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Mass Torts-strict and Absolute Liability

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Abstract

Tort is commonly considered to refer to improper action or conduct that result in a violation of a legal right, resulting in an individualised cause of action in a court of law. However, the term Mass Tort gained traction in the aftermath of an increase in the frequency of human-caused disasters due to industrialisation and technological revolution, emphasising the importance of having a mechanism to redress victim claims, especially given the fact that, in the absence of a robust insurance system, it may be the victim's only recourse for compensation. With a few exceptions, the rule of strict liability and the rule of absolute liability are similar. This rule applies without exception or limitation, making a person fully liable for any error.

Keywords: Mass Tort, industrialization, technological revolution, victim claims, robust insurance system

INTRODUCTION

INDIAN APPROACH TO MASS TORTS CLAIM

To cope with mass tort cases involving a large number of people, Indian courts have relied on theories such as strict liability and absolute culpability. One such incident of such scope and magnitude was the Bhopal Gas Disaster, which had a devastating impact in terms of loss of life and environmental damage, and because it impacted a large number of people, one of the primary issues before the court for determination was determining the corporation's liability in order to ensure a fair and adequate compensation [1] to the victims [2]. The principle of absolute liability was applied in this case, confirming the Union Carbide Corporation's accountability regardless of the level of care taken.

The court created this idea of absolute liability in the Oleum Gas Leak case to establish a stricter standard of accountability for big corporations. It was held in the case that law must evolve with the times to account for the realities where greater industrialisation and widespread use of chemicals have significantly increased the risk of damage to individuals and the environment, necessitating an overhaul of the strict liability doctrine, effectively diluting it by dispensing with the requirement of strict liability [3].

BHOPAL GAS DISASTER CASE [4]

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The discharge of Methyl Isocynate and other hazardous gases from Union Carbide India Ltd (UCIL) at Bhopal on the night of December 2/3, 1984, caused the biggest mass disaster in recent history. It is a division of the Union Carbide Corporation, a multinational company based in the United States (UCC). Approximately 2660 individuals killed instantly, with many more gravely injured. The death toll, however, had grown to 4000. The legal representatives of the deceased, as well as many of the impacted people, sued UCC in the United States District Court of New York for damages. The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 granted the Union of India the right to file a lawsuit on behalf of those who had been harmed. Judge Keenan merged the lawsuits and dismissed them on the grounds of forum inconvenient. The Indian judiciary must have the "opportunity to stand up before the world and render judgement on behalf of its own people," according to Judge Keenan's May 12, 1986 ruling.

The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 was invoked by the Government of India in response to the Keenan Judge's decision, which awarded interim compensation in the amount of Rs 350 crores. This sum was lowered to rupee 250 crores when UCC filed an appeal with the Madhya Pradesh High Court. The Supreme Court heard the appeal of the ruling.

ELEMENTS OF STRICT LIABILITY

The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 was invoked by the Government of India in response to the Keenan Judge's decision, which awarded interim compensation in the amount of Rs 350 crores. This new regulation had to be based on England's strict responsibility rule, but it had to be much stricter. so that no company engages in an activity that is inherently risky or hazardous Regardless of whether there was negligence or not, he or she might not be exempt from accountability.

Whether or not any carelessness was involved:

Whether or not any carelessness was involved to establish a strict liability offence in a civil action, a plaintiff must generally show three things. The first is that a defendant (an individual or a company) acted in a way that was inherently risky and inappropriate in the given situation. The plaintiff must then demonstrate that the inherently dangerous act resulted in something bad happening to them. Last but not least, the plaintiff needs to show that their damage actually caused them to suffer harm. It may be difficult to assert a strict liability claim if the plaintiff cannot show actual harm, such as physical injury.

The defendant is required to cover the losses whenever a plaintiff demonstrates a strict liability personal injury claim, regardless of any disclaimers.

Courts frequently strike down product liability disclaimers and waivers as being against public policy (courts shouldn't support the production and distribution of defective products), and warranties are typically limited so that producers and retailers are held accountable for personal injuries brought on by their use.

DOCTRINE OF ABSOLUTE LIABILITY

Simply put, the rule of absolute liability is the strict liability rule minus the exclusions. Although the concept of absolute liability dates back to the nineteenth century, it was only recently introduced to India.

Only after the Oleum Gas Leak Case (M. C. Mehta's Case) did the Indian judiciary appreciate the importance of severe and absolute liability enforcement.

Consequetely, in Uphar Cinema vs UOI Case judgement was delivered in accordance with absolute liability principle. The case is that on the 13th of June 1997, a fire broke out in the Uphaar Cinema in South Delhi during a screening of the film Border due to defective wire connections. It killed 59 people and injured another 100. The larger of the two installed transformers caught fire, causing the disaster. These transformers had been having problems for a long time, but no proper repairs had been done. Sparking occurred as a result of faulty connections, resulting in a large fire. Illegal expansions, blocked exits, and extra seats further contributed to the confusion [5].

Even if there was no negligence, the court decided that statutory violations of safety standards by the authorities would be sufficient for the court to hold the Respondents accountable for compensation and damages to the victims of the terrible incident. Furthermore, because the transformer installation constituted a non-natural usage, the stringent and absolute culpability rules will apply. It is a potentially hazardous object that can cause a short circuit at any time [6].

Previously, the doctrine enshrined in Common Law was followed, but it was modified in India with the introduction of the concept of absolute liability.'

The Rylands v. Fletcher decision (1868) modified the prior idea of strict liability, resulting in the doctrine of absolute liability, which barred the defendants in the M.C. Mehta v. UOI case from raising any objections to the payment of damages. In the case of M.C. Mehta v. Union of India the rule of absolute liability was established in India. This is one of the most important decisions concerning the concept of absolute liability [7].

The Supreme Court followed the rule established in the case of M.C. Mehta v. Union of India in resolving the Bhopal Gas Tragedy case. The Indian legislature created the Public Liability Insurance Act in 1991 to ensure that victims of such catastrophes receive prompt assistance through insurance. The absolute liability rule prohibits the use of strict liability exceptions in specific situations. As a result, those who cause harm will face infinite culpability for failing to adequately recompense victims. In several occasions, Indian courts have used this provision to instill deterrence [8].

WHEN STRICT AND ABSOLUTE LIABILITY USED

When it comes to regulatory offences, stringent and absolute penalties are typically used to ensure maximum compliance (e.g., public safety or protection of the environment). In its submission to the Senate inquiry, the Federal Attorney-Department General noted that strict liability has been applied in the following situations: regulatory offences, particularly those involving the environment or public health; situations in which the prosecution finds it challenging to establish a fault element because the defendant had peculiar knowledge of the matter; [9].

Evidence presented to the Senate Committee for the Scrutiny of Bills during its inquiry outlined the circumstances in which strict liability is thought to be justified, including "greater efficacy in the supervision of regulatory schemes," overcoming "inability to prosecute effectively" in certain circumstances, and to enable "matters to be dealt with expeditiously where this is necessary to ensure public confidence in the regulatory regime [10]."

EXCEPTION OF STRICT LIABILITY

Default of the Claimant

The claimant has no options if the injury was caused solely by his or her act or omission.

Now let us say a person knows before entering someone else's property that there is a dangerous dog there that can bite him. Additionally, he won't be able to file a claim for damages if he enters and is bitten by a dog. In Rylands v. Fletcher, this was referred to as a defence. He cannot object if he knows there is a risk of his mine being flooded by his neighbor's operations on neighbouring ground, and he courts the risk by doing something that makes flooding more likely. In the case of *Ponting vs. Noakes [11]*, it was the same. It was decided that the claimant was not entitled to any compensation because the harm was brought about by the horse's own encroachment and/or there had been no vegetation escape after the claimant's horse entered the defendant's boundary, nibbled a poisonous tree there, and died as a result. Nothing leaves the defendant's property, as can be seen, and since the plaintiff failed to pay his horse dues, he is now liable for doing so [12].

Act of God

The Act of God defence is appropriate when the escape is caused directly by natural forces without human intervention in "circumstances that no human foresight can supply and of which human judgement is not necessary to recognise the likelihood."

The most crucial aspect of this defence is the fact that the object fled without the defendant's knowledge and that the breakout was so uncommon that no one could have predicted it. Blackburn J. recognised this in Rylands v Fletcher and applied it in Nichols v Marsland [13]. The defendant in this case had been in possession of various artificial decorative lakes created by damming a natural stream for many years. An exceptional downpour, "greater and more violent than any in the witnesses' memory," destroyed the constructed embankments, and the rushing water washed away four bridges, for which the claimant sued [14].

The jury ruled the defendant not negligent, and the court decided that she should not be held responsible for a rare event of nature that she could not have reasonably anticipated or foreseen.

Statutory Authority

The Rylands v. Fletcher ruling could be overturned legally. It depends on how you interpret the relevant statute as to whether this is true or not. For instance, in the case of Green v. Chelsea Waterworks Co. [15], a waterworks firm's main broke without any negligence on the side of the corporation and flooded the claimant's houses; the company was ruled not responsible.

On the other hand, where the facts were comparable in Cross Electricity Co v Hydraulic Power Co. [16], the defendants were deemed to be liable and were not entitled to an exception to the interpretation of their statute.

The distinction between the two scenarios is that the Hydraulic Power did not have to keep its mains charged with water at high pressure or at all because it was permitted by statute to supply water for industrial purposes rather than being obligated to do so.

Damage was unavoidable since the Chelsea Waterworks Co. was legally allowed to lay mains and was obligated to maintain a steady supply of water.

Consent of the Claimant

If the claimant impliedly or explicitly approved of the presence of the cause of the hazard and the defendant was not negligent, the defendant is not liable.

Therefore, if the plaintiff acted willingly despite being aware of all the possible injury, he may not be entitled to damages. The exemption just serves to highlight the broader defence, volenti non fit injuria. When two levels are occupied by different people and the tenant of the lower floor has harm as a result of water leaking from the higher floor, the concept of implied consent is most frequently invoked.

However, it must be noted that the instances that have addressed this defence have a tendency to involve entirely normal household fixtures that would be a natural use of property.

Act of third Party

If the harm was brought about by a third party who is not the defendant's employee or under the defendant's control, the defendant will not be held liable under this rule. In Richards v. Lothian, strangers opened the tap and blocked the waste pipes of a washbasin that was otherwise in the defendants' care. The pouring water harmed the plaintiff's products. The accused were found not guilty of the allegations [17].

NON-NATURAL USE OF LAND AND ESCAPE OF DANGEROUS THING

Water collected in the reservoir in such enormous amounts was ruled an unnatural use of land in Rylands v. Fletcher [18].'Natural-use' water is water that is kept for everyday residential purposes. For a use to be non-natural, it must be a one-of-a-kind usage that puts others in danger, and it cannot be a common use of land or a use that is appropriate for the public good community.

Similar to this, in T.C. Balakrishnan Menon v. T.R. Subramaniam, an explosive built out of a coconut shell filled with explosive substance exploded among the crowd as opposed to rising into the sky and killing the respondent. The Kerala High Court was asked to decide, among other things, whether the appellants, who had hired an independent contractor to handle the fireworks display, would be held accountable. It was decided that because the explosive is a "especially hazardous" object, the rule in Rylands v. Fletcher would apply. Even if an independent contractor acts negligently, the person utilising the object is still responsible. Therefore, after considering all of these examples, it is clear that whatever is brought into the land must be used for a natural purpose [19].

Even if their independent contractor is negligent, those who use such a thing are accountable. As a result, after considering all of these examples, it is clear that whatever is brought into the land must be a natural use of the land. If the fundamental that the thing producing the damage must escape to a location outside the defendant's occupation and control is met, the rule in Rylands v Fletcher will apply.

The criterion of escape in the law was firmly established by the House of Lords' ruling in Read v. J. Lyons & Co Ltd [20]. The plaintiff was harmed when a shell that was being manufactured there exploded while she was there performing her duties as a weapons inspector for the Ministry of Supply. Although it was acknowledged that high explosive shells were dangerous, the defendants were found not liable since the "escape" of the object should occur from a location where the defendant had control and possession of land to a location outside of his control and occupation.

CONCLUSION

The situations where something strange is put onto the defendant's property and if it escapes and harms the plaintiff, the defendant is held culpable are covered by both the stringent and absolute responsibility rules. In the case of M.C. Mehta v. Union of India, the Indian Supreme Court adopted a new strict liability rule. Compared to the standard established in Ryland v. Fletcher, this new regulation is stricter. This principle is known as the "absolute liability" principle.

The court determined that the Ryland v. Fletcher ruling from the late 1800s did not effectively address the needs of contemporary industrial society with highly developed scientific knowledge and technology where dangerous or irrational behaviour is prevalent. Inherently risky industries necessitated the creation of a new norm that was not yet recognised by law in order to appropriately address the problem that arose in a highly industrialised economy.

In MC Mehta v. Union of India, the Supreme Court of India adopted a stricter strict liability test than the Rylands v. Fletcher standard. Oleum gas was in this case leaking and harming one of the parties involved. Shriram Industries has a number of units in Delhi. The court ruled that bearing in mind the needs of the children was a good idea. Considering the requirements and goals of a contemporary, technologically advanced society.

For the goal of development, scientific knowledge and technology were used. It was necessary to carry out intrinsically unsafe or hazardous tasks as part of the programmers. In order to successfully address the problems that arise in a highly industrialised economy, a new rule needs to be developed. The strict responsibility rule in England had to serve as the foundation for this new legislation, but it needed to be far stricter.

So, that no company engages in an activity that is inherently risky or hazardous. He or she might not be absolved from responsibility regardless of whether there was negligence. Regardless of whether there was any negligence involved.

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