someone may not require violence in the normal usage of the term, but may cause a person's death. This section also covers administration of bodily injury which is "**likely**" to cause death.

This act includes **word of mouth**. Even in certain cases word of mouth is sufficient to cause death of other.

[eg. A, a man kills a sick person intentionally, by making loud noise which wakes him when sleep gives him a chance to life, knowing that a man has aneurism (abnormal dilation of a blood vessel) of the heart, A his heir rushes into the room, and roars into his ear 'Your wife is dead' intending to kill and in fact kills him. A is liable for culpable homicide amounting to murder in the same manner and to same extent as he would have been if he had mixed poison in Z's medicine and in consequence Z died after taking medicine.]

The fact that the death of a human being is caused is not enough. Unless one of the mental states mentioned in ingredient is present, an act causing death cannot amount to Culpable Homicide.

- **Mental Ingredients - Mens rea, guilty state of mind** is the second essential element of crime.

According to section 299, I.P.C. there are three species of mens rea in culpable homicide:

- (i) intention to cause death (Section 299 Clause[a] of IPC); or
- (ii) intention to cause such bodily injury as is likely to cause death i.e. an injury dangerous to life [ likely means probably, when chances of the happening of a thing are fifty (Section 299 Clause[b] of IPC); or
- (iii) knowledge that death is likely to take place (Section 299 Clause[c] of IPC)

**Intention** means purpose or desire to bring about a contemplated result or foresight that certain consequences will follow from the conduct of the person. As a general rule man is presumed to intend necessary or natural and probable consequences of his act; and this presumption will prevail, unless from the consideration of all the evidence, the court entertains a reasonable doubt whether such intention existed or not.

**Knowledge** is awareness of consequence of an act. A man may be aware of the consequence of his act though he may not intend of bring them about.

The burden of proving guilty intention lies upon the prosecution, whenever intention is expressly stated as part of definition of crime.

There is distinction between knowledge and intention. Knowledge in the context of Section 299 would, mean notice or realization or understanding. The distinction between the terms 'knowledge' and 'intention' again is a difference of degrees. An inference of knowledge that it is likely to cause death must be arrived at keeping in view the fact of situation in each case.

This was discussed extensively in *Jai Prakash v. State (Delhi Administration)* (1991) 2 SCC 32 stating: "We may note at this state that 'intention' is different from 'motive' or 'ignorance' or 'negligence'. It is the 'knowledge' or 'intention' with which the act is done that makes difference, in arriving at a conclusion whether the offence is culpable homicide or murder. Therefore, it is necessary to know the meaning of these expressions as used in these provisions.

The 'intention' and 'knowledge' of the accused are subjective and invisible states of mind and their existences have to be gathered from the circumstances, such as the weapon used, the ferocity of attack, multiplicity of injuries and all other surrounding circumstances. The framers of the code designedly used the words 'intention' and 'knowledge' and it is accepted that the knowledge of the consequences which may result in doing an act is not the same thing as the intention that such consequences should ensue. Firstly, when an act is done by a person, it is presumed that he must have been aware that certain specified harmful consequences would or could follow. But that knowledge is bare awareness and not the same thing as intention that such consequences should ensue. As compared to 'knowledge', 'intention' requires something more than the mere foresight of the consequences, namely the purposeful doing of a thing to achieve a particular end.

### **Section 299 of I.P.C.:**

**Explanation 1.**-A person, who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Where a person knowingly accelerates someone's death in such a situation it is considered culpable homicide.

**Explanation 2.**-Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Where a person inflicts such bodily injury on someone and the latter dies because of such injury, it will not be an excuse that if the person had received medical attention his life would have been saved.

**Explanation 3.**-The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Abortion does not constitute culpable homicide. However if any part of the child is outside the womb, and the child is then killed, it constitutes culpable homicide. A word of caution, however, infanticide and abortion on the basis that the womb is bearing a female child is a criminal offence in India.



### Culpable Homicide Amounting to Murder:

Section 299 of I.P.C. defines the term culpable homicide, explains the essentials of the same.

Culpable homicide is of two types culpable homicide amounting to murder and culpable homicide not amounting to murder.

Section 300 of I.P.C. deals with culpable homicide amounting to murder. In other words the section 300 of I.P.C. states that culpable homicide is murder in certain situations. An act to be classified as murder it must first meet all the conditions of culpable homicide.

Five exceptions of section 300 of I.P.C. explain the situations under which culpable homicide does not amount to murder.

Section 300 of I.P.C.: Murder:

Except in the cases hereinafter excepted, culpable homicide is murder ---

- if the act by which the death is caused is **done with the intention of causing death**, or
- 2ndly if it is **done with the intention of causing such bodily injury** as the offender **knows** to be **likely to cause the death** of the person to whom the harm is caused; or
- 3rdly if it is **done with the intention of causing bodily injury** to any person and the bodily injury intended to be inflicted is **sufficient in the ordinary course of nature to cause death**, or
- 4thly if the person committing the act **knows that it is so imminently dangerous** that it must, **in all probability, cause death, or such bodily injury as is likely to cause death**, and commits such act **without any excuse for incurring the risk** of causing death or such injury as aforesaid.

### **Illustrations:**

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is

not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

➤ **When an act is done with the intention of causing death**

The degree of intention required is very high for murder. There must be intention present and the intention must be to cause the death of the person, not only harm or grievous hurt without the intention to cause death.

Eg. Illustration (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

➤ **Inflicting of bodily injury which the offender knows is likely to cause death**

The second situation covers instances where the offender has special knowledge about the victim's condition and causes harm in such a manner which causes death of the person. Look at this part of Section 300 very carefully. It states that the offender "knows likely to be the cause of death"

Illustration (b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

➤ **Bodily injury which causes death in the ordinary course of nature**

These situations cover such acts where there is bodily injury which in ordinary sequence of events leads to the death of the person. Read the part of the section carefully. The section actually has two conditions \_ Firstly, the bodily injury inflicted is inflicted with the intention & Secondly, the bodily injury caused in the ordinary course of events leads to death of someone.

Illustration(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

➤ **Commission of an imminently dangerous act without any legitimate reason which would cause death or bodily injury which would cause death.**

This head covers the commission of those acts which are so imminently dangerous which when committed would cause death or bodily injury which would result in death of a person and that such an act is done without any lawful excuse. Cases under this head have three requirements \_

- i) commission of an inherently dangerous act
- ii) the knowledge that the act in all probability will cause death or bodily injury which will cause death and
- iii) the act is done without any excuse (the excuse must be lawful or legitimate excuse)

Illustration (d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

## Culpable Homicide Not Amounting to Murder

Section 300 of I.P.C. states five exceptions which are examples better to say various situations under which culpable homicide does not amount to murder.

**Exception 1.**-When culpable homicide is not murder \_ Culpable homicide is not murder if the offender, **whilst deprived of the power of self-control by grave and sudden provocation**, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:-

First-That the **provocation is not sought or voluntarily provoked by the offender as an excuse for killing** or doing harm to any person.

Secondly-That the **provocation is not given by anything done in obedience to the law**, or by a public servant **in the lawful exercise of the powers** of such public servant.

Thirdly-That the **provocation is not given** by anything done **in the lawful exercise of the right of private defence**.

Explanation.-Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations (a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

**Exception 2.**-Culpable homicide is not murder if the offender in the exercise **in good faith of the right of private defence** of person or property, **exceeds the power given to him by law** and **causes the death** of the person **against whom** he is **exercising such right of defence without premeditation**, and **without any intention of doing more harm** than is necessary for the purpose of such defence.

Illustration: Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can be no other means prevent himself from being horsewhipped shoots Z dead. A has not committed murder, but only culpable homicide.

**Exception 3** - Culpable homicide is not murder if the **offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers** given to him by law, and causes death by doing an **act** which he, **in good faith, believes to be lawful and necessary for the due discharge of his duty** as such public servant and **without ill-will** towards the person whose death is caused.

**Exception 4**- Culpable homicide is not murder if it is committed **without premeditation** in a **sudden fight in the heat of passion** upon a **sudden quarrel** and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation - It is immaterial in such cases which party offers the provocation or commits the first assault.

**Exception 5** - Culpable homicide is not murder when the person **whose death is caused**, being **above the age of eighteen years, suffers death or takes the risk of death with his own consent**.

Illustration : A by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

### **Punishment for Murder and Culpable Homicide Not amounting To Murder**

**Section 302 of I.P.C.: Punishment for murder** --Whoever commits murder shall be punished with death, or [imprisonment for life], and shall also be liable to fine.

**Section 303 of I.P.C.: Punishment for murder by life-convict** --Whoever, being under sentence of [imprisonment for life], commits murder, shall be punished with death.

{Section 33 of IPC struck down by the Supreme Court in Mithu v. State of Punjab, AIR 1983SC 473}.

**Section 304 of I.P.C.: Punishment for culpable homicide not amounting to murder** –

Whoever commits culpable homicide not amounting to murder shall be punished with [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Section 302 of I.P.C. prescribes punishment for first degree of culpable homicide i.e. culpable homicide amounting to murder.

Section 304 paragraphs I & II prescribe punishments for second and third degree of culpable homicide i.e. culpable homicide not amounting to murder.

Section 304 of I.P.C. divides the offence of culpable homicide not amounting to murder into two categories according to intensity and gravity of the crime for the purpose of awarding sentence. In one case, (which is more serious and more grave in nature) the liability is proved on the basis

of intention to be inferred from all the circumstances; where as in other case ( of less serious nature) liability does not depend on intention.

That is to say, in part I to section 304 I.P.C. intention is the basis of liability for determining the guilt. It applies where the accused causes bodily injury with intention to cause death or with intention to cause such bodily injury as is likely to cause death as stated in clause (2) of section 299, I.P.C.

On the other hand, in Part II to section 304 I.P.C., knowledge is the basis for punishment. It comes into operation when the death is caused by doing an act with the knowledge that it is likely to cause death as stated in clause (3) of section 299 I.P.C.

Accordingly Part I provides for more serious punishment than that of Part II.

Part I of section 304 I.P.C. covers those cases which by reason of exceptions 1 to 5 to section 300 I.P.C. are taken out of the purview of section 300 clauses (2) and (3), and cases fall within clause two of section 299 I.P.C. For example in M.B. Singh v. Manipur Administration AIR 1967manipur 41, it was held that the appellant was guilty of the offence under Part I of section 304 I.P.C., when he exceeded his right of private defence by brutally killing the deceased.

Part II of section 304 of I.P.C. covers cases falling within third part or clause (3) of section 299 of I.P.C. and those not falling within clause (4) to section 300 I.P.C. but covered by any one of the exceptions to section 300. That is to say, Part II of Section 304 applies when the act is done with the knowledge that it is likely to cause death but with no intention to cause death.

**Differences Between Culpable Homicide Not Amounting To Murder And Culpable Homicide Amounting To Murder/Culpable Homicide and Murder/Section 299 & 300 Of I.P.C.**

Culpable homicide is of two types culpable homicide amounting to murder and culpable homicide not amounting to murder.

Section 299 of I.P.C. defines the term culpable homicide and explains the essentials of the same. Exceptions 1 to 5 to section 300 of I.P.C. provide for situations in which culpable homicide does not amount to murder.

Section 300 of I.P.C. explains the term murder that means culpable homicide amounting to murder. An act to be classified as murder it must first meet all the conditions of culpable homicide.

Culpable homicide is genus and murder is species.

All murder is culpable homicide but all culpable homicide is not murder.

According to Sir James Stephen both the culpable homicide and murder are defined in forms closely resembling each other and at times it becomes difficult to distinguish between the two as the causing of death is common to both. Further there must necessarily be criminal intention or knowledge in both cases. However, the difference between these two is real though very fine and based upon a very subtle distinction of intention and knowledge. The true difference lies in the degree, there being the greater degree of intention or knowledge of the fatal consequences in the one case than the other.

Justice Sarkaria in *State Of Andhra Pradesh vs. Rayavarapu Punnayya & Another* AIR 1977 SCR (1) 601 and Justice Melvill in *Reg v. Govinda* very nicely explained the differences between these two.

Probability of death is very high in case of murder than culpable homicide not amounting to murder.

Degree of intention and knowledge is very high in murder than culpable homicide.

Clause (a) of section 299 corresponds with clause (1) of section 300

Intention to cause death

Intention to cause death



Both cases intention to cause death is present hence, both belong to the category of murder

Clause (b) of section 299 corresponds with clause (2) of section 300

With the intention to cause such  
bodily injury as is likely to cause  
death

with the intention of causing such bodily  
injury as the offender knows to be likely  
to cause the death of the person to whom  
the harm is caused.

&

Clause (3) of section 300

with the intention of causing bodily injury to any  
person and the bodily injury intended to be  
inflicted is sufficient in the ordinary course of  
nature to cause death.

In case of clause (b) of section 299 only intention to cause bodily injury is present and the word likely denotes probability.

In clause (2) of section 300 intention to cause bodily injury is present but the gravity is higher than clause (b) of section 299 because in case of clause (2) offender has knowledge that the particular person to whom injury is inflicted may die due to this injury. So in this case intention is accompanied by knowledge.

Eg. A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

In clause (3) of section 300 nature of the injury is such that it is normally sufficient to cause death of any person to whom injury is inflicted.

From the above discussion it is clear that degree of intention to cause injury is high in section 300 causes (2) & (3) therefore if death is the ultimate result offender is liable for murder.

Clause (c) of section 299 corresponds with clause (4) of section 300

With the knowledge that such act is likely to cause death

with the knowledge that the act is so imminently so dangerous that it must in all probability cause death or such bodily injury as is likely to cause death.

Though only knowledge is present in clause © of section 299 and clause (4) of section 300 but gravity of clause (4) is higher than clause © of section 299 (simple knowledge is present) because act under section 300 clause (4) is so imminently dangerous to cause death of any person without intention and the offender takes risk without any just, reasonable excuse.

**Section 301. Culpable homicide by causing death of person other than person whose death was intended:**

If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

If A counsels B to poison his wife, B accordingly procures poison and gives it to his wife in a roasted apple, but the wife gives it to child of B not knowing it contained poison and the child eats it and dies, B is liable for the murder of the child though he never intended to harm the child.

Section 301 IPC embodies the principle of transfer of or transmigration of malice (motive).

As stated by the Supreme Court in State of **Maharashtra v. Kashirao (2003)** if killing takes place in the course of doing an act which a person intends or knows to be likely cause death, it ought to be treated as if the real intention of the killer had been actually carried out and he will be liable accordingly.

In the case of **Ballan v. State of U.P AIR 1955All 626** it was held that intention of causing death is sufficient to hold the person liable, irrespective of the fact who becomes the victim.

Similarly the doctrine of transfer of malice was applied in the case in which a person interfering in a dispute was killed by a bullet aimed at another, ( **Gyanendra Kumar v. State of U.P AIR 1972SC 502**).