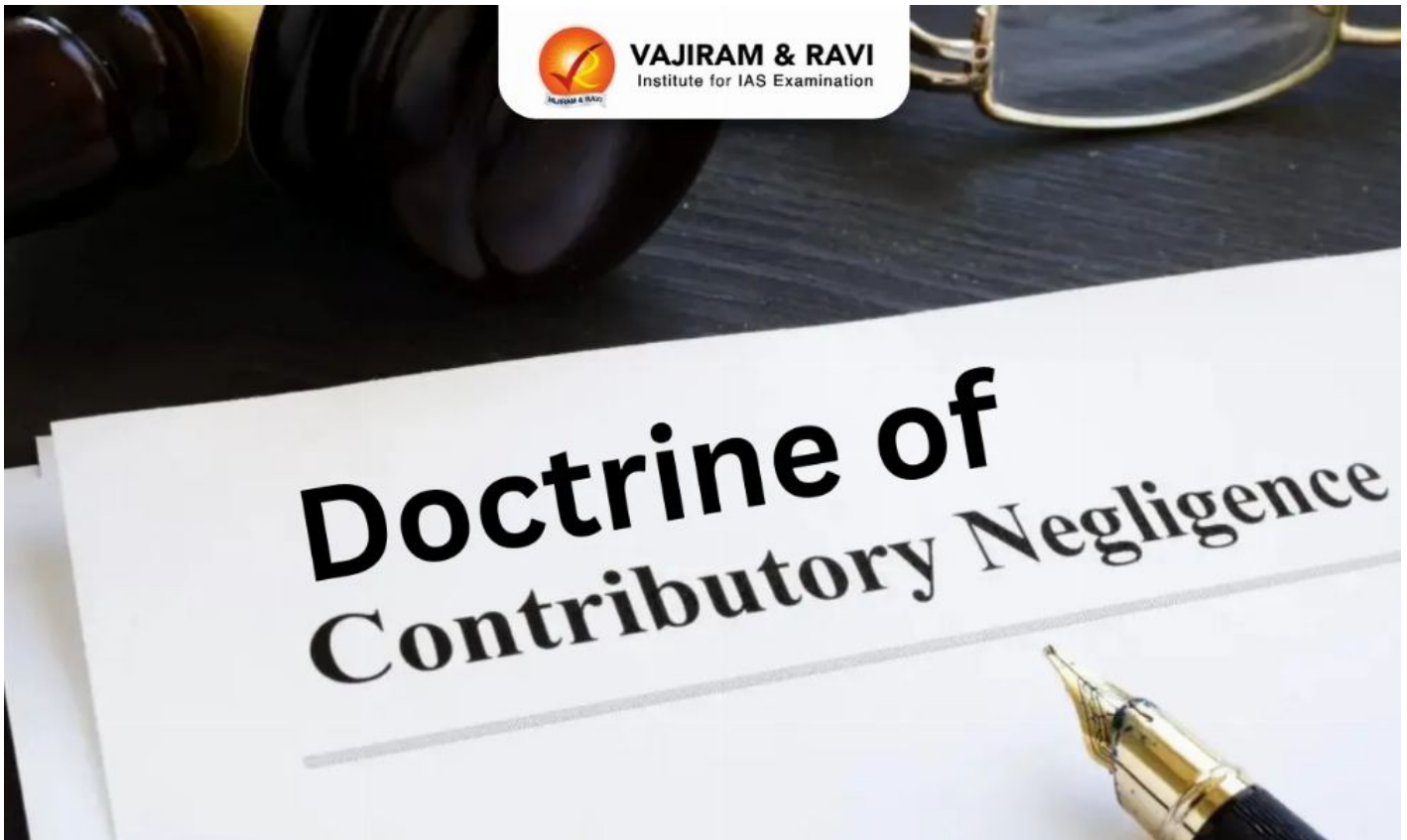


Doctrine of Contributory Negligence

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Doctrine of Contributory Negligence Latest News

The Andhra Pradesh High Court recently held that the doctrine of contributory negligence does not apply to criminal actions, and a driver who commits an accident by driving rashly and negligently, which leads to the death of a person, is liable under Section 304A of IPC, even if there has been a degree of negligence on part of the victim.

About Doctrine of Contributory Negligence

- It operates on the principle that **individuals have a duty to exercise reasonable care for their own safety** and well-being.
- **When someone fails to meet this duty and their actions** or omissions **contribute to their own injury** or damages, **they may be considered partially at fault** for the harm suffered.
- Contributory negligence **occurs when the plaintiff, through their own lack of care, contributes to the damage resulting from the defendant's negligence** or wrongful conduct.
- The concept of Contributory negligence is **based on the principles of "Volenti non-fit injuria"**.

- The maxim means that the **injury has suffered voluntarily** and the **defendant is not fully liable**.
- It **serves as a defence** wherein the **defendant must demonstrate** that the **plaintiff's failure to exercise reasonable care for their safety played a role in the harm** suffered.
 - For instance, if A, while travelling on the wrong side of the road, is struck by a vehicle driven recklessly by B coming from the opposite direction, A may be met with the defence of contributory negligence.
- The application of contributory negligence principles **allows courts to assess the relative fault of each party** and **determine the appropriate allocation of liability and damages** in such cases.
- **But if both the plaintiff and the defendant take due care** and all the measures **to avoid the accident** or the injury, **then the plaintiff cannot sue the defendant for that**.
- **The Burden of Proof:** The burden of proof is **on the defendant** to prove that the plaintiff is equally liable for the act and the plaintiff was not careful, due to which he suffered injuries.
- The **defence** of contributory negligence is **not available when** it is proved that the **defendant has the duty to take full care** and **he is legally bound to take full care and diligence**. So, if any injury is caused to the plaintiff, then the defendant will be held liable.
 - For example- A and B were travelling in a bus, and A, in order to show something to B, pointed his hand outside the window, and the window suddenly got open, and A was injured. Although it was A's duty to not take out his hands from the window, the staff and the crew were liable, as it was their duty to check all the windows and the doors.
- While **India does not have a specific statute codifying contributory negligence**, courts often consider principles of fairness and equity in determining liability and apportioning damages.
- **In India**, the **concept of comparative negligence is applied**, where **damages are allocated based on the comparative fault of each party** involved and judges exercise discretion based on the facts and circumstances of each case.

Source: LL

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