
STRICT LIABILITY VS. ABSOLUTE LIABILITY: THE BHOPAL GAS TRAGEDY AND ITS IMPACT ON INDIAN TORT LAW

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ABSTRACT

This research paper deals with the evolution of liability principles in Indian tort law, focusing on the transition from strict liability to absolute liability, particularly in reference to the Bhopal Gas Tragedy¹. It explores the foundational concepts of tort law, sets forth the doctrines of strict and absolute liability, and analyses their application in Indian jurisprudence. Through an examination of landmark cases, including the Bhopal Gas Tragedy and the Oleum Gas Leak case, the paper highlights the judiciary's role in shaping liability standards for hazardous industries. The impact of these legal developments on environmental policy and industrial regulation in India is also discussed, culminating in conclusions and recommendations for future legal frameworks to better address industrial disasters.

Keywords: Tort Law, Strict Liability, Absolute Liability, Bhopal Gas Tragedy, Indian Jurisprudence

¹ Bhopal Gas Tragedy case study available at: <https://chatgpt.com/share/67e5806e-54fc-8005-8f13-8430d4bf128b> (last visited on 24 Mar, 2025)

Introduction

Tort law² is a fundamental branch of civil law, which is uncodified for the means of providing equitable justice. It evolves with the society. Tort is a civil wrong for which remedies are provided to people. The two key doctrines of tort law are **Strict liability** and **Absolute liability**³.

The **Strict liability** principle was established in the case of *Rylands v. Fletcher* (1868), which means that if a person brings something hazardous into a property (example- gases, chemicals, water in huge quantity), use the land non naturally, they are liable for any damage caused to someone due to its escape. However, it allows exceptions such as act of God, plaintiff's consent, and third-party intervention, statutory authority and plaintiff the wrong doer.

The Bhopal Gas Tragedy (1984), one of the most disastrous industrial incidents, exposed the inadequacy of existing laws in providing justice to victims. This led to the evolution of the principle of **Absolute liability** by the Hon. Supreme Court of India in the case of *M.C. Mehta v. Union of India* (1987), in which all exceptions of strict liability were excluded. Absolute liability is strict liability without any exceptions.

This evolution in the principles of Indian tort law ensured greater corporate accountability and stronger victim protection. This paper explores the historical development, key cases, and the lasting impact of these doctrines on **Indian jurisprudence and industrial safety.**

Strict liability: Origin and limitations

Rylands v. Fletcher (1868) - Establishing of Strict liability

The doctrine of strict liability⁴ was first established in *Rylands v. Fletcher* (1868)⁵, where the court held that if any person brings any hazardous substance to a land and does non-natural use

² Tort Law: What It Is and How It Works, With Examples available at: <https://www.investopedia.com/terms/t/tort-law.asp> (last visited on 24 Mar, 2025)

³ Deoswaroop Gupta, "Critical Analysis of the Concept of Strict and Absolute Liability", available at: <https://www.legitimatescrutiny.com/post/critical-analysis-of-the-concept-of-strict-and-absolute-liability> (last visited on : 24 Mar, 2025)

⁴ Nupoor Agarwal, "The Rule of Strict Liability and Absolute Liability in Indian Perspective", available at: <https://ijlmh.com/paper/the-rule-of-strict-liability-and-absolute-liability-in-indian-perspective/> (last visited on 24 Mar, 2025)

⁵ *Rylands v Fletcher*, (1868) LR 3 HL 330, 33 JP 70, 37 LJ Ex 161, 14 WR 799, [1861-73] All ER Rep 1, 19 LT 220

of the land, they will be liable for any damage caused, if the substance escapes the land. The case involved the defendant constructing a reservoir, which subsequently burst and flooded the plaintiff's coal mines. The court ruled that even though the defendant was not negligent, they were still liable as they had introduced a dangerous substance onto their land.

ESSENTIALS OF STRICT LIABILITY:

For a case to fall under strict liability, the following conditions must be met:

1. Hazardous substance: Accumulation of something hazardous on land.
2. Non-natural use of the land.
3. Escape of the hazardous substance.
4. Damage caused to someone else.

EXCEPTIONS/DEFENCES UNDER STRICT LIABILITY:

Strict liability provides the following defences:

1. Act of God.
2. Consent of plaintiff.
3. Act of a third person or a complete stranger.
4. Statutory authority.
5. Plaintiff the wrong doer.

While strict liability is a fundamental principle of tort law, its exceptions allowed industries to escape their accountability in large-scale disasters.

Strict liability is a legal principle that holds a person responsible for damages even if they weren't at fault. Its often used in the cases where there is a risk of harm or damage.

Examples:

Strict liability often applies to situations involving:

- **Very dangerous activities:** Activities like storing explosives or keeping wild animals.
- **Product liability:** When a defective product causes harm, the manufacturer can be held liable even if they didn't intend for the product to be dangerous.
- **Abnormally dangerous activities:** Activities that pose a high risk of harm, such as certain types of manufacturing or transportation.

Burden of proof:

The plaintiff (injured party) does not need to prove fault or negligence of the other party. They only need to prove that defendant's actions gave rise to the damage.

Absolute liability**The Bhopal Gas Tragedy⁶ (1984) and Its Legal Impact⁷:**

Union carbide corporation (UCC), a fertilisers and insecticides making company of USA, had opened a branch in Bhopal, India by the name of Union carbide India ltd. (UCIL) to make an insecticide called SEVIN, by using the gas MIC (methyl isocyanate). Earlier, they used to import MIC from USA but later, due to losses, they had to cut costs and to do so they started manufacturing MIC in India itself. A few other measures were taken to cut costs such as hiring unprofessional staffs and stopping regular maintenance of the gas tanks.

In 1981, one worker came into direct contact of MIC and died on spot, but no actions were taken by the government.

On 3rd December, 1984, due to the negligence of the workers, over 40 tons of MIC leaked from the gas tanks and spread widely, exposing thousands of people to toxic fumes.

⁶ Edward Broughton, The Bhopal disaster and its aftermath: a review, 2005, *available at*: <https://ehjournal.biomedcentral.com/articles/10.1186/1476-069X-4-6> (last visited on: 24 Mar, 2025)

⁷ The Aftermath of Bhopal Gas Tragedy and Its Laws, *available at*: <https://sageuniversity.edu.in/blogs/the-aftermath-of-bhopal-gas-tragedy-and-its-laws> (last visited on: 24 Mar, 2025)

The disaster resulted in:

1. Over 25000 deaths (on record), with approximately 3000 people dying within two days.
2. More than 500,000 people injured, suffering from respiratory issues, blindness, and neurological disorders.
3. Long-term environmental and health hazards, with groundwater contamination persisting decades later.

LEGAL PROCEEDINGS AND COMPENSATION CHALLENGES:

1. The government of India enacted the Bhopal gas leak disaster (proclamation of claims) Act (1985) for claiming immediate compensation.
2. The Supreme Court of India held UCIL liable and compensated with about 800 crores.
3. Criminal liability proceedings were initiated against UCIL executives, but legal delays and lenient punishments frustrated victims' families.

Impact on Indian Legal Framework

Legislative Reforms Post-Bhopal:

1. **Environment Protection Act, 1986⁸**: Strengthened environmental regulations.
2. **Factories (Amendment) Act, 1987⁹**: Introduced stricter industrial safety norms.
3. **Public Liability Insurance Act, 1991¹⁰**: Mandated insurance for industries dealing with hazardous substances.

These reforms aimed to **prevent future industrial disasters** and enhance victim compensation mechanisms.

⁸ The Environment (Protection) Act, 1986, Act 29 of 1986, Published in Gazette 29 on 23 May 1986

⁹ THE FACTORIES (AMENDMENT) ACT, 1984 No. 20 OF 1987, 23 May, 1987

¹⁰ The Public Liability Insurance Act, 1991

M.C. Mehta v. Union of India (1987)¹¹: Establishing Absolute Liability

Overview: This landmark case, also known as the Oleum Gas Leak case, arose after an oleum gas leak from SHRIRAM FOODS AND FERTILISERS INDUSTRIES in Delhi. This occurred after the Bhopal Gas Tragedy.

M.C. Mehta was an environmentalist and he files this case as a preventative measure because the factory was located in Kirti Nagar, Delhi, which is a highly populated area. A huge amount of pollution had already occurred due to this factory and the Article 21¹² of the Indian Constitution is being violated of the residents there. So, a case was filed to shift this factory somewhere else.¹³

In 1985, oleum gas leaked from the factory leading to harm and inconvenience.

The Supreme Court of India had 2 options:

1. Provide remedy using the principle of strict liability.
2. Evolving a new tort.

This led to the evolution of a new tort called Absolute Liability.

The court ruled that enterprises engaged in hazardous activities owe an **absolute and non-delegable duty** to the community and must compensate victims **without any defences or exceptions**.

ABSOLUTE LIABILITY:

Absolute liability¹⁴ is a legal principle of tort law that holds industries and entities strictly liable for any harm caused by them due to any hazardous activity, without any defences or exceptions.

Absolute liability does not have any exceptions like Act of God, plaintiff the wrong doer or

¹¹ *M.C. MEHTA & ANR. ETC. Vs. UNION OF INDIA & ORS. ETC.* - LNIND 1986 SC 40 (1986) 2 SCC 176AIR 1987 SC 965AIR 1987 SC 985[1986] 1 SCR 312LNIND 1986 SC 40

¹² The Constitution of India, art. 21

¹³ *UNION CARBIDE CORPORATION VERSUS UNION OF INDIA AND OTHERS ETC* LNIND 1989 SC 805

¹⁴ What is Doctrine of Absolute Liability in Indian Tort Law?, March 2, 2024, available at: <https://legalfly.in/what-is-doctrine-of-absolute-liability-indian-tort-law/> (last visited on: 25 Mar, 2025)

third-party intervention.

It ensures that industries handling dangerous substances bear full responsibility for any harm caused.

ESSENTIALS OF ABSOLUTE LIABILITY:

1. Hazardous or Dangerous Activity

- The rule applies only to industries or individuals engaged in activities involving **dangerous substances** such as toxic chemicals, explosives, gas leaks, or pollutants.
- Example: A chemical manufacturing plant or a nuclear facility.

2. No Requirement of Negligence or Fault

- The defendant is liable **even if they took all possible precautions** to prevent harm.
- The intent behind this rule is **public safety**—since such industries pose a high risk, liability is imposed automatically.

3. No defences allowed.

4. Harm or damage must occur.

Example: A gas leak causing respiratory illnesses in nearby residents.

The rule was designed to protect **public health and safety** from large-scale industrial hazards.

BURDEN OF PROOF:

The plaintiff (affected party) must prove:

1. The defendant was engaged in a hazardous activity.
2. They suffered harm as a result of this activity.
3. There is a **direct connection** between the activity and the harm suffered.

DIFFERENCE BETWEEN STRICT LIABILITY AND ABSOLUTE LIABILITY¹⁵:

1. **Defences available:** In strict liability defences such as Act of God, plaintiff the wrong doer and plaintiff's consent are available whereas in absolute liability, no defences are permitted.
2. **Applicability:** Strict liability is limited to cases where the hazardous substance escapes from the land and causes damage whereas absolute liability covers all hazardous cases, irrespective of their escape.
3. **Judicial development:** Strict liability was developed in the case of *Rylands v. Fletcher* whereas Absolute liability was developed in the case of *M.C. Mehta v. Union of India*.

Comparative Analysis: India vs. International Jurisdictions

- **United States:** The U.S. follows a **modified strict liability** rule, primarily used in **product liability** cases. Under the **Superfund Law (CERCLA)¹⁶**, companies responsible for environmental contamination can be held strictly liable for cleanup costs, even if they were not negligent.
- **United Kingdom:** While *Rylands v. Fletcher* established strict liability, the UK has limited its application over time. Modern environmental laws emphasize **regulatory compliance rather than blanket liability**.
- **European Union:** The EU applies the **"polluter pays" principle¹⁷**, holding industries accountable for environmental damage. The **Environmental Liability Directive (ELD) 2004** enforces strict liability for activities causing environmental harm.
- **China:** After the Tianjin chemical explosion (2015), China strengthened its

¹⁵ Difference Between Strict Liability and Absolute Liability, 22 Jun, 2023, *available at*: <https://testbook.com/key-differences/difference-between-strict-liability-and-absolute-liability> (last visited on 25 Mar, 2025)

¹⁶ Superfund: CERCLA Overview, *available at*: <https://www.epa.gov/superfund/superfund-cercla-overview> (last visited on 25 Mar, 2025)

¹⁷ What is the polluter pays principle?, 18 Jul, 2022, *available at*: <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-the-polluter-pays-principle/> (last visited on 25 Mar, 2025)

Environmental Protection Law, adopting a **no-fault liability**¹⁸ approach for hazardous industries.

- **India:** Absolute liability remains unique to India, ensuring **zero-exception corporate accountability**.

By comparing these systems, it becomes evident that India's **absolute liability principle is one of the strongest**, ensuring full accountability for industrial disasters.

Challenges in Implementing Absolute Liability in India

Although absolute liability ensures **no escape from responsibility**, its enforcement **faces hurdles**:

- **Lengthy legal battles:** Victims often struggle with **slow court procedures**, delaying justice.
- **Inadequate compensation:** The **800 crore Bhopal settlement** was seen as insufficient compared to the scale of the disaster.
- **Weak industrial monitoring:** Despite laws, **compliance is often poor**, with industries bypassing safety norms.
- **Corporate influence:** Large corporations **lobby against stricter regulations**, weakening liability enforcement.

Role of Environmental Law and International Conventions

India's liability laws are influenced by **international environmental treaties**.

- **Stockholm Conference (1972):** Established the need for **environmental protection laws worldwide**.
- **Rio Declaration (1992):** Reinforced the **"polluter pays" principle**, making industries

¹⁸ Buren, At a glance: the sources of product liability law in China, 11 Sep, 2023, *available at*: <https://www.lexology.com/library/detail.aspx?g=6395321c-1392-4b54-94da-af5f897aaafc> (last visited on 25 Mar, 2025)

responsible for environmental damage.

- **Basel Convention (1989):** Regulates the transport and disposal of **hazardous waste** internationally.

CONCLUSION AND SUGGESTIONS:

The evolution of absolute liability from strict liability is a significant step of advancement in the Indian Tort Law, ensuring that hazardous industries can't escape from their responsibility in case of any accident.

The **Bhopal Gas Tragedy served as a turning point**, exposing legal loopholes and prompting reforms.

To further improve this system, following suggestions are provided:

1. **Stronger Industrial Safety Laws:** Stricter compliance mechanisms and regulatory oversight.
2. **Faster compensation mechanisms:** Faster redressal and increased compensation for victims.
3. **Corporate Accountability:** Stricter penalties for negligence and environmental damage.
4. **International Best Practices:** Adopting global models for industrial safety.