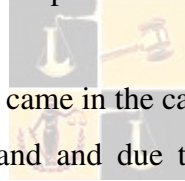


## All about Concept of Strict Liability

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The liability of strict liability is fixed on a person using his/her premises for non-natural purpose and causing damages or losses from it. This comes under tort law where plaintiff, the one who is filing the case, has to prove that accused was at fault for the injuries caused to him and therefore has to pay for the same. There are certain exceptions to this rule. The thing kept on the premises is inherently dangerous due to the place or its nature. A person is held responsible for the consequences of his negligent act for the activities that are fundamentally dangerous. If any person keeps anything dangerous on his land, which is likely to cause damage, and if that thing escapes that person is held liable to pay for the damages. It is immaterial even if there is no negligence of the owner, if anything hazardous escapes, the person from whose property it escapes is imposed with the punishment to pay compensation for the same.



This principle of strict liability first came in the case of Rylands v. Fletcher in which a person brought reservoir on his land and due to some accident water leaked and flooded the coal mines of the person living in the neighborhood. The owner of the cold mines filed a suit. The court held that the person brought the reservoir at his own risk and storing water in such huge quantity is dangerous in itself and if something happens then defendant will be liable for the accident and escape of the material.

The essentials of strict liability are:

- ***Hazardous or Dangerous substance:*** The substance will be regarded as dangerous if on escape it can cause some mischief or harm to anyone. Even ordinary things that if on leaving the premises can cause damage are dangerous.
- ***Escape:*** It is important to fix strict liability that the thing must be out of the premises and control of the defendant. E.g.: If a person has poisonous plant on his premises and it is reaching out to other person's land, the defendant cannot take the defense that the plant is originally is on his land and only the branches

are on others land. This will be regarded as escape and if someone consumes those poisonous leaves, defendant in that case can be held liable.

- **Non-natural use:** To constitute strict liability it is necessary the dangerous thing kept on the premises is used for non-natural purpose. The storage of water in huge quantities for energizing mill is non-natural use of water and therefore defendant was held liable in Ryland's case.

These three conditions need to be satisfied simultaneously to fix strict liability in any case.

The general exceptions applied in any case of tort law are also applied here. These exceptions are:

1. **Voluntia non-fit Injuria:** Anyone entering the premises having hazardous substance knowingly and out of free consent cannot take the defense of strict liability. If two people jointly own a dangerous thing, on escape one cannot blame the other and claim damages. As dangerous thing is incorporated with the consent of both people and one cannot take action against another.
2. **Act of God:** In these cases on escape defendant cannot be held liable if the act is beyond human control and unforeseen because of natural events which couldn't have been controlled in any manner. Such acts happen due to natural reasons.
3. **Act of third party:** If escape happens due to act of any third party, this rule does not apply. Here third party is the person who does not have any contact with the defendant and his acts are not foreseen in any manner.

Supreme Court in the case of *Vohra Sadikabhai v. State of Gujarat* applied the principle of Rylands case where water was escaped from a dam and liability is fixed due to huge damages caused as a result of water level becoming alarmingly high.

Further in the case of *State of Punjab v. Modern cultivators*, there was overflowing of the canals causing damages but it was said by the court that canal systems were essential to the life and this is ordinary use and not non-natural use of the land. But court finally came up with the view that the Government is negligent in handling the canals with care and precaution.

In case of *Kaushnama Begum v. New India Assurance* the Supreme Court said that the concept of Strict Liability exist independent of absolute liability in India.

In the case of **Indian Council of Environment Legal Action v. Union of India**, it was held by the court that once a person install anything hazardous on his land which is likely to cause damage in all suitable cases, will be prima facie liable for such act and whether proper precaution or reasonable care is taken or not becomes irrelevant. The person will be held liable to good the losses of any other person affected by his activity.

In the judgment of *MCD v. Association of Victims of Uphaar Tragedy v. Prabhakaran Vijaykumar & Ors* the High Court held government responsible to pay damages to two scavengers who have to go into the sewage without any equipment due to the negligence act of government.

The Allahabad High Court in case *Yash Pal & Anr v. State of U.P* held electricity department liable as they have the duty to undertake adequate safety measures and due to their negligence two minor kids came in contact of electrocuted wire and lost their hands and legs. The liability in this case is fixed on the Department irrespective of whether the harm has occurred due to the negligence of the victim or whether all necessary precautions had been undertaken by the Board.

Supreme Court in *M.P Electricity Board v. Shail Kumari And Ors* expounded that, “In the cases of strict liability consideration is not necessary and defendant will be held liable irrespective of whether he could have avoided the particular harm by taking precautions and care”.