

# Strict Liability

## Introduction

The concept of Strict Liability in [torts](#) is also referred as "No-Fault Liability", which can very explain this concept in an obvious manner- "that liability would exist irrespective of any fault". There exist certain activities which are inherently so dangerous in nature that merely carrying them on poses a duty on the person who does so, to compensate for any damage irrespective of any carelessness on their part. The rationale behind imposing [such liability](#) is the foreseeable risk involved in such activities. This principle was first applied by the House of Lord in the case of **Rylands v. Fletcher**.<sup>[1]</sup>

## The case of Rylands v. Fletcher

In the year 1868, it was laid down by Blackburn, J.-

"The person who for his own purpose 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 consequences for its escape. He cannot escape himself by showing that the

escape was owing to the plaintiff's fault, consequences or his major acts or act of God.”[2]

In order to arrive at this conclusion, it is important to consider the facts of the case. Here defendant who was a mill owner had appointed certain contractors (apparently with requisite skills) to construct reservoirs in his land to provide water in the mill. During the work, the contractors came across certain old shafts in defendant's land. Such shafts were connected with the plaintiff's mine but such was not ascertainable as the shafts appeared to be filled with the earth. As soon as the reservoirs were filled, the shafts broke down and thereby flooded the mines of the plaintiff.

The court held that building such a reservoir was at the risk of defendants and in course of it, if any mishap occurred, defendants would be liable for such escape of materials.

Essentials for Strict Liability in Torts

To prove a case of strict liability, the following ingredients must be fulfilled-

### **A. Dangerous thing**

A person can be held "strictly liable" only in the cases where a dangerous substance escapes from their land. A dangerous substance is those which are likely to cause some harm or mischief if escape. In Rylands' case, such dangerous thing was a large body of water. In various other torts cases vibrations, electricity, gas, sewage, explosives, rusty wires, etc were considered to be dangerous things.

## **B. Escape**

It is also essential that such dangerous thing must escape from the premises of the defendant. In the case of **Crowhurst v. Amersham Burial Board**[3] where the branches of the poisonous tree were spread from defendant's land to plaintiffs, it was held that such was escaped. Whereas in the case of **Read v. Lyons & Co**[4], where an employee suffered an injury due to an explosion in a shell manufacturing company, it was held such could not be covered under strict liability principle as nothing escaped from the defendant's premises.

## **C. Damage**

There must be damage suffered by the plaintiff as a direct consequence of the dangerous thing that escaped. In the case of **Weller v. Foot and Mouth Disease Institute**[5], where the defendant went out of business due to the Government's action of closing cattle market, it was held to be sufficient damage.

#### **D. Non-Natural use of land**

In the case of **Richard v. Lothian**[6], Lord Multon defined non-natural use of land as "some special use bringing with it increased danger to others and not merely the ordinary use of the land or such a use as it proper for the general benefit for the community".

Such would be decided by the courts after considering all the surrounding circumstances and the prevalent social conditions. For example in Ryland's case, storing water in huge quantity was considered to be non-natural use of land whereas if such would be stored for an ordinary domestic purpose that would have been natural use of land.

## Exceptions to the Rule of Strict Liability in Torts

The concept of strict liability in torts has certain exceptions that the defendant can plead to escape from the liability. Following are the exceptions-

### **A. The default of the claimant**

The cases where damage is suffered by the plaintiff due to his own fault, the principle of strict liability would not be applied. In the case of *Ponting v. Noakes*[7] where the horse of the plaintiff died after nibbling on leaves of the poisonous tree in the defendant's land. It was held that such was due to the plaintiff's own fault as such a tree had not reached the plaintiff's land.

### **B. Act of God**

The principle of strict liability in torts would not be applicable to the cases where damage is caused due to act of God. Such are those which are beyond human power or contemplation and are caused by a superior natural force.

### **C. Consent of the claimant**

This is basically a defense of 'Volenti non fit injuria' where the plaintiff has either explicitly or impliedly consented for the presence of such dangerous thing.

#### **D. Statutory Authority**

If a particular act is done under authorization of a law or statute, for example, an act done by the government agencies, such an act cannot be made strictly liable. In **Green v. Chelsea waterworks co.**,<sup>[8]</sup> where the defendant's company was engaged to maintain a continuous water supply under statutory authority, it was held that bursting of such water supplies was without any defendant's fault and statutory protection would be granted.

#### **E. Act of the third party**

A defendant can claim a defense from strict liability in torts where damage is caused to the fault of a stranger or a third party. Such an act is not in control of the defendant. In the case of **Rickards v. Lothian**<sup>[9]</sup> where some strangers blocked the water pipeline, which is usually in control of the defendant. Such blockage resulted in an explosion which eventually causes damage to the plaintiff. It was held

that the defendant can't be made liable as it was due to the act of a third party which was not in control of the defendant.

## **F. Common Benefit**

Where the source of danger is maintained for the common benefit of both plaintiff and defendant, strict liability in torts would not be applicable. In the case of **Box v. Jubb**[10] where the defendant's reservoir got overflowed partly due to the plaintiff's reservoir and partly because of the defendant's act. It was held defendant can't be made liable because such reservoirs were installed for the common benefit of both the party.

## **Conclusion**

The principle of strict liability in torts is often criticized because of the existing exceptions which eventually help the defendant to doze off the liability. But we should also consider the fact that this principle is in itself an exception. A person can be made liable only when he is at fault. But this principle allows us to make a person liable even without any fault.