

RMM LAW COLLEGE SAHARSA

LAW OF TORTS

IIIrd Part

Paper -V

TOPIC- Absolute liability

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Absolute Liability

The rule of absolute liability, in simple words, can be defined as the rule of strict liability minus the exceptions. In India, the rule of absolute liability evolved in the case of *MC Mehta v Union of India*. This is one of the most landmark judgment which relates to the concept of absolute liability.

The facts of the case are that some oleum gas leaked in a particular area in Delhi from industry. Due to the leakage, many people were affected. The Apex Court then evolved the rule of absolute liability on the rule of strict liability and stated that the defendant would be liable for the damage caused without considering the exceptions to the strict liability rule.

According to the rule of absolute liability, if any person is engaged in an inherently dangerous or hazardous activity, and if any harm is caused to any person due to any accident which occurred during carrying out such inherently dangerous and hazardous activity, then the person who is carrying out such activity will be held absolutely liable. The exception to the strict liability rule also wouldn't be considered. The rule laid down in the case of *MC Mehta v UOI* was also followed by the Supreme Court while deciding the case of Bhopal Gas Tragedy case. To ensure that victims of such accidents get quick relief through insurance, the Indian Legislature passed the Public Liability Insurance Act in the year 1991.

The Public Liability Insurance Act, 1991

This act was introduced with the aim of providing immediate relief to people who are victims of accidents in which handling of hazardous substances is involved. The main focus of the Act is to create a public liability insurance fund which can be used to compensate the victims.

The Act states that any person who is carrying out inherently dangerous or hazardous activities should have insurances and policies in place where he will be insured against liability to provide compensation to the victims in case any accident takes place, and some injury occurs. This liability is based on the principle of “no fault liability” or in other words, the rule of strict liability and absolute liability. Inherently dangerous or hazardous substance covers under its scope any mixture, preparation or substance which because of its properties can cause serious harm to human beings, animals, plants, property or the environment. If any substance is inherently dangerous or hazardous due to its handling also, then also the absolute liability of the defendant arises.

The rule of strict liability and absolute liability can be seen as exceptions. A person is made liable only when he is at fault. But the principle governing these two rules is that a person can be made liable even without his fault. This is known as the principle of “no fault liability.” Under these rules, the liable person may not have done the act, but he’ll still be responsible for the damage caused due to the acts. In the case of strict liability, there are some exceptions where the defendant wouldn’t be made liable. But in the case of absolute liability, no exceptions are provided to the defendant. The defendant will be made liable under the strict liability rule no matter what