

CRITICAL ANALYSIS OF STRICT LIABILITY

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ABSTRACT

Certain activities become too harmful to cope with, yet the law permits them to persist because of their significance in economic progress and societal benefit. These actions frequently contribute to major catastrophes, culminating in multiple casualties and environmental damage. To encourage the exercise of required precaution by the particular companies and corporations involved in these kinds of dangerous activities and to pursue justice to those who have been hurt as a result of such actions. This research paper will go over a critical analysis of strict liability. In this article, we will also address the importance of liabilities and indeed the issues that strict liability faces in current times, as it is, and besides, a 19th Century norm. The principles and restrictions of strict liability would be addressed, as well as some case study for further understanding. Finally, this study analyses various other instances based upon tortious liabilities and covers the most recent case involving these liabilities.

KEYWORDS: *Strict liability, analysis, principles, restrictions, liabilities*

INTRODUCTION

One of the fundamental principles of torts is that a person can be held responsible only if he has caused harm. However, as things stand this principle has been modified to include situations where an individual are sometimes held responsible for damage someone didn't invent either intentionally or negligently. In such situations, a person can be held liable even though he is not responsible for the harm ('no fault liability'). If there was a fault of the defendant, the same part would convert to negligence. As an exception to

the general norm of negligence, strict responsibility is a notion. The basic rule is that the individual is accountable for his own negligent behavior, and he is not guilty if he can establish that he was not negligent. This basic concept does not apply in circumstances when the defendant works with dangerous drugs; in these cases, he is responsible for all consequences emerging from the use of such substances, regardless of whether he was careless or not. This is commonly known as strict liability. Strict liability - No fault liability (liability without any fault). It does not matter if defendant has intended

to cause some damages or not. A claimant could be held liable by this rule even if the harm was not intentionally caused or he was careful. Strict Liability is a legal liability for damage inflicted on the perpetrator without requiring proof of negligence or fault. Consequently, if an individual keeps any dangerous object on his property, that is, if it emerges, it is likely to be dangerous, even if he has been vigilant in keeping the item, he is responsible for the harm if it escapes. The rule of strict responsibility applies in such a circumstance because culpability arises, despite the fact that the defendant is not at fault

CRITICAL ANALYSIS

In *Rylands v. Fletcher*¹, the House of Lords established the Strict Liability rule in 1868. This is referred to as the *Rylands v. Fletcher* ruling. Strictly liability is a no-fault liability; that is, it imposes culpability on the party without determining guilt. All that is required of the claimant is proof that the tort happened and that the respondent was at fault. Offenses of strict liability of those crimes which do not require intention of *mens rea* (guilty mind) concerning one or more components of the *actus reus* (guilty action) Therefore it is

called strict liability. An indication of culpable mental state is known as *mens rea*, a technical term in criminal law, the lack of which on any given occasion eliminates the condition of crime. "*Actus non facit reum nisi mens sit rea*", or "the act alone does not render a man guilty unless his intentions were such," is a notion as old as the crime itself. Torts are divided into three types: Intentional, negligent, and strictly liable wrongs. Despite the tort, by definition, requiring proof of *mens rea*, strict responsibility theory allows for the conviction of a morally blameless individual for committing a crime. In general, in a legal action, to prove that a defendant is responsible, the plaintiff needs to demonstrate negligence or fault. Strict liability, on the other hand, only requires the plaintiff to show that the tort occurred and the responder was liable. An entity or individual who commits a strict liability tort is held responsible for the consequences of their acts despite the fact that they may not have intended them. In addition, the law only holds people accountable for behaviours that it deems to be inherently hazardous. *Rylands v. Fletcher* established strict liability for torts, concluding that an individual might be held liable for harm regardless, there

¹ *Rylands v Fletcher* (1868) LR 3 HL 330.

was no negligence and intention to do detriment or made some affirmative efforts to avoid it. Defendants are entitled to damages as a remedy in tort.

Torts are wrongdoings, and tort actions revolve around allegations of wrongdoing. Tort law, clarifies transgression in ways that enable for responsibility to be imposed even on individuals who behave with suitable cautiousness or attention. This component of tort law is known as "strict liability in fault". To precise the concept is: "*sic utere tuo ut alienum non laedas*", which implies that everyone must use their own in such a way that they do not harm others. When this principle is applied to landed property, the plaintiff must demonstrate not only that he has suffered harm, but also that the defendant has caused it by going above and beyond what is required to allow him to have the natural use of his own land. Strict Liability, as articulated by Tort law, is the imposition of liability on a person without determining fault or error. A significant amount of damage entails liability. In contrast to negligence, plaintiffs do not have to establish that the defendant's negligence led to the injury.

This principle of strict liability finds its origin after the English case called Ryland's v Fletcher (1868). On the

defendant's land, he built a puddle to deliver water to his mill in order to increase water supply; however, he was unaware that there were several old mine shafts adjacent to the reservoir. Despite being carefully chosen, independent companies were negligent, and we appear incompetent. During the course of the construction, the contractors discovered several ancient stores and subterranean tunnels on the defendant's land that interacted with mines on the plaintiff's land. Contractors took no notice of the shops and passages because they appeared to be stuffed with earth and proceeded to build the reserve wire over them and they didn't seal the mine shafts while constructing. The water, one day, upon completion and filling the reservoir with water, the water flooded the ancient shops and tunnels, and the water burst through the reservoir into abandoned mine shafts. Fletcher's mines and property are affected by these holes across several connecting channels and shafts. After it was finished, the dam burst and inundated Fletcher's land as well as nearby mines. The defendant did not commit any negligence.

Despite the fact that the defendants were held liable, though they not negligent, they under the standards set under this issue. This principle is that when an individual

receives anything into his property that has the potential to cause mishap while it dodges, he is prior accountable for the harm caused by its departure, even if there was no reckless. The regulation applies not only to water collection but also to electricity, yew trees, earthquakes, sewage, noxious odours, explosives, gas, and corroded wire.

Thomas Fletcher filed a lawsuit against John Rylands in these circumstances. The lower court's justices disagreed on; There was an appeal to the Court of Exchequer Chamber regarding whether Rylands should be held accountable. Water from a burst reservoir severely damaged Fletcher's property; Rylands was held liable. Rylands filed an appeal. The court established the principle of strict responsibility to resolve this quandary when the defendant's act caused the damage, yet the defendant had not broken any obligation. The code's guiding premise is as follows. 'When an individual introduces a possibly hazardous item onto their property, and it flees or causes damage, the person must be held liable, regardless they had been completely reckless or not.' A large reservoir here means a potentially harmful item in this situation.

Anything prone to cause difficulty that is brought into a person's territory must be kept there at the owner's risk, and if he fails to do so, he is culpable for all damages that result from its escape. He may be freed by showing that the culpable occurred because the complainant failed or because of a natural disaster.

HOUSE OF LORDS

He petitioned the House of Lords. The House of Lords rejected Ryland's petition. They were in accordance with the six exchequer judges but went on to establish a liability restriction.

The procedures of this case gave rise to "*strict liability*", which aims to prevent "*misrepresentation of facts in a court of law*." In our instance, "*the defendant's (Ryland) reservoir triggered the collapse of an ancient mine shaft owned by Fletcher*." Even though it was shown in court that "*the defendants were not culpable*," the judges nonetheless ordered that "*the defendants needed to pay damages to the plaintiff and they confirmed*." Thus, the decision established the idea of strict responsibility "*but only in restricted situations*," as declared by the court.

ESSENTIALS OF STRICT LIABILITY

1. **Some dangerous thing must have been brought by a person on his land:** it is necessary for the thing escaping must be capable of mischief. This rule has been applied to all dangerous things such as electricity, poisonous trees, sewage, explosives, rusty wires, noxious fumes, etc. In *Miles v Forest Rock Granite Co (Leicestershire) Ltd*², After bringing explosives onto his land to blast rocks that are naturally occurring there, the defendant used those explosives to blast some of the rocks on his land, which flew into nearby land below and then onto the highway below. Some of these rock fragments struck the highway and injured a claimant.

2. **It must be non-natural use of land:** There should be non-natural use on land or property, it must be something for other use with its increased danger to others as it is not proper use for general benefit of a community. In *Yat Yuen Hong Co Ltd v*

*Sheridanlea & Anor*³, Respondent's nursery was damaged by the earth that fell onto the appellant's land while it was developing. The appellant's land was located on higher ground than the respondent's land. Removing loose ground on abrupt slants so that more facedown land can be made.

3. **The thing thus brought or kept by an individual on his land must escape and cause mischief:** It is imperative that the thing that caused the damage escape to the area not under the control and occupation of defendant and cause mischief or damage to the plaintiff. In *Crowhurst vs. Amersham Burial Board* case⁴, "By spreading out the branches of a poisonous tree planted on the defendant's land, this amounts dangerous if the deadly object escapes the defendant's control and moves onto the plaintiff's land. The problem now is that if the plaintiff's cattle nibble on these

² Miles v Forest Rock Granite Co (Leicestershire) Ltd (1918) 34 TLD 500.

³ AT YUEN HONG CO LTD v SHERIDAN-LEA & ANOR, [1963] 1 MLJ 279b.

⁴ Crowhurst v Amersham Burial Board [1878].

leaves, the defendant will be held accountable under the aforesaid regulation even though nothing was done intentionally on his behalf.”

Strict liability is characterized by these three components. This is because strict liability can only be referred to, when all of the requirements have been met and satisfied

EXCEPTIONS OF STRICT LIABILITY

1. **Plaintiffs own fault:** if the pain to suppress the damage by his own intuition into defendants prove it he cannot complain for the damage so cost. In *Eastern and SA Telegraph Co Ltd v Cape Town Tramways Corporation*⁵, Electric current escaping from the defendant’s tramways disrupted the plaintiff’s undersea cables. It was determined that the impairment was caused by the extraordinary sensitivity of the complainant's gear and that harm would not emerge in the course of normal operations.
2. **Act of God or Vis Majeure:** This can be defined as “*Circumstances which new*

human foresight can provide against, and of which human prudence is not bound to recognise the possibility”, for example in this case of Rylands versus Fletcher, if a tornado which is unusual or unforeseen in that area, had broken the reservoir, the defendant would not be liable.

In *Nichols vs. Marsland*⁶, “For several years, the defendant dammed up a natural stream to create artificial lakes. However, an extraordinary rainstorm that year, bigger and more intense than any rainfall previously experienced there, destroyed the constructed embankments beside the stream, and the surging water washed away four of the plaintiff’s bridges.” When the defendant was prosecuted for damages, the court found her not guilty since she was not careless and the act of God was beyond her control.

3. **Consent of the plaintiff:** A court will also impliedly agree that everything will be kept for common use when volenti non-fit injuria arises, i.e. a simulation of the dangerous thing being conducted on the defendant's property was

⁵ Eastern and SA Telegraph Co Ltd v Cape Town Tramways Corporation (1902) A.C. 381.

⁶ Nichols vs. Marsland (1876) 2 Ex D 1.

consented to by the plaintiff. In *Carstair v Taylor*⁷, “It was occupied by the defendant on the upper level of the building, with plaintiff hiring the ground floor. As water had been stored for both plaintiff and defendant's benefit, the defendant did not bear any responsibility. Accordingly, water stored on the upper floor leaked (without any fault on the part of the defendant) and injured the goods on the ground floor.”

4. **Act of third-party:** When the intervening conduct causes damage of an unknown person who is not the defendant's servant nor under the defendant's control, the defendant is not responsible under the law. In *Rickard v Lothian*⁸, As a result of overflowing waste pipes at the wash basins, which were otherwise under the defendants' control, caused water damage to the plaintiff's goods when strangers blocked the waste pipes. The defendant were held not liable
5. **A statutory authority:** The rule does not apply to damage caused by person acting in the performance of

a legal duty, or in the exercise of power specially conferred by law.

6. When asserts that if a government authority keeps a harmful object under the legislation, it is not strictly responsible.

There was no carelessness on the side of the firm in *Green v Chelsea Waterworks Co*⁹, “a main belonging to the waterworks company that was approved by Parliament. A water main ruptured, inflicting damage to the plaintiff's property. The waterworks firm was found to have statutory authority to provide high-pressure water supply. They were not held liable.”

In order to avoid culpability, defendants must comply with the following five exceptions to the law of strict liability. These exceptions have become a serious weakness in contemporary times, particularly in circumstances where powerful corporations and industries may invoke them to avoid culpability.

IN INDIAN SCENARIOS

However, in both India and England, the rule of strict liability has been recognized

⁷ Carstairs v Taylor [1871] LR 6 Exchequer 217.

⁸ Rickards v Lothian [1913] AC 263.

⁹ Green v Chelsea Waterworks Co (1894) 70 LT 547.

to have some deviations, i.e., some deviations in the extension and limitation of its scope. The Apex Court of India, in its analysis of M.C. Mehta's case need to amend the 19th Century law of Strict Liability, stated: "*Moreover, the principle of strict liability so established in Ryland v. Fletcher of the 19th century cannot be applied to the modern world, because it is an idea that was developed in the 19th Century*", nearly 150 years ago.

According to Justice Bhagwati, strict liability rules were developed in the 19th century; natural industrial development was at its peak during the beginning of modern industrialization. In order to carry out development programs, it is critical to engage in precarious or intrinsically perilous enterprises. We found that in the modern era of science and technology, the supreme court of India found that it was not appropriate to follow the *Rylands v. Fletcher* ruling. In *M.C. Mehta vs. Union of India 1987*¹⁰, the Supreme Court found the strict liability principle inadequate to protect citizens' rights and introduced the absolute liability principle in its place. In 1986, Delhi's Oleum gas leak case led to this judgment. It has now been superseded by absolute liability.

Therefore, this old rule is not applicable in the modern age. One is also not hindered by it. In a social and economic setting that was different, this rule evolved.

SUPREME COURT VIEW

This resulted in the Supreme Court originating the supposition of absolute liability for chemical injury. The following is what Chief Justice Bhagwati said, which established the new principle:

"We are of the view that an enterprise, which is engaged in the hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an Absolute and non-delegatable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous activity which it has undertaken. The enterprise must be held to be under an obligation to provide that the hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity the enterprise must be absolutely liable to compensate for such

¹⁰ M.C. Mehta And Anr vs Union of India & Ors 1987 AIR 1086, 1987 SCR (1) 819.

harm and it should be no answer to enterprise to say that it has taken all reasonable care and that the harm occurred without any negligence on its part.”

"In *Charan Lal Sabu v Union of India*¹¹, the Apex Court upheld the rule established in *MC Mehta*." The *Bhopal Gas Disaster Act of 1985*¹² the law was passed to prosecute the firm for compensating the victims based on the concept of absolute liability. The court found the firm guilty and obligated to pay the sufferers.

Therefore, in a hazardous industry, an exemption cannot be claimed. Regardless of whether the disaster was caused by its fault, it must pay compensation unlike strict liability.

CONCLUSION

The research suggests that large industries should focus on the element of paying capacity, while the rest should consider the monetary damages they incurred, which conforms to tort law. Finally, the findings of this research indicate that the concept of strict liability has been recognized to an extent and the principle of absolute liability as being recognized by the judiciary. The concept of absolute liability must therefore be more widely recognized in India. In my opinion, more clauses relating to strict liability should be included. There should be no lapses in the legislative process. Punishments for strict liability should be increased.

¹¹ Charan Lal Sahu vs Union of India & Anr 1988 AIR 107, 1988 SCR (1) 441.

¹² Union Carbide Corporation vs Union Of India Etc (1989)(1)SCC 674: AIR 1992 SC 248.