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**Extended Abstract**

**“EFFICACY OF CULPABLE HOMICIDE AMOUNTING OR NOT  
AMOUNTING MURDER: AN INDIAN EXPERIENCE”**

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# EFFICACY OF CULPABLE HOMICIDE AMOUNTING OR NOT AMOUNTING MURDER: AN INDIAN EXPERIENCE

*Dr. Hiteshkumar Thakkar, Mr. Jeet J Bhatt, Ms Krishna Agarwal*

## **Extended Abstract**

*The Indian Penal Code has broadly divided the offences of homicide into types- Culpable homicide amounting to murder (CHAM) and Culpable homicide not amounting to murder (CHNAM). The punishments of CHAM is more severe as compared to culpable homicide not amounting to murder. The Indian Judiciary has decided plethora of cases in this arena but still there exists confusion in the classification of the offence as CHAM and culpable homicide not amounting to murder. This is because, the factors classifying such offences are very subjective and often the Courts adopt for a holistic approach. The researchers through more than three-hundred judgments, using statistical tools have tried to ascertain the factors taken into account while classifying the offences as CHAM and culpable homicide not amounting to murder.*

**Keywords: Culpable homicide amounting to murder (CHAM), Culpable homicide not amounting to murder (CHNAM), Indian Judiciary, Indian Penal Code**

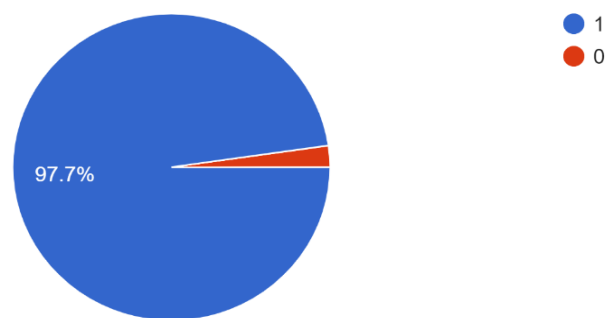
The Indian judiciary has long struggled with the difference between CHAM and CHNAM. The distinction between these two offences have been set at naught by Hon'ble Supreme Court while observing: - “‘Culpable homicide’ is genus and ‘murder’ its specie. For the purpose of fixing punishment, the Indian Penal Code practically recognizes three degrees of culpable homicide. The first, is culpable homicide of the first degree. This is the gravest form of culpable homicide which is defined in Section 300, IPC as murder. The second may be termed as ‘culpable homicide of the second degree’ which is punishable under the first part of Section 304, IPC. Then, there is ‘culpable homicide of the third degree’ which is the lowest type of culpable homicide and whose

*punishment is provided under second part of Section 304, IPC.*<sup>1</sup> The confusion is caused if the Court allows itself to move into minute abstractions, and often this problem is solved after interpreting the key words of the Code.

## Method and Analysis

The researchers have analysed 309 judgements of Culpable Homicide where the accused persons were convicted by the Supreme Court of India and various High Courts across India. The variables were identified from literature review, as well as interviews with domain expert. The questioner/instrument were made and validated from the subject expert in the field of Culpable Homicide. The data has been collected from various landmark cases of High Court and Supreme Court with regards to 'CHAM' and 'CHNAM'. Out of 309 judgments, 168 judgements were of CHNAM and 141 were of CHAM. By going through each judgment. This study is preliminary outlook and Descriptive Statistics of CHAM versus CHNAM. The following observations made in this paper are as follows:

Nature of judgment (1-unanimous judgment, 0-not unanimous)  
309 responses



**Fig 1: Nature of judgment**

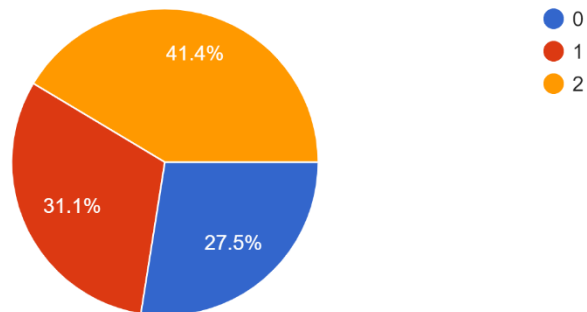
97.7% of the cases consisted of a unanimous judgment.

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<sup>1</sup> State of AP v. R Punneyya, 1977 CrLJ 1.

Under which section of IPC, the accused was convicted (Section 304 Part I-0) (Section 304 Part II-1) (Section 302 -2)

309 responses

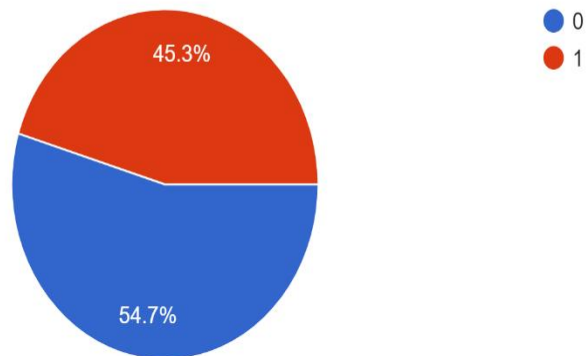


**Figure 2: Conviction of the accused**

41.4% accused were convicted under Section 302, IPC, 31.1% accused were convicted under Section 304 Part II, IPC and 27.5% accused were convicted under Section 304 Part I, IPC.

Was fine imposed? (No-0, Yes-1)

309 responses

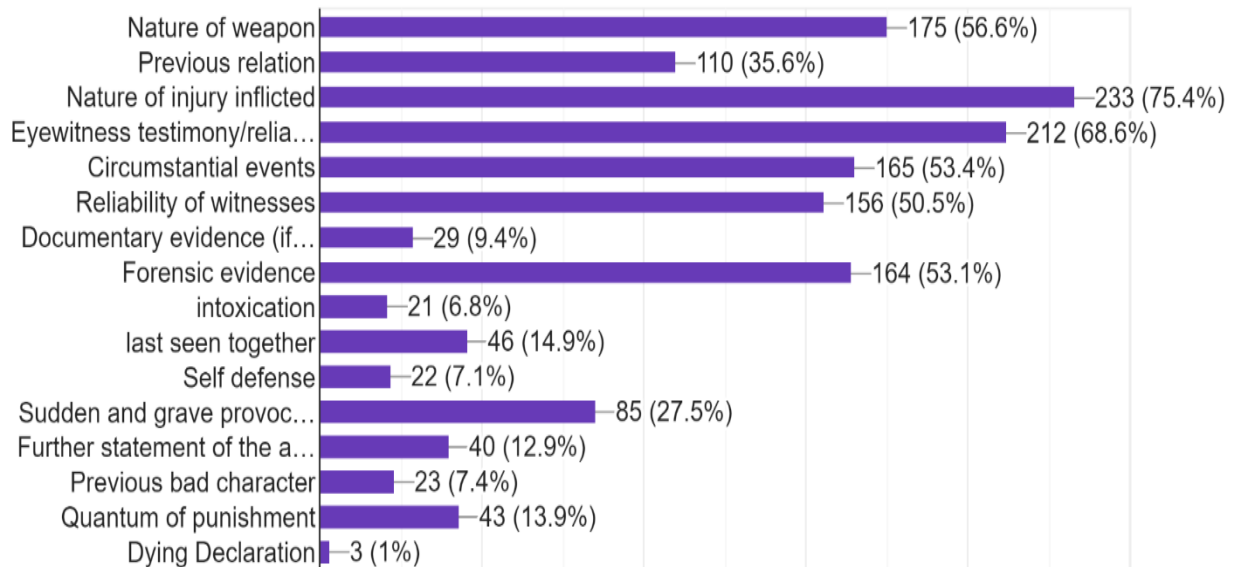


**Fig 3: Imposition of fine**

In 54.7% cases a fine was imposed by the Court. The judges, while adjudicating the matter, have taken into account different factors.

### Factors taken into account

309 responses

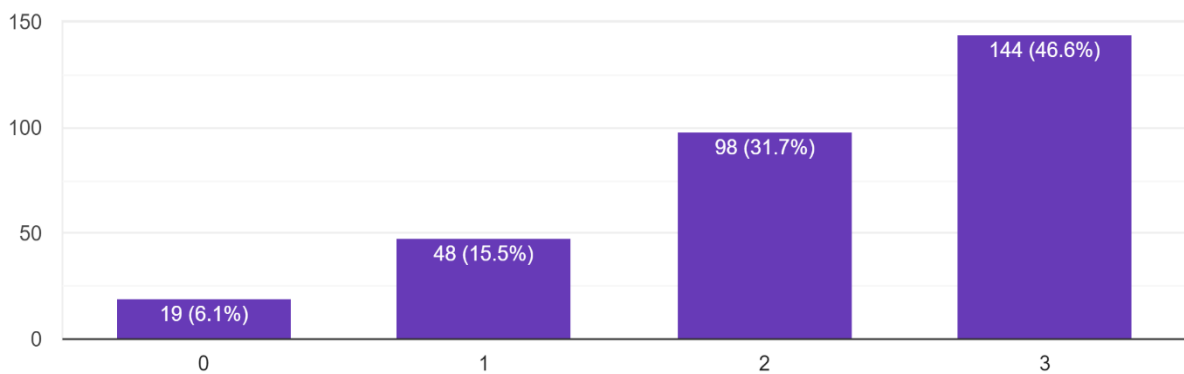


**Fig 4: Factors taken into account**

In 75.4% cases, judges have relied on the nature of injury inflicted, in 68.6% cases, judges have relied on the ocular evidence and in 53.4% cases judges have relied on the circumstantial evidence for convicting the accused.

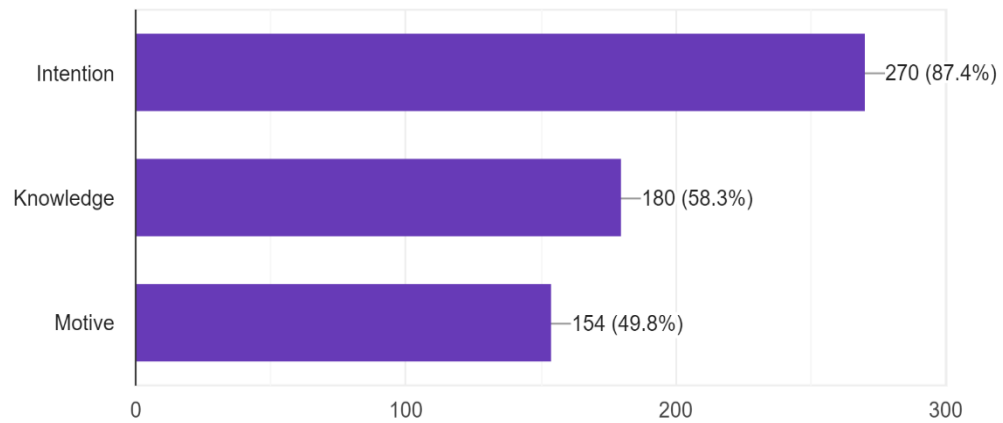
The judge tried to determine the intention of the accused. ((0- not discussed, 1- less significant, 2- significant, 3-very significant)

309 responses



### Factors taken for quantum of punishment

309 responses

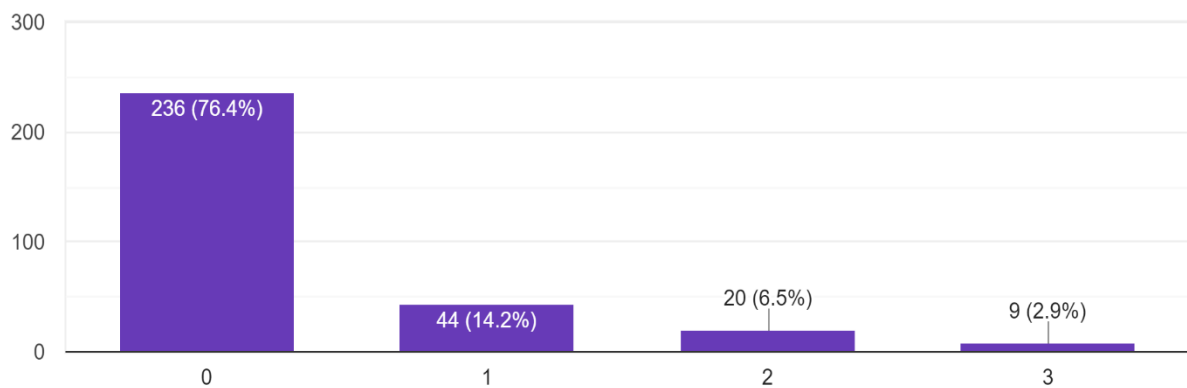


**Fig 5: Factors taken into account (Mental condition)**

In 87.4% cases, ascertaining the intention of the accused was the dominant factor as compared to knowledge and motive.

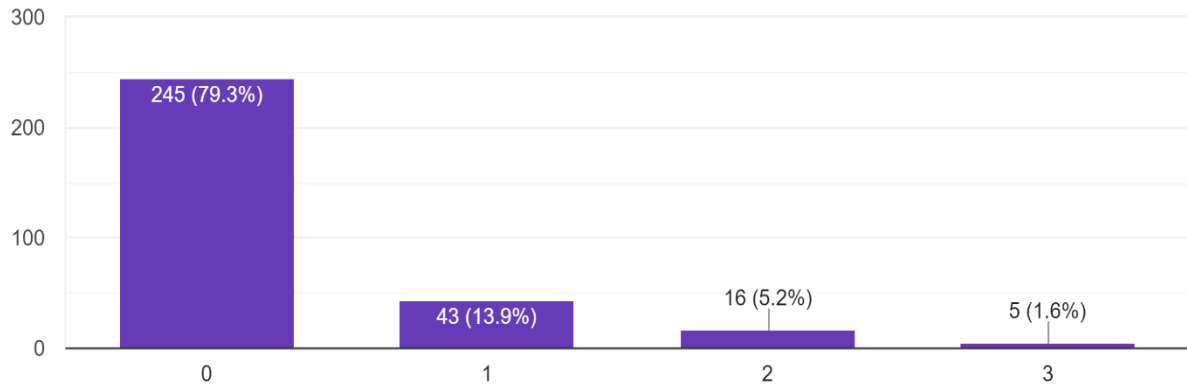
The background of the accused has influenced the decision (0- not discussed, 1- less significant, 2- significant, 3-very significant)

309 responses



The background of the victim has influenced the decision (0- not discussed, 1- less significant, 2- significant, 3-very significant)

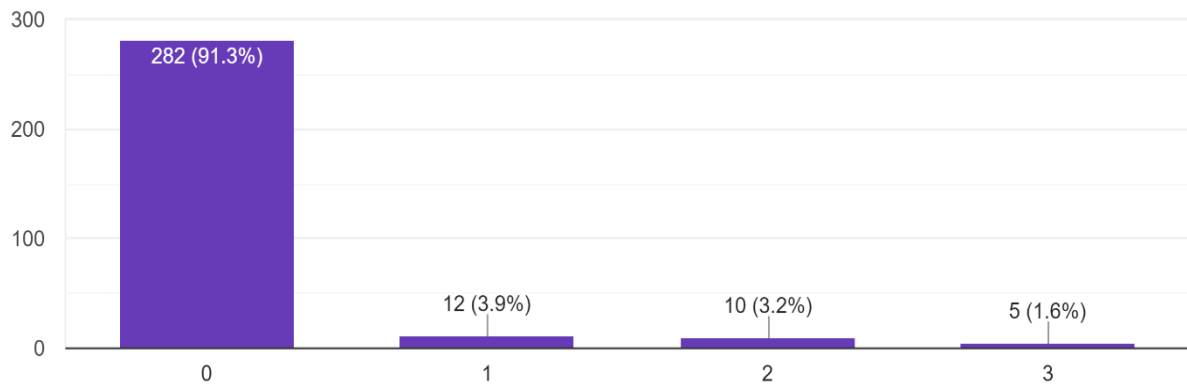
309 responses



**Fig 6: Background of the accused and victim**

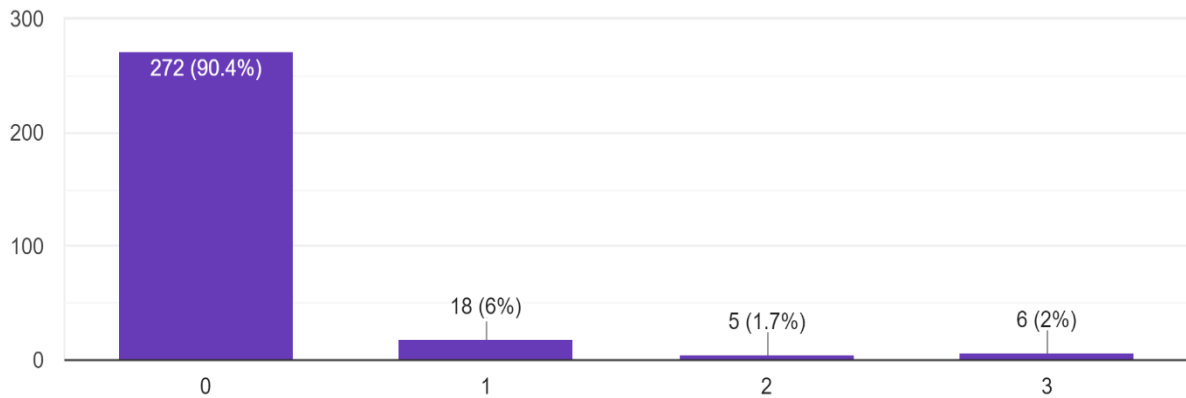
The age of the accused has influenced the decision (0- not discussed, 1- less significant, 2- significant, 3-very significant)

309 responses



The age of the victim has influenced the decision (0- not discussed, 1- less significant, 2- significant, 3-very significant)

301 responses



**Fig 7: Age of the accused and the victim**

The background and age of the accused and victim did not influence the decision of the Court significantly.

### **Findings**

Thus, we can find that there are several factors which influences the decision of the Court to convict the accused pertaining to culpable homicide amounting to murder (CHAM) and culpable homicide not amounting to murder (CHNAM). This data reflects that intention plays an important role in determining the nature of the offence. Along with intention, the cases rely on the nature of injury followed by ocular evidence to decide on the conviction of the accused. The compensation amount given to the victim's family is often very low in these cases and it seriously jeopardises the victim's family position.