ARTIFICIAL INTELLIGENCE AND NEGLIGENCE: EXAMINING LIABILITY FOR HARM CAUSED BY AI

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ABSTRACT

Artificial Intelligence (AI) is fundamentally altering the socio-economic and legal framework of India, impacting diverse sectors such as healthcare, judicial administration, financial services, and autonomous transportation. Although the transformative capacity of AI is broadly recognized, its implementation raises significant issues regarding legal accountability that current Indian legislation is not adequately prepared to address. The existing legal structure primarily comprises the Information Technology Act of 2000 and the Digital Personal Data Protection Act of 2023. In the contemporary context of rapid technological progress, the advancement of artificial intelligence (AI) is fundamentally transforming numerous sectors. Over the next few years, AI is expected to proliferate, influencing various dimensions of society, including healthcare, entertainment, finance, and transportation. Nevertheless, the progression of AI introduces legal complexities that necessitate thorough examination and regulation. This paper addresses the emerging concern regarding liability for harm caused by AI under Indian law, investigating who should be deemed responsible and accountable for outcomes produced by AI as well as any associated malfunctions. Furthermore, this study explores how traditional principles of liability and negligence can be applied to incidents involving AI-related harm. The article underscores the pressing requirement for a specialized regulatory framework in India to adequately tackle these challenges. It culminates with suggestions for an artificial intelligence-specific regulatory structure in India and explores the legal dimensions of AI liability. The article underscores the pressing requirement for a specialized regulatory framework in India to adequately tackle these challenges. It culminates with suggestions for an artificial intelligence-specific regulatory structure in India and explores the legal dimensions of AI liability.

Keywords: Artificial Intelligence (AI), Negligence, Tort Law, AI Liability, Duty of Care, Product Liability, Causation, Legal Accountability, Indian legal Framework, AI Regulation.

1. INTRODUCTION

Artificial intelligence has transitioned from a specialized asset utilized by major corporations to a widely accessible resource in India. It provides assistance to farmers through the use of drones, aids healthcare professionals with medical imaging, supports drivers via advanced vehicles, and facilitates faster loan processing in banking institutions. These systems are capable of making independent decisions by processing extensive datasets, thereby enhancing efficiency and reducing expenses; however, this advancement also brings forth new challenges and risks.[1] While there are many advantages to artificial intelligence (AI), there are also significant risks. As AI technology develops, it is critical to balance its benefits against any potential drawbacks. Determining who should be held accountable and identifying the mechanisms through which harm occurs present a significant accountability challenge in AI contexts. The opaque nature of algorithms, the autonomous nature of AI systems, unanticipated complications, and their capacity to change and adapt over time are some of the factors that contribute to this complexity. A crucial question arises given the involvement of numerous stakeholders in the development of AI, including manufacturers, programmers, engineers, implementers, and end users: Who should be in charge of these problems?[2] Negligence, a fundamental concept within tort law, encapsulates the idea that individuals and organizations are expected to exercise the level of care that a reasonable person would exhibit in similar circumstances. This legal standard has evolved over many years through judicial practice, informed by human experience, judgment, and the capacity to foresee consequences. Historically, courts have determined negligence by comparing the conduct of various parties—including healthcare professionals, motorists, manufacturers, and employers—against recognized standards and societal expectations. However, the advent of Artificial Intelligence (AI) and autonomous systems has significantly altered the landscape of human interaction and Accountability.[3]

1.1 RESEARCH METHODOLOGY

The research adopts a doctrinal and qualitative approach. It relies mainly on secondary sources such as statutes, case laws, books, journals, research papers, legal databases, and government

[1] Dell, (Apr. 17, 2026), https://rjwave.org/jaafr/papers/JAAFR2604834.pdf.=
[2] Client Challenge, https://www.scribd.com/document/853990776/RP.
[3] (May 6, 2025), https://theinfinite.co.in/wp-content/uploads/2025/05/Evolving-Standards-of-Duty-of-Care.pdf.

reports. The study analyses the principles of negligence, duty of care, breach of duty, causation, foreseeability and product liability and examines their application to AI- related harm. Indian legal provisions are studied along with selected international developments to understand possible approaches to AI liability.

1.2 RESEARCH QUESTIONS

a. Who is legally responsible for the damage caused by Artificial Intelligence systems according to Indian tort law?

b. Do the current rules about negligence adequately address liability for harm caused by AI?

c. How should responsibility be shared among AI developers, manufacturers, programmers, deployers, and users?

1.3 RESEARCH OBJECTIVES

- To look into the idea of who is responsible for AI under tort law.
- To explore how negligence and product liability apply to AI systems.
- To find out how might be held accountable for harm caused by AI.
- To investigate the challenges in proving cause and predictability.
- To pinpoint shortcomings in the current Indian legal systems.
- To review how other countries handle AI liability.
- To recommend appropriate legal changes and ways to ensure accountability.

1.4 HYPOTHESIS

- **Null Hypothesis (Ho):** The current rules of Indian tort law are enough to decide who is responsible for damages caused by AI systems.
- **Alternative Hypothesis (H1):** The current rules of Indian tort law are not enough to

properly figure out who is responsible for harm caused by AI due to its independence, unpredictability, unclear algorithms, and the involvement of many different parties.

1.5 LITERATURE REVIEW

The current research shows that artificial intelligence (AI) is challenging traditional ideas about legal responsibility. Ryan Abbott has looked into how autonomous machines can cause problems for current legal systems. Gabriel Hallevy has talked about the responsibilities that come from using autonomous artificial systems. Matthew U. Scherer has pointed out the regulatory issues that arise as AI becomes more independent.

Traditional tort law focuses on human actions and requires proof of duty, breach, causation, and damage. However, since AI can make choices without direct human input, it becomes hard to pinpoint who is responsible for any harm caused.

Studies on product liability reveal that AI is different from regular products because some AI systems can learn and change after they are released. This makes it tough to decide whether the developer, manufacturer, deployer, or user should be held accountable.

In India, there isn't a complete and specific set of laws addressing civil liability for harm caused by AI. This leaves a gap in research. Therefore, this study looks into whether existing tort principles can be adjusted for AI or if new rules are needed to ensure accountability and compensation.

2. NEGLIGENCE AND AI

As artificial intelligence systems increasingly permeate our daily lives, there is a growing concern regarding potential negligence in their operation.

Key Challenges in Recognizing AI Negligence:

1. Duty of Care

According to LexisNexis, the concept of Duty of Care is defined as follows: "A duty of care pertains to the circumstances and relationships that establish an obligation for a defendant to take suitable precautions to avert foreseeable harm to the claimant, taking into account the specific particulars of the case."

In instances of negligence associated with technology, a significant challenge is pinpointing who holds responsibility for the duty of care. Although individuals can be liable in negligence claims, the question of how to attribute accountability to a technological product remains intricate. This legal uncertainty stems from an absence of clear regulatory frameworks. Accountability is influenced by multiple factors, including the intended purpose of the AI, its level of autonomy, and its interactions with human users.

2. Breach of Duty

Artificial Intelligence (AI) produces responses and makes decisions through the analysis of vast amounts of data available online. To establish a breach of duty, it is necessary to demonstrate that the actions of AI do not meet a reasonable standard of care. However, given that AI operates within an entirely novel context, applying conventional standards of reasonableness poses significant challenges. The primary concern lies in determining the criteria for evaluating reasonableness in AI technologies. Unlike human behavior, which can be assessed against established societal norms, AI functions in a manner that is fundamentally different, complicating the formulation of a standard for reasonableness.

3. Causation

AI systems function autonomously by leveraging data obtained from the internet, which complicates efforts to validate the authenticity of their decision-making processes due to a lack of transparency within these systems. Assessing the quality of data and determining its reliability becomes challenging, thereby hindering the ability to trace the reasoning behind AI's actions.

4. Liability

Once negligence regarding AI actions has been established, the issue of liability emerges. Determining who bears responsibility for such negligence can be intricate, as the development and deployment of AI involve numerous stakeholders with diverse roles, including developers, manufacturers, and operators. This complex framework complicates the assignment of liability.[4]

[4] Client Challenge, https://www.scribd.com/document/1007868198/Negligence-in-Artificial-Intelligence.

3. PRODUCT LIABILITY AND AI

According to the Product Liability Directive, the establishment of liability requires that a product be deemed "defective." A product is classified as defective if it does not fulfill the safety expectations that the general public has the right to expect, taking into account all pertinent factors. This assessment is referred to as the "consumer expectations test," in contrast to the "risk utility test." It emphasizes the collective perceptions of society or a specific target audience rather than those of an individual. Several elements can help delineate what constitutes reasonable expectations regarding the functioning of AI systems, such as the manner in which the product is marketed, its typical or reasonably foreseeable use, and the timeline for its introduction to the market.[5]

4. INDIAN LEGAL FRAMEWORK

Currently, India does not possess a unified, dedicated legal framework specifically addressing Artificial Intelligence. As a result, the regulatory landscape concerning AI consists of a combination of existing laws and unarticulated common-law principles that necessitate significant interpretative efforts to adapt them to AI-related scenarios. The primary elements of this regulatory structure are discussed sequentially below.

A. The Information Technology Act, 2000

The Information Technology Act, 2000 ('IT Act') serves as the foundational legislation governing electronic commerce and cyber-related activities in India.

B. The Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 ('DPDPA') marks an important, albeit partial, legislative progress in regulating the data-processing functions associated with AI.

C. Tort Law: Negligence and Absolute Liability

Within the framework of Indian tort law, negligence liability is established through the

[5] Wannes Ooms, Tort Liability and Artificial Intelligence (Chapter 8) - The Cambridge Handbook of the Law, Ethics and Policy of Artificial Intelligence, Cambridge Core (Feb. 6, 2025), https://www.cambridge.org/core/books/cambridge-handbook-of-the-law-ethics-and-policy-of-artificialintelligence/tort-liability-and-artificial-intelligence/C0051569965DC5459FEF829AC88E2119.

demonstration of a duty of care, its breach, causation, and resulting damages—an analysis rooted in the principles articulated in Donoghue v. Stevenson and consistently upheld by Indian courts.

D. Consumer Protection Act, 2019

Chapter VI of the Consumer Protection Act, 2019 ('CPA') introduced a specific regime for product liability that holds manufacturers, service providers, and sellers accountable for defective products and inadequate services.[6]

5. LEGAL CHALLENGES IN DETERMINING AI LIABLITY AND COMPENSATION

The main challenge in using traditional tort laws with artificial intelligence (AI) comes from the "black-box" problem. This issue arises because the algorithms are not transparent, making it difficult for users and courts to see how decisions are made. This lack of clarity complicates legal reasoning since standard "but-for" tests for causation do not work well with machine learning systems that operate like black boxes. The unpredictable nature of AI makes it hard to define defects and prove that these defects caused specific harms.

There is a gap in information between those who sue and those who control AI, which requires new legal methods, such as better collective liability and fresh ideas about causation. These changes could help victims overcome significant challenges in providing evidence. AI's behavior depends on algorithms, data inputs, and operational models, which makes it tough to pinpoint blame among developers, users, and manufacturers. Additionally, since AI can learn and act independently after it's launched, its actions can be surprising. This unpredictability might protect designers from being held responsible while leaving affected people without any compensation.

Given that AI presents new issues for existing tort law, having a single rule for liability isn't practical. Instead, we need different strategies that cater to various AI applications and types of harm. Ultimately, the big task is to adjust traditional liability ideas to fit the unique traits of AI or to move from a fault-based system to ones focused on reconciliation and managing risks.[7]

[6] Legal Liability Of Artificial Intelligence In India: Challenges And Regulatory Framework, (Apr. 21, 2026), https://www.ijllr.com/post/legal-liability-of-artificial-intelligence-in-india-challenges-and-regulatoryframework.
[7] Shibanee Acharya, (Aug. 23, 2026), https://www.ijtas.com/papers/2026/8/1400.pdf.

6. RECOMMENDATIONS

India should establish a comprehensive legal framework to ensure accountability for damages resulting from Artificial Intelligence (AI) systems. The existing tort laws require enhancement to address issues specific to AI, including negligence, causation, and foreseeability. It is crucial to formulate clear guidelines that outline the responsibilities of AI developers, manufacturers, deployers, and users. Developers must prioritize the safe design of AI systems, manufacturers are responsible for ensuring product safety, deployers must supervise their application, and users should interact with these technologies in a responsible manner. Furthermore, the legal system ought to provide effective remedies and compensation for individuals affected by AI-related harms. The implementation of these measures will promote accountability, protect individual rights, and reduce the risks associated with AI technology in India.

REFERENCES

- Dell, (Apr. 17, 2026), https://rjwave.org/jaafr/papers/JAAFR2604834.pdf.
- Client Challenge, https://www.scribd.com/document/853990776/RP.
- (May 6, 2025), https://theinfinite.co.in/wp-content/uploads/2025/05/Evolving-Standardsof-Duty-of-Care.pdf.
- Client Challenge, https://www.scribd.com/document/1007868198/Negligence-in-Artificial-Intelligence.
- Wannes Ooms, Tort Liability and Artificial Intelligence (Chapter 8) - The Cambridge Handbook of the Law, Ethics and Policy of Artificial Intelligence, Cambridge Core (Feb. 6, 2025), https://www.cambridge.org/core/books/cambridge-handbook-of-the-law-ethicsand-policy-of-artificial-intelligence/tort-liability-and-artificialintelligence/C0051569965DC5459FEF829AC88E2119.
- Legal Liability Of Artificial Intelligence In India: Challenges And Regulatory Framework, (Apr. 21, 2026), https://www.ijllr.com/post/legal-liability-of-artificial-intelligence-inindia-challenges-and-regulatory-framework.
- Shibanee Acharya, (Aug. 23, 2026), h<ps://www.ijtas.com/papers/2026/8/1400.pdf.