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*The Case that Changed the Tides of Contributory Negligence –  
Vidya Devi v State of Madhya Pradesh State Road Transport  
Corporation: A Case Comment*

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**CONTRIBUTORY NEGLIGENCE**

## Table of Contents

RESEARCH METHODOLOGY .....	3
ABSTRACT .....	4
INTRODUCTION .....	5
INTRODUCTION OF THE CASE .....	7
CASE COMMENTARY .....	14
CONCLUSION.....	15

## **RESEARCH METHODOLOGY**

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The methodology employed in this project adheres to a rigorous “doctrinal” framework. A doctrinal approach, by its very essence, represents a meticulously structured journey into the systematic study, analysis, interpretation, and assessment of doctrines. This methodology entails a thorough examination of textual sources, harnessing the power of comparative analysis, and a scholarly examination of doctrines within their historical and cultural contexts. Additionally, it demands a discerning exploration of their logical and practical facets. This exacting critical analysis serves as an indispensable conduit to unlock the profound significance, consequential impact, and far-reaching implications inherent in the doctrines under our scholarly scrutiny.

**ABSTRACT**

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*The forthcoming case commentary provides an in-depth exploration of the fundamental concept of contributory negligence, with a particular emphasis on one of the pivotal legal cases that elucidates this principle. Contributory negligence, in the realm of tort law, pertains to the culpability of the plaintiff, which substantially contributes to and shares responsibility for a specific incident or mishap. This intricate legal doctrine finds its spotlight in the case of Smt. Vidya Devi v State of Madhya Pradesh State Road Transport Corporation—an exemplar of jurisprudential analysis within the field of Law of Torts. The write-up scrutinizes, among other aspects, the nuanced intricacies of whether the allocation of compensation in this case aligns with the prevailing legal standards and principles. Consequently, this article promises to offer a comprehensive exposition of the complex interplay of contributory negligence, legal precedents, and the determination of appropriate compensation.*

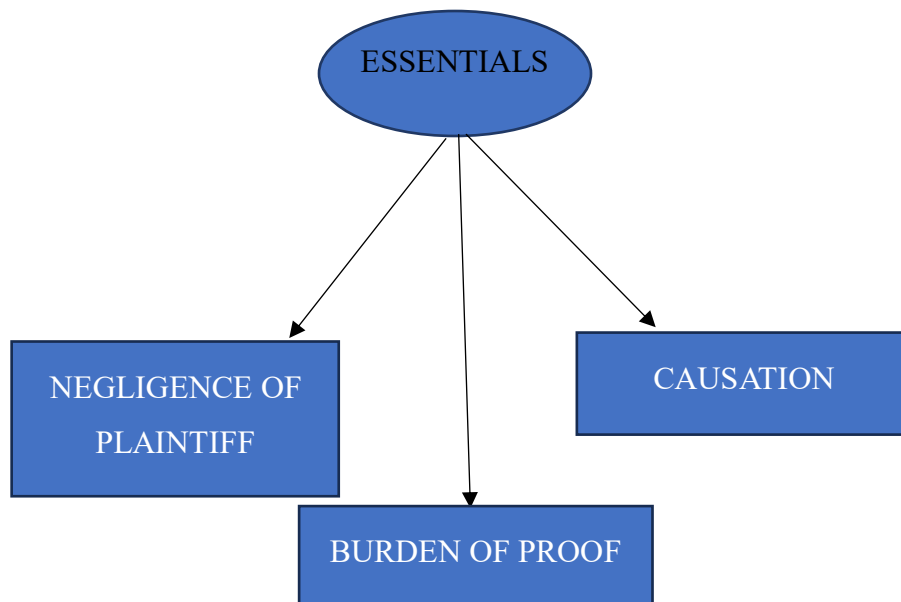
**Keywords:** *Contributory, Negligence, Compensation, Precaution, Accident*

## INTRODUCTION

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Contributory negligence is one of the legal defenses used by the defendant that comes into foreplay when there is *contributory conduct* of the parties toward the accident. With its roots dating back to the 19<sup>th</sup> century, this concept acts as a panacea to the defendant, by reducing the amount of compensation. The contributory conduct of the injured party, often dealt with by the concept of contributory negligence, and its consequences for the delicate liability of the person who committed the unlawful act have been central issues in the study of private law throughout the centuries.<sup>1</sup> If the plaintiff has unknowingly even partially contributed to the cause of the tort, the defendant is not liable to make compensation.

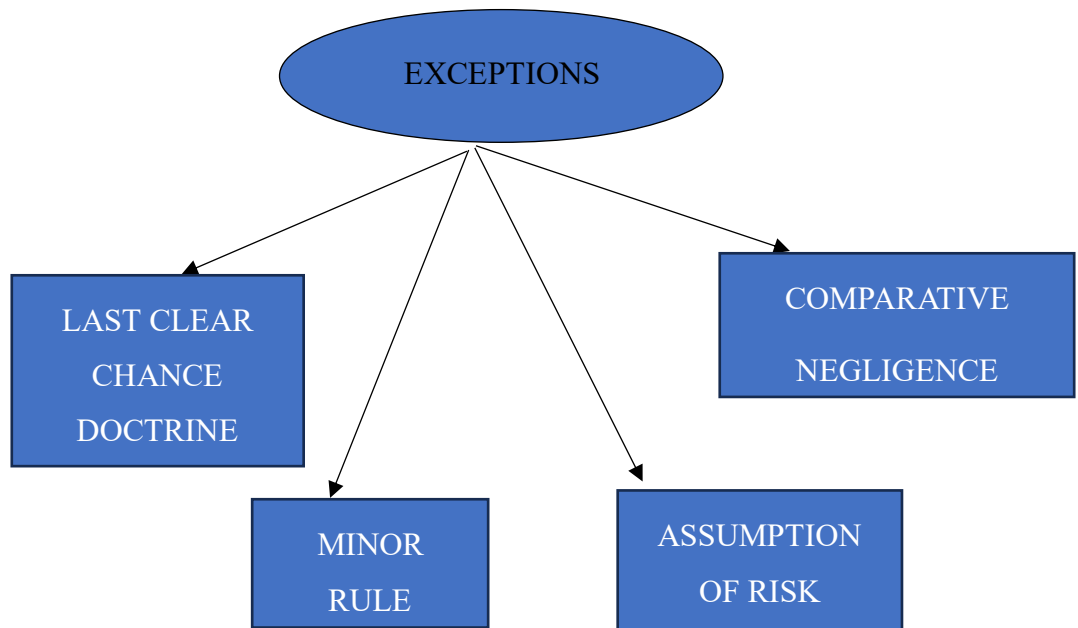
### Essentials of Contributory Negligence



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<sup>1</sup> The concept of contributory negligence, Legal Service India - Law, Lawyers and Legal Resources. Available at: <https://www.legalserviceindia.com/legal/article-4324-the-concept-of-contributory-negligence.html> (Last visited on 08 September 2023).

Despite these essentials, there are **certain exceptions** as enumerated below:



For a clearer understanding, we're about to delve into a case and its analysis.

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## INTRODUCTION OF THE CASE

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The case, *Smt. Vidya Devi v State of Madhya Pradesh State Road Transport Corporation*<sup>2</sup> is one of the significant cases under the Motor Vehicle Act, of 1939. It follows the principle of the doctrine of contributory negligence and under the Law of Torts. It explains in detail the intricacies of the doctrine of contributory negligence along with its limitations or exceptions.

This case was brought forth to the Madhya Pradesh High Court by the plaintiff (Vidya Devi). In an unfortunate accident, her husband passed away and a suit was filed against the bus driver and conductor. A slew of events took place and the matter took an intriguing turn.

In the following study, we are going to discuss the entire case in detail including the facts, issues, and judgments. In addition to that we are also going to take a look at other relevant and similar cases,

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<sup>2</sup> *Ratanlal Dhirajlal the law of torts : Ratanlal and dhirajlal : Free download, Borrow, and streaming, Internet Archive*. Available at: <https://archive.org/details/ratanlal-dhirajlal-the-law-of-torts> (Last visited on 06 September 2023).

## 1) FACTS OF THE CASE

### *Parties involved:*

PLAINTIFF: Smt. Vidya Devi

DEFENDANT: Madhya Pradesh State Road Transport Corporation<sup>3</sup>

JUDGES: G Singh, Krishna Dube

This case took place on 2 May 1974 in the Madhya Pradesh High Court.

On 24 July 1968, an accident occurred involving the plaintiff's husband "Inderjeet Singh" and a bus driver "Abdul Bashir" at the intersection or crossing of two roads i.e., *Katni Road* and *Stadium Road*. Katni Road begins from the bus stand to Katni. Simultaneously, the Stadium Road has its start point from Shahid Samrak to the Stadium.

As per hearings, the bus bearing the registration number M.P.K 5033 belonged to the Madhya Pradesh State Corporation and Abdul Bashir was riding a motorcycle<sup>4</sup>. The bus left the bus stop and was making its way to Katni. The motorcycle arrived from the opposite direction of Shahid Smarak. The motorcycle made a collision with the right side of the bus's front end. Inderjeet Singh got a fractured skull and was critically injured. Seemingly he passed away soon after that in the hospital.

After his death, his wife Vidya Devi and son claimed an award of compensation in the Claims Tribunal, Jabalpur. The Tribunal after examining the case in detail, held that the appellant's husband was himself presented a case of negligence. The case was dismissed in favor of the defendants due to the plaintiff's fault. Unhappy with the decree, Vidya Devi again filed an appeal to the High Court.

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<sup>3</sup> *Ratanlal Dhirajlal the law of torts : Ratanlal and dhirajlal : Free download, Borrow, and streaming, Internet Archive*. Available at: <https://archive.org/details/ratanlal-dhirajlal-the-law-of-torts> (Last visited on 06 September 2023).

<sup>4</sup> *Vidya devi v madhya pradesh state road corporation* AIR 1973 SC 461  
<https://indiankanoon.org/advanced.html> accessed 6 September 2023



## **2) ISSUES**

The following were the issues revolving around the case and will be studied and analyzed in detail:

- a) Whose negligence was the real or substantial cause of the accident? Whether it was the driver, the deceased, or both?
- b) Whether the defense of contributory negligence is available to the respondents?

## **3) WITNESS CONTENTIONS**

Petitioner: Vijay Singh, Suraj and Nathulal

Statements: All three of them claimed that the motorcycle came from Shahid Smarak's roadside. Furthermore, the appellant was perfectly able to state the exact location where the vehicle hit the motorcycle. (*the right side frontal headlight of the bus*). Additionally, they stated the deceased was found lying under the motorcycle after being hit. Furthermore, by evidence, it was shown that the motorcycle came at an aggressive speed as opposed to the bus which came at 10 miles per hour, i.e. a moderate speed. But hopefully, both the vehicles had blown horns at the intersection.

Defendants: driver Abdul Bashir and conductor Sanand Kumar.

## **4) COURT'S JUDGEMENTS**

The Hon'ble High Court contended that both the deceased and the defendant are liable and further clarified his stance regarding the issues.

### ISSUE 1

The deceased vehicle being thrown 30 cubicles away shows it was moving at an incomparable speed that was out of the control of the deceased Indrajeet Singh. His disregard for his safety greatly contributed to the accident.

The driver in his witness avoided replying to his circumstances at the time of the accident. A good watchout could have prevented the impending danger.

As a result, the court decreed both the deceased and respondent were liable for the accident.

## ISSUE 2

Yes, the principle of contributory negligence could be applied. But herein the deceased was at more fault about 2/3<sup>rd</sup> of the case. Although there was an apparent confusion about which rule to apply that was seemingly clear at the end. Perhaps there was a wide argument of whether we can apply the old English rule before 1945 that nullifies the damages if the plaintiff is at fault. But that was later abolished and ruled out that the courts can decide the decree based on “justice, equity, and good conscience.”

### **5) FINAL DECREE**

A part of the appeal was allowed. The District Judge’s award was overturned. Furthermore, the respondents were ordered to give an amount of Rs 10000. Although the original amount of compensation was Rs 32,400, it was reduced due to the plaintiff’s negligence.

### **6) ORBITER DICTUM**

There existed a vast confusion over the application of old common law or the application of the new English Act of 1945. The Old Common Law removed the plaintiff’s claims for damages if he was found guilty to some extent in the event. Yet things changed with the enactment of the Law Reforms( Contributory Negligence) Act 1945 which allowed courts to give the sentence as per the proportion of blame of appellants and respondents. Yet, this provision was not enacted in India. The court then turned its view toward the principle of “justice, equity, and good conscience” if “found applicable to Indian society and circumstances.” whereby both the principles of common and statute law can be applied.

Lord Wright in Modern Law Review called the former law illegal and erroneous. Many other esteemed jurists called upon the foul idea behind the previous law. For instance. “Sparks v. Edward Ash. Ltd., (1943) 1 KB 223” at p. 230. Scott, L. J. referred to the "harsh and often cruel bearing of our common law doctrine of contributory negligence". Justice Krishnan J.C propounded a similar viewpoint.

### **7) RATION DECIDENDI**

The court took the view of Stone C.J in “Secretary of State v Rukhmabai”. He proclaimed the decision of the case might change as per the facts and circumstances of the society then. At the same point, Justice Nityogi said the following words.

“It, therefore, appears to me that it is manifestly anomalous and illogical to apply, in the name of justice, equity, and good conscience, to India the doctrine of Common law which is no longer regarded at its source as fair and equitable and enforced as such.”. Thus Nityogi clarified the futility of the current Common law and made it redundant. The same will now be in precedent for the future proceeding. As a result, this principle was applied in the present case that we are studying now.

In this case, the interpretation was also made in the following cases relating to Contributory Negligence.

- Both parties would be considered to materially contribute to negligence in circumstances where it is difficult to establish who could have caused negligence. (Swadling v Cooper<sup>5</sup>)
- The driver of each vehicle owes a duty to maneuver with due caution to prevent any collisions when two vehicles are traveling near one another and pose a risk of collision\_(Nance v. Brit. Columbia Nance v. Elec. Ry Co.)<sup>6</sup>
- A prudent driver defends against the negligence of others when experience indicates that such negligence is frequent and does not always assume that other road users, <sup>7</sup>whether they be vehicles or pedestrians,
- Furthermore, it applies section 78, regulations 6 and 7 of the Motor Vehicles Act which states,

“6. The driver of a motor vehicle shall slow down when approaching a road intersection, a road junction, or a road corner, and shall not enter any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon.

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<sup>5</sup> All 1930 ER 257 at p. 260 (HL)

<sup>8</sup> All 1951 2 ER 448 at p. 450 (PC).

<sup>7</sup> London Transport Executive v. Upson, All 1 1949 ER 60 at pp. 70, 72 (HL)

7. The driver of a motor vehicle shall on entering a road intersection, if the road entered is a main road designated as such, give way to vehicles proceeding along that road, and in any other case give way to all traffic approaching the intersection on his right hand."

The first case, *Swadling v Cooper*<sup>8</sup>, talks about the doctrine of last opportunity. This principle states that in circumstances of contributory negligence, the defendant must be held liable for the damages if he had the final chance to prevent it but he failed to do so.

The plaintiff's husband Cooper was hit by the defendant Swadling's motor-car. Swadling applied breaks as a last resort, but he could not avert it. The court observed the facts and circumstances of the case and held that "the mere failure to avoid the collision by taking some extraordinary precaution, does not in itself constitute negligence..." Similarly in this main case in the report, i.e., *Vidya Devi*, it was too difficult to ascertain who had the who had the chance for the last opportunity. The accident took place in a flick of a second at the intersection. The defendant cannot be said to be entirely negligent since proper appropriate measures had been taken by him (moderate speed & and applying of horns). Based on the facts, it could be seen that *Indrajeet Singh* could have dropped his speed to prevent his misfortune.

The second case, *Nance v Brit Columbia*<sup>9</sup> involves a family (husband wife, and a child) in Vancouver and a tram car accident. The plaintiff noticed the tram car coming from the southern direction. He proceeded forward based on an erroneous judgment that the tram car would stop. The tram car did not stop and met with an accident. This led to the unfortunate demise of the wife and child and heavy injuries to the plaintiff. The court determined that the plaintiff should have looked in the opposite direction and halted at 75 ft which he did not. Thus there was contributory negligence. Similarly, in the case of *Vidya Devi*, *Abdul Bashir*, the driver, could have taken a look at the opposite direction, more carefully and precautionary.

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<sup>8</sup> All 1930 ER 257 at p. 260 (HL)

<sup>9</sup> 2 All 1951 ER 448 at p. 450 (PC)

In the third case, “London Transport Executive v Upson”.<sup>10</sup> Herein, the plaintiff while crossing the pedestrian walk was hit by an omnibus. The court held that both the plaintiff and defendant were guilty of negligence. The driver ought to have kept a lookout for who might be approaching the taxi cab. Based on this, the court held that in the present case of Vidya Devi, as a seasoned driver, Abdul Bashir couldn’t take a good watch on the side of the road.

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<sup>10</sup> 1 All 1949 ER 60 at pp. 70, 72 (HL)

**CASE COMMENTARY**

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The judgment is correct and aptly makes use of the principle of law. It uses exhaustive references to various cases that deal with the jurisdiction of contributory negligence in torts. Although the judgment was arrived after due consideration, there remains a doubt about the compensation reward. The appellant was a widow with a minor infant son. Giving compensation as meager as Rs. 10,000 to support the family for twenty years does not seem reasonable at all. Yet, overall the judgment is admirable. The court didn't disregard the fault of the driver and a part of the compensation was given. Furthermore, the usage of different cases to arrive at a decision shows there was a proper consideration for the pleas of appellants and respondents.

## CONCLUSION

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Thus, we have now made a detailed analysis of contributory negligence. The Vidya Devi case makes our stance clear about the principle. Additionally, it tells us about the scenarios where the principle could be applied. Furthermore, it elaborately presents a detailed explanation of why, notwithstanding the absence of an equivalent Indian law, the principles of the English statute should be applied in India. It is now established that the new English Law 1945 principle can be followed even if there is no enactment or provision.