NOTES

Act of God & Inevitable Accident: Differences in the Law of Torts

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Both are defences arguing that the defendant is not at fault, as the damage was unavoidable. **The Act of God (or in its Latin version vis major) is a more specific defence. It is a specific type of inevitable accident caused by natural events only**. Below are the differences between the two under the Law of Torts.

Act of God

The Act of God is an extraordinary event due to natural forces, which could not be foreseen or prevented by man and occurs without the need for human interference. Examples of acts of God are **unprecedented storm or flood, earthquake and electric discharge.** The defendant must prove that the **only cause for the incident was natural forces, that the event was of extraordinary nature and not reasonably foreseeable.**

- ***Nichols v. Marsland :*** Artificial lakes on the defendant's property overflowed after an *unusually big storm* and destroyed the bridges of the plaintiff. The defendant was not found liable.
- ***Greenock Corporation v. Caledonian Railway :*** The House of Lords rejected the defence as the *emergence of the flooding was caused by the action of the defendant and collected that just the unusual rain is not what constitutes an act of God.*
- ***Kallulal v. Hemchand* :** *A wall collapsed after about 2.66 inches of rain, killing the plaintiff's children.* The rainfall was within the normal range for the area, so it was not an Act of God, and the defendant's negligent upkeep decided the case.

Inevitable Accident

Inevitable accident refers to an accident that could not have been avoided by taking steps that a prudent person in the same situation would have taken. An inevitable accident can arise from natural causes, human acts, or both. It amounts to saying that there was no fault:

the defendant acted reasonably and thus was not negligent.

Stanley v. Powell : A bullet fired by the defendant hit a tree before injuring the plaintiff. The defendant was not found to be negligent and therefore held not liable.

Holmes v. Mather **:** The accident happened due to the bolting of the carriage horses which were scared by the barking of a dog. The driver was not held liable as he did everything he could.

Main Differences

Basis	Act of God	Inevitable accident
Source of harm	Only natural forces	Natural forces, human agency, or both
Human involvement	None	May involve human acts, but not negligence
Foreseeability	Extraordinary and not reasonably foreseeable	Not avoidable by reasonable care
Relationship	A species of inevitable accident	The wider category
Strict liability	A recognised exception	Generally not a defence
Underlying idea	No human could prevent natural forces	No reasonable person could prevent the harm

Where Each Applies

Strict liability: An "Act of God," as per the ruling outlined in ***Rylands v. Fletcher (1868)***, is recognized as one of the exceptions. However, in ***M.C. Mehta v. Union of India (1987)*** , the *concept of absolute liability does not recognize any exemption for dangerous industries. Hence, the defense fails in that case.*

Negligence: A **claimant needs to prove negligence, hence a case of inevitable accident is usually limited to a case of "absence of fault."** *In other words, if the defendant's negligence has been established, it is bound to fail, as demonstrated by Kallulal.*

Carriers: Section 6 and 8 of the Carriers Act, 1865 states that **common carriers are liable for the loss of goods, except for Acts of God and acts of enemies of the Government.**

Section 80 IPC, now Section 15 BNS, refers to **accidents while performing a lawful act with due caution and care.** In contract law, Section 56 of the Indian Contract Act, 1872 deals with impossibility of performance and is *often related to force majeure.*