THE LAW OF NEGLIGENCE: UNDERSTANDING DUTY, BREACH, AND CAUSATION

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INTRODUCTION:

Negligence has been derived from the Latin word 'negligentia'[1]. It is a failing to take the proper precautions that should be taken in comparable situations. It is a cornerstone of tort law that holds people and institutions responsible when their negligent behaviour causes injury. Winfield and Jolowicz claim that "Negligence is the breach of a legal duty to take care which results in damage, undesired by the defendant to the plaintiff."[2] Its function in legal systems across the world is to strike a balance between social welfare and personal accountability, protecting society from harm while avoiding placing unwarranted restrictions on daily activities. The law of negligence is grounded in the principle that individuals owe a duty to act with care toward others and that a failure to uphold this duty may lead to legal consequences if harm results. Cases of negligence include a wide range, from negligence in medicine and personal injury to ecological damage and even product-related harm.

The foundation for the present application of the notion of negligence was laid by significant judgements like Donoghue v. Stevenson (1932)[3], which started in English common law. The House of Lords established the "neighbour principle," which states that people should refrain from taking activities that might endanger others who are directly and intimately impacted by them, in this historic ruling. Since then, the principles of duty of care, breach of duty, and causation have become essential criteria for determining liability in negligence cases, influencing legal systems far beyond the UK.

Examining three fundamental concepts—duty of care, breach, and causation—is necessary to comprehend the law of negligence. Each component plays a distinct role in establishing liability. The **duty of care** decides whether the wrongdoer had a legal obligation towards the claimant, while **breach** analyses whether the defendant failed to meet the standard expected

[1] "Negligence". *Oxford Living Dictionaries*. Oxford University Press. Available in https://languages.oup.com/.
[2] *Winfield and Jolowicz on Tort* 45 (Twentieth Edition, Sweet & Maxwell, 2020).
[3] [1932] AC 562 (HL).

under this duty. **Causation**, in turn, demands a clear connection between the breach and the harm suffered by the claimant, verifying that the defendant's conduct was the direct and direct cause of the destruction.

The resolution of this article is to offer an in-depth analysis of these elements, illustrating how courts evaluate each case to reach judgments in negligence cases. By examining key cases, legal principles, and recent developments, this exploration of negligence law sheds light on its enduring importance in both protecting individuals and promoting responsible behavior across all sectors of society.

UNDERSTANDING THE CONCEPT OF NEGLIGENCE:

Here are some examples from everyday life to help you better grasp the idea of negligence.

1. A shopkeeper spills water on the floor and forgets to clean it up or place a warning sign. A customer slips on the wet floor and breaks their arm. The shopkeeper exhibited carelessness by failing to maintain the safety of the establishment for patrons as a reasonable person would.

2. A driver is texting while driving and fails to notice the car in front stopping suddenly, resulting in a collision. The driver defied their responsibility of care by not paying attention to the road, causing harm to another.

3. An allergic response occurs when a doctor writes a prescription without first looking into the patient's sensitivity history. The doctor's disregard for the standards of care expected of a healthcare professional resulted in harm to the patient.

4. A manufacturer sells a toy with small detachable parts without a warning label, and a child chokes on one of the pieces. The manufacturer breached its responsibility to provide safe products or adequate warnings, resulting in negligence.

5. A construction company leaves tools scattered on the sidewalk without barriers or warnings, causing a pedestrian to trip and injure themselves. The company neglected reasonable safeguards to avoid accidents, leading to negligence.

ELEMENTS OF NEGLIGENCE:

A plaintiff must prove the "elements" of negligence in order to prove negligence. In general, there are five key necessities that must be met. Only when all of the following criteria are met will an action be classified as negligent:

1. Duty of care

In a negligence instance, the first step is to demonstrate that the defendant owes the plaintiff a duty of care. This duty is established by a reasonable person standard, which considers the likelihood of hurt, the weight of taking safeguards, and the seriousness of the harm that could occur. Special Relationships also create a duty of care, such as that of a doctor to a patient, a teacher to a student[4].

A customer became sick after consuming ginger beer that contained a decomposing snail in the ***Donoghue v. Stevenson***[5]. Manufacturers have an obligation to take reasonable care of their customers. This decision pioneered the "neighbour principle" of Lord Atkin, which claims that one must exercise judicious prudence to evade doing anything that may fairly be anticipated to harm people who are immediately and intimately affected by one's activities. This case served as the precedent for the current negligence legislation.

The court established a three-part test in ***Caparo Industries plc v. Dickman***[6], to ascertain whether a duty of care is present:

1. Whether the injury was predictable;

2. Whether the parties were close enough to one another;

3. Whether imposing a responsibility is reasonable, fair, and just.

The case of ***Municipal Corporation of Delhi v. Subhagwati***[7] involved the death of a child who fell into an uncovered drain. The SC opined that the Municipal Corporation

[4] *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582 (QB).
[5] *Supra* note 2 at 1.
[6] [1990] 2 AC 605 (HL).
[7] (1966) 3 SCR 747.

had a duty to maintain the streets and public places in a safe condition, thus creating a duty of care to the public. It is the responsibility of the municipal authorities to keep public areas secure in order to protect the public.

In ***Lachoo Mal v. Radhey Shyam***[8]: A person who constructs a building or any structure has a duty to make sure that it is safe and fit for use. The defendant in this case was found accountable for building a wall carelessly, which resulted in its collapse and injuries.

2. Breach of duty

The second constituent of negligence is misbehaviour (the wrongdoer's mistaken act or omission). "Normally referred to as the defendant's breach of duty, this element implies the pre-existence of a standard of proper behaviour to avoid imposing undue risks of harm to other person and their property, which circles back to duty".[9] A Person who violates the duty of care by acting carelessly—that is, unreasonable and without appropriate care—is said to be "negligent." The plaintiff must demonstrate that the defendant violated it by not acting as a "reasonable person." The standard of a "reasonable person" requires that conduct is assessed by what an average person would do in similar circumstances. There are certain factors that determine breach of duty. They are:

1. Magnitude of Risk: Greater risks require greater precautions;

2**.** Foreseeability: Harm must be reasonably foreseeable;

3. Practicability of Precautions: Unrealistic precautions are not required[10].

In ***Blyth v. Birmingham Waterworks Co.***[11] the defendant, a water company, installed a fireplug (hydrant) near the plaintiff's property. An unheard-of frost caused the fireplug to leak, resulting in flooding. The court determined that there was no duty violation since the corporation had taken all reasonable safeguards and was unable to predict the severe

[8] (1971) 1 SCC 514.
[9] David G. Owen, "The Five Elements of Negligence" 35 *Hofstra Law Review* 1676(2007).
[10] *Bolton v Stone* [1951] AC 850 (HL).
[11] (1856) 11 Ex Ch 781.

cold. In this instance, negligence was established as doing something that a judicious person would not do or ignoring to do what a reasonable person would do.

In ***Friern Hospital Mgmt. Committee Case***[12] decision, the court determined that if a professional follows a practice that is believed suitable by a trustworthy group of authorities in that area, they are not being negligent.

In the case of ***State of Punjab v. Shiv Ram***[13] the state conducted sterilization surgeries under a government health scheme. Several patients suffered due to the use of improper equipment and lack of care. The court held that the state had breached its duty as it did not ensure adequate safety standards during the procedures.

3. Causation

"The attraction of causes is as magnetic for people as flames are for insects, and it is frequently as deadly."[14] Establishing a clear connection between the claimant's injuries and the defendant's violation is necessary to establish causation. It is essential for the plaintiff to demonstrate an underlying connection between the injury and the carelessness. Thus, the primary negligence component that connects the plaintiff's suffering to the defendant's violation is causation. Every day, automobile crashes, slip-and-fall incidents, and several other types of instances result in thousands of injuries or fatalities. Many of these instances are caused by the carelessness of one or more people, while many others are the consequence of sufferers' own reckless actions or just bad luck. A victim of an disaster may only be entitled to damages under this law if the defendant was at least somewhat at fault for the accident. Factual causation- The "but-for" test is commonly applied to determine if the harm would not have ensued "but for" the wrongdoer's actions.

In ***Barnett v. Chelsea & Kensington Hospital***[15], a man poisoned by arsenic sought treatment at a hospital but was sent home without proper care. He later died. The court

[12] [1957] 1 WLR 582 (QB).
[13] (2005) 7 SCC 1.
[14] Leon Green, *Strict Liability Under Sections 402A and 402B: A Decade of Litigation*, 54 TEX. L. REV. 1185, 1208 (1976).
[15] [1969] 1 QB 428.

ruled that the hospital's negligence was not the factual cause of the patient's demise, as the harm was inevitable.

While assisting the victim of an earlier accident that the defendant caused, a rescuer was struck by a car in the ***Chapman v. Hearse***[16] case. Because the line of causation was not broken, the court found the defendant accountable for the rescuer's death. Here, the idea was that if further occurrences are a predictable consequence of the first breach, the chain of causality is still intact.

In ***Kishan Rao v. Nikhil Super Specialty Hospital***[17], a patient died due to delayed diagnosis and treatment of malaria at a hospital. The Apex Court ruled that the hospital's failure to identify and treat on time directly caused the death. The principle here was that establishing causation requires showing that the impairment would not have arisen but for the defendant's negligence.

4. Proximate cause

The incident that the courts consider to be the cause of the damage is known as the proximate cause. Another name for it is a legal cause. Determining whether the defendant's behaviour was satisfactorily related to the claimant's loss to render the defendant accountable is known as legal causation. This idea frequently deals with the predictability of impairment and if any subsequent occurrences disrupt the sequence of actions. The key principles in legal causation include: 1. Foreseeability; 2. Direct link; 3. Eggshell Skull Rule (the offender is in the wrong for the full extent of harm, even if the plaintiff's pre-existing conditions amplify the consequences); 4. Intervening acts (unforeseeable acts of third parties or events).

In ***Morts Dock & Engineering Co. Ltd. (Wagon Mound No. 1) Case***[18], oil spilled from the defendant's ship into Sydney Harbour and drifted under a dock. Sparks from welding ignited the oil, causing extensive impairment. The offender was not held responsible because the type of damage (fire) was not reasonably foreseeable. Legal

[16] (1961) 106 CLR 112.
[17] (2010) 5 SCC 513.
[18] [1961] AC 388.

causation requires that the harm caused be a judiciously predictable outcome of the wrongdoer's actions.

In ***Rajkot Municipal Corporation v. Manjulben Jayantilal Nakum***[19], a man died after falling into an open manhole maintained by the municipal corporation. The court determined that the failure to cover the manhole was the legal cause of the death. Legal causation is established when the harm results naturally and directly from the defendant's breach of duty.

A faulty gas cylinder ***K. Shanmugam v. S.R.V.S. Private Limited***[20], resulted in an explosion that killed a member of the plaintiff's family. The court determined that the injury was legally initiated by the malfunction to assure the safety of the cylinder.

5. Damage

The last component is demonstrating that the claimant experienced real harm, such as financial loss, property damage, or bodily harm. Damage cannot be speculative or insignificant; it must be actual. Freedom from unjustly caused bodily harm, such as bodily injury, death, or property damage, is the interest that the law of negligence often protects. This implies that in cases where the plaintiff does not also sustain bodily harm, negligence rule naturally does not armor them from the danger of "pure" economic damage (like missing earnings, a lost bond, or missing revenues). Though, accident fatalities can get compensation for collateral damages that directly result from a bodily harm under the law of negligence.

In ***Hughes v. Lord Advocate***[21], a child fell into an open manhole left by workmen and was burned when paraffin lamps exploded. The court held that the type of harm (burns) was foreseeable, even if the precise manner in which it occurred was not.

In ***Sarala v. Velu***[22], the plaintiff suffered injuries in a road accident caused by the defendant's negligent driving. The court awarded damages for medical expenses, loss

[19] (1997) 9 SCC 552.
[20] (1992) 2 SCC 524.
[21] [1963] AC 837.
[22] (2000) 4 SCC 464.

of earnings, and pain and suffering. Compensable damage includes physical injury, financial loss, and non-economic harm such as pain and suffering.

DEFENCES TO NEGLIGENCE:

1. *Contributory Negligence*: This defence lowers or eliminates the defendant's responsibility by claiming that the plaintiff's own inattentiveness was a contributing factor in the injury experienced. In ***Municipal Corp. of Greater Bombay Case***[23], the plaintiff fell into an uncovered manhole while walking inattentively. In addition to finding the municipal corporation liable, the court also found the plaintiff to have contributed to the carelessness.

2. *Volenti Non-Fit Injuria*: It is when the plaintiff consciously and voluntarily accepts the danger involved in the conduct, the defence is applicable. In ***Hall v. Brooklands Auto Racing Club***[24], a spectator was injured during a car race due to an accident involving one of the vehicles. The court held that attending a car race implied accepting the risk of such accidents. The principle here is Implied consent to obvious risks absolves liability.

3. *Inevitable Accident*: When injury happens in spite of reasonable care and without the defendant's carelessness, this defence is applicable. In ***N. Nagendra Rao & Co. v. State of Andhra Pradesh***[25], a government servant accidentally caused damage while acting in good faith. The court ruled that the harm was inevitable. If harm is unavoidable despite due diligence, no liability arises.

4. *Act of God*: This defence is used when unusual and unpredictable natural forces cause harm. In ***Union of India v. Prabhakaran Vijaya Kumar***[26], flooding caused by unusually heavy rains damaged the claimant's property. The court said the event to be an Act of God. Liability is negated when harm arises from extraordinary natural events beyond human control.

[23] (2003) 8 SCC 731.
[24] [1933] 1 KB 205.
[25] (1994) 6 SCC 205.
[26] (2008) 9 SCC 527.

5. *Necessity*: When the defendant injures someone in order to stop more serious injury to life or property, this defence is applicable. In ***Gopal Naidu v. Chitra***[27], the defendant entered the plaintiff's land to extinguish a fire threatening the respondent's property. The court upheld the necessity of the act. Actions taken out of necessity to prevent greater harm may absolve liability.

CONCLUSION:

The rule of negligence, which is founded on the ideas of justice and fairness, is still essential to preserving social order since it establishes responsibility and offers compensation for wrongdoing. Its fundamental components—duty of care, breach, causation, proximate cause, and damage—combine to create a framework for dealing with negligence-related injuries.

The law has changed over time to reflect the intricacies of contemporary life, handling novel situations with creative legislation and court interpretations. The concepts of negligence have been developed by significant instances, both domestic and international, which have clarified the concept's applicability and extent. The required checks to make sure that culpability is not imposed unfairly are provided by defences like acts of God, volenti non fit injuria, and contributory negligence.

The law of negligence must strike a balance between society obligations and individual rights in a world that is changing quickly. Courts and legislators must keep improving the concept to make sure it continues to be a strong instrument for justice as relationships, technology, and business become more complex. In the end, negligence laws promote a society where damage is reduced and responsibility is maintained by reminding people of their obligation to act with consideration and decency towards others.

[27] AIR 1955 Mad 21.