

## Evidence Act, S. 113-B

Mandatory application of the presumption under Section 113-B of the Evidence Act once the ingredients of Section 304-B of IPC stood proved.

**“19. It may be mentioned herein that the legislature in its wisdom has used the word ‘shall’ thus, making a mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry. ...**

Therefore, in view of the above, onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts exclusively and heavily on the accused. ...

**20. Therefore, in case the essential ingredients of such death have been established by the prosecution, it is the duty of the court to raise a presumption that the accused has caused the dowry death.”**

*(emphasis supplied)*

***Bansi Lal v. State of Haryana, (2011) 11 SCC 359,***