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# CRITICAL ANALYSIS FOR LIABILITYFOR ANIMALS AND CHATTELS

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**LAW OF TORTS BATCH - 2022-2027**

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# ABSTRACT

The term "Liability of animals and chattels" covers a wide range of subtopics, such as the twotypes of animals in tort law, the strict liability of the person who domesticates or keeps any animal for commercial purposes or any other purpose, and "An Act to make provision with respect to civil liability for damage done by animals and with respect to the protection of livestock from dogs; and." Topic of this investigation is the "Animal Act 1971," which enteredinto force on 1st October of that year.
It also talks about old doctrines such as scienter rule, and judicial precedents.

Several examples were investigated in the course of my research for this paper, and I will useone of them as an example to offer a thorough analysis of responsibility in a variety of contexts.

***Keywords:*** *Liability, Animal Act 1971, Scienter rule, feare naturae, mansuetae naturae.*

# INTRODUCTION

In 1971, the United Kingdom passed an Act and in response to which a research was conductedon civil liability for animals conducted by ***the English Law Commission***[1]. The study's stated goal was to "offer proposals for modernising and simplifying the common law."

When someone keeps an animal with the full knowledge that it may hurt others, should the animal ever go free, that person assumes full responsibility for any harm the animal does. Thisperson has a legal responsibility to domesticate the animal and keep it under control at all timesso that it does not cause damage to anybody else. The general public agrees wholeheartedly that wild or untamed animals are more likely to have this tendency than domesticated ones. Since it is already known that these creatures have this tendency, the scientist's theory does notneed to be verified in this situation. In other words, if this phenomenon can be shown, it demonstrates scienter and moves the animal from the natural class to the *feare naturae* class. All animals of the second category, *mansuetae naturae*, are considered to be benign until theyshow symptoms of having a wild or evil propensity, at which point the presence of such indicators is considered to constitute proof of scienter.

This part of the law is in an intolerable mess, with rules being applied and distinctions being made that make little sense in light of modern realities, is a fact that is commonly accepted. This is due to the fact

[1] Civil Liability for Animals (Rep 13, 1967) [29]–[59].
https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2016/08/LC.-013-CIVIL- LIABILITY-FOR-ANIMALS.pdf

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that disagreements in this area of the law persist despite the fact that theymake no sense under the present set of conditions. And this, despite the fact that plenty of others have looked into this before.
The Commission believes that modernising and standardising the industry is vital despite the fact that there is opposition to change in the sector.

The topic of law being examined here is complicated and has far-reaching effects on people's daily lives. Individuals whose livelihoods or hobbies depend on animal care, those who are particularly vulnerable to animal cruelty, and those whose jobs (such as highway maintenanceor insurance provision) may oblige them to participate in animal practises.

# LITERATURE REVIEW

## ➢ JOURNAL ARTICLES

### o ‘Liability in Anglo-American Law for Damage done by Chattels’[2]

Regarding the law of the land, two generalizations appear to be justified when the author discusses the culpability under Anglo-American law for injury caused by chattels, i.e.
1.‘The governing principle in all cases is strict liability or liability without fault’

2.‘The general principle of strict liability is properly regarded as liability ex delicto’

### o ‘Pit Bull Bans: The State of Breed-Specific Legislation’[3]

The author in this journal article talks about the topic of ‘breed’ bans, which is also known as “pit bull bans” or “breed-specific legislation”. Who Has Passed BSL? Hundreds of municipalities of all sizes and geographic locations throughout the country have adopted BSL.

[2] Fowler V. Harper, *Liability in Anglo-American Law for Damage done by Chattels*, The University of TorontoLaw Journal , 1938, Vol. 2, No. 2 (1938), pp. 280-297, ISSN:1710-1174
https://www.jstor.org/stable/23673613

[3] Dana M. Campbell, *Pit Bull Bans: The State of Breed-Specific Legislation*, American Bar Association, GP Solo , JULY/AUGUST 2009, Vol. 26, No. 5, Animal Law (JULY/AUGUST 2009), pp. 36-41. ISSN:0747-0088
https://www.jstor.org/stable/824011?seq=1&cid=pdf-reference#references

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- **'The Animals Act'[4]**

The author in this article states the various liability and defenses under ***The Animal Act 1971***[5].Author mentions about animals straying onto the highway, liability for dangerous animals, harmless species, defenses, cattle trespass, detention and scale of trespassing livestock, damagedone by dogs to livestock, and finally he mentions shooting dogs worrying sheep.

## ➢ BOOKS

- **'The Law of Torts' by Ratanlal & Dhirajlal[6]**

There are three methods in which a person may be held legally responsible for damage causedby their dangerous animals, as discussed by the author.
(a) Tort law and responsibility for injuries

b) Always at-fault liability when the animal's destructive character is at issue.

(c) Cattle trespass may be at fault if the defendant knows that an animal that is not normally dangerous is there.

- **'Law of Torts' by B.M. Gandhi[7]**

The term "animal" is used to describe any kind of life other than humans. In common law, therewere restrictions regarding animal culpability, and these regulations may be roughly categorised into two broad classes: (i) the general criteria for determining negligence when itcomes to animals, and (ii) responsibility under specific rules called scienter rules.

- **'Law of tort: Including Compensation Under the Consumer Protection Act' S.P. Singh[8]**

[4]Alec Samuels, *The Animals Act 1971*, The Modern Law Review , Sep., 1971, Vol. 34, No. 5 (Sep., 1971), pp.550-556. ISSN: 1468-2230
https://www.jstor.org/stable/1094534?seq=1&cid=pdf-reference#references_

[5] 1971 c. 22

[6] Ratanlal and Dhirajlal, The law of Torts, 27th edition, pg. 557, published by: Lexis Nexis, 2016.ISBN: 978-93-5035-741-5.

[7] B.M Gandhi, Law of Torts, 4th edition, pg- 377, published by: Eastern Book Company, 2016.ISBN:9789388206402

[8] S.P Singh, Law of Tort: Including Compensation Under the Consumer Protection Act, pg. 299-302, publishedby: Universal Law Publishing, ISBN: 9788175349438, 8175349433

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According to the author, an animal's keeper is strictly liable for any harm caused by an animalbelonging to a dangerous species, i.e. *ferae naturae*, or by an animal belonging to a non- dangerous species, such as a dog, horse, cow, rams, etc., if the keeper is aware of the animal'svicious nature.

# STATEMENT OF PROBLEM

According to the law, an animal is liable for the following types of injuries: Even while the lawhas created specific strict responsibility guidelines for some animal-related damages, these guidelines are by no means the only ones that apply; the general tort liability guidelines also apply to animal-related harm. When the particular rules of animal culpability apply, the defendant is often subject to strict liability, in contrast to the standard rules of tort liability, which sometimes demand the plaintiffto establish the defendant's negligence. It makes sense therefore why plaintiffs would first try to have the unique rules applied to their cases.

# RATIONALE OF STUDY

As per common law, the owner of an animal is fully responsible for any harm his animal produces. ***The Animals Act, 1971***[9] says that, damage caused by a caretaker's animal in Englandis subject to strict responsibility. The custodian of such creatures bears a duty of care to the general public, which is why stringent responsibility has been imposed on them. The obligationof care is to prevent others from being harmed by the animal in any way. This obligation oftenincludes the care of other people's belongings and animals.

# RESEARCH OBJECTIVES

1. To understand how are animals classified under the law of torts.
2. To know about the different kinds of compensation awarded for vicious propensities of animals.
3. To learn about the liability of animals and chattels.
4. To analyse what is the rationale of imposing liability on the keeper of the animal.
5. To know about the current position of this law in India.

[9] Supra note 5

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# RESEARCH QUESTIONS

1. How are animals classified under Law of Torts?
2. What are vicious propensities of animals?
3. What is Liability of animals and chattels?
4. What is the rationale of imposing liability on the keeper?
5. How is liability of Animals and Chattels interpreted with respect to current scenario?

# RESEARCH METHODOLOGY

The methodology that would be applied for carrying out this research is a doctrinal research. Primary resources of this research paper are ***The animal act 1971***[10], Journal articles in the Literature review, textbooks like *Ratanlal & Dhirajlal, S.P Singh, and B.M Gandhi.* Secondaryresources such as textbooks, journal articles, and online resources has been used.

Descriptive Legal Research, efforts to stick to the facts of the cases cited issues involved rathervery much judgmental about it. The author has not given too many personal opinions on the issues involved.

Analytical Legal Research, with the help of available facts and information, has critically analyzed the whole range of facts and information.

Applied Legal Research, an attempt has been made to find the solution to the issues and problems with the available facts and information. Basing the practical problem, the authoraimed to find the solution through action research in a practical context.

# CHAPTER 1:

# MEANING NATURE AND SCOPE OF LIABILITY FORANIMALS AND CHATTELS

## ➢ IMPOSITION OF LIABILITY ON THE KEEPER OF DANGEROUS ANIMALS

[10] 1971 c. 22

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## o DUTY OF CARE

It is important to understand what is meant by the term "Duty of Care" before we can completely grasp the duty that rests on the shoulders of the person in charge of any potentiallyharmful animal. To further grasp this idea, let's consider a hypothetical situation in which "A,"the animal's owner or caretaker, is obligated to pay "B," a victim of A's animal's actions, monetary damages.[11]

## oBREACH OF DUTY

In the case *of* ***Whippey v. Jones***[12], Mr. Jones, popularly known as C, was out for a run in Kirstall, Leeds, beside the River Aire when Hector, a fully grown 12.5-stone Great Dane puppy, leaped out from behind a bush. A gung-ho Hector smashed into C, stumbled, and fell down a steep hill to the river, seriously injuring his ankle. Hector's owner was Mr. Whippey, D, an inspector for the RSPCA. C filed a lawsuit against D, claiming that on that day, D had negligently handled Hector while walking him in the garden by the river, causing C to suffer damages. For C, it was D's treatment of Hector that caused his wounds.

Held: D wasn't negligent. The closest Hector has ever been near somebody was barking at themfrom a distance; he has never shown any tendency to jump at anyone. D, an experienced dog trainer, had no reason to suspect that Hector, off leash, would approach an unsuspecting human,bite him, and do further serious harm. D's failure to exercise the kind of care that would be expected of a reliable keeper puts her in violation of the aforementioned condition. D must have opted against what a prudent keeper would do in order for them to be below average.[13]

As long as D managed, watched, and treated the animal that contributed to the event correctly,there will be no evidence of negligence. This is because they are all actions that are generally regarded as standards for managing cattle or other animals.

[11] *Liability for Animals*, Cambridge university press,

https://www.cambridge.org/gb/files/3214/7610/6092/Liability_for_Animals_Mulheron.pdf

[12] Whippey v. Jones [2009] EWCA Civ 452, [13]

[13] *Ibid*

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## o PROVING THE BREACH

The defendant must act justly and reasonably for such standards and expectations to absolve him of guilt. The physical facilities used to keep the animal captive have been accused of unethical behaviour.[14]

When ***Mirvahedy v. Henley*** [15] was pitched, C ran into D's horse as it bolted over a double highway through Torquay and Exeter on his journey home from work in Devon. The collisionresulted in serious head and facial injuries for C as well as the death of the horse and the destruction of the top of his vehicle. One of the three horses who fled from Dr. Henley's ranch,this specific horse's departure was caused by its anxiety at an unknown object. The distance between D's residence and the incident location was 1.5 km. By leaping over an electrical wirefence and a wooden barrier, trampling through a patch of thick bracken and foliage, climbing a 300-yard stretch of track, and eventually galloping for over a mile down a side road before approaching the busy dual highway, the horses were able to flee the field. Therefore, it may besaid that D's acts were not careless. D fenced the whole area where the horses were kept in anticipation of the transfer.

## o CAUSATION

It is the responsibility of the defendant (B) to prove that the claimant's (A) damages resulted from B's negligent monitoring, treatment, or constant monitoring of the animals when A allegesthat they had been injured by animals.

In ***Hole v Ross-Skinner***[16], Mr. Hole, 28, was harmed after he t-boned a horse on a two-lane road's shoulder. Mr. Ross-Skinner, (D), had a sizable piece of land and a house in the country.On his land were horse stable. Due to the absence of a stock-proof rail, hedges, or gates along the fields' boundaries, particularly close to the road, C alleges that D was negligent. D's lack ofaccountability rendered his acts inappropriate, according to C's other argument. The horses hadbeen placed in a ground in Middle Park the previous evening, but it was found the next morningthat the barbwire fence enclosing the field had already been broken, a gate that had been shut the evening beforehand was open, and the horses had across a chalk pit and walked onto the road. The horses have spent the night in a pasture in Middle Park. Poachers

[14] Supra note 11

[15] Mirvahedy v. Henley,[2003] UKHL 16, [2003] 2 AC 491.

[16] Hole v Ross-Skinner [2003] EWCA Civ 774.

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who intended to hunt deer on D's land in the past broke in, destroyed fences, and unlocked gates. D was determined to have shown no negligence. It was not his fault that the invaders got in, even though the entrance had been left open and the fencing had been cut. The fences enclosing thefields on each end of the road were solid, as far as anybody could determine. The poachers' activities were the sole reason the animals were able to escape. Even if D had taken additionalprecautions by installing more locks on the gate, there was no guarantee that the burglars couldhave been kept out. The probability that a third party stopped the offender animal from fleeingor from being released, however, does not alter the fact that D's breach caused C's damage.

In a situation involving irresponsible behaviour, C must demonstrate that the loss or harm wasnot too remote from the perspective of the law in order to be entitled to compensation.

## ○ REMOTENESS

Assuming C was injured by the animal's actions, it is not necessary that C's specific manner ofdamage or the severity of that injury have been reasonably foreseeable, in accordance with thegeneral standards of remoteness. This is because C was injured in a way that could not have been caused by the animal's actions. Needed damage must be of a kind that can be anticipatedwith some degree of certainty.[17]
In ***Draper v Hodder***[18], It was conceivable that the Jack Russell terriers may cause minor injuries to a baby or toddler, like scratches, for example. Although it was not fairly predictable,being bit more than 100 times was an injury that may have happened. Similar to this, the courtruled that it was more likely that a kid would be trampled than bitten if D had carelessly permitted plenty many horses to approach a tiny field where a school picnic was being held. However, being bitten would fall under the category of foreseeable personal harm.

## ○ DEFENCES TO NEGLIGENCE

Contributory negligence, among other defences, may be used in situations involving injuries caused by animals.

By disregarding his own safety and putting himself in risk by coming into contact with the animal, C may be accused of contributing to the accident.

[17] Supra note 11

[18] Draper v Hodder, [1972] 2 QB 556 (CA) 573 (Edmund Davies LJ).

In ***Bodey v Hall***[19], Mrs. Bodey (C) and her passenger, Mrs. Hall (D), were riding in a pony andtrap on a rural road not far from Newbury, Berkshire. Mrs. Bodey was making use of the roadso that she might be transported to Newbury. Mrs. Hall's horse, Pepper, developed nerves not long after turning off the farm road into the railroad's side. Due to the trap's forward tilt as it followed the attack, both were propelled out of it and onto the land. Both C and D were takenoff guard. C had a brain damage as a result of the vehicle accident. C, an experienced horsewoman, knew without a doubt that the horse in question was the one in question since shehad driven with D six to eight times before.

She had decided against wearing a riding cap on the day of the accident, which proved to be afatal error. C's lack of riding helmet use was ruled to not be contributory negligence. Evidencesuggested that wearing a riding cap while managing a pony or a trap would have been suitable,but this was not the common practise. When it came to whether or not riders should wear hatswhile operating carriages, "clearly distinct schools of thought" existed, with the final decisioncoming down to individual preference. If driving a carriage need a riding cap, yes or no? Although ther1e were no regulations or suggestions for carriage driving, it was advised that one not wear a hat.[20]

## ○ PROBLEM OF STRAYING ANIMALS

## Straying onto the highway-

When D's animals wandered into a public roadway, the previous common law protection for D in irresponsible situations was eliminated by section 8(1)[21] of the ***Animals Act 1971***[22].Therefore, if animals strayed onto a road, the typical rules of negligence would apply. If the animals strayed due to D's inability to exercise reasonable protection and C was hurt as a consequence, D will be held responsible.[23]

As Lord Denning MR stated in ***Davies v Davies***[24], The common law principle still holds true today: "The owner of an animal was not accountable if it strayed onto a highway."[25]

[19] Bodey v Hall, 3 [2011] EWHC 2162 (QB) [43]–[44].
[20] Supra note 11

[21] ***Animals straying on to highway, sec.***8 Duty to take care to prevent damage from animals straying on to thehighway.

[22] Supra note 5
[23] Supra note 11

[24] Davies v Davies, [1975] QB 172 (CA) 175.

[25] Supra note 5

In the case of ***Searle v. Wallbank***,[26] which took place in 1971, he was not required to exercise any duty of care to make repairs to the hedges or to keep the animal in the field. As a consequenceof ***the Animals Act 1971***[27], section 8(1)[28], the general rule is that the keeper of an animal has an obligation to take such care as is reasonable to ensure that it does not wander on to a roadwayand cause damage. This duty comes as a result of the fact that the ***Animals Act 1971***[29] was passed.

## ○ STATUTORY CAUSES OF ACTION UNDER THE ANIMALS ACT 1971

Animal owners may be held liable for any damage their pets cause under the "Act," which is short for ***the Animals Act of 1971***[30]. This law is meant to augment others that establish civil culpability (via things like fines, jail time, or confiscation) for harm caused by hazardous animals. It is supplementary to laws that compel animal caretakers to have insurance and get licences. In most cases, insurance programmes are relied upon more than legal proceedings tocompensate accident victims.[31]

### o PRE-REQUISITES[32]

### □ Precondition-1

Who can sue and who can be sued under the Act?

Subject to subsection (4) of section 6[33], a person is a keeper of an animal if:

(a) he owns the animal or has it in his possession; or

(b) he is the head of a household of which a member under the age of sixteen owns the animalor has it in his possession;

[26] Searle v Wallbank [1947] AC 341, [1947] 1 All ER 12, (1947) 176 LT 104, (1947) 63 TLR 24, [1947] LJR 258

[27] Supra note 5

[28] ***Ibid*** 1

[29] Supra note 5

[30] Supra note 5

[31] Supra note 11

[32]Mulheron, Principles of Tort Law, Cambridge University Press, https://www.cambridge.org/gb/files/3214/7610/6092/Liability_for_Animals_Mulheron.pdf

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Until another person becomes the animal's keeper in line with the rules that come before paragraph, the person who was the keeper immediately prior to that time under that paragraphremains the keeper of the animal. Any person who has maintained an animal in line with the preceding clauses in this paragraph is still maintaining the animal even though the animal is nolonger possessed or in the possession of that person.

The Act does not specify who is eligible to bring a claim, thus anybody who has suffered lossesdue to animal behaviour is allowed to do so. The wounded party may have been a client at D'sequestrian centre, but they could just as well have been an employee, a friend, or even someoneD has never met. A keeper may sue another keeper for breach of contract under the Act. An admissible suffering under the Act is an injury sustained by a keeper as a direct consequence of the animal's actions. The Act does not mandate that an eligible C ought to be a "stranger" tothe keeper in order to qualify.[34]

## **Precondition-2[35]**

Type of animal which caused injury

Notably, the term "animal" is not defined either in the Animals Act of 1971[36]. Consequently, the Act's potential scope is not entirely clear.

For the purposes of the statutory foundation for action under the Act, it is required to ascertainwhether or not the creature that caused him damage was of a purported "dangerous" species, as various criteria for establishing culpability apply to each sort of animal. This is because theanimal in issue has to fall into one of these two classes for the statutory cause of action to be applicable.

In order to evaluate D's obligation, all animals are categorised as either dangerous or non- dangerous under section 2[37] of the Act. Animals fall into one of these two classes depending on whether or not people regard them to be a threat to human safety. This division does not quite reflect the old common law scienter notion, which distinguished between injury caused by wild animals (*ferae naturea*) and harm

[33] Interpretaion of certain expressions used in section 2-5, (4), Animal Act,1971

[34] Supra note 11

[35] Supra note 21

[36] Supra note 5

[37] Liability for damages done by dangerous animals, section2, animal act,1971

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caused by domesticated animals (*mansuetaenaturae*). But the legislative breakdown is what we have today, and how things are divided upis a question of interpretation. Any animal of a dangerous species is included by the law's provision in section 2(1)[38]. All animals of a species that "is not commonly domesticated in the British Islands" and "fully-grown animals of the species normally have such characteristics thatare likely, unless restrained, to cause severe damage or that any damage they may cause is likely to be severe" are considered dangerous wild animals under Section 6(2)[39]. Any animal seeking protection under this provision must satisfy both of these conditions. Obviously, subsection (1) of section 2[40] only applies in certain cases.[41]

## □ Precondition-3[42]

The legal theory under which compensation may be sought.

Specifically, section 11[43] of the Act defines "damage" as "the death of, or injury to, any person(including any disease and any impairment of body or mental condition). This term encompasses every possible meaning. Case law demonstrates that the Act may be used to seekcompensation for a wide range of injuries, regardless of whether liability is alleged under Section 2(1)[44] or Section 2(2)[45], for example:

- physical injury to plaintiff caused by the animal directly (for example, plaintiff being thrownoff a horse or being bitten by a dog);
- physical injury to C because a horse or livestock got onto a roadway and collided with C's car;
- injury to plaintiff caused by the spread of infectionfrom D's animals;
- physical injury to plaintiff caused by a horse or livestock getting onto a roadway and colliding with C's car;
- property damage to plaintiff's chattels caused by the animal (e.g., where his car collided withan animal);
- physical injury to plaintiff's livestock (e.g., Defendant's dog killing plaintiff's sheep, or defendant's cat killing plaintiff's birds);

[38] Ibid

[39] Supra note 33

[40] Ibid

[41] Supra note 11

[42] Supra note 21

[43] General interpretation, Animal act,1971

[44] Supra act 37

[45] Supra act37

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- property damage to his fixtures (e.g., damage to crops or gardens caused by straying animals);
- consequential economic loss flowing from property damage (e.g., arising from plaintiff's inability to sell his crops in the example above); or
- loss of amenity damages, compensating for intangible inconveniences to him, arising from the smell or noise of defendant's animals.

## o ANIMALS BELONGING TO A DANGEROUS SPECIES

Damages produced by animals of a dangerous species may result in a person being held liablefor such damages regardless of whether or not they were negligent or knew what they were getting into. Section 2(1)[46] of the act states: Where any damage is caused by an animal whichbelongs to a dangerous species, any person who is a keeper of the animal is liable for the damage, except as otherwise provided by this Act.[47]

The offender is held severely accountable regardless of whether or not he knew the animal presented a harm to people or took every reasonable precaution to prevent the escape of the dangerous animal. Responsibility is thus not an absolute idea, even when the animal in issue isa member of a dangerous species, due to the statutory defences available under the Act, whichwill be explored below. According to common sense, the 'damage' mentioned in subsection 2(1)[48] might include either personal harm or property loss. This was the conclusion reached by***the English Law Commission***[49]: ‘although there is no direct authority on the point, statementsof principle in a number of cases suggest that, provided an animal is a danger to mankind, thereis strict liability for any damage which it may cause to property’.[50] So far as the author can ascertain, this provision has never been litigated in English law to date.[51]

[46] Supra act 37

[47] 1971 c. 22

[48] Supra act 37

[49] Supra note 1

[50] EWLC, Civil Liability for Animals (Rep 13, 1967), ch 1, [5], referring to, e.g., Behrens v Bertram MillsCircus Ltd [1957] 2 QB 1 (CA) 13–14.

[51] Supra note 11

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## o ANIMALS BELONGING TO A NON-DANGEROUS SPECIES

A person may be held accountable for injuries caused by a non-dangerous (harmless) animal that acted abnormally in some regard, even though the owner took all the steps that might reasonably be anticipated to prevent the animal from escaping or harming another person. It makes no difference who caused the accident; the owner must pay for repairs.

Section 2(2)[52] of the act states: Where damage is caused by an animal which does not belong to a dangerous species, a keeper of the animal is liable for the damage.

Unfortunately, the drafting of this provision is extremely convoluted. That is unfortunate, giventhat it operates far more widely than s 2(1)[53] does – far more accidents involve 'harmless' animals than 'dangerous' ones. [54]

- **Element#1:** Satisfying the opening words S 2(2)[55]- The damage to plaintiff must have been caused by owner's animal. In ***Bodey v Hall***,[56] facts previously, held: plaintiff's head injury was caused by the actions of the horse, and him being thrown out of the trap onto her head when the horse unexpectedly shot forward, tipping the trap over.

- **Element#2:** Satisfying condition S (2)(a)[57]- As Lord Hobhouse put it in ***Mirvahedy v Henley***,[58] this condition deals with the animal's 'dangerousness'.[59] This requirement corresponds broadly with what had been called, under the scienter doctrine at commonlaw, proof of a 'vicious propensity' on the part of the animal

[52] Supra note 37

[53] Supra note 37

[54] Supra note 11

[55] Supra note 37

[56] Bodey v Hall [2011] EWHC 2162 (QB), [2012] PIQR P1, [29].

[57] Supra note 37

[58] [2003] UKHL 16, [2003] 2 AC 491, [16]

[59] [2003] UKHL 16, [2003] 2 AC 491, [16].

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- **Element#3:** Satisfying condition S 2(2)(b)[60]- This condition refers to ' the source of the animal's dangerousness' (per Lord Nicholls in ***Mirvahedy v Henley***[61]). The provision is obfuscatory, and had been described judicially as being 'opaque' and 'tortuous'.[62]

- **Element#4:** Satisfying condition 2(2)(c)[63]- To satisfy the third legal requirement, the keeper or those associated with the keeper must be familiar with the animal's relevant traits.

## ➢ DAMAGE DONE BY AN INDIVIDUAL'S STRAYING LIVESTOCK

o Straying onto plaintiff's land

Under section 4[64] of the Act, a defendant is held strictly liable for damages and expenses caused by trespassing livestock if the defendant is in possession of livestock (other than horses) and the livestock trespasses onto land owned or occupied by the plaintiff and either damages the land or the property of the plaintiff. There is no need to prove that he was careless. Any horse that is "on any land in England without legal authorisation" is also in violation of section 4A[65] of the Act. Horses "on any land in England without legal authorization" are within the purview of this clause.

The cattle trespass doctrine of common law has been replaced by these guidelines, although the common law principle of strict liability has been maintained. We believe that a fresh explanation of the principles

[60] Supra note 37

[61] Supra note 23

[62] Turnbull v Warrener [2012] EWCA Civ 412, [17] (Maurice Kay LJ).

[63] Supra note 37

[64] Liabilty for damage and expenses due to trespassing livestock, Animal act,1971

[65] Ibid

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of strict responsibility for wandering animals is preferable to attempts to patch up elements of the current legislation dealing to cattle trespass, since there can be no doubt that this area of the law is burdened by outdated and questionable standards.[66]

o Straying onto a highway

Plaintiff, who is wounded when travelling along a road while meeting D's animal, is required to establish that D did not exercise reasonable care as the keeper of that animal, which resultedin C's injuries. This is necessary in order to win the case. Because of the decision in ***Searle v. Wallbank***[67], cases such as ***Mirvahedy v. Henley***[68] were allowed to be litigated based on the theory of negligence.

o Combining the scenarios

The provisions of the ***Animals Act 1971***[69] and the case law covered previously do not do as well a job as the graphic on the preceding page does of conveying the subtleties, nuances, andcomplexity of this area of tortious duty for animals. Seeing as how the figure is superimposedon the prior page, this makes sense. Graphically, this goes against what the English Law Commission, which claims that the new theory would "provide a very clear norm" in lieu of the antiquated cattle trespass idea, has to say.[70]

## ➢ REMOTENESS

Whether C's damage or loss must have been fairly foreseeable in order for there to be a chanceof recovery in an action based on strict liability brought under Section 2, Section 3, or Section4[71] of the Act is currently up for debate. Prior to this report's publication in 1967, *the English Law Commission*[72] did not

[66] Supra note 11

[67] Supra note 18

[68] Supra note 23

[69] Supra note 5

[70] Civil Liability for Animals (Rep 13, 1967) [65].

[71] Supra note 5

[72] Supra note 1

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discuss the prospect of irreparable injury in cases involving the ***Animals Act of 1971***[73].[74]

## ➢ STATUTORY DEFENCES FOR DEFENDANT'S LIABILITY UNDERS 2

There are three statutory defences available to a defendant under the Act if the defendant is prima facie culpable under section 2[75]. Whether the animal in question belongs to a potentiallydangerous group, the defendant is always entitled to raise these defences.

Here are the three ways in which he might seek legal protection from potential harm thanks to

***the Animals Act,1971***[76]: in the event that he is found liable under section 2[77]:

1. the plaintiff was entirely to blame for the injury that was sustained.

2. The plaintiff knowingly and willingly accepted the possibility of suffering damages.

3. The plaintiff illegally entered the premises. The lenient way in which these defences have been interpreted has helped to restore some equilibrium in the defendant's favour, despite the fact that it is relatively simple for him to satisfy the requirements outlined in section 2(2)[78], despite this, the conditions outlined in section 2(2)[79] have been interpreted.[80]

### o DAMAGE WHOLLY DUE TO THE FAULT OF PLAINTIFF

Defendant is not responsible for damages if the plaintiff is found to be "wholly at fault" for them. It is hard to onclude that the claimant was "wholly at blame" after it is shown that the defendant, as the animal's caretaker, is responsible for some "fault," whether in carelessness orotherwise. Defendant's negligence or other kind of culpability renders the defence moot. This defence is provided by s 5(1)[81]. It applies to liability arising under S 2, 3, 4 and 4A[82].

[73] Supra note 5

[74] Supra note 11

[75] Supra note 37

[76] Supra note 5

[77] Supra note 37

[78] Supra note 37

[79] Supra note 37

[80] Supra note 11

[81] Exceptions from liability under sec 2, Animal act 1971.

[82] Supra note 5

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## o VOLUNTARY ACCEPTANCE OF RISK

If the plaintiff can show that he or she "voluntarily accepted the hazard" of being injured by the defendant's animal, the defendant will have a difficult time proving liability. Although it isa complete defence, the defence of *volenti* in common law is not entirely analogous to the defence of *volenti* under statute. Section 5(2)[83] provides the applicable defence, and it appliesonly to the duty stated in Section 2[84].

The plaintiff has the burden of (1) showing that he was aware of the risk and (2) showing thathe knowingly and willingly put himself in harm's way.[85]

## oTRESPASSERS

If the plaintiff is injured by a defendant's animal while trespassing on property where the defendant's animal was kept, the defendant is completely protected from liability if either (1) he did not keep the animal there to protect persons or property, or (2) he kept the animal thereto protect persons or property, and it was reasonable for the defendant to keep the animal for that purpose.

## o STATUTORY DEFENCES FOR DEFENDANT'S LIABILITY UNDER S 3

Under subsection 3[86], the plaintiff is strictly liable to the defendant (the owner of the livestock)for the damage that was caused by the defendant's dog (the keeper of the dog responsible for the death or injury), subject to three statutory defences.[87]

If any of the following circumstances is true, the defendant will have a defence to any obligation imposed by section 3[88]:

[83] Supra note 81

[84] Supra note 37

[85] Supra note 11

[86] Liability for injury done by dogs to livestock, Animal act,1971

[87] Supra note 11

[88] Ibid

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- the plaintiff's livestock strayed onto land, where the offending dog either belonged to the occupier of that land, or the dog's presence on the land was authorised by that occupier, per s 5(4)[89]; • the common law defence of contributory negligence applies, per s 10[90]; or
- the damage to the plaintiff's livestock that was caused by the defendant's offending dog was "due wholly to the fault of the plaintiff."

## ➢ OLD COMMON LAW DOCTRINES: Scienter Rule and Cattle Trespass

If a "wild animal" caused harm, its owner had all responsibility under the scienter theory (*feraenaturae*). The custodian had complete and whole understanding of the feral animal's potentiallylethal tendencies, therefore this was the case. If the animal in question was a "domesticated animal" or "tame animal" (*mansueta naturae*), and its keeper knew that it had a horrible propensity to do the type of injury that was committed to C, then the keeper would be held harshly accountable regardless of guilt. The idea could only work if the keeper was aware of the animal's bad tendencies; in the case of wild animals, this knowledge might be assumed without evidence, but in the situation of domesticated animals, evidence would be required.

According to ***McQuaker v Goddard***[91], Because they were not tamed, wild animals were considered to be hazardous to humans, in contrast to domesticated animals, which were thoughtto be secure. The scienter hypothesis protects domesticated animals including cats, dogs, cattle,horses, pheasants and partridge, bees, as well as camels.

There were many other kinds of wild creatures that might be discovered, including elephants,bears, zebras, lions, tigers, and monkeys, to mention a few. However, "there is substantial dispute as to the standards applied in categorising these species," [92]

[89] Supra note 81

[90] Application of certain enactments to liability under sec 2

[91] McQuaker v Goddard [1940] 1 KB 687 (CA) 695.

[92] Supra note 11

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# CHAPTER 2:
# JUDICIAL PRECEDENTS

## # CASE-1

In ***Breeden v Lampard***[93] (1985) The claimant's leg was broken when the horse she was ridingapproached another horse too quickly from behind and kicked it. Lloyd LJ stated, "If liability is based on the possession of some abnormal characteristic known to the owner, then I cannotsee any sense in imposing liability when the animal is behaving in a perfectly normal way forall animals of that species in those circumstances, even if it wouldn't be normal for those animals to behave in that manner in other circumstances, for example, a bitch with pups or a hob wiggling its tail." The commentator said that Section 2(2)(b)[94] was a one-legged stool, andthat the court's ruling "severely restricted the application of s.2(2)[95] to aberrant animals becauseof this. Since the case included a study of natural behaviour, it is in the favour of the keepers.

## # CASE-2

***Flack v Hudson***[96] (2000) explains what's behind a peculiar characteristic. When Mrs. Flack's horse saw an approaching tractor, it became quite nervous and bolted down the road in front ofher. Mrs. Flack's fall caused her to sustain injuries that ultimately proved deadly. The abnormalbehaviour of this horse was clearly in violation of subsection 2(2)(b)[97]. Not all horses will runaway if they see a tractor, but if they are frightened, their instinct is to go away as quickly as possible. Since Sebastian's source of concern is not one that many horses often feel, his behavior—namely, racing away—was seen as peculiar. These examples, such as Breeden andFox v. Kohn, show that stable owners are not responsible for injuries their horses cause whilebehaving normally. This allows the counterargument that keepers are not subjected to an undueshare of the regulatory burden as a consequence of ***the Animals Act***[98].

[93]Breeden v Lampard [1985] WL 542478.

[94] Supra note 37

[95] Supra note 37

[96] Flack v Hudson [2001] QB 698.

[97] Supra note 37

[98] Supra note 5

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## # CASE-3

In ***Mirvahedy v Henley***[99], (2003) By a vote of 3 to 2, the House of Lords decided that if a non-dangerous animal causes damage by acting in a way that is not typical of the species as a whole but is typical of the species under certain circumstances, the animal's keeper will be held strictlyliable under section 2(2)(b)[100] of the Animal Welfare Act. Due to the fact that this is not typicalbehaviour for the species as a whole, this choice was chosen. Since all horses react similarly when sufficiently terrified, a horse that rushes away because it is fearful of something it has never seen before is deemed to be responding properly given the circumstances. Since this is aviolation of the second prong of subsection 2, (2)(b)[101]. The House of Lords also restated thatsection 2(2)(b)[102] had two potential paths to liability. The judgement in the case of Mirvahedymight be interpreted to mean that owners are now liable for damage caused by their animals while acting normally. Due to the closeness of the vote tally, the opinions of their Lordships must be considered; in particular, the views of Lord Scott and Lord Slynn, who were among the Lords who voted against the judgement. The majority opinion, given by Lord Nicholls, took into account the contrasting findings of Lords Cummings and Breeden.

## #CASE-4

In ***Clark v Bowlt***[103] (2006) Injuries were sustained by the claimant when his automobile was struck by the defendant's horse, Chance, as he attempted to pass two horses being ridden by the defendant. The defendant was found guilty at first instance for exhibiting the propensity tobehave in a way that deviated from the court's instructions, which the judge deemed sufficientto establish liability under section 2(2)(b)[104]. The Court of Appeals ruled that the judge erred in his application of Mirvahedy when he decided that clause 2(2)(a)[105] was met because of thefact that Chance's weight was likely to inflict significant injury (b). Since a horse's weight is an inherent quality of the species, this provision could never have been met. The opposite of what was intended by the Act would happen if weight was considered an abnormality in horses.The court said that the case "has restricted the meaning of section 2[106] by underlining the necessity for a homogeneous reading of subsections (a) and (b)." Because the

[99]Mirvahedy v Henley per Lord Nicholls at para.48.

[100] Supra note 37

[101] Supraa note 37

[102] Supra note 37

[103] Clark v Bowlt [2006] EWCA Civ 978.

[104] Supra note 37

[105] Supra note 37

[106] Supra note 37

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desire to deviatefrom the prescribed course of action cannot be considered a trait within the meaning of subsection 2(2)[107], the Court of Appeal sided with the appellant (b). Sedley LJ held that the purpose of section 2(2)[108] was not to make pet owners habitually responsible for harm causedby the species's innate tendencies. The absence of the necessary element to hold the keeper responsible in this case is a significant limitation on the scope of the claim.

## #CASE-5

***Welsh v Stokes***[109] (2007) Defendants' 17-year-old employee was wounded when a horse leapedout of the water and fell on top of her. All three conditions of subsection 2[110] were found to have been satisfied, as the Court of Appeal upheld the trial judge's decision. A fall from a rearing horse is very dangerous and may result in severe harm, as stated in Section 2(2)(a)[111]. Specifically, the accused argued that the trial judge had improperly interpreted Sections 2(2)(b)[112] and 2(2)(c)[113].

Given that horses as a species will raise under particular conditions, the court ruled that the trait of rearing was characteristic for the horse under section 2(2)(b)[114].

The key question, as noted by Dyson LJ, was not whether Ivor had a propensity to rear in general, but whether he had the trait of rearing under those particular circumstances. Therefore,the court properly read clause 2 (2)(b)[115].

In their defence, the defendants claimed that the issuewith section 2(2)(c)[116] was that the court did not examine whether or not they had sufficient evidence that Ivor had the trait of rearing in particular circumstances, as opposed to horses in general.

The defendant's appeal was dismissed by the Court of Appeal because it wasdetermined that knowing that the general species may act in such a way under specified circumstances is sufficient to satisfy section 2(2)(c)[117].

[107] Supra note 37

[108] Supra note 37

[109] Welsh v Stokes [2007] EWCA Civ 796.

[110] Supra note 37

[111] Supra note 37

[112] Supra note 37

[113] Supra note 37

[114] Supra note 37

[115] Supra note 37

[116] Supra note 37

[117] Supra note 37

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# CHAPTER 3:
# JUDICIAL VIEW IN 21ST CENTURY

## #CASE-1

***Freeman v Higher Park Farm***[118] (2008) contains what is perhaps the most extreme instance of deliberately accepting risk of all the cases employing section 5(2)[119], and it exemplifies exactly why the defence is so crucial to ***the Animals Act***[120]. Although the claimant had been advised beforehand that her horse was prone to bucking when breaking into a canter, she statedthat this behaviour did not bother her and that the ride did not dampen her enthusiasm. The claimant said that she had begun to canter and that the horse had buckled somewhat, at whichpoint she had inquired as to whether or not it was safe for her to continue. The second time, thehorse gave a few good bucks, sending the claimant flying from the animal and into serious injury. Due to the high probability of severe injury for anybody falling from a bucking horse, the Court of Appeals found that the conditions of section 2(2)(a)[121] had been satisfied. Bucking,however, was ruled not to qualify as a "trait not frequently observed in horses" under the first prong of Section 2(2)(b)[122]. No evidence was also found to support the idea that bucking is a typical behaviour for horses, but rather one that manifests only in certain contexts. This meantthat consideration of section 2(2)(c)[123] was utterly unnecessary since the second prong could not be fulfilled. The Court of Appeal affirmed the trial court's ruling that the section 5(2)[124] defence was applicable. At least twice, the claimant was asked whether she wanted to continueand canter again, and each times she said “yes" even though it was probable that Patty may buck again. "the appellant voluntarily assumed that risk and its ramifications," as stated by Etherton LJ.

## #CASE-2

In ***Jones v Baldwin***[125] (2010) When the claimant rode too closely to the defendant's horse frombehind, the

[118] Freeman v Higher Park Farm per Etherton LJ at para.51.

[119] Supra note 81

[120] Supra note 5

[121] Supra note 37

[122] Supra note 37

[123] Supra note 37

[124] Supra note 81

[125] Jones v Baldwin [2010] (Unreported) Cardiff County Court, 12 October.

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horse kicked him, causing bodily harm. The animal then reared up and kicked the claimant as a result. All three of Section 2's requirements had been completed, but it was crystal clear that the defendant had a defence available under that section's fifth prong (1). This was because the claimant had brought about his own injuries via his own actions.

Two important points are reinforced by this case: first, that horse keepers are not responsible for actions that are inherently equine, and second, that those who choose to engage in the extremely dangerous activity of horseback riding are fully responsible for their own actions, no matter how they turn out.

## #CASE-3

In ***Bodey v Hall***[126] (2011) At the time of the incident, the claimant was serving as her friend's groom as she drove her horse in a trap. The trap tipped over and the claimant was hurt when the horse became scared and ran. Because of the high probability of serious harm, subsection
(a) of section 2[127] was met. Since it is known from Mirvahedy that all horses have the trait of running away when startled, the requirements of Section 2(2)(b)[128] were also fulfilled. The defendant was a skilled horsewoman, thus it was shown that she was aware of the fact that horses, as a species, tend to run away when they're terrified (section 2(2)(c)[129]). The claimant was also a skilled horsewoman, thus the High Court ruled that the willing acceptance of risk defence of Section 5(2)[130] applied.

## #CASE-4

In ***Goldsmith v Patchcott***[131] (2012) The plaintiff was riding a horse named Red when the steedwas frightened and bucked. After the claimant fell from the horse, Red kicked her in the face.Initially, the court ruled that Section 2's requirements had been completed, but he also ruled that the defendant might raise the willing acceptance of risk defence. Following an appeal, theCourt of Appeals affirmed the lower

[126] 5 Bodey v Hall [2011] EWHC 2162 QB

[127] Supra note 37

[128] Supra note 37

[129] Supra note 37

[130] Supra note 81

[131] Goldsmith v Patchcott [2012] EWCA Civ 183.

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court's ruling that all three of Section 2's requirements hadbeen fulfilled. The second half of criterion 2(2)(b)[132] is met since bucking is a behaviour that all horses display under certain situations, especially when they are frightened by anything. Allhorses have the ability to buck when startled. The Court of Appeals also upheld the trial court'sruling that section 5(2)[133] applied. Claimant said that although she understood there was a chance Red may buck, she did not realise he could buck as hard as he did. Despite her awareness of the potential for Red to buck, she continued. "the fact that Red bucked more violently than predicted cannot carry this case beyond s.5(2) in order to defeat the defendant'sdefence," said Jackson LJ. It may be shown that the defendant insurers' exposure to the possibility that a claimant would be held liable for the animal's normal behaviour would be much reduced if they took a broad reading of section 5(2).[134]

## #CASE-5

In ***Turnbull v Warrener***[135] (2012) The defendant's bitless horse, named Gem, was being riddenby the claimant. After taking Gem for a walk in a ring, the two females agreed that he respondedwell to a bridle. Due to Gem's uncontrollability, the claimant fell off as the horse deviated through a hole in the hedge. Nothing in section 2(2)[136] had been shown, and even if it had, thedefendant might have utilised subsection 5(1)[137] to claim that the victim was solely to blame for the injury. In response to the claimant's appeal, the defendant argued that the claimant hadvoluntarily accepted risk in violation of Section 5(2)[138]. As the Court of Appeals explained, thejudge improperly interpreted Section 2(2)[139]. Since horseback riding is inherently dangerous, subsection (a)of that law must be applied. The judge considered whether or not it was commonfor horses to disobey directions when he arrived at his conclusion about Section 2(2)(b)[140]. Maurice Kay LJ stated that this consideration was ‘too simplistic’[141] and that as the judge hadheld that the claimant could not stop the horse because of the bitless bridle, he should have instead asked whether it was normal for horses not to respond to instructions in circumstanceswhere they are wearing a bitless bridle which they are unaccustomed to.

[132] Supra note 37

[133] Supra note 37

[134] Ibid per Jackson LJ at para.59.

[135] Turnbull v Warrener per Maurice Kay LJ.

[136] Supra note 37

[137] Supra note 81

[138] Supra note 81

[139] Supra note 37

[140] Supra note 37

[141] Turnbull v Warrener per Maurice Kay LJ at para.21.

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This question would therefore have most likely led to the second limb of section 2(2)(b)[142] being satisfied. It was also clear to the Court of Appeal that section 2(2)(c)[143] would have been satisfied due to the fact that the two women were experienced horsewomen. Because, as Maurice Kay LJ put it forthe Court of Appeal, "to find that Ms Turnbull was 'wholly' at blame cannot cohabit with the judgement that Mrs Warrener was not negligent," the Court of Appeal concluded that the section 5(1)[144] defence did not apply.'[145] However, the court ruled in favour of the defendant,citing section 5(2)[146], since the claimant knew that a horse would refuse to follow a rider's commands if it was unfamiliar with the equipment being used, in this case the bitless bridle. Itwas for this reason that they first tried Gem in a confined space while bridled.

# CHAPTER 4:

# CHALLENGES THAT ARE NOT COVERED IN THE ACT

In response to a rise in dog attacks in recent years, the House of the Kanpur Municipal Corporation (KMC) has approved a resolution to outlaw the breeding of pit bulls and rottweilers inside municipal limits.[147]

The resolution states that a fine of up to Rs 5,000 and the confiscation of the animal would begiven to anybody caught in possession of either of the two species.

On the other hand in Cubbon Park, Residents who love their pets are fuming because, beginningof July 1, the city's Horticulture Department will no longer let them to bring them into CubbonPark. In response to widespread public outcry and demonstrations, the department reversed a restriction it had previously placed on bringing pets to the park over five years ago.

In Kanpur, over the course of the previous two months, pit bulls have been responsible for attacking half a dozen individuals across three states. An old woman died of her wounds in Lucknow in July. This month, a pit bull attacked a 10-year-old child in Ghaziabad, requiring 150 stitches. A teenager was severely mauled by a pit bull and taken to the hospital in Meerut.A pit bull attacked a lady, leaving her with significant injuries in Gurugram. In Kanpur, one dog attacked a cow.

[142] Supra note 37

[143] Supra note 37

[144] Supra note 81 [145] Ibid at para.29.

[146] Supra note 81

[147] Kanpur bans rearing of pitbull, rottweiler dog breeds within city limits, ET Spotlight Special, Sep 28, 2022

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The Kanpur resolution said that the reason pit bulls and Rottweilers get stressed and attack people is because their owners do not have a big enough home or farm house to properly carefor them.
Animal rights campaigner Priya Chetty Rajagopal was surprised by the move to prohibit dogs.But if it turns out that unrestrained dogs and unpicked faeces are at the root of the problem, I really hope pet owners behave civically and do something about it. She emphasised the need of leashing dogs and picking up waste whenever owners left the dog park's property.[148]

# CHAPTER 5:

# CRITICAL ANALYSIS

Case law decided in recent years shows that ***the Animals Act of 1971***[149] does not require updating since it adequately safeguards and defends the rights of caretakers.

The major substance of Section 2[150] would be deleted if the Bill were to become law, along with the phrases "except at particular times or circumstances" and "characteristics of the animalnot typically found in animals of the same species". According to the bill's original intent, "damage related to an animal's unusual or conditional characteristic" would have replaced section 2(2)(b)[151]. "Uncommon" here implies "not shared by animals of that species generally."A conditional characteristic "is commonly shared by organisms of that species, but only underparticular conditions."

The case law that emerged in response to the Mirvahedy judgement suggests that the answer is likely not positive, as it applies in most situations when the voluntary acceptance of risk defence provided by Section 5(2)[152] of the Act is at issue. This claim may be contested, nevertheless it is not completely nonsensical. Once the dangers posed by the animal are knownby all parties, "serious hurdles for claimants beginning lawsuits" arise. This could be significantin certain ways.

The need that the accused be "scienter," or "knowing," is what makes accountability possible under the rule in question. Researchers distinguished between animals of the *ferae naturae* and*mansuetae naturae*. One related to wild animals and the other to pets and livestock. A *mansuetae naturae* animal's keeper

[148] Pets to be banned in Cubbon Park from July 1, The Hindu Editorial, 25 June, 2022

[149] Supra note 5

[150] Supra note 5

[151] Supra note 5

[152] Supra note 5

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would only be held responsible for any hurt or damage theanimal caused if they knew of the animal's violent propensities, while the keeper of a *ferae naturae* animal would have been found severely guilty for any harm or injury the animal caused.

# CHAPTER 6:

# SUGGESTIONS & CONCLUSION

## o Suggestions:

Given the flaws in the common law, statutory reform was expected to provide a welcome source of clarity and authority. However, the law preserved some of the historical common law characteristics, such as proof of ownership. It's possible this was a sign of things to come. A domestication-based "dangerous" criteria replaced the former *ferae naturae* and *mansuetae naturae* categories, however the act failed to define "domesticated," leaving open concerns regarding what counts as generally domesticated and how new species, hybrids, and cloned animals can be classed.

Other issues, such as calculating the risk of harm and how owner ignorance may serve as a defence in establishing responsibility for damage or injury caused by domestic animals, were explored in the study of section 2[153] of the Act.

Furthermore, case law since 1971 emphasises the uncertainty involved in trying to show such guilt. Because of this, the judgement in Mirvahedy is both a boon and a bane; it has provided long-overdue authority and clarity, but it is also open to much criticism, and its outcome may be more indicative of the widespread "compensation culture" of the twenty-first century than of any genuine desire to see justice done.

These worries may have been allayed by subsequent rulings, since it seems that the courts may now assess the particulars of a case before establishing blanket rules.

However, it is maintained that no matter which way the judge ruled in Mirvahedy, someone would have found fault: either the negligent pet owners would have been punished or the victim would have been left defenceless.

[153] Supra note 5

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So, even with Mirvahedy and subsequent cases supporting it, the Act has problems that have yet to be resolved. There may be a renewed demand for legislation, as a result. Despite subsequent gripes, reform is quite unlikely given that, because to Mirvahedy, 100 percent of the confusion has been removed.

This case is thus expected to provide enough future certainty. Even said, as the fields of genetics, breeding, and fashion continue to develop, it is probable that Parliament may realise the current legislation is not well equipped to deal with such contemporary occurrences and will be pushed to amend the law.

Based on the information provided in this article, it is politely stated that there are still problems with civil responsibility for animals even after Mirvahedy, and that only time will tell whether Mirvahedy has had a stabilising effect or if Parliament will be forced to modify the legislation.

## o Conclusion:

This research paper covered a number of topics that describes different liabilities that exist for animals of *feare naturae* and animals of *mansuetae naturae*, and this paper discusses how these differences arise from the Animal Act 197, which leads to liability for animals and chattels, as well as the various case laws that are mentioned in this paper that come under liability for animals.

With the help of various case laws and judicial precedents we get a basic understanding of this act and various propensities of animals and their liability.

The theory of scienter rule states that owners or keepers who are aware of the dangerous propensities of their animals will be held fully responsible for any harm caused by such animals.

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