BLOGS

Law of Torts: Quick Revision Notes for CLAT PG

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Scoring high in the law of torts section is critical for anchoring your overall rank, making structured law of torts quick revision notes for CLAT PG indispensable for your final preparation phase.

Because this subject relies heavily on uncodified principles and evolving judicial interpretations, standard textbooks can be overwhelming to skim through at the last minute. This article provides a highly concentrated summary of core tortious liabilities, essential general defenses, and recent landmark judgments you must memorize before the exam.

Tort is deemed a civil wrong except for breach of contract for which court awards unliquidated damages. Unlike crime, for tort the aggrieved person files a suit.

In addition, unlike contract, duty arises from law and not from promise by parties. Indian tort law has taken from English common law as adapted to local conditions and Constitution provides remedy against State.

Ubi jus ibi remedium is a foundational Latin maxim that translates to **"Where there is a right, there is a remedy."**

Injuria sine damno speaks of the infringement of the legal right that is not accompanied with loss, and thus the claim is justified. This was the case in Ashby v. White (1703).

Damnum sine injuria speaks of loss and no breach of law and thus there is no claim, as it is the case in Gloucester Grammar School Case (1410) and Mogul Steamship Co. v. McGregor (1892).

1. Essentials of a Tort

For an action to constitute a tort, the following essentials must generally be established:

1. Wrongful Act or Omission: The defendant must have committed an act or failed to perform a legal duty recognised by law.

2. Legal Damage: There must be infringement of a legal right. Actual financial loss is not always necessary.

3. Legal Remedy: The wrongful act must give rise to a civil remedy, generally in the form of unliquidated damages.

4. Duty Imposed by Law: The obligation must arise independently of any agreement between the parties.

2. Tort Distinguished from Crime and Breach of Contract

Basis	Tort	Crime	Breach of Contract
Nature	Civil wrong	Public wrong	Violation of contractual obligation
Duty	Imposed by law	Imposed by criminal law	Arises from agreement
Proceedings	Civil suit	Criminal prosecution	Civil suit/arbitration
Parties	Injured person v. defendant	State v. accused	Contracting parties
Remedy	Unliquidated damages, injunction	Punishment, fine, etc.	Contractual damages or specific relief

3. Development and Scope of Tort Law in India

The foundation of tort law in India is the country's adaptation of English common law doctrines to the Indian social setting, economic scenario, and constitutional doctrines.

There is no single codified general tort law in India, and the principles relating to tort law have evolved mostly through court decisions.

Courts have broadened tort liabilities to include areas such as environmental law, consumer law, medical negligence, and constitutional remedies. **Furthermore, the Supreme Court of India has identified compensation as a public law redress for violation of the fundamental rights of people.**

4. Mental Element in Tort: Intention, Motive and Malice

Unlike the criminal law, intention is not a necessary element in tort. Tort liability may arise even in the absence of intention to hurt someone, particularly in cases of negligence and strict liability.

Intention means performing an act purposely with an intention and will to achieve certain results.

Motive means the reason for performing the action. A bad motive will not make an otherwise legal act tortious.

Malice: In tort law, malice may mean an intentional wrongful act without just cause or excuse. In certain torts, such as malicious prosecution, proof of malice is an essential ingredient.

- ***Bradford Corporation v. Pickles (1895)*** - A lawful act does not become actionable merely because it is motivated by malice.
- ***Allen v. Flood (1898)*** - A malicious motive does not automatically create liability where the act itself is lawful.
- ***West Bengal State Electricity Board v. Dilip Kumar Ray (2004)*** - Discussed malice, intention and the requirements of malicious prosecution.

GENERAL DEFENCES IN TORT

General defences are circumstances under which a defendant may avoid or reduce liability despite the existence of an otherwise actionable wrong.

A. Volenti Non Fit Injuria

The maxim means that no injury is done to a person who voluntarily consents to the risk.

Essentials:

1. The claimant had knowledge of the risk.
2. The claimant voluntarily agreed to accept that risk.
3. Consent must be free and voluntary.

- ***Hall v. Brooklands Auto Racing Club (1933)*** - Spectators at a motor race were considered to have accepted the ordinary risks associated with the event.

- ***Smith v. Baker (1891)*** - Mere knowledge of a risk does not necessarily amount to voluntary consent.
- ***Haynes v. Harwood (1935)*** - The defence is generally unavailable where a person voluntarily undertakes a rescue in an emergency.

B. Inevitable Accident

An inevitable accident is an occurrence that could not have been prevented despite the exercise of reasonable care and caution.

Stanley v. Powell (1891) - A person was not held liable when a bullet accidentally ricocheted and injured another person during a shooting expedition.

C. Act of God (Vis Major)

An act of God is an extraordinary natural event that could not reasonably have been anticipated or prevented through reasonable human care.

Examples: Extraordinary floods, earthquakes, lightning and exceptionally severe storms.

Important cases:

- ***Nichols v. Marsland (1876)*** - Exceptionally heavy rainfall causing the destruction of artificial lakes was treated as an act of God.
- ***Kallulal v. Hemchand (1958)*** - Discussed the application of the act of God defence in the context of damage caused by the collapse of a wall.

Distinction: *An inevitable accident may arise from any unforeseeable circumstance, whereas an act of God is specifically attributable to extraordinary natural forces.*

D. Necessity

An act that would ordinarily constitute a tort may be justified when performed to prevent a greater and imminent harm.

- ***Cope v. Sharpe (No. 2) (1912)*** - Entry onto another person's property to prevent the spread of fire was justified.

- ***Mouse's Case (1608)*** - Necessity was recognised as a defence in circumstances involving the jettisoning of cargo to save a vessel and passengers.

E. Private Defence

A **person may use reasonable and proportionate force to protect their own person or property against an unlawful attack.**

- The force used must be reasonably necessary.
- The defence cannot justify excessive or retaliatory force.
- The right is available in circumstances recognised by law.

Relevant statutory reference: Sections 34-44, Bharatiya Nyaya Sanhita, 2023.

F. Plaintiff the Wrongdoer (Ex Turpi Causa)

A claimant may be denied relief where the claim is founded upon their own illegal or immoral conduct.

Important case:

Pitts v. Hunt (1991) - Discussed the illegality defence in a claim arising from an unlawful and dangerous motorcycle ride.

G. Statutory Authority

Where an act is expressly authorised by legislation, the person carrying it out may be protected from tortious liability, provided the statutory power is exercised within its limits and the resulting interference is authorised or unavoidable.

Vaughan v. Taff Vale Railway Co. (1860) - A railway company was not held liable for fire caused by sparks where the activity was statutorily authorised and proper precautions had been taken.

H. Act of a Stranger

A defendant may avoid liability where the damage is caused solely by the independent act of a third party, provided the defendant is not otherwise negligent or legally responsible.

I. Contributory Negligence

Where the claimant's own negligence contributes to the injury, damages may be reduced proportionately.

- ***Butterfield v. Forrester (1809)*** - Established the importance of the claimant's own care in determining liability.
- ***Davies v. Mann (1842)*** - Recognised the last opportunity principle, historically used where the defendant had the final opportunity to avoid the accident.

Indian position: ***T.O. Anthony v. Karvarnan (2008)*** - Distinguished contributory negligence from composite negligence.

Remember: In composite negligence, two or more defendants contribute to the claimant's injury. The claimant's compensation is not reduced merely because another tortfeasor also contributed.

TORTS AGAINST THE PERSON

Assault and Battery

A. Assault

Assault means an act that creates a reasonable apprehension in another person of imminent unlawful physical contact.

Essentials:

1. An intentional act or gesture.
2. Reasonable apprehension of immediate unlawful force.
3. The apprehension must be caused by the defendant's conduct.

Actual physical contact is not necessary.

Example: Raising a fist towards another person in a threatening manner, in circumstances creating an apprehension of immediate violence.

Stephens v. Myers (1830) - Advancing towards a person in a threatening manner, with the apparent ability to carry out the threat, constituted assault.

B. Battery

Battery means the intentional and direct application of unlawful physical force to another person without lawful justification.

Essentials:

1. Direct physical contact.
2. Intentional application of force.
3. Absence of lawful justification or consent.

- ***Cole v. Turner (1704)*** - Even the slightest unlawful touching may constitute battery.
- ***Collins v. Wilcock (1984)*** - Unlawful physical contact beyond generally accepted everyday contact may constitute battery.

Assault v. Battery: *Assault involves apprehension of imminent unlawful contact; battery involves actual unlawful physical contact.*

False Imprisonment

False imprisonment is the unlawful and total restraint of a person's freedom of movement without lawful justification.

Essentials:

1. Total restraint of liberty.
2. Restraint must be unlawful.
3. The restraint may be physical or imposed through an assertion of authority.
4. Knowledge of restraint is not always necessary.

- ***Bird v. Jones (1845)*** - Partial obstruction of movement is not false imprisonment; the restraint must be total.
- ***Meering v. Graham-White Aviation Co. (1920)*** - A person may be falsely imprisoned even without knowledge of the restraint at the relevant time.
- ***Bhim Singh v. State of Jammu and Kashmir (1985)*** - The Supreme Court awarded compensation for the unlawful detention of an MLA, recognising the constitutional remedy for violation of personal liberty.

Remedies: Damages, habeas corpus and constitutional compensation where fundamental rights are violated.

Relevant provisions: Article 21 and Article 32 of the Constitution.

Trespass to Land

Trespass to land means the direct and unlawful interference with another person's possession of land.

Essentials:

1. Direct interference with land.
2. Possession of the land by the claimant.
3. Absence of lawful authority or justification.

Forms of trespass:

- *Entering another person's land without permission.*
- Remaining on the land *after permission has been withdrawn.*
- *Placing objects or structures on another person's property.*
- *Causing a physical object to enter another person's land.*
- ***Entick v. Carrington (1765)*** - State officials cannot enter private property without lawful authority.
- ***League Against Cruel Sports v. Scott (1985)*** - Demonstrated the protection of possessory rights against unauthorised entry.

Important principle: Trespass to land is generally actionable per se. The claimant need not prove actual damage.

Remedies: Damages, injunction and recovery of possession.

Trespass to Goods, Conversion and Detinue

A. Trespass to Goods

Trespass to goods involves direct and wrongful interference with goods in another person's possession.

Examples include:

- Wrongfully moving another person's goods.
- Damaging or physically interfering with goods.
- Wrongfully taking possession of goods.

B. Conversion

Conversion means dealing with another person's goods in a manner inconsistent with the owner's or lawful possessor's rights.

Examples:

- Wrongfully selling another person's property.
- Wrongfully using or disposing of goods.
- Refusing to return goods where the refusal amounts to an assertion of ownership inconsistent with the claimant's rights.

Fouldes v. Willoughby (1841) - Distinguished mere trespass to goods from conversion.

Malicious Prosecution

Malicious prosecution is the institution of criminal or other qualifying proceedings against a person without reasonable and probable cause and with malice, *where the proceedings terminate in the claimant's favour.*

Essential ingredients:

1. The defendant instituted or was actively instrumental in instituting the prosecution.
2. The prosecution terminated in favour of the claimant.
3. There was an absence of reasonable and probable cause.
4. The prosecution was initiated with malice.
5. The claimant suffered damage to reputation, liberty or property.

Important cases:

- Hicks v. Faulkner (1878) – Explained reasonable and probable cause.
- Glinski v. McIver (1962) – Discussed the requirements of malicious prosecution.
- West Bengal State Electricity Board v. Dilip Kumar Ray (2004) – Discussed the requirements and meaning of malice in the context of malicious prosecution.

Important distinction: An unsuccessful prosecution does not automatically amount to malicious prosecution. Absence of reasonable and probable cause and malice must also be established.

Joint Tortfeasors

Joint tortfeasors are two or more persons who are jointly responsible for committing a tort or causing the same injury.

Forms of joint liability:

1. Persons acting together pursuant to a common design.
2. Persons whose independent wrongful acts combine to cause the same damage (composite tortfeasors).
3. Persons whose liability arises through a common agency or relationship.

Principles:

- Joint tortfeasors *may be held jointly and severally liable.*
- The claimant *may generally recover the entire compensation from any one of the jointly liable defendants, subject to the applicable rules.*
- A claimant *cannot recover compensation more than once for the same injury.*
- Contribution between tortfeasors may be governed by applicable statutory and common-law principles.

Brooke v. Bool (1928) – Discussed joint liability arising from participation in a wrongful act.

Khenyei v. New India Assurance Co. Ltd. (2015) – The Supreme Court explained the distinction between composite and contributory negligence and held that the liability of joint tortfeasors in composite negligence is joint and several.

Contributory v. Composite Negligence

Contributory Negligence	Composite Negligence
Claimant is also negligent.	Two or more defendants are negligent.
Claimant's damages may be reduced.	Claimant's compensation is not reduced due to the negligence of another tortfeasor.
Claimant's own fault contributes to the injury.	Claimant is innocent of the negligence causing the injury.

Negligence

Negligence refers to an infringement of an obligation to act carefully resulting in losses for the claimant. ***Blyth v. Birmingham Waterworks Co.*** ***(1856)*** defines it as either a failure to perform actions a reasonable man would, or performing actions that a reasonable man would not perform.

To prove negligence, three aspects have to be proved: duty of care, breach of that duty, and loss caused by the breach.

Duty of care: The case of Donoghue v. Stevenson **established the theory of a neighbor.** The manufacturer was liable to the consumer who found a dead snail in the ginger beer bottle since the consumer was projected to receive damage from negligence.

The case of Caparo Industries plc v. Dickman established a three-part test: foreseeability, proximity, and the necessity to impose the duty of care.

Breach: The court measures the conduct against the reasonable man standard. Bolton v. Stone found that a cricket club was not negligent because there was hardly any risk that the ball would exit the ground.

In Paris v. Stepney the court found that **the higher standard of care should be practiced when the damage would be serious, hence the employer had to take extra care regarding the one-eyed worker.**

The phrase **res ipsa loquitur can be literally translated to mean “the thing speaks for itself.”** The facts of the case support the assumption that the accident could not have happened but for negligence on the part of the defendant. This is illustrated by the leading case ***Byrne v. Boadle*** ***(1863), where a barrel of flour fell out of the window of a warehouse.***

Causation and remoteness: The but-for test applies in all cases, as was illustrated in ***Barnett v. Chelsea and Kensington Hospital*, *[1969] 1 QB 428***, where the hospital could not be made liable since the patient would have died due to arsenic poisoning in any case. In connection with remoteness, The Wagon Mound (No. 1), [1961] AC 388, has substituted the **directness test laid out in Re Polemis with the reasonable foreseeability test.**

The rule of the eggshell skull continues to be relevant. This can be illustrated by the case of Smith v. Leech Brain & Co., [1962] 2 QB 405.

Defenses: Contributory negligence limits the amount of damages in proportion to the claimant's fault, as in Butterfield v. Forrester (1809).

The defense of **volenti non fit injuria prevents an aggrieved person from raising a claim if it's proved that he voluntarily assumed the risk of injury**, according to Hall v. Brooklands Auto Racing Club, [1933] 1 KB 205. The defense cannot be invoked when it comes to rescues, as shown in the case of Haynes v. Harwood, [1935] 1 KB 146.

Nervous Shock (Psychiatric Injury)

Nervous shock refers to a recognised psychiatric illness caused by the defendant's negligent act, resulting in psychological injury to the claimant. It is treated as a form of personal injury under the law of negligence.

Mere grief, sorrow, emotional distress or mental anguish is not sufficient. The claimant must generally establish a medically recognised psychiatric condition.

Essentials of Liability

1. **Recognised Psychiatric Illness:** The claimant must suffer a medically recognised psychiatric disorder, such as Post-Traumatic Stress Disorder (PTSD).
2. **Duty of Care:** The defendant must owe the claimant a duty of care.
3. **Foreseeability:** The psychiatric injury must satisfy the applicable foreseeability requirements.
4. **Causation:** The psychiatric illness must have resulted from the defendant's wrongful act or negligence.
5. **Proximity:** There must be sufficient proximity between the claimant, the victim and the incident, depending on the category of claim.

Primary and Secondary Victims

A. Primary Victims

Persons **directly involved in an accident or exposed to physical danger.**

- They may *claim damages for psychiatric injury* arising from their involvement in the incident.
- The *possibility of physical injury* and the circumstances of the incident are relevant to determining liability.

Page v. Smith (1996) - A primary victim who was directly involved in an accident could recover damages for psychiatric injury where personal injury was reasonably foreseeable.

B. Secondary Victims

Persons who are not directly involved in the accident but suffer psychiatric illness after witnessing injury or death to another person.

The following control mechanisms are generally relevant:

1. **Proximity of Relationship:** A close tie of love and affection with the primary victim.
2. **Proximity in Time and Space:** The claimant must witness the event or its immediate aftermath, subject to applicable exceptions.
3. **Means of Perception:** The shock must generally arise through the claimant's own unaided senses.
4. **Sudden Shock:** The psychiatric illness must result from a sudden shocking event rather than gradual anxiety or grief.

- ***Dulieu v. White & Sons (1901)*** - Recognised liability for psychiatric injury caused by fear for one's own safety.
- ***Hambrook v. Stokes Bros. (1925)*** - Recognised that psychiatric injury could arise from fear for the safety of a close family member.
- ***McLoughlin v. O'Brian (1983)*** - Allowed recovery where the claimant witnessed the immediate aftermath of a serious accident involving family members.
- ***Alcock v. Chief Constable of South Yorkshire (1992)*** - Established important control mechanisms for claims by secondary victims following the Hillsborough disaster.
- ***Page v. Smith (1996)*** - Distinguished primary victims from secondary victims.

Indian Position

Jay Laxmi Salt Works (P) Ltd. v. State of Gujarat (1994) - The Supreme Court discussed tortious liability and compensation for injury caused by wrongful conduct of public authorities.

Spring Meadows Hospital v. Harjol Ahluwalia (1998) - Recognised compensation for mental agony and suffering in consumer proceedings arising from medical negligence.

These Indian decisions are relevant to compensation for mental suffering and negligence, but they should not be presented as establishing the complete English primary-victim/secondary-victim nervous-shock framework.

Medical Negligence

Bolam v. Friern Hospital Management Committee, [1957] 1 WLR 582 establishes that a *doctor is not guilty of negligence as long as he has acted in accordance with the decisions of a responsible body of medical experts.* **Bolitho v. City and Hackney Health Authority,** [1998] AC 232 stated that *these opinions need to be reasonable as well.* In ***Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*** Bolam is applied in India, where the court held that criminal liability requires gross negligence.

In Indian Medical Association v. V.P. Shantha, (1995) 6 SCC 651 the medical services were placed under the Consumer Protection Act, 1986.

Nuisance

While **private nuisance refers to unreasonable and indirect interferences with a person's land use or enjoyment, public nuisance can be characterized as an interference with the public at large, now recognized under India's Section 270 of the Bharatiya Nyaya Sanhita, 2023.**

A *private person can sue for public nuisance only on proof of special damage beyond what the public suffers, and Section 91 of the CPC allows the Advocate General, or two or more persons with leave of court, to sue.* A magistrate can also order removal of a public nuisance under Section 133 of the CrPC, now Section 152 of the BNSS.

Factors: The court weighs the locality, the duration and intensity of the interference, and the claimant's sensitivity. St. Helen's Smelting Co. v. Tipping (1865) distinguished physical damage to property, where locality does not matter, from interference with comfort, where it does.

***Robinson v. Kilvert* (1889) held that an unusually sensitive claimant cannot complain of an activity that would not harm ordinary persons.**

Malice: An act that is lawful in itself can become a nuisance when done out of spite. In ***Christie v. Davey* (1893)**, a neighbour banged on trays to drown out music lessons, and the court granted an injunction.

Defences: *Prescription, which needs 20 years of uninterrupted use, statutory authority, and consent are valid defences.* It is no defence that the *claimant came to the nuisance, as Sturges v. Bridgman (1879) held, or that the activity benefits the public.*

Indian position: In the mention of cases, ***Ram Baj Singh v. Babulal*, AIR 1982 All 285** prohibits a brick grinding machine which was detrimental to the doctor's practice. ***Ushaben vs Bhagyalaxmi Chitra Mandir*, AIR 1978 Guj 13** states that film affecting religious sentiments is not nuisance.

In ***Municipal Council, Ratlam v. Vardhichand*, (1980) 4 SCC 162** it was held that a *municipality cannot take the plea of lack of funds in order to escape the responsibility of eliminating public nuisance.*

In ***Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, (2000) 7 SCC 282 noise was held to be nuisance.**

Remedies: The claimant may seek damages, an injunction, or abatement of the nuisance by self-help.

Defamation

Defamation is the publication of a false statement that lowers a person's reputation in the eyes of right-thinking members of society, as Sim v. Stretch, [1936] 2 All ER 1237, framed it. The claimant must prove three elements: the statement is defamatory, it refers to the claimant, and it was published to a third person.

***Hulton v. Jones*,** [1910] AC 20, held that the writer's intention is irrelevant, so a story about a fictional "Artemus Jones" defamed a real person of that name.

Libel and slander. Libel is defamation in permanent form, such as writing or film, and Youssoupoff v. MGM Pictures (1934) treated a film as libel. Slander is defamation in transient form, such as speech.

In English law, slander is actionable only on proof of special damage, except in four cases: imputing a crime, a loathsome disease, unchastity in a woman, or professional unfitness. Indian courts have not strictly followed this requirement.

Publication: Communication only to the claimant is not publication.In ***Huth v. Huth*,** [1915] 3 KB 32 it was decided that the **butler who opened the letter has not published it because the sender does not authorize him to read it.**

Defense: *Justification means the statement is true and it is a complete defense in civil cases. Fair comment protects honest opinion on any issue of public interest and is based on facts free of malice.*

Absolute privilege covers statements made in Parliament and judicial proceedings and qualified privilege is applied to statements made in the course of relationship of duty or interest as stated by Adam v. Ward, [1917] AC 309. Qualified privilege is terminated when malice is proved.

Indian position: Defamation is also a crime, defined in Section 356 of the BNS (formerly Section 499 of the IPC). **Subramanian Swamy v. Union of India, (2016) 7 SCC 221, upheld criminal defamation and treated reputation as part of the right to life under Article 21.**

R. Rajagopal v. State of T.N., (1994) 6 SCC 632, held that a public official cannot sue for a publication based on public records, and that the press has wide latitude when it reports on official conduct.

Vicarious Liability

Vicarious liability holds one person liable for the tort committed by another person and is based on the saying qui facit per alium facit per se. The employer is liable for the torts committed by the employee in the course of employment irrespective of the employer's fault. **The principle of vicarious liability comprises two elements which are the employment**

relationship and the tort committed during the course of employment.

Course of employment: The employer is liable for a lawful act and even for an unlawful method of performing a lawful act. In ***Limpus v. London General Omnibus Co.*** ***(1862***), the defendant was held liable when the bus driver violated the order and raced with another bus.

Beard v. London General Omnibus Co., held the defendant not liable because the conductor was not authorized to drive the vehicle.

Lister v. Hesley Hall Ltd. [2001] UKHL 22 states that the verdict in this case extends the scope of liability. In this particular case, the employer was held liable for the acts of an employee because the wrong being committed was closely connected with the terms of employment.

Independent contractors. An employer is generally not liable for an independent contractor, except where he authorised the wrong, where the work is ultra-hazardous, or where the duty is non-delegable.

The State: Article 300 of the Constitution makes the Union and States liable in tort as the earlier Dominion was. ***P. & O. Steam Navigation Co. v. Secretary of State*** ***(1861) drew a line between sovereign and non-sovereign functions.***

State of Rajasthan v. Vidhyawati, AIR 1962 SC 933, made the State liable for the negligence of a driver of a government jeep***. Kasturi Lal Ralia Ram Jain v. State of U.P.***, AIR 1965 SC 1039, gave immunity for police acts treated as sovereign functions.

The Court has since used public law remedies to avoid that immunity. Rudul Sah v. State of Bihar, (1983) 4 SCC 141, and Nilabati Behera v. State of Orissa, (1993) 2 SCC 746, awarded compensation under Article 32 for unlawful detention and custodial death.

Strict Liability: Rylands v. Fletcher

In Rylands v. Fletcher (1868) LR 3 HL 330, a mill owner built a reservoir on his land. Water escaped through old mine shafts and flooded the claimant's colliery. The House of Lords held the owner liable without proof of negligence.

Rule: A person who brings and keeps on his land something likely to do harm if it escapes is answerable for all the damage that naturally results from its escape. Courts later required a **non-natural use of land, an escape beyond the defendant's control, and damage to the**

claimant.

Defences: *The recognised defences are the claimant's consent or fault, act of God (Nichols v. Marsland (1876)), act of a stranger, statutory authority, and common benefit.*

Later development: The case of ***R v. J. Lyons & Co.,*** [1947] AC 156 established the idea that it is necessary for something to escape from the defendant's land while ***Cambridge Water Co. v. Eastern Counties Leather plc,*** [1994] 2 AC 264 requires proof that harm was foreseeable. This made the principle move closer to the concept of nuisance.

Absolute Liability: M.C. Mehta

Oleum gas escaped from the Shriram Foods and Fertilisers factory in Delhi in the year 1985. In the case of ***M.C. Mehta v. Union of India*** ***(1987) 1 SCC 395****, the Ryland's rule was stated as not applicable in the present world of industrialization and thus the court laid down the rule of absolute liability.*

Such an enterprise owes an absolute and non-delegable duty to the community. It is liable for harm resulting from the activity, and none of the Rylands exceptions applies. The compensation must also match the enterprise's size and capacity, so that it deters.

In the case of ***Indian Council for Enviro-Legal Action v. Union of India*** *, the absolute liability and polluter pays principle were observed to be applicable to chemical factories of Bichhri that polluted the ground water.*

The Public Liability Insurance Act, 1991 and **section 17 of National Green Tribunal Act, 2010** impose strict liability on the perpetrators of hazardous substances and for environmental damage.