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*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can*

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*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international*

*seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **Critical Analysis Of Bhopal Gas Tragedy In Relation To Evolution Of Absolute Liability**

*Authored By- Shreyansh Dumawat*



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School of Law  
Bengaluru

**SCHOOL OF LAW, NARSEE MONJEE INSTITUTE OF  
MANAGEMENT STUDIES, BENGALURU**

**BATCH 2022-2027**

**SUBMITTED TO:**

**Prof. Alisha Thomas  
Assistant Professor  
NMIMS (SOL), Bengaluru**

**SUBMITTED BY:**

**Shreyansh Dumawat  
81012200135  
BA.LL.B. 1<sup>st</sup>Year**

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## ABSTRACT

It has been more than three decades since the tragic night of December 3, 1984, when a gas leak caused the deaths of thousands of people and left others who survived with lasting disabilities. All of those who survived the Bhopal gas leak disaster and took on the sorrow of their forebears carry a vivid memory of the tragedy with them to this day. 3787 persons were killed as a direct result of the gas's acute effects, and several thousand more died as a result of its long-term consequences during the following decade. As the representative of the victims, the government was successful in negotiating a compensation package with the Union Carbide Corporation in the amount of 470 million USD. When weighed against the scope of the harm done, many people feel that the sum in question is insufficiently compensatory. As a direct result of the event, the state government passed a number of pieces of legislation, such as the Environmental Protection Agency Act of 1986<sup>1</sup> and the Public Liability Insurance Act of 1991<sup>2</sup>, amongst others. The idea of "absolute liability" was developed as a result of judicial activism, which closed any loopholes that had previously existed. Even if the situation has significantly improved in comparison to the time before the tragedy, implementation of the new, more stringent laws continues to be a challenge despite the fact that the restrictions themselves have been made more stringent. Despite the fact that a boom in the economy is being witnessed, unregulated companies continue to pose a risk to public safety and the ecological equilibrium. The road forward lies in achieving sustainable growth while also addressing the issue of corporate culpability.

**Keywords:** Bhopal Gas Tragedy, Absolute Liability, Tort , strict liability, damages

## INTRODUCTION

Absolute liability, in its most fundamental definition, refers to no-fault liability, in which the wrongdoer is not granted exceptions similar to those granted under the concept of strict liability. The rule that laid the foundation for absolute liability was laid by *Rylands v. Fletcher*<sup>3</sup> and was acknowledged by the Supreme Court of India in *M. C. Mehta v. Union of India*<sup>4</sup>. Absolute liability is a more stringent kind of strict liability.

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<sup>1</sup> the Environmental Protection Agency Act of 1986

<sup>2</sup> Public Liability Insurance Act of 1991

<sup>3</sup> *Rylands v. Fletcher* LR 3 HL 330

<sup>4</sup> *MC MEHTA v. UNION OF INDIA* (1987) AIR 1988 SC 1037;(1987) 4 SCC 463

An abundance of books, articles, documentaries, discussions, and debates have been dedicated to the Bhopal Gas Tragedy, sometimes called the world's largest industrial tragedy. Because the Bhopal Gas Tragedy is often considered the worst industrial accident ever. The goal of this work is to report on and assess the progress of environmental policy in India in the wake of the Bhopal gas disaster. Includes an analysis of the accident's possible causes and an explanation of the roles performed by the corporation and the state, a brief discussion of the standards in place previous to the disaster, and a detailed account of the reforms put in place in the wake of the tragedy. Recounts the several remedial measures taken after the catastrophe. In Chapter I, we'll go into the court cases that went into figuring out who should get what, what caused the tragedy, and how the government and business responded to the aftermath. Details of the disaster and its immediate aftermath are included as well. Chapter II covers the concepts of absolute liability and strict liability. Judgments are discussed in Chapter III, and a critical evaluation is provided in Chapter IV. This project concludes by emphasising the key learnings that were gleaned from the misfortune that occurred.

## LITERATURE REVIEW

### Articles

#### 1) Government Responsibility for Bhopal Gas Tragedy<sup>5</sup>

This article talks about how and what is the responsibility of the government for Bhopal gas tragedy. How the government could have avoided this accident and what steps have been taken and should be taken in the future to avoid.

#### 2) Statutory Strict Liability<sup>6</sup>

Changes to common law rules that are made by laws are often overlooked, except in cases like workers' compensation, where almost the whole body of law is changed. In the next article, Professor Foster talks about important changes to the law that make strict liability apply to more situations and explains the philosophy behind the changes.

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<sup>5</sup> Radhika Ramaseshan. "Government Responsibility for Bhopal Gas Tragedy." *Economic and Political Weekly* 19, no. 50 (1984): 2109–10. <http://www.jstor.org/stable/4373867>.

<sup>6</sup> Statutory Strict Liability, Henry H. Foster, Jr. *American Bar Association Journal*, November 1953, Vol. 39, No. 11 (November 1953), pp. 1015-1017 <https://www.jstor.org/stable/25718629>

### 3) Tort: Blasting: Absolute Liability<sup>7</sup>

It talks about various cases about blasting and how absolute liability is imposed.

## Books

### 1) Law of torts- Ratanlal Dirajlal<sup>8</sup>

The author of this book discusses both absolute culpability and strict liability throughout its pages. Also covers how both the liabilities and the aligation play a role in the conviction of the wrongdoer, while at the same time providing information on how the aligation might be removed.

### 2) Law of Torts: with consumer protection act- AK Jain<sup>9</sup>

The fundamentals of strict and absolute liability, as well as the various avenues open to a person seeking to avoid strict liability, are covered in this book. In addition to this, it analyzes the development of absolute liability in India as well as the legal concept of strict liability in India.

### 3) 10 judgements that changed India- Zia Mody<sup>10</sup>

This book discusses ten judgments, or cases, that necessitated making tough decisions. These cases are considered to be "landmark" instances. One of the important case was Union Carbide Corporation vs Union of India, (1991) 4 SCC 548<sup>11</sup> it talks about the Bhopal gas tragedy and its effects to the Indian society and the evolution of strict liability and various acts

## STATEMENT OF PROBLEM

What is strict liability and absolute liability? How can a person escape them? How did Bhopal gas tragedy led to evolution of absolute liability? The intention of this article is to determine the loopholes, problems faced by companies and person and how can the government improve.

## RATIONALE OF STUDY

The current legislation concerning strict and absolute liability is very complex, as a person who

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<sup>7</sup> Tort: Blasting: Absolute Liability, Michigan Law Review , Dec., 1927, Vol. 26, No. 2 (Dec., 1927), pp. 225-227

<https://www.jstor.org/stable/1279476>

<sup>8</sup> The law of torts: Ratanlal and Dhirajlal. "law of torts" 27<sup>th</sup> edition, issn number: 9789350357415 lexisnexis pg no

<sup>9</sup> AK Jain, 5<sup>th</sup> 2012, issn no.9788193555606, ascent publication. Pg no 446-452

<sup>10</sup>Zia Modi, 10 Judgments that changed India, 44, {2013} issn 10581 pg. 50-58

[10 Judgements That Changed India \(knallp.com\)](http://10JudgementsThatChangedIndia(knallp.com))

<sup>11</sup> Union Carbide Corporation vs Union of India, (1991) 4 SCC 548

has absolutely no fault can also be liable. The first step is to figure the evolution of absolute gas tragedy. The purpose of this research is to analyse and suggest ways and make amendments for the betterment of the society.

## RESEARCH METHODOLOGY

To do this research, doctrinal, analytical, and comparative research methods would be used. The main sources of information used in this investigation are the Indian Penal Code, the Code of Civil Procedure, the Criminal Procedural Code, the Law Commission Report, the Delhi Police Act, judicial precedents, and reports from different committees. Some examples of secondary sources of information are published books and journals, scholarly articles, press releases, print media, online journals, and a few other types of publications.

## RESEARCH OBJECTIVES

1. To analyse the Bhopal gas tragedy Case Union Carbide Corporation vs Union of India, (1991) 4 SCC 548<sup>12</sup>
2. To understand the evolution of strict liability
3. To understand the concept of absolute and strict liability.
4. To understand and analyse old and new case laws

## RESEARCH QUESTIONS

1. What is the meaning and scope of absolute liability and strict liability?
2. What were the judicial precedents of Strict and absolute liability?
3. What are the principles of strict and absolute liability?
4. What were the Acts that formed after the Bhopal gas tragedy and how absolute liability evolved in India?

## CHAPTER 1:

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<sup>12</sup> To analyse the Bhopal gas tragedy Case Union Carbide Corporation vs Union of India, (1991) 4 SCC 548

## **BHOPAL GAS TRAGEDY**

### **The Tragedy**

The American company Union Carbide Corporation (UCC) decided to locate a pesticide facility in the densely populated area of Bhopal in 1970 because of the city's central position and extensive transit network. The particular location inside the city was intended to be exploited for commercial and light industrial activities, rather than for hazardous industrial activity.<sup>13</sup> Because there was less demand for the pesticide in 1984, the factory was only able to produce Selvin at a rate that was one-quarter of its capacity. As a result of the decline in productivity, UCIL devised a plan to relocate the primary production units to another nation after they were dismantled. In the meantime, production at the facility remained constant, but because earnings were so low, meeting safety regulations was not a top priority. Even while the local government was aware of the lower standards, it was hesitant to put stringent controls on an industry that was not just failing but was also a significant employer.

On December 3, 1984, at approximately one o'clock in the night, huge volumes of methyl isocyanide swiftly covered the city. As a result of breathing in the deadly gas, a great number of people and animals passed away within a few short hours. A rough estimate places the number of deaths in the immediate aftermath at 3,787.<sup>14</sup> The region's medical facilities were overrun with patients and staff members who lacked basic knowledge. The number of premature deaths in the subsequent decade ranged from 15,000 to 20,000, with 10,000 occurring within the first few days of the outbreak.<sup>15</sup> The eyes and lungs were the primary organs that were affected in the survivors, and acute multi-system morbidities were common among those who made it through the ordeal. According to estimates provided by the ICMR, approximately 62.58% of the people living in Bhopal were affected by inhalational poisoning.<sup>16</sup> During the subsequent 25 years, those members of the population who had survived developed

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<sup>13</sup> Edward Broughton, The Bhopal disaster and its aftermath: a review, Environmental Health: A Global Access Science Source, 10 May 2005

<sup>14</sup> Bhopal Gas Tragedy, Relief and rehabilitation Department, Bhopal Madhya Pradesh, <https://web.archive.org/web/20120518020821/http://www.mp.gov.in/bgtrrdmp/relief.htm>

<sup>15</sup> IBID

<sup>16</sup> Disaster Management In India by Ministry of Home Affairs, Recovery, Reconstruction and Rehabilitation, Bhopal Gas Tragedy, at 127

morbidity to varied degrees.<sup>17</sup>

When the hospitals first started taking in patients, the medical staff had no idea what was ailing the patients or what kind of therapy would be required for them. The physicians are still unaware of either the antidote for the toxin or the toxin itself. If the government had more knowledge, they may have been able to tackle the problem in a manner that was more effective. As a result of UCC's refusal to reveal any information on the precise chemical make-up of the leaking gases, symptomatic therapy was the only option available. They cited trade secrecy as their justification for this refusal. UCC declined to disclose any information regarding the actual composition of the leaking gases, alleging trade secrecy as a pretext,<sup>18</sup> hence requiring symptomatic treatment.

Consequences: Following the tragedy, UCC began to put more distance between itself and its Indian subsidiary in the hope of evading responsibility for the disaster by shifting the blame to UCIL. The factory shut down.

The gas leak was responsible for the deaths of thousands of people as well as animals, and its destructive effects have been passed down to subsequent generations. People were affected by a wide variety of illnesses related to their eyes, respiratory systems, digestive systems, reproductive systems, and neurological systems.<sup>19</sup> Some of the people who were hurt were pregnant women who went through miscarriages, had early deliveries, or gave birth to children who had fetal abnormalities.

The damage was also done to the surrounding natural ecosystem. Even after so many people had been killed, the firm continued to refuse to take any active responsibility and to restore the ecosystem to a healthy state. During the years when the corporation was actively producing goods, it discharged enormous quantities of toxic waste both within and outside of the factory location. There is still around 350 tons of hazardous garbage and lingering residue from

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<sup>17</sup> IBID

<sup>18</sup> B. Dinham and S. Sarangi, The Bhopal gas tragedy 1984 to? The evasion of corp.responsibility. Environment and Urbanization, 2002, 14(1), [The Bhopal gas tragedy 1984 to? The evasion of corporate responsibility \(sagepub.com\)](http://www.sagepub.com)

<sup>19</sup> Supra note 11

outdated chemicals at the factory site<sup>20</sup>. These wastes have a very sluggish decomposition rate and damage the land as well as the groundwater. If this is not dealt with in an appropriate manner, it poses a risk to a greater number of individuals and will continue to spread. Greenpeace conducted a survey of the location in May 1999, collecting soil and water samples. A scientific investigation conducted by Greenpeace in 1999, along with a few others conducted by government authorities, has proven the existence of a number of life-threatening chemicals, such as mercury and other heavy metals, chlorinated insecticides, and pollutants, in the debris that has been strewn.<sup>21</sup>

## Aftermath: Litigation

Union Carbide Corporation vs Union of India, (1991) 4 SCC 548<sup>22</sup>. As a result of the increasing backlog of lawsuits being handled in the courts, the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (commonly known as the Bhopal Act<sup>23</sup>) was passed into law on March 29, 1985. The Central government has been given the exclusive authority to represent and act (in India or abroad) on behalf of claimants in regard to the Bhopal gas leak under the Bhopal Act. By virtue of this provision, the Central Government was able to represent and take legal action on behalf of claimants. The Central Government was able to act as the "parent of the nation," or "parens patriae," and advocate for those who had been harmed by the gas spill. The government may be partially liable for the accident because it owns a stake in UCIL. The government's actions were deemed an attempt to avoid responsibility by blocking victims from taking legal action.<sup>24</sup> The Supreme Court was asked to rule on the constitutionality of this law, and it agreed that it should be allowed to remain in effect.

UCC was sued by the federal government in the United States' Southern District Court in New York. The complaint claimed that the Indian courts were powerless to handle the case and that the subject should instead be heard in American courts. Still, the company made a concerted

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<sup>20</sup> Sunita Narain & Chandra Bhushan, 30 years of Bhopal gas tragedy: A continuing disaster, Down to Earth, December 2014, <http://www.downtoearth.org.in/coverage/30-years-of-bhopal-gas-tragedy-a-continuing-disaster-47634>

<sup>21</sup> Bhopal Gas Tragedy – A Social, Economic, Legal and Environmental Analysis Malini, Nair [BHOHAL GAS TRAGEDY – A SOCIAL, ECONOMIC, LEGAL AND ENVIRONMENTAL ANALYSIS \(uni-muenchen.de\)](http://www.uni-muenchen.de)

<sup>22</sup> Union Carbide Corporation vs Union of India, (1991) 4 SCC 548:-

<sup>23</sup> the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985

<sup>24</sup> [10 Judgements That Changed India \(knallp.com\)](http://www.knallp.com) Zia Modi, 10 Judgments that changed India, 44, {2013} pg. 50-58

effort to have the lawsuit handled in Indian Courts, despite the fact that it knew the compensation would be far higher if the case were heard in American Courts. Because the claims were filed in the wrong court, the judge dismissed them.

At September 1986, the Indian government filed a complaint in a district court in Bhopal, demanding 3.5 billion rupees in interim compensation. Later, the Madhya Pradesh High Court reduced the amount to 2.5 billion Indian rupees. UCC has asked the Supreme Court to review their case. After the Bhopal gas disaster, the court ordered UCC to pay 470 million dollars, which is equivalent to around 750 crore rupees. This was to satisfy all claims, rights, and liabilities related to and originating from the disaster. All civil actions were closed and criminal proceedings were dismissed per the terms of the settlement.

Compensation from the government was initially requested at the three billion US dollar mark; however, the company eventually settled for only \$470.5 million. Those who have lost a loved one or are permanently disabled will find the sum to be grossly inadequate.

Since the criminal procedures were dropped and an excessive amount of compensation was paid, this settlement was widely panned. The Supreme Court merged numerous petitions, revived the criminal proceedings, and ruled that the state must make up any deficiency in compensation in 1989.

For the victims' economic, social, and environmental recovery, the central government approved a budget of 258 crore rupees in 1990, the first year of the first five-year plan.<sup>25</sup>

Seven ex-employees, including UCIL's former chairman, were found guilty of causing death by carelessness in a Bhopal court in June 2010 and sentenced to two years in prison and fines totaling \$2,000 USD.

## Causes

It would appear that the UCIL was attempting to reduce costs as much as possible by making concessions with regard to health and safety regulations. There is zero regard for either the health of the people living in the area around the facility or the state of the surrounding ecosystem. If only UCC had a crisis management plan, the amount of money lost could have been drastically cut in half. Instead, the plant concentrated on avoiding accountability by

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<sup>25</sup> Supra note 10

concealing facts and ignoring the harm it had on the environment. It admitted to having a moral duty but denied having a legal liability.<sup>26</sup>

UCC revealed in its own research report that on the night of December 3, 1984, the majority of the safety systems were not operational:<sup>27</sup>

- Tank temperatures were not logged;
- Vent gas scrubber (VGS) was not in operation;
- There was no cooling system in operation;
- Tank 610 had an unsafe level of chloroform;
- Cleaning the pipes did not involve the use of a slip bound;
- There was no pressure building up inside of the tank;
- Corrosion was the reason of the presence of iron;
- The warning for a high temperature in the tank was not functioning properly;
- The evacuation tank, which was designated as Tank 619, was not empty.

This demonstrates how offhandedly both the safety of the workers and the safety of the city were treated. Due to the fact that the facility was already losing money, the corporation was hesitant to make more investments in the safety requirements. In addition, it would appear that the absence of pressure and surveillance from the government did not incite any sense of urgency on the part of the corporation.

Although the firm has the majority of responsibility for what happened, the state is also to blame because it failed to play its part in preventing the tragedy.

It is unequivocally stated in the document that governs India, the Constitution of India, that it is the responsibility of the state to "protect and improve the environment as well as to safeguard the forests and animals of the country." The Directive Principles of State Policy also included

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<sup>26</sup> P Shrivastava., Industrial/environmental crises and corporate social responsibility. The Journal of Socio-Economics, 1995, 24(1), pp.211-227.

[Industrial/environmental crises and corporate social responsibility - ScienceDirect](#)

<sup>27</sup> Ingrid Eckerman, The Bhopal Saga – Causes and Consequences of the World's Largest Industrial Disaster, 13, {2004}

[https://www.researchgate.net/publication/267513603\\_THE\\_BHOPAL\\_SAGA\\_Causes\\_and\\_Consequences\\_of\\_the\\_World's\\_Largest\\_Industrial\\_Disaster](https://www.researchgate.net/publication/267513603_THE_BHOPAL_SAGA_Causes_and_Consequences_of_the_World's_Largest_Industrial_Disaster)

a discussion on the subject of the environment. In India, the Department of Environment was first founded in 1980 with the purpose of preserving and protecting the natural environment of the nation.

The state did not perform an adequate level of surveillance of the industry. It was negligent of them to allow such a potentially dangerous plant to operate in such a densely populated region in the first place. It is the responsibility of the state to keep a close eye on the activities of the plant, regardless of whether or not it is located inside the city limits, in order to guarantee that it complies with all applicable safety regulations. In the event of a catastrophic event, the state ought to have a plan ready to implement. A gas leak is an event that can be anticipated with some level of accuracy. The government ought to have gathered information on the many kinds of gases that are utilized by the organization. It need to have conducted simulated drills and made sure that the general public is aware of the potential risks. In the event that any of the requirements weren't met, severe action should have been taken.

## Standards in place

The Water (Prevention and Control of Pollution) Act, 1974<sup>28</sup>, and the Air (Prevention and Control of Pollution) Act, 1981<sup>29</sup>, were the two pieces of legislation that were in effect at the time. These actions did not prove to be very effective in enforcing compliance with the law. Companies who do not adhere to the standards governing pollution control will be subject to a monetary penalty, as stipulated by the acts.<sup>30</sup> Companies concluded that it was economically beneficial to avoid compliance with the legislation and pay the penalty rather than complying with it. If the allegations are founded on torts, the organizations will simply pay the damages and keep on violating the law. The legal proceedings were complicated and fraught with doubt. Without conducting an Environmental Impact Assessment, the businesses were permitted to unrestrictedly discharge their effluents into the water. The creation of an Energy Information Administration was not mandated by any authority.

## Steps taken after the disaster

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<sup>28</sup> The Water (Prevention and Control of Pollution) Act, 1974

<sup>29</sup> the Air (Prevention and Control of Pollution) Act, 1981

<sup>30</sup> B Bowonder & S S Arvind Environmental regulations and litigation in India, Project Appraisal., 1989, 182-196, <https://www.tandfonline.com/doi/pdf/10.1080/02688867.1989.9726733>

It is a sad reality that such a terrible event had to take place for us to comprehend the need of adhering to all of the safety regulations.

In the wake of the catastrophe, the government introduced a number of different pieces of legislation. This ushered in a transformation in people's consciousness with regard to problems affecting the environment. The recent advancements in legislation are summarised in the following paragraphs.

## **CHAPTER 2:** **THE PRINCIPLE OF STRICT** **AND ABSOLUTE LIABILITY**

### **Strict liability**

The case of Rylands vs. Fletcher<sup>31</sup>, which took place in 1868, is credited with being the catalyst for the development of the rule of strict liability.

If someone (the defendant) maintains or takes dangerous substances onto his premises, then that person will be held accountable under this principle if the substances leave the premises and cause harm to another individual (plaintiff). The defendant does not want to cause harm to another person, despite the fact that there is no evidence of negligence on his part. This indicates that the primary responsibility for culpability is with the individual who stores the potentially dangerous chemicals.

Even the excuse that it was an accident that could not have been avoided is not a valid defense in these kinds of scenarios. The legal concept for this idea is the "principle of strict liability."

In addition, the defendant always has the responsibility of bearing the burden of proof in cases involving strict liability. This indicates that the defendant needs to present evidence to justify why he should not be required to pay for the damages. In addition, it is not necessary to provide

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<sup>31</sup> Rylands v Fletchers LR 3 HL 330

evidence of blame, negligence, or intent. The burden of proof lies with the claimant, who must demonstrate both the existence of the tort and the defendant's liability for it.

## Principles of Strict Liability:

- 1. Unnatural use of land:** Taking into consideration the case of *Ryland v. Fletcher*<sup>32</sup>, the storage of water for commercial use, namely for the purpose of providing power to a mill, is not a natural use; nevertheless, the collecting of water for residential use is considered to be a natural use. When we talk about land, what we really mean is either natural resources or inputs.
- 2. Harmful substance:** A harmful substance can be defined as any substance that, upon leaving the premises, results in some sort of damage or causes injury to other people. This can refer to any type of explosive, as well as hazardous gases, electricity, and other similar things.
- 3. Escape:** It should be able to flee the defendant's property and should be out of the defendant's reach.

## Exceptions:

- 1. Act of god or vis major**<sup>33</sup>- The notion of strict liability does not apply in situations in which damages are produced by actions that are beyond human control and incomprehension, such as when they are brought about by more powerful natural forces. The term "Act of God" refers to the circumstances in which natural disasters, such as storms, hurricanes, lightning, or unusually heavy rainfall, cause property damage. It is not essential that this be a one-of-a-kind occurrence, nor is it essential that it be a first of its kind. It is sufficient to demonstrate that it is exceptional and could not have been expected in any reasonable way.
- 2. Plaintiff's Own Fault-** In the event that the plaintiff sustains harm as a direct result of his own actions, he is not eligible to collect compensation for such losses.
- 3. Mutual benefit-** The defendant will not be held responsible for the conduct if it was done or the harmful thing that has escaped since it was kept for the common advantage of the defendant and the plaintiff.

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<sup>32</sup> IBID

<sup>33</sup> Act of god

4. **Act of stranger-** Under these conditions, the defendant will not be held liable for the damage that was produced because of an unlawful act that was undertaken by a third party or any stranger over whom the defendant had no influence.
5. **Statutory act-** As long as the action in question wasn't carried out carelessly, there won't be any legal repercussions for carrying out a legislatively sanctioned activity. If an act is carried out by a government of a country or a state government with the permission of the law or statute, and if that act causes any kind of damage to a person, then the statutory authority acts as a defense to an action for tort that may be brought against that government.
6. **Damage caused due to natural use of land-** The rule of strict liability will not be imposed on the defendant if he is able to demonstrate to the court that he made natural use of his land. In this case, the defendant will be free from the rule of strict liability.
7. **Consent of the plaintiff (*Volenti Non Fit Injuria*)-** If the plaintiff has either explicitly or implicitly accepted to the presence of a source of danger, and the defendant has not been negligent in any way, then the plaintiff will not be able to hold the defendant accountable for any damages that result from the incident. It boils down to the defendant arguing that "Volenti non fit injuria" should be accepted as a valid defense in court.

## Strict Liability in India

In India, the law of strict liability does apply, albeit with a few tweaks here and there.

The Motor Vehicles Act of 1988<sup>34</sup> accepts the culpability of the owner or insurer of the vehicle, referred to as "no fault liability," even in the absence of any indication that the owner or insurer was negligent.

Even if there was no fault on either party's part, the Indian Railways Act of 1961<sup>35</sup> and the Carriers Act of 1865<sup>36</sup> allow for the possibility that both parties could be held accountable for damages.

Both the National Environmental Tribunal Act of 1995<sup>37</sup> and the Public Liability Insurance Act

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<sup>34</sup> The Motor Vehicles Act of 1988

<sup>35</sup> the Indian Railways Act of 1961

<sup>36</sup> the Carriers Act of 1865

<sup>37</sup> the National Environmental Tribunal Act of 1995

of 1991 acknowledge no-fault liability (strict liability).<sup>38</sup>

## Absolute Liability

The amendments to the strict liability doctrine that were established in *Rylands vs. Fletcher*<sup>39</sup> contributed to the establishment of the absolute liability doctrine in India, which precluded defendants from raising any defense against the payment of compensation. These amendments are as follows to the strict liability doctrine that was established in *Rylands vs. Fletcher*<sup>40</sup>:

- If an industry or company is engaging in any activity that is inherently harmful, then the defendants (the owners of the industry) will not have any defense or exception, and they will be totally liable to pay compensation to the person that was damaged as a result of the action.
- The business sector or industry will be held accountable for any and all potential harms or repercussions that may be a direct result of the activity. As a consequence of this, businesses in these types of industries will be forced to supply their employees with safety equipment in order to lower the likelihood that their employees will be involved in an accident. As a consequence of this, the interests of the workers will be protected, and a safe atmosphere in which they may carry out their jobs will be provided for them.

As this limits how the Doctrine of Absolute Liability can be used, the fact that there is a chance to get away, which is a key part of strict liability, can be ignored here.

Often, dangerous things like poisonous fumes can get out of an industry's building, but they can still hurt the people who work there. In this case, workers won't be denied their right to get paid. So, this principle needs to be used in a broader way, leaving no room for escape.

**The Public Liability Insurance Act, 1991**<sup>41</sup> is another act that aims to help people quickly who have been hurt by accidents that happened while they were handling dangerous substances. It also covers things that are related to or happen because of the other acts. One part of the Act says that the owner of an industrial unit must buy one or more insurance policies before starting to work with a dangerous substance and must continue to do so regularly until

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<sup>38</sup> Public Liability Insurance Act of 1991 acknowledge no-fault liability (strict liability).

<sup>39</sup> Supra note 1

<sup>40</sup> Ibid 36

<sup>41</sup> The Public Liability Insurance Act, 1991

the policies' terms expire. This part of the law says that owners of industrial units must follow the law. It will let people who have been hurt by these kinds of things get money right away, and it won't stop them from asking for more money in the future. The law recognizes the idea of "absolute liability," which is also called "no-fault liability."

### **Section 3: No fault liability<sup>42</sup>**

In the event that an accident causes the death of any person, harm to any other person (other than a workman), or damage to any property, the owner shall be obliged to provide such relief as is indicated in the Schedule for such death, injury, or damage.

In any claim for relief under subsection (1), the claimant is not required to plead and establish that the death, injury, or damage in respect of which the claim has been made was due to any wrongful act, neglect, or default of any person. This is because the claimant is not required to prove that the claimant was at fault for the death, injury, or damage in question.

### **Section 4- mandatory insurance<sup>43</sup>**

Before beginning to handle any hazardous product, the owner is required to obtain one or more insurance policies that provide for contracts of insurance, so making the owner insured against the possibility of having to provide relief in accordance with Section 3. (1).

It is hereby provided that any owner who was engaged in the handling of any hazardous substance immediately prior to the commencement of this Act is obligated to acquire the aforementioned insurance policy or policies as soon as is practicable and in any event within a period of one year from such commencement.

Each owner is responsible for ensuring that the insurance policy is kept up to date and renewed on a regular basis well in advance of the policy's expiration date. This ensures that the insurance policies are kept in full force during the entirety of the time that such handling is maintained.

### **Section 14 – Penalty for Contravening Section 4<sup>44</sup>**

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<sup>42</sup> The Public Liability Insurance Act, 1991, Section 3: No fault liability

<sup>43</sup> The Public Liability Insurance Act, 1991, Section 4: mandatory insurance

<sup>44</sup> The Public Liability Insurance Act, 1991, Section 14 – Penalty for Contravening Section 4

Whoever contravenes the provisions of Section 4(1), or fails to comply with any direction issued under Section 12, he shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years, or with fine which shall not be less than one lakh rupees, or with both.

Whoever, having already been convicted of an offence under sub-section (1), is convicted for the second offence or any offence subsequent to the second offence, he shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than one lakh rupees.<sup>45</sup>

**Quantum of Compensation:** In MC Mehta's case, the Supreme Court ruled that compensation should be proportional to the industry's size and potential to deter.

Larger and wealthier enterprises must pay more remuneration. Deep Pocket Theory underpins this rule.

Absolute liability damages are exemplary, while strict liability damages are based on the nature and amount of damage. Industrial accidents usually kill many people and destroy property and the environment, thus compensation should exceed the damage.

**The National Environmental Tribunal Act, 1995<sup>46</sup>:** The length of time it took for the civil courts to reach decisions in situations involving compensation for strict liability was a major factor in the decision to pass this Act.

It made it possible for environmental cases to be resolved expeditiously through the use of environmental tribunals.

It stipulated that the responsible party would be held strictly liable for any damages that occurred as a result of an accident that occurred while handling any hazardous substance.

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<sup>45</sup> Ratanlal Dhirajlal the law of torts

[Ratanlal Dhirajlal The Law Of Torts : Ratanlal and Dhirajlal : Free Download, Borrow, and Streaming : Internet Archive](#)

<sup>46</sup> The National Environmental Tribunal Act, 1995

The National Green Tribunal Act of 2010<sup>47</sup> repealed it, hence it is no longer in effect.

Basis for comparison	Strict liability	Absolute liability
Meaning	The concept of "strict liability" refers to the legal obligation that an individual has to compensate those who have been harmed or wronged, even in cases when that individual was not at fault or irresponsible.	Activities that are intrinsically dangerous, such as harboring dangerous animals or using explosives, give rise to absolute liability in the event of an accident.
Focuses on	Person	Company
Escape	Necessary	Not necessary
Exceptions	Applicable	Not applicable
Damages	Either ordinary or compensatory	Exemplary damages may be imposed by the court

## Necessity of the Principle of absolute liability in India

Our country is a pioneer in industrial development, and with complexity in life and geography, no-fault liability must be harsher and more absolute.

In addition, Ryland's v. Fletcher's strict responsibility theory was developed in the 19th century, and in the midst of the industrial revolution, this two-century-old tortuous liability principle cannot be applied without change.

Our country is on the verge of becoming one of the world's most globalized, thus the participation of multinational corporations (MNCs) causes both praise and concern. The protection of human rights and lives should be considered due to the rising complexity and nature of industrial development and the industrial sector's large contribution to our GDP.

<sup>47</sup> National Green Tribunal Act of 2010

Therefore, strict responsibility cannot be the only principle of redress. "This rule evolved in the 19th Century at a time when all these developments of science and technology had not taken place cannot afford any guidance in evolving any standard of liability consistent with the constitutional norms and the needs of the present day economy and social structure," Bhagwati J. stated in *M. C. Mehta v. Union of India*. We shouldn't feel constrained by this rule, which was developed in a different economy. To meet society's changing requirements and the nation's economic growth, law must grow. The law must adapt to new situations. Law can't stand still. In a highly industrialized economy, we need new ideas and norms to address new issues. "We cannot allow our judicial reasoning to be constrained by reference to the law as it prevails in England or any other foreign country." Because hazardous and fundamentally dangerous businesses are vital for industrial progress, they must take responsibility for protecting people from accidents and other dangers. "Such hazardous or inherently dangerous activity for private profit can be tolerated only on condition that the enterprise engaged in such activity indemnifies all those who suffer on account of the carrying on of such activity regardless of whether it is carried on carefully or not," Justice Bhagwati said. "The enterprise alone has the resources to find and guard against hazards or dangers and to provide warning against prospective hazards," also observed. From the above, such a theory is essential to shaping our jurisprudence and avoiding strict responsibility in modern society.

Thus, the necessity element stated above helps us see that the principle of absolute liability is needed to defend core human rights, develop tort law in India, and grow our country's jurisprudence.<sup>48</sup>

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<sup>48</sup> ABSOLUTE LIABILITY IN INDIA: A CRITICAL ANALYSIS ALI AHMED\*& SANGEET SAROHA, Journal of Xi'an University of Architecture & Technology Volume XII, Issue III, 2020 Issn No : 1006-7930

## **CHAPTER 3:**

# **JUDICIAL PRECEDENTS**

## **18<sup>th</sup> and 19<sup>th</sup> Century**

### **Case #1: Rylands v Fletchers (1868)<sup>49</sup>**

Background: Rylands Vs. Fletcher is a landmark torts case. The 1868 English decision established Strict Liability for unreasonably unsafe conditions and activities. Many nuisance and negligence cases were decided after this case. Negligence can result in liability. Strict liability holds a person responsible for the harm they cause without considering carelessness, mens rea, or distant culpability.

Facts: Fletcher lived near Rylands. Rylands built a reservoir for his mill's water. He hired independent contractors and engineers. Fletcher lost a lot of money when the private contractor broke the shafts to his mine, flooding it. Fletcher sued Rylands for damages.

Issues raised: Negligence and nuisance, damage to neighbours' property Injury to human, Liability of the owner. It was unclear whether the plaintiff was entitled to compensation.

Judgement according to the (i) Exchequer chambers- The Court of Exchequer Chamber found Rylands responsible for Fletcher's injuries. The defendant a duty of care to the risk he took by using his land unnaturally and bringing any object that was not harmful at the time but would be dangerous if it escaped. Even if the defendant was unaware that shafts could lead water into the plaintiff's mine, he is liable.

(ii) House of lords: The appellant argued that an independent contractor and engineer inspected the construction. The appellant was not involved. Construction security was unknown to him. The appellant was accountable for the harm because he introduced a risky item to his premises. Fletcher was compensated.

Justice Blackburn observed that "The rule of law is that the person who for his own purpose,

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<sup>49</sup> Rylands v Fletchers LR 3 HL 330

brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his own risk; and if he does not do so, he is prima facie answerable for all the damage which is the natural consequence of its escape.”

A person is liable because he maintained a harmful thing on his land that escaped and caused damage.

### **Case #2: MC MEHTA v. UNION OF INDIA (1987)<sup>50</sup>**

MC Mehta, a social activist lawyer, petitioned to close Shriram Industries because it manufactured hazardous compounds in a highly populated area of Delhi. On December 4 and 6, 1985, Shreeram Foods and Fertilizers spilled oleum gas, harming several people. The Delhi Legal Aid & Advice Board and Delhi Bar Association sought compensation for gas spill victims. These joined MC Mehta's petition.

The Doctrine of Absolute Liability was created by a five-judge Supreme Court Constitution Bench that rejected the Strict Liability Principle. Hazardous or intrinsically risky businesses are exempt from the strict liability rule and its exceptions. The court subsequently ordered the petitioning organizations to sue the industry within two months to seek compensation for the victims. The Court noted that the strict liability rule originated in England in the 19th century before these scientific and technological advances. Modern issues in a highly industrialized economy require new concepts and conventions. Thus, the Court might create a new regulation that suits India's current social and economic situations.

### **Case #3: Indian Council for Enviro-Legal Action vs. Union of India, AIR 1996 SC 1446<sup>51</sup>**

An application for public interest litigation (PIL) was submitted in accordance with Article 32<sup>52</sup> of the Constitution of India to express the petitioners' displeasure with the presence of industries that were responsible for widespread environmental pollution and put the lives of villagers who lived in close proximity to the industries in danger. Because they were unable to

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<sup>50</sup> MC MEHTA v. UNION OF INDIA (1987) AIR 1988 SC 1037;(1987) 4 SCC 463

<sup>51</sup> Indian Council for Enviro-Legal Action vs. Union of India, AIR 1996 SC 1446

<sup>52</sup> Article 32 of the Indian constitution

live in a healthy environment, this action violated their right to life, which is guaranteed by Article 21<sup>53</sup> of the Indian Constitution. The Supreme Court moved quickly to take action and issued an order to the Central Government and the Pollution Control Board instructing them to develop stringent measures to combat the aforementioned industries. The court upheld the Doctrine of Absolute Liability in this case, noting that the damaged environment must be restored to a pollution-free condition that is conducive to healthy life. The industries are responsible for covering the costs incurred as a result of this procedure, even if it means having their possessions seized for the purpose of carrying it out. The industries were held fully accountable for the payment of monetary damages to be used in the process of restoring the environment.

The villages in the affected region, the land, and the subsurface water were deemed absolutely accountable for any injury caused by the respondent industries, and they were ordered to receive compensation for that harm. As a result, they were given the order to take all the necessary steps to remove the sludge and other pollutants that were lying in the affected region, as well as to pay the cost of any remedial measures that were required to bring the ecology of that area back to normal.

### **Case #4 Klaus Mittelbachert vs. East India Hotels Ltd., (A.I.R. 1997) Delhi 201:<sup>54</sup>**

The plaintiff in this case is a German Pilot who was severely injured after diving into the swimming pool of a five-star hotel. He is seeking compensation for his injuries. After conducting an examination, it was discovered that the swimming pool had both a flawed construction and an inadequate supply of water. The injuries sustained by the pilot left him disabled, which ultimately led to his passing 13 years after the event. The judge ruled that hotels with five stars and high room rates had an obligation to exercise a high level of care for their patrons. The Hotel Oberoi Intercontinental in New Delhi failed to exercise the required standard of care when a man suffered significant injuries as a result of the faulty design of the hotel's swimming pool. Because of this, the Hotel became totally responsible for making up for the damages. Due to the substantial amount of money that the hotel had collected from its

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<sup>53</sup> Article 21 of the Indian constitution

<sup>54</sup> Klaus Mittelbachert vs. East India Hotels Ltd., (A.I.R. 1997) Delhi 201

patrons, it was forced to pay exemplary damages to the person who had passed away. As a result, the plaintiff will be awarded Rs. 50 Lakhs in compensation for the accident that was caused by the defendant as a result of the Delhi High Court's application of the norms of absolute liability and Res Ipsa Loquitur. However, because the plaintiff passed away while the lawsuit was still continuing in court, the cause of action was also terminated, and the aforementioned ruling was overturned as a result of an appeal that was submitted by the party that was being sued (A.I.R, 2002 Delhi 124 D.B.)

### **Case #5: Uphaar Cinema Fire, 1997**

V. K. Sharma, Superintending Engineer (C), Group 'A', Central Public Works Department V Union of India, Through its Secretary, Ministry of Urban Development 2011 Indlaw CAT 159<sup>55</sup>

**Facts:** The Uphaar fire was one of the nation's deadliest. On July 13, 1997, while showing "Border," the Uphaar Grand theater in Green Park, New Delhi, caught fire. 800 of 1000 viewers escaped. Smoke and CO asphyxiated 59 persons. The hallway stampede harmed 100 persons. Captain Manjinder Singh Bhinder, an off-duty Indian Army captain, sacrificed himself, his wife, and son to save 150 others from the fire.

**Decisions by the lower courts:** The CBI charged cinema owners Sushil and Gopal Ansal and 13 others. They were charged under IPC Sections 304, 304-A, 337, and 14 of the Cinematograph Act, 1952. In 2007, the trial court sentenced 12 of the 14 suspects to two years in prison and a Rs. 5000 fine. In 2008, the Delhi High Court maintained the conviction of 6 of 12 suspects but reduced their sentence from two years to one.

**Verdict of Supreme court:** The Delhi High Court ruling was appealed to the Supreme Court. In 2015, a three-judge Apex Court bench led by Justice Anil Dave ordered Sushil Ansal, Gopal Ansal, and Delhi Vidyut Board (DVB) to pay Rs. 30 Crores each to the victims and their families and create a trauma center in Delhi. It also ordered two years of harsh detention if the convicted didn't pay. The building's transformers, which caused the fire, are dangerous, the Court said. The Supreme Court found the owners and Delhi Vidyut Board (DVB) responsible

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<sup>55</sup> 2011 Indlaw CAT 159

for the fire due to their gross negligence.

## 21<sup>st</sup> century

### Case #1: Vizag Gas Leak, 2020

On May 7, 2020, while the rest of the world was focused on combating the Covid 19 pandemic, an LG polymer production facility in Visakhapatnam, Andhra Pradesh, in India, experienced a horrifying gas leak. The styrene gas quickly spread to communities within a radius of five kilometers, resulting in the deaths of eleven individuals and injuries to more than one thousand people that did not result in death. Following the event, a number of professionals in the field of public health made comparisons to the Bhopal gas tragedy that occurred in 1984. Both the gas catastrophe in Bhopal and the gas leak in Visakhapatnam (Vizag) occurred during the night, and both occurred right before the plants were ready to resume after a period of downtime. The Andhra Pradesh Police have already filed a case against LG Polymers, charging them under several sections of the Indian Penal Code for their negligence, causing hurt and endangering the life of others, and for culpable homicide not amounting to murder. The case was filed against LG Polymers because they are accused of causing harm and putting the lives of others in danger.

Additionally, the Andhra Pradesh High Court, the National Human Rights Commission (NHRC), and the National Green Tribunal (NGT) have all decided to take suo-motu cognizance of the matter. In addition to penalizing LG Polymers with a fine of Rs 50 crores (or Rs 500 million), the National Green Tribunal (NGT) established on June 1, 2020 a special committee to conduct an investigation into the case.

### Case #2: Surat Gas Leak, 6 January 2022

On the early morning of January 6, 2022, in the Surat district of Gujarat, hazardous gases leaked from a chemical truck that was parked near a plant. As a result, six factory workers passed away and 22 others were taken to the hospital as a result of the exposure. When the incident occurred, the workers were present at the dyeing facility, which is situated in the Sachin Industrial Area.

It is possible that hazardous gas was produced as a result of the reaction of one chemical in the water with another chemical that was illegally discharged from a tanker into a rivulet that was located adjacent to the mill. In the end, the fire crew was successful in stopping the leak by closing the valve on the truck.

### **Case #3: Munni Devi V Government of NCT of Delhi and another 2021 Indlaw DEL 205<sup>56</sup>**

The petitioner claimed that her 23-year-old son Mintu Kumar Jha was studying Bachelor of Science at Indira Gandhi Open University. On 16.05.2007 at 8.05 pm, an exposed live electric wire fell on his bicycle in House No.D-62, DDA Flats, Kalkaji, New Delhi, killing him. Respondent negligence caused this act. the electrical company argued that lightning killed the deceased, not electrocution. The court added that tort actions required fault. In those circumstances, the Supreme Court ruled that an Article 226 writ was not appropriate.

### **Case #4: Parigabai W/o Ashok Kakde and others V State of Maharashtra, through Collector, Aurangabad and others 2021 Indlaw MUM 41<sup>57</sup>**

Ashok's farm Gate No.12 hosted the incident on July 31, 2014. The deceased was working in the field on a rainy day. He was starting an electric motor when Petitioner No.1 was in the dwelling on the same land. Electric pump power was allegedly removed from a pole near the well. Petitioner No.1 claims she observed the deceased laying beside the well after hearing her cry. The victim was taken to Government Hospital, Vaijapur, but the doctor ruled him dead. Respondents are ordered to pay Rs. 4,00,000 (Rupees Four Lakh) for Ashok Kakde's death. This Court requires the deposit within 45 days. Act of stranger can be used for escape of strict liability

## **CHAPTER 4:** **CRITICAL ANALYSIS**

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<sup>56</sup> Munni Devi V Government of NCT of Delhi and another 2021 Indlaw DEL 205

<sup>57</sup> Parigabai W/o Ashok Kakde and others V State of Maharashtra, through Collector, Aurangabad and others 2021 Indlaw MUM 41

Because India is a developing nation and seeks to foster expansion in its economy, the country warmly welcomes investment from outside enterprises and individuals. The promotion of industrialization is essential to the process of globalization, which must first be accomplished. However, we must not lose sight of the impact that these firms have, over the course of time, not only on the health of the people but also on the environment. Neither of these two factors should be overlooked. India needs to be much more severe in how it implements the laws that have already been passed in order to prevent having to pay such a large price once again. This will allow India to avoid having to pay such a high price. UCIL was able to commit such egregious violations and yet get away with it because the enforcement was not strong enough to function as a deterrent. This allowed them to commit such violations and still get away with it.

Are the lives of people in India valued at such a low price that we are willing to shrug off the unfortunate event as a tragic accident? It is impossible to bring back the thousands of lives that were cut short; all that can be done is make sure that those who were left behind are able to live a normal life and are able to come to grips with their loss. It is impossible to bring back the thousands of lives that were cut short. The industrial tragedy served as the catalyst for a paradigm shift in environmental awareness and legislation, as well as judicial activism and human rights. It compelled both the public and the government to address these issues with the highest priority that they deserved to get from either party. Are the victims receiving the compensations that were awarded to them by the firm that is being sued in the correct amounts? No, there is an issue with the way it is disseminated. It should be the responsibility of the government to establish communities in order to make this a reality; now, many officials use communities for their personal benefit, which prevents victims from receiving justice.

The Bhopal accident produced significant shifts in the chemical industry and sent shock waves through the whole sector. As a result of both the human heart failure and total technological incompetence, a significant amount of attention was placed on the safety of the process. This emphasis was placed both technically and in terms of management. Since another chapter in our book on poverty discusses the power dynamic between the underprivileged and the world's largest corporations, it's possible that it's too late to figure out who was responsible for putting on such a spectacular display. However, it is of the utmost significance that the tragedy be

investigated, and that any errors be corrected. Over the course of the past few decades, the pharmaceutical sector has been quite successful in this regard.

It is the one "plaintiff centered" liability in criminal and tort law, and it is known as the principle of strict and absolute liability. This liability ensures that if a victim suffers a loss of life or property, then they will be reimbursed as quickly as possible. Nobody should have to suffer because of the carelessness of others. In addition, if the danger is caused by a chemical that is inherently dangerous, the owner is solely responsible for taking the necessary precautions to prevent any accidents from occurring. In these kinds of situations, there should be no leeway offered in the form of exceptions or defenses of any kind. This is ensured by a provision that allows for absolute liability. It is a defense that cannot be qualified in any way.

However, total liability has not always been a defense that precludes all possibilities of an exception. In the past, a criminal may walk away scot-free if the circumstances surrounding the crime were either unexpected or abnormal, or if there was a lack of mens rea. The need for a more stringent type of liability was perceived slowly and gradually, which led to the beginning of the application of this principle. As a result, this principle has developed via the process of transition in order to provide the necessary fairness. Not just this theory in particular, but also any law that becomes inactive as a result of societal transition, needs to be developed.

Given that it is the organ that is responsible for modifying laws so that they are more in line with the expectations of society, the judiciary plays an extremely important part in this context. It is commendable that the Indian Judges adopted a progressive approach in the matter of M.C. Mehta, and it is imperative that this approach be maintained. They were of the opinion that if they wanted to bring about change in the Indian legal system, they could not wait for the English legal system to evolve since they did not have the financial means to do so. They need to be brought up to date with the changes that have taken place in society as a whole and the laws that have been passed to accommodate the public's requirements. The transformation of the principle of absolute liability has brought about favorable outcomes in terms of its applicability; hence, it is essential to make sure that the transitional growth of this principle and other laws is maintained through the application of transformative judgments.

## **CHAPTER 5:**

# **CONCLUSION AND SUGGESTION**

Given that it is the organ that is responsible for amending laws so that they are more in accordance with the expectations of society, the court plays an enormously significant part in this context. [Cause and effect] Regarding the case of M.C. Mehta, it is admirable that Indian Judges took a progressive attitude, and it is absolutely necessary that this approach be preserved. They were of the opinion that in order to bring about change in the Indian legal system, they could not wait for the English legal system to develop because they did not have the financial means to do so. If they wanted to bring about change in the Indian legal system, they could not wait for the English legal system to evolve. They need to be brought up to speed on the developments that have taken place across all of society as well as the new laws that have been enacted to meet the demands of the general public. It is vital to make sure that the transitional growth of this principle and other laws is maintained through the application of transformative judgements since the transformation of the principle of absolute liability has resulted in beneficial outcomes in terms of its implementation. wrongdoer. Therefore, the researcher suggests that the factor of paying capacity should only be considered for major firms; for all other businesses, the researcher recommends using the amount of damages sustained, which is in line with tort law. In conclusion, the research question that was posed earlier yielded mixed results. While the first part of the question was answered correctly, namely that there is a need for recognition of the concept of absolute liability, the later part of the question was answered incorrectly, namely that the judiciary has recognized the principle to some degree. The response to this line of reasoning is the same as the previous one; the first portion of the hypothesis is invalid, while the second part of the hypothesis is valid. Therefore, there is a pressing need in India for a greater acceptance of the concept of absolute culpability.

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