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# **“ACCOUNTABILITY BEYOND HUMANS: TORTIOUS LIABILITY FRAMEWORKS FOR ARTIFICIAL INTELLIGENCE IN INDIA”**

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## ***Abstract***

*The increasing deployment of Artificial Intelligence technologies in India- across sectors such as transportation, healthcare, finance and governance- poses unprecedented challenges to traditional tort law principles. Indian tort jurisprudence, rooted in common law doctrines of negligence, strict liability and vicarious liability was developed for human centric conduct and predictable machines. AI systems, by contrast operate through autonomous learning, algorithmic opacity and data driven decision making. This article critically examines the applicability of Indian tort law to AI induced harm, evaluates judicial principles evolved by Indian courts, and analyses whether existing doctrines can adequately respond to emerging technological risks. It argues that while Indian tort law remains flexible and adaptable, legislative clarification and regulatory oversight are essential to ensure victim compensation, legal certainty and responsible AI innovation.*

**Key words:** *Artificial Intelligence; Tort Law; Negligence; Strict Liability; Indian Jurisprudence; Autonomous System.*

## **I. Introduction**

Artificial Intelligence has rapidly transitioned from experimental technology to a foundational component of modern governance and commerce in India. AI driven systems are increasingly employed in autonomous vehicles, predictive policing, medical diagnostics, credit assessment and content moderation, while these technologies promise efficiency, and objectivity, they also introduce novel risks of harm, including algorithmic bias, system malfunction and unforeseeable autonomous decisions.

Tort law serves as a critical mechanism for redressing civil wrongs and allocating responsibility for harm caused. However Indian tort law is largely uncodified and reliant on judicial

precedents- was developed within a human centric framework. The emergence of AI, challenges traditional assumptions relating to fault, foreseeability and control. This article explores whether existing principles of Indian tort law are sufficient to address AI related harm or whether doctrinal and legislative reform is necessary.

## II. Artificial Intelligence and Legal Attribution of Harm

Artificial Intelligence refers to systems capable of performing tasks that ordinarily require human intelligence, such as learning, reasoning, prediction and decision-making. Contemporary AI systems, particularly those based on machine learning, adopt over time through data exposure and may generate outcomes not explicitly programmed by developers. From a legal standpoint, this adaptive autonomy complicates the attribution of liability. Traditional tort law presumes a clear nexus by introducing non-transparent decision-making processes, thereby challenging the principles of intention, knowledge and foreseeability that underpin tortious liability.

## III. Negligence and AI under Indian Tort Law

Negligence remains the most frequently invoked tort under Indian law. To establish negligence, the plaintiff must prove the existence of a duty of care, breach of that duty, causation and damage.

### A. Duty of Care

Indian courts have consistently applied the neighbour principle articulated in *Donoghue v. Stevenson*, recognizing a duty of care wherever harm is reasonably foreseeable.<sup>1</sup> Developers, manufacturers, and deployers of AI systems owe a duty of care to users and third parties, particularly when AI is deployed in high-risk domains such as healthcare, transportation and law enforcement.

### B. Breach of Duty and Standard of Care

The standard of care under Indian law is that of a reasonable person acting under similar circumstances. AI-related cases, this standard must be adapted to evaluate whether reasonable precautions were taken in data selection, algorithmic training, system testing, deployment and post deployment monitoring. Failure to address known biases ensure human oversight or update AI systems may constitute a breach of duty.

### C. Causation and Foreseeability

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<sup>1</sup> *Donoghue v. Stevenson*, [1932] A.C. 562 {H.L.}.

Establishing causation in AI related harm is particularly challenging due to the opacity of algorithmic decision-making. However, Indian courts have demonstrated flexibility in applying causation principles, focusing on material contribution rather than strict direct causation.<sup>2</sup> Where AI related harm is a foreseeable consequence of negligent deployment, liability may still be imposed.

#### **IV. Strict and Absolute Liability: An Effective Framework for AI Harm**

The doctrine of Strict Liability, originating in *Rylands v. Fletcher*, has been expansively interpreted by Indian courts.<sup>3</sup> In *M C Mehta v. Union of India*, the Supreme Court of India evolved the principle of Absolute Liability, holding enterprises engaged in hazardous or inherently dangerous activities strictly liable for harm caused without exceptions.<sup>4</sup>

AI systems deployed in critical infrastructure, autonomous transportation, mass surveillance, or large-scale data processing may reasonably fall within the expanded notion of hazardous activity. Applying strict or absolute liability to such AI systems ensures victim compensation without requiring proof of negligence, particularly where technical complexity makes fault determination difficult.

#### **V. Product Liability and AI under Indian Law**

The Consumer Protection Act 2019, introduces a comprehensive product liability regime covering manufacturers, service providers and sellers.<sup>5</sup> AI-enabled products, including software integrated into devices, may attract liability where defects in design, manufacturing or inadequate warnings results in harm.

Indian courts are likely to treat AI software as an integral component of the product ecosystem rather than as an abstract service. This approach aligns with the consumer-centric orientation of Indian law and strengthen remedies available to victims of AI induced harm.

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<sup>2</sup> *Jacob Mathew v. State of Punjab*, (2005)6 S.C.C. 1 (India).

<sup>3</sup> *Rylands v. Fletcher*, (1868) L.R. 3 H.L. 330.

<sup>4</sup> *M. C. Mehta v. Union of India*, A.I.R. 1987 S.C. 1086 (India).

<sup>5</sup> Consumer Protection Act, No.35 of 2019, s 82-87, India Code (2019).

## **VI. Vicarious Liability and Organizational Accountability**

Vicarious liability traditionally applies where one party is held liable for the acts of another, such as an employer for an employee. Although AI systems lack legal personality, Indian courts may treat AI as an instrumentality operating under human control.

Organizations that deploy AI systems for profit or public service purposes may be held vicariously liable for AI caused harm. This approach reflects the principle that liability should follow control and benefit and align with the Indian Judiciary's emphasis on social justice and victim protection.

## **VII. The Debate on AI Legal Personality**

The proposal to grant legal personality to AI systems has generated academic debate but finds little support in Indian jurisprudence. Legal personality under Indian law presupposes moral agency, accountability and capacity-attributes AI systems do not possess.

Granting AI legal personality risks diluting human and corporate accountability and undermining victim compensation. Indian courts are more likely to retain liability within existing human and corporate frameworks rather than recognize AI as a legal person.

## **VIII. Regulatory Developments and The Indian Approach**

India currently lacks AI specific liability legislation. However, policy initiatives such as the National Strategy for Artificial Intelligence indicate growing regulatory awareness.<sup>6</sup> A hybrid approach combining tort law principles with statutory standards of care, sector-specific regulations and mandatory insurance for high-risk AI applications would enhance accountability while fostering innovation.

## **IX. Conclusion**

Indian tort law, though uncodified, is dynamic and principle-oriented. Doctrines of negligence, strict liability, absolute liability and vicarious liability provide a strong for addressing AI-related harm. Nonetheless, the autonomous and opaque nature of AI necessitates doctrinal refinement and legislative support.

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<sup>6</sup> NITI Aayog, National Strategy for Artificial Intelligence: #AIforAll (2018).