

ABSOLUTE LIABILITY

Inception in India

The following modifications in the existing Doctrine of **Rylands vs. Fletcher**¹ led to the following Doctrine of Absolute Liability that prevented the defendants from taking up any defence against payment of compensation:-

If an industry or enterprise is involved in any inherently dangerous activity, then for any damage arising out of the conduction of that activity, the defendants (the owners of the industry) will have no access to any defence or exception and will be absolutely liable to pay compensation to the aggrieved parties.

The enterprise will be held responsible for all possible damages or consequences resulting from the activity. This will make such industries provide safety equipments to its workers to prevent any mishap. Therefore, this will safeguard the interests of the workers and will give them a refined, safe working atmosphere.

The element of escape which is an essential in strict liability may be ignored here as this restricts the application of this Doctrine of Absolute Liability as often incidents may arise where escape of the dangerous thing like poisonous fumes may not take place outside the industry premises but may damage the workers inside. In this case, the workers' right to compensation will not be ignored. Therefore, the extent of this principle is to be applied in a wider context ruling out the element of escape.

In cases where strict liability applies, compensation paid is according to the nature and quantum of damages caused but in cases of absolute liability, compensation or damage to be paid is exemplary in nature. The amount decided upon should be more than the damage caused as industrial hazardous accidents generally causes mass death and destruction of property and environment.

A few cases where Absolute Liability was upheld:-

M.C. Mehta vs. Union of India²:-

The S.C. of India was dealing with claims of leakage of oleum gas on the 4th and 6th December, 1985 from one of the units of Shriram Foods and Fertilizers Industries, Delhi. Due to this leakage, one advocate and several others had died. An action was brought against the industry through a writ petition under Article 32 of the Indian Constitution by way of a Public Interest Litigation (PIL). The judges in this case refused to follow the Strict Liability Principle set by the English Laws and came up with the Doctrine of Absolute Liability. The court then

¹ (1868) L R 3 H.L. 330

² A.I.R. 1987 S.C. 1086

directed the organizations who had filed the petitions to file suits against the industry in appropriate courts within a span of 2 months to demand compensation on behalf of the aggrieved victims.

Bhopal Gas Tragedy / Union Carbide Corporation v. Union of India³:-

This doctrine was upheld in the infamous Bhopal Gas Tragedy which took place between the intervening night of 2nd and 3rd December, 1984. Leakage of methyl-iso-cyanide(MIC) poisonous gas from the Union Carbide Company in Bhopal, Madhya Pradesh led to a major disaster and over three thousand people lost their lives. There was heavy loss to property, flora and fauna. The effects were so grave that children in those areas are born with deformities even today. A case was filed in the American New York District Court as the Union Carbide Company in Bhopal was a branch of the U.S. based Union Carbide Company. The case was dismissed there owing to no jurisdiction. The Government of India enacted the Bhopal Gas Disaster (Processing of Claims) Act, 1985 and sued the company for damages on behalf of the victims. The Court applying the principle of 'Absolute Liability' held the company liable and ordered it to pay compensation to the victims.

³ (1991) 4 SCC 548