

Date 17-09-25 period 3 11.30 am

Subject : Defence

8 statutory authority (statute = law kanoon)

Vaughan v Taff Vale Railway Co (1860) engine spark case

is a landmark English tort law case concerning the defence of statutory authority against a claim of nuisance. The Court of Appeal ultimately held that a railway company, operating under statutory authority, was not liable for damage caused by sparks escaping from its engines, provided it had taken all reasonable precautions.

Case details

- **Parties:** Vaughan (the plaintiff) v. Taff Vale Railway Company (the defendant).
- **Year:** 1860.
- **Court:** Court of Exchequer Chamber (Court of Appeal).
- **Facts:**
 - The Taff Vale Railway Company operated a railway line that ran adjacent to Vaughan's land.
 - The company was authorized by an Act of Parliament to run its locomotives on the line.
 - Sparks from the company's engines repeatedly set fire to the dry grass and woods on Vaughan's adjoining land, causing damage.
 - The railway company had taken every precaution available at the time to prevent the escape of sparks.
- **Legal issue:** The central question was whether the railway company was liable for the damage caused by the sparks, even though it was operating with statutory authority and had taken all reasonable precautions.

Ruling and significance

The Court of Exchequer Chamber reversed the lower court's judgment and found in favour of the Taff Vale Railway Company. The court established the following principle:

- **Statutory authority as a defence:** When an act is authorized by statute, a defendant is not liable for nuisance or negligence if they can prove the damage was an inevitable consequence of exercising that authority. This immunity applies only if the defendant can also prove they took all reasonable precautions to prevent the harm.

- **Lack of negligence:** Because the Taff Vale Railway Company had taken every precaution that science and engineering could suggest at the time, it was not negligent in managing its engines.
 - **Balancing interests:** The decision reflected the court's view that the public benefit of railway expansion, as authorized by Parliament, outweighed the private inconvenience or damage to property owners, as long as the railway operated without negligence.
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Smith v. London and South Western Railway Co. (1870) is a significant English tort law case on the issue of negligence and the foreseeability of damage. It established that even when operating under statutory authority, a company is still liable for damages if it carries out its duty in a negligent manner.

- **Facts:**
 - The railway company had statutory authority to operate its railway line.
 - The company's employees negligently left a pile of dry, flammable grass and hedge trimmings near the track during a period of hot weather.
 - Sparks from a passing train ignited the trimmings.
 - Due to a strong wind, the fire spread beyond the railway's property and destroyed the plaintiff's cottage.
- **Legal issue:** The key question was whether the railway company was liable for the damage to the cottage, considering that a strong wind was an intervening factor. The company argued that the damage was too remote and that it had taken reasonable care.

Ruling and significance

The court found in favour of the plaintiff, holding the railway company liable for negligence.

- **Statutory authority is not a shield for negligence:** The ruling reinforced the principle that authorization from a statute to carry out an activity does not grant immunity from liability if the activity is performed negligently. Unlike the earlier case of *Vaughan v. Taff Vale Railway Co.* (1860), where the company had taken all reasonable precautions, the London and South Western Railway Co. failed to do so.
- **Foreseeability of harm:** The court found that it was reasonably foreseeable that leaving flammable trimmings next to a railway line during dry weather could result in a fire caused by sparks.
- **Causation:** The court held that the railway company's negligent act of leaving the trimmings was the primary cause of the damage. The presence of the wind, while contributing to the spread, did not break the chain of causation. The damage was a direct consequence of the negligence.

- **Establishing the duty of care:** The case helped solidify the modern tort of negligence, establishing that a party carrying out a task has a duty to take reasonable precautions to prevent foreseeable harm to others.
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■ Statutory Authority as a Defence in Torts

Definition

Where an act is done **under the authority of a statute (law made by legislature)**, it is a **complete defence** in the law of torts.

In such cases, the injured party has **no remedy** except the one (if any) provided by the statute itself.

Key Points

1. **Complete Defence** → If the legislature has authorised or directed an act, then the damage resulting from that act is **not actionable**, even though it would otherwise amount to a tort.
 2. **No General Licence** → This defence does **not mean** that the authority can do whatever it wants. The act must be:
 - **Necessary** (as per statute)
 - **Reasonable**
 - Within the limits of authority given by law.
 3. **Example** → If the legislature authorises construction of a railway line, the noise, vibration or inconvenience caused to people living nearby cannot be claimed as a tort.
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Case Reference

- **Vaughan v. Taff Vale Railway Co. (1860)**
The railway company was authorised by statute to run trains. The sparks emitted by trains set fire to the plaintiff's property. It was held that the company was **not liable**, because the act was done under statutory authority.
 - **Smith v. London & South Western Railway (1870)**
The railway company was authorised to make embankments, but it negligently failed to maintain proper drainage, which caused flooding. The company was held **liable** because it acted **unreasonably**.
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✓ Conclusion

Thus, **statutory authority is a complete defence** in torts, but it is subject to the condition that the act must be done **reasonably and within the limits of the statute**.

9 act causing slight harm:

De minimus non curat lex.

Law does not take a ground for trifle matters.

*** ***** ***** ***** ***** *****

Date 18.09.25 tort time 11.30 am period 3

strict liability >

total 8 defence in available in tort > but in the matter for sticked liability there are only 5 defence.

ref case

"Rylands vs Fletcher 1868"

- **The Parties:** Thomas Fletcher, the plaintiff, was a coal mine operator. John Rylands, the defendant, owned a mill on an adjacent property.
- **The Construction:** Rylands hired independent contractors to build a reservoir on his land to supply his mill with water.
- **The Discovery and Negligence:** While building the reservoir, the contractors discovered old, disused mine shafts filled loosely with debris. They negligently failed to seal them properly, unaware that these shafts connected to Fletcher's working mine.
- **The Flood:** When Rylands' reservoir was filled with water, the weight of the water caused the shafts to collapse. The water escaped, flooded Fletcher's mine, and caused significant damage.
- **The judgment and its legal principle**
- The House of Lords ultimately found Rylands liable, establishing the "rule of strict liability" for dangerous activities. The court held:
- According to the principle established, if a person brings something onto their land for their own use that is likely to cause damage if it escapes, they are responsible for any resulting damage. This rule has influenced tort law globally, including in India, where it evolved into a rule of "absolute liability" for hazardous industries.

Independent contractor (wild beat theory) like ola, ubar.

Independence contractor will be responsible for his own work.

Ryland vs fletcher 1868

Indian context: Evolution to "absolute liability"

The *Rylands v. Fletcher* rule, with its exceptions, was found to be inadequate for industrial India, particularly after the Bhopal gas tragedy. In *M.C. Mehta v. Union of India* (1987), the Supreme Court of India developed the stricter rule of absolute liability.

Comparison: Strict vs. absolute liability

Feature	Strict liability (Rylands v. Fletcher)	Absolute liability (M.C. Mehta)
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Applicability	Applies to the escape of dangerous things from land.	Applies specifically to enterprises engaged in hazardous or inherently dangerous activities.
Exceptions	Allows for certain exceptions, such as Act of God, third-party act, or plaintiff's fault.	Has no exceptions and is a non-delegable duty.
Non-Natural Use	Liability depends on the "non-natural" use of land.	Applies to any hazardous activity, regardless of whether the land use is natural.
Quantum of Damages	Awards ordinary or compensatory damages.	Awards exemplary and deterrent damages based on the enterprise's size.

What is the main essential of Strick liability.

- A dangerous thing.**
 - B escape exit.**
 - C non-natural use of land.**
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Union carbide

M c mehta

Both are case of absolute liability.

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Date 22.09.2025 time 10.30 am period 2

Strick liability

Sic utere tuo ut alienum non laedas

The Latin phrase

Sic utere tuo ut alienum non laedas is a legal maxim that translates to "use your own property in such a way that you do not injure that of another". This principle balances an individual's right to use their property freely with the duty not to cause harm to others.

Strick liability > dangerous thing + escape + non natural use of land.

This principle came from the case of Rylands vs Fletcher

- A Definition by Blackburn J

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

B-1 ***Cheater v Cater***. 1908

- The defendant planted a poisonous yew tree on his property. Branches from the tree grew over the fence and extended into the plaintiff's neighboring land. The plaintiff's horse ate the poisonous leaves and died.
 - **Ruling:** The court held that the defendant was **not liable** for the death of the horse. This was based on the premise that the escape of the dangerous object (the poisonous tree branches) from the defendant's land was a natural, rather than non-natural, use of his property. This contrasted with *Rylands v Fletcher*, which involved a non-natural use of land (storing a large quantity of water in a reservoir).
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b-2 The tort law case is ***Read v J Lyons & Co Ltd [1947] AC 156***. It is a House of Lords decision that defined the limits of the strict liability rule from the earlier case of *Rylands v Fletcher*.

Facts of the case

- **Plaintiff:** Miss Read was a government inspector working in a munitions factory managed by the defendants, J Lyons & Co.
 - **Incident:** An explosion occurred at the factory while Read was on the premises, causing her personal injury.
 - **Refined strict liability:** The decision significantly restricted the scope of strict liability under *Rylands v Fletcher*. It established that the rule is not a broad principle for all "ultra-hazardous activities," but a specific and limited doctrine requiring an escape of a dangerous thing from the defendant's land.
 - **Reinforced negligence for personal injury:** The ruling reaffirmed that in most circumstances, an individual seeking damages for personal injury must prove negligence on the part of the defendant. Strict liability is reserved for specific and narrowly defined torts.
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B-3 ***noble vs harison 1926***

Facts of the case

- The defendant was the owner of a beech tree on his land, a branch of which extended over a public highway.
- The branch had a latent, or hidden, defect that was not discoverable through a reasonably careful inspection.
- The branch suddenly broke and fell, causing damage to the plaintiff's vehicle that was driving along the highway.

he ruling and legal principles

The court ruled in favor of the defendant, finding him not liable for the damage. The decision was based on several key points:

- **Natural vs. non-natural use:** The court held that growing a tree is a natural use of land, unlike the "non-natural" use of land for which strict liability was established in *Rylands v Fletcher*.
- **Duty to inspect:** In cases of natural growth like trees, a landowner is not an "insurer of nature." They do not become liable for a defect unless they were aware of it or would have become aware of it through reasonable inspection.
- **No negligence found:** A "competent woodsman" had previously inspected the tree and considered it safe. Since the defect was latent and not discoverable by this inspection, the defendant was not found to be negligent.
- **No nuisance:** The court distinguished between a hazard created by a positive act versus one that arises from nature. An overhanging branch only becomes an actionable nuisance if it interferes with the passage of traffic. The defendant was not liable for the branch becoming a nuisance after it fell, as the defect was unknown to him.

Significance of the case

The ruling in *Noble v Harrison* established a precedent that limits a landowner's liability for damage caused by natural features on their property. This remains an important consideration in occupiers' liability and nuisance claims involving trees and other natural hazards. Subsequent cases have further refined this position, reinforcing the principle that liability generally requires some knowledge of the danger or a failure to take reasonable care.

**** exception for defence Ther are only 5 defence.

- 1 plaintiff on default.
- 2 Act of God.
- 3 Act of third party.
- 4 Consent to plaintiff.
- 5 Statutory authority.

For first defence case ***Ponting v Noakes [1894] 2 QB 281***

Facts of the case

- **Plaintiff:** Owned a horse and pasture separated from the defendant's property by a fence.
- **Defendant:** Owned land with a poisonous yew tree.
- **Incident:** The plaintiff's horse reached its head over the fence into the defendant's land and ate the leaves of the yew tree. The horse died as a result.

The ruling

The court ruled in favor of the defendant, finding them not liable for the horse's death.

The court's reasoning was based on two primary points:

1. **Fault of the plaintiff:** The damage was caused by the plaintiff's own horse, which was trespassing on the defendant's land. The court held that the defendant had no duty to protect animals that might illegally enter their property.
 2. **No "escape":** The court emphasized the "escape" requirement of the *Rylands v Fletcher* rule. Since the poisonous tree was contained entirely on the defendant's property and did not escape onto the plaintiff's land, strict liability did not apply.
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For 2nd defence case ***Nichols v Marsland (1876) 2 Ex D 1***

Facts of the case

- **Defendant:** A landowner named Marsland constructed several artificial lakes by damming a natural stream on his property.
- **Incident:** An extraordinary and unprecedented amount of rainfall caused the banks of the artificial lakes to burst, releasing water that destroyed several of the plaintiff's (Nichols) bridges downstream. The rainfall was described as "the heaviest in living memory" and was beyond what could have been reasonably foreseen.

The ruling and legal principles

The Court of Appeal ruled in favor of the defendant, finding them not liable for the damage. The court's decision was based on the "Act of God" defense, which requires three elements:

1. **Damage from natural causes:** The damage must have resulted from natural causes, such as a severe storm.
2. **Extraordinary and unforeseeable event:** The natural event must have been so extreme that it could not have been reasonably anticipated or guarded against.
3. **No human intervention:** The event must have occurred without any human intervention or negligence playing a part in the damage.

For 3rd defence case is ***Rickards v Lothian* [1913] AC 263.**

- **Plaintiff:** A tenant operating a business on the second floor of a commercial building.
- **Defendant:** The owner of the building, who leased different parts of it to various business tenants.
- **Incident:** An unknown third party entered a lavatory on the fourth floor, maliciously blocked the waste pipe, and turned on the tap, causing a flood. The water flowed down to the second floor and damaged the plaintiff's stock.

The ruling and legal principles

The Privy Council found in favor of the defendant, holding that he was not liable for the damage. The court introduced and reinforced two key limitations on the strict liability rule from *Rylands v Fletcher*.

1. **Natural vs. non-natural use of land:** Lord Moulton clarified that the rule in *Rylands v Fletcher* only applies to a "special use bringing with it increased danger to others," not the "ordinary use of land". In this case, the domestic water supply in a commercial building was considered an ordinary and proper use of the premises and therefore did not attract strict liability.
2. **Wrongful act of a third party:** The court held that a defendant is not liable under the *Rylands v Fletcher* rule if the escape is caused by the wrongful and malicious act of a third party, particularly if that act was not foreseeable. The defendant had no control over the malicious actions of the unknown intruder and could not be held responsible for them.

Volenti non fir injuria

Case

***Carstairs v Taylor* (1871) LR 6 Ex 217.**

Facts of the case

- **Plaintiff:** Carstairs was a tenant who used the ground floor of a warehouse to store rice.
- **Defendant:** Taylor was the landlord, who occupied the floor above.
- **Incident:** An unusually heavy rainfall caused a leak from the roof of the building, damaging the plaintiff's rice. The water tank and drainage system on the roof were for the benefit of

both the landlord and the tenants. Evidence revealed that the leak was caused by a rat gnawing through a gutter box.

- **The ruling and legal principles**
 - The court ruled in favor of the defendant, holding him not liable for the damage. The decision was based on several key principles:
 - **Common benefit:** The court found that the water system was maintained for the mutual benefit of both the plaintiff and the defendant. Since the plaintiff consented to and benefited from the system, he could not hold the landlord strictly liable for a leak that occurred without the landlord's negligence. This acts as an exception to the rule in *Rylands v Fletcher*.
 - **Act of God:** Some sources indicate that the heavy rainfall was so extraordinary it qualified as an Act of God. However, the role of the rat gnawing through the gutter is also highlighted. A combination of these factors indicated that the leak was caused by an unforeseeable event, not negligence.
 - **Absence of negligence:** The court found no evidence of negligence on the part of the landlord. The defect was latent, and Taylor had no knowledge of any issues with the drainage system.
 - **Significance of the case**
 - The ruling in *Carstairs v Taylor* helped to clarify and limit the scope of strict liability established by *Rylands v Fletcher* just a few years earlier. It demonstrated that:
 - **Mutual benefit is a defense:** When a dangerous accumulation is present on property for the common benefit of both the defendant and plaintiff, the defendant may not be held strictly liable for its escape.
 - **Limits on strict liability:** The case confirmed that strict liability is not absolute. Defenses like "Act of God," lack of negligence, and common benefit can be used to avoid liability, particularly where the escape is caused by extraordinary or unforeseeable events.
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DATE 23.09.25 TIME 10.30 AM Period 2

Subject absolute liability

Last day defence number 5 that is Statutory authority.> that is a complete defence.

Case green vs Chelsea water works co 1984

Green v Chelsea Waterworks Co is a landmark English tort law case from 1894, not 1984. It established the defense of "statutory authority" as an exception to the rule of strict liability established in *Rylands v Fletcher*.

- **Facts:** The defendant company, Chelsea Waterworks Co., was under a statutory obligation authorized by Parliament to maintain a continuous supply of water. A water main belonging to the company burst, flooding the plaintiff's premises and causing damage.
- **Issue:** The plaintiff sued the company, arguing that they were strictly liable under the rule of *Rylands v Fletcher* for the escape of water from their property, regardless of negligence.

Held that

The court held that Chelsea Waterworks Co. was not liable because they were acting under **statutory authority**. As long as they exercised their duty without negligence, they could not be held responsible for unavoidable damage that occurred as a result of fulfilling that duty.

*** supreme court total judges 30 +1 CJI total =31.

***question : from where we create the rule of strict liability?

Answer : from the Case roland vs flecher we found this rule of strict liability.

The query "Case roland vs flecher" appears to be a misspelling of the landmark English tort law case

Rylands v. Fletcher (1868). This case established the principle of strict liability, holding a person liable for damages caused by the escape of a dangerous item from their land, even if they were not negligent.

Question : What is the main rule generating in m c mehta vs u o l case in 1987?

The primary rule established by the Indian Supreme Court in

M. C. Mehta v. Union of India (1987) was the ***doctrine of absolute liability***. This ruling made industries engaged in hazardous or inherently dangerous activities strictly liable for any harm caused, with no exceptions or defenses.

The court deliberately evolved this more stringent principle to replace the older, less protective rule of strict liability from the English case *Rylands v. Fletcher*.

**** stricter than strict liability.**

The rule of absolute liability

The Supreme Court, led by Justice P. N. Bhagwati, laid down the rule of absolute liability based on the following key points:

- Non-delegable duty: Any enterprise involved in hazardous or dangerous activities has an "absolute and non-delegable duty" to the community to ensure that no harm comes from those activities.
 - No exceptions: Unlike the strict liability rule, the principle of absolute liability does not permit any exceptions, such as "Act of God," to absolve the company of its responsibility.
 - Measure of compensation: The compensation for victims should be correlated with the magnitude and capacity of the enterprise. The court reasoned that larger, more prosperous enterprises should pay greater compensation to have a deterrent effect.
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*** **what is the case of Bhopal gas traziadi? Or *Union Carbide Corporation v. Union of India*.**

The Bhopal gas tragedy incident began on the night of December 2, 1984, and continued into the early morning hours of December 3, 1984. A cloud of toxic methyl isocyanate (MIC) gas and other chemicals leaked from the Union Carbide pesticide plant in Bhopal, India, spreading across the city and causing a massive disaster.

The legal proceedings

- Civil litigation: Lawsuits were filed in both U.S. and Indian courts shortly after the disaster. The Indian government, authorized by the Bhopal Gas Leak Disaster (Processing of Claims) Act of 1985, became the sole legal representative for all victims.
 - 1989 Supreme Court settlement: In 1989, the Indian Supreme Court, pushing for a quick resolution, approved an out-of-court settlement. Under this deal, UCC agreed to pay US\$470 million to the Indian government to resolve all claims. In return, all civil and criminal proceedings against UCC were terminated.
 - Reinstatement of criminal charges: In 1991, following review petitions, the Supreme Court reinstated the criminal proceedings against UCC and its former CEO, Warren Anderson, which had been quashed by the earlier settlement.
 - 2010 criminal conviction: An Indian court found UCIL and seven of its executives guilty of "causing death by negligence," a less severe charge than the original culpable homicide charge. They were sentenced to two years in prison and given fines. The Central Bureau of Investigation's (CBI) request to reinstate the harsher charges was rejected by the Supreme Court in 2011.
 - Curative petition dismissed (2023): In 2023, the Supreme Court dismissed a curative petition filed by the Union government seeking more compensation from the company. The court noted that a settlement can only be set aside on grounds of fraud, which was not argued by the government.
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Date 24.09.2025 time 11.30 am period 3

Subject Negligence

Definition by Winfield

Negligence is the breach of a legal duty to take care which results in damages un desired by the defendant to the plaintiff.

Definition by Salmand

“Negligence is culpable carelessness. It essentially consists in a mental attitude of undue indifference with respect to one’s conduct and its consequences.”

The objective theory obtains strong support from the law of torts, where it is clearly settled that negligence means a failure to achieve the objective standard of the reasonable man. If a defendant fails to achieve this standard, it is no defence for him to show that:

1. He was anxious to avoid doing the harm, and
2. The atmosphere or circumstances made him comparable to a wilful wrongdoer.

The distinction is that a **wilful wrongdoer** desires the harmful consequences and therefore commits the act in order that they may ensue. By contrast, the **negligent wrongdoer** does not desire the harmful consequences, but in many cases is careless whether they occur or not, and therefore proceeds with the act notwithstanding the risk.

- **It eliminated the need for a contractual relationship** for a consumer to sue a manufacturer for damages.
 - **The neighbour principle has become a cornerstone of tort law** in common law jurisdictions worldwide, influencing how courts determine legal liability for a defendant's careless actions.
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Story of the case

The suit was defendant on the following grounds.

- 1 the defendant did not own any duty of care towards the plaintiff of care.
- 2 The plaintiff was a stranger to the contract and there for her action was not maintainable.

Story

- The house of lord rejected both the plea and held that the manufacture of the bottle was responsible for his negligence toward the plaintiff. It was the duty of the manufacturer to use reasonable diligence to ensure that the bottle did not contain any noxious or dangerous matter. **The principle:** Lord Atkin reasoned that individuals must take "reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour".
- According to Lord Atkin, a manufacturer of products, who sells them in such a form that it is intended they will reach the ultimate consumer in the same condition in which they leave him, without any reasonable possibility of intermediate examination, owes a duty of care to the consumer. The manufacturer must take reasonable care in the preparation and putting up of the product, knowing that the absence of such care is likely to cause injury to the consumer.

Case for negligence

The legal case ***Safdar Husain v. Union of India*** was decided by the Allahabad High Court on August 20, 1977, though it was officially reported in 1978. The case involved a railway employee, Safdar Husain, who had been removed from service and penalized for alleged negligence.

Background of the case

- **The plaintiff:** Safdar Husain, a Head Stock Clerk for the Northern Railway, was entrusted with the stock of railway tickets at Bareilly station.
- **The incident:** Some railway earnings were lost, and Husain was blamed for negligence, as he had kept the key to an iron safe in a hidden spot within his wooden office cabinet, rather than in his personal custody. The railway ordered the recovery of the lost amount from his Provident Fund.
- **The initial suit:** Husain filed a suit seeking a declaration that his removal was void and to prevent the recovery of the fine. The trial court dismissed the suit.

Allahabad High Court's ruling

The Allahabad High Court ultimately ruled in favor of Safdar Husain. The court made the following observations:

- **No gross negligence:** The court determined that Husain's actions did not constitute "gross negligence and carelessness," as the railway had not provided an alternative secure location for employees to keep safe keys when off duty.
 - **Standard of care:** It was noted that Husain had acted with the care expected of a "prudent and reasonable man" and was not responsible for creating a more secure system for storing keys.
 - **Illegal fine:** The court also found that the fine imposed by the railway was illegal, as the rules prohibited imposing a monetary penalty on a railway servant exclusively doing clerical work.
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Another case ***Rural Transport Service v. Bezlum Bibi***

in the 1980 case of *Rural Transport Service v. Bezlum Bibi*, the Calcutta High Court held both the transport company and the deceased passenger partly liable for a fatal accident. The case is a notable example of the application of the principle of contributory negligence in Indian law.

The facts of the case

- The incident: In 1969, Taher Sheikh boarded an overcrowded bus belonging to Rural Transport Service. The bus conductor instructed Sheikh and other passengers to sit on the roof.
- The accident: While the driver was attempting to overtake a cart, the bus swerved. An overhanging tree branch struck Sheikh, causing him to fall to his death.
- The claim: Sheikh's family sued the transport company and its insurer for compensation.

The Motor Accidents Claims Tribunal initially found that both parties were negligent, and the Calcutta High Court upheld this finding.

- **Negligence of the transport company:** The court found the conductor negligent for allowing and encouraging passengers to ride on the roof of the bus. The court also found the driver negligent for operating the vehicle carelessly, especially with knowledge that passengers were in a precarious position on the roof.
 - **Contributory negligence of the victim:** The court also ruled that Taher Sheikh was partly responsible for the accident. By choosing to ride on the roof, he failed to take reasonable care for his own safety.
 - **The compensation award:** The court apportioned the liability between the transport service and the deceased to determine a just and equitable compensation amount.
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pointing to the two key elements in **negligence** — *foreseeability* and *likelihood of harm*. Let me explain in a simple exam-oriented way:

- **Negligence** means a breach of duty of care which results in damage that was **reasonably foreseeable**.
- For liability, the harm must not be too remote; it should be something that a reasonable person could **foresee** as a possible consequence of the act or omission.
- The **likelihood** of harm determines the degree of care required — the greater the risk, the greater the care expected.

So in short:

Negligence = Duty of care + Breach + Foreseeability of harm + Likelihood of harm + Actual damage.

*** when a defendant not liable for negligence?

A when the injury to the plaintiff is not forcible.

Case *Glasgow Corporation v. Muir* [1943] AC 448 is a landmark negligence case that clarified the test for the standard of care. The House of Lords held that the defendant, Glasgow Corporation, was not liable for an accident because the resulting harm was not reasonably foreseeable.

Key legal principles

- **The objective "reasonable person" test:** The court confirmed that the standard of care is an objective test, judged by the standard of a hypothetical "reasonable person" and not the specific idiosyncrasies or timidity of any one individual.
- **The meaning of reasonable foreseeability:** Liability for negligence does not arise from every possible danger, but only from those that an ordinary, reasonable person would have foreseen as probable or likely to occur.
- **The burden of proof:** The court found no evidence that the tea urn was inherently dangerous or that the carriers were incompetent. The exact cause of the accident (why the carrier dropped his handle) could not be determined. Since the plaintiffs could not prove that a reasonable person would have foreseen the specific risk, the claim failed.
- **No duty to be an insurer:** The ruling affirmed that an occupier of premises is not an insurer against all possible accidents. They are only liable for failing to take precautions against risks that are reasonably foreseeable.

B to establish negligence it is not enough to prove that the injury was forcible. But a reasonable likelihood of the injury has also to be sure.

Reasonable likelihood (it may be, or dough full)

Case *fardon v. Harcourt-Rivington* [1932] All ER Rep 81. It is a landmark tort law case that established the concept of **reasonable foreseeability** in determining the breach of a duty of care.

Facts of the case

- The defendant left his normally docile dog in his car, which was parked on a street.
- The dog began to bark and jump around inside the car, causing it to smash a window.

- A splinter of glass from the shattered window flew out and into the eye of the claimant, Fardon, who was walking past the car.

Key legal principles

- **Reasonable foreseeability:** The case established that a person is only required to take reasonable precautions against foreseeable risks, not against every possible "fantastic" or highly unlikely event.
- **Balancing risk and precaution:** The law does not demand excessive caution. A person is not liable for every possible risk, but only those that a reasonable person would anticipate and guard against.
- **The "reasonable person" test:** The standard of care is based on what a reasonable person would have foreseen, not what the specific defendant actually foresaw.

Significance of the case

Fardon v. Harcourt-Rivington is often cited to illustrate the limits of a defendant's duty of care. It provides a clear example of how courts assess foreseeability and why a defendant is not held responsible for highly unusual or unforeseeable accidents, even if a tragic injury results.

C when the defendant ought a duty of care to persons rather than the plaintiff. The plaintiff can not sue even if he might have been injured by the defendant's act. The duty must be ought to the plaintiff.

Case

Case pending

Tort 16.09.25 to 30.09.25