CHAPTER - 8

PRINCIPLE OF ABSOLUTE LIABILITY

Both in civil and criminal laws, *mens rea* or guilty mind is considered necessary to hold a person responsible. However, there are some exceptions to the general rule and in certain circumstances a person may be held responsible irrespective of the existence of either wrongful intent or negligence. Such cases are known as the wrongs of strict liability and a person may be punished for committing wrong, even if he has no guilty mind. The strict liability rule does not enquire whether the guilty person has committed the wrong intentionally, negligently or innocently. It merely presumes the presence of the formal conditions of liability. The most important reason for such assumption is that it is difficult to secure adequate proof of the intention or the negligence of the offender. In this connection the rule laid down by the House of Lords in *Rylands v. Fletcher*[1] is a milestone. The rule is based on the principle of 'no fault' liability, and therefore, even if the defendant was neither negligent nor intentionally caused the harm or was careful, still he could be held liable under the rule.

In *Rylands v. Fletcher* the defendant got a reservoir constructed, through independent contractors over his land for providing water to his mill. There were old disused shafts under the site of the reservoir, which the contractors failed to observe and so did not block them. When the water was filled in the reservoir, it burst through the shafts and flooded the plaintiff's coalmines on the adjoining land.

The defendant did not know of the shafts and had not been negligent, although the independent contractors had been. Even though the defendant had not been negligent he was held liable on the basis of the following rule propounded by Blackburn J.[2] -

> We think that the rule of law is, that the person who for his own purposes brings on his lands and keeps there anything likely to do mischief if it

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1. (1968) LR 3HL 330.
2. The rule was formulated by Blackburn J. in Exchequer chamber in *Fletcher v. Rylands* (1866) L.R.I Ex.265 and the same was approved by the House of Lords in *Rylands v. Fletcher* (1868) L.R.3 HL 330.

escapes, must keep it in at his peril, and if he does not do so, is *Prima facie* answerable for all the damage, which is the natural consequence of its escape. He can excuse himself by showing that the escape was owing to the plaintiff's default; or perhaps that the escape was the consequence of *vis major*, or the act of God; ... and it seems but reasonable and just that the neighbour, who has brought something on his own property which was not naturally there, harmless to others so long as it is confined to his own property, but which he knows to be mischievous if it gets on his neighbour's, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property.

An important qualification was added to the aforesaid rule by the House of Lords when the case came before it under appeal. It was held that for the liability under the rule, the use of land should be 'non natural'. Thus, the liability arises, not because there was any fault or negligence on the part of the person, but because he kept some dangerous thing on his land and the same escaped from there and caused damage.

8.1. Limitations of the Strict Liability Rule :

To ascertain the exact nature of the rule it is essential to know about the limits of the rule. It is clear from the study of case Law that "there is no liability under the rule unless there is some 'escape' from the defendant's land, but there is no necessity that the thing be likely to escape. What matters from this purpose is that if it escapes it is likely to do mischief and this is the meaning to be given to dangerous thing in this context".[3] In *Read v. Lyons & Co. Ltd.*,[4] the necessary factors for establishing liability under the strict liability rule were clarified. They are -

* dangerous thing likely to do mischief;
* brought on to land;
* escape;
* non-natural use of the land.

8.1.1. Dangerous Thing :

One of the essential factors in the application of the strict liability rule is that it applies to 'anything likely to do mischief if it escapes'. There may be numerous

3. W.V.H. Rogers (ed.), *Winfield and Jolowicz on Tort*, 425 (13th ed. 1989).
4. (1947) A.C. 156.

examples of 'dangerous thing', including gas,[5] explosives,[6] electricity,[7] noxious fumes,[8] colliery spoil,[9] vibration,[10] oil[11] etc. "In determining the 'dangerous thing' the Courts will use a factual test whether the thing is likely to mischief if it escapes'. Following the decision in *Cambridge Water v. Eastern Counties Leather Plc* (1994), it would appear that there is a requirement that the damage is foreseen as a result of the escape, and possibly that the escape itself is foreseeable".[12]

8.1.2. Land :

It is not enough for the dangerous thing to be naturally present on the land, it must have been brought onto the land. The strict liability rule as originally formulated refers to a person who for his own purposes brings on to his lands and collects and keeps there anything likely to do mischief if it escapes. Now it is clear that the rule applies to a local authority which is required to receive sewage into its sewers; one who uses land by permission of the tenant or occupier and brings on to it a dangerous thing is also liable for its scope.[13] The rule applies in those case as well where the defendant has a right to use land, e.g. for laying pipes to carry gas,[14] or cables for electricity.[15] "Although there are conflicting dicta it seems that an owner who is not in occupation of the land at the time when the thing escapes is liable if he has authorised the accumulation, and that anyone who collects the dangerous thing and has control of it at the escape would be liable".[16]

8.1.3. Escape :

There must be an escape of the substance, which is dangerous from the land where

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5. *Waschak v. Moffat,* 379 Pa. 441, 109 A. 2 d 310 (1954).
6. *Miles v. Forest Rock and Granite Co. Ltd.* (1918) 34 TLR 500.
7. *Eastern & S. African Telegraph Comp. Ltd. v. Cape Town Tarmways Co. Ltd.,* (1902), A.C. 381.
8. *West v. Bristol Tramways Co.,* (1908) 2 K.B. 14.
9. *Attorney General v. Cory Bros. Ltd.,* (1921) 1 A.C. 521.
10. *Hoare & Co. v. Mc Alphine* (1923), 1 Ch. 167.
11. *Smith v GW Railway* (1926) 135 LT 112.
12. S. Wolf and A. White, *Lecture Notes . . . Environmental Law,* 97 (1995).
13. *Rainham Chemical Works v. Belvedere Fish Guano Co.* (1921) 2 A.C. 465.
14. *Northwestern Utilities Ltd. v. London Guarantee Ltd.* (1936) A.C. 108, 118.
15. *Charing Cross Electricity Supply Co. v. Hydranlic Power Co.* (1914) 3 KB 772.
16. *Supra* note 3 at 428.

it is kept otherwise strict liability rule cannot be invoked. It is not sufficient for the application of the rule that there was merely the potential for escape. 'Escape' for the purpose of applicability of strict liability rule means, "escape from a place where the defendant has occupation or control over land to a place which is outside his occupation or control".[17] Thus, if there is projection of the branches of a poisonous tree on the neighbour's land, this amounts to an escape and if the cattle lawfully there on the neighbour's land are poisoned by eating the leaves of the same, the defendant will be liable under the rule".[18]

8.1.4. Non-natural Use of Land :

It is a basic requirement of the strict liability principle that the defendant should have brought onto his land something, which was not present there naturally. The term 'natural' has been interpreted in *Rylands v. Fletcher* to mean "that which exists in or by nature and is not artificial". Non natural use "must be some special use bringing with it increased danger to others, and must not merely be the ordinary use of land or such a use as is proper for the general benefit of community".[19]

In *Read v. Lyons,*[20] Lord Porter observed, "non-natural uses seems to be a question of fact . . . and in deciding this question I think that all the circumstances of time and practice of mankind must be taken into consideration so that what may be regarded as dangerous or non-natural may vary according to the circumstances." Thus, the concept of non-natural user was understood by Court as being similar to the idea of unreasonable risk in negligence. In *Mason v. Levy Auto Parts of England Ltd.*,[21] large quantities of combustible materials, stored on defendants land, ignited in mysterious circumstances. Mackenna J. paid regard to the quantities of combustible materials which the defendants brought onto the land; the way in which they stored them; and the character of the neighbourhood in order to determine whether the defendants ought to be held liable under the strict liability rule. He concluded, "it may be that

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17. *Read v. Lyons,* (1947) A.C. 156, 168.
18. R.K. Bangia, *Law of Torts,* 323 (17th ed., 2003).
19. *Richards v. Lothian,* (1913) A.C. 263, 279-280.
20. *Supra* note 17 at 176.
21. (1967) 2 Q.B. 530.

these considerations would be the same as I have reached by a more laborious, and perhaps more questionable route".[22] "The identification of non-natural uses with conduct creating an abnormal risk that ought not to be borne by the public has given to the Courts a device for determining liability in accordance with what they consider to be public policy. There is no objective universal test of what is non-natural".[23]

8.2. Exceptions to the Strict Liability Rule :

Although it is widely acknowledged that the decision of *Rylands v. Fletcher* created a regime of strict liability, the liability is not absolute and Courts have developed a number of defences. The following exceptions to the rule of strict liability have been recognised by Courts.

(i) Plaintiff's own fault
(ii) Act of God
(iii) Statutory authority
(iv) Common benefit
(v) Act of third party

8.2.1. Plaintiff's own Fault :

Where the plaintiff suffers as a result of his own act or default the defendant cannot be held liable. In *Rylands v. Fletcher* itself, this was considered as a defence. In *Ponting v. Noakes,*[24] the plaintiff's horse intruded into the defendant's land and died after having nibbled the leaves of a poisonous tree there. It was held by the Court that the plaintiff could recover nothing, for the damage was due to the horse's own intrusion.

8.2.2. Act of God :

Act of God or *vis major* means - "circumstances which no human foresight can provide against, and of which human prudence is not bound to recognise the possibility".[25] It was considered to be a defence to the strict liability rule in *Rylands v.*

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22. *Id.* at 542 - 543.
23. *Supra* note 3 at 430.
24. (1849) 2 Q.B. 281.
25. *Tennet v. Earl of Glasgow,* (1864) 2 M (H.L.) 22, 26-27.

Fletcher by Blackburn, J. himself.[26] In *Nichols v. Marsland*,[27] the defendant created artificial lakes on his land by damming up a natural stream. An extraordinary rainfall, greater and more violent than any within the memory of witnesses broke down the artificial embankments and the rush of escaping water carried away four bridges in respect of which damage the plaintiff sued. The Court found no negligence on the part of the defendants and held that the defendants were not liable because the accident had been caused by an act of God.

8.2.3. Statutory Authority :

The strict liability rule may be excluded by statute. In *Green v. Chelsea Waterworks Co.*,[28] It was the statutory duty of the defendant to maintain continuous supply of water. A main belonging to the company burst without any negligence on its part, as a consequence of which the plaintiff's premises were flooded with water. The Company was held not liable as it was engaged in performing a statutory duty.

8.2.4. Common Benefit :

Where the source of the danger is for the benefit of both the defendant and the plaintiff, the defendant can not be held liable for its escape. This is similar to the defence of consent of the plaintiff. In *Carstair v. Taylor*,[29] the plaintiff hired ground floor of a warehouse from the defendant, the upper part of the warehouse was occupied by the defendant himself. Water stored on the upper floor leaked without any negligence on the part of the defendant and damaged the plaintiff's goods on the ground floor. The defendant was held not liable, as the water had been stored for the common benefit of the plaintiff and the defendant.

8.2.5. Act of Third Party :

The unforeseeable act of a stranger is a defence under the strict liability rule, where the defendant has no control over his actions. The burden of proving this defence lies with the defendant. In *Box v. Jubb*,[30] the reservoir of the defendant

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26. (1866) L.R. 1 Ex. 265, 280.
27. (1876) 2 Ex. D.I.
28. (1894) 70 L.T. 547.
29. (1871) L.R. 6 Ex. 217.
30. (1879) 4 Ex. D. 76.

overflowed partly because of the acts of a neighbouring reservoir-owner and the defendant was held not liable. Where the act of the stranger could have been foreseen or action could have been taken to prevent the consequences then the defendant will still be liable.[31]

The implications of this rule, as far as environmental protection is concerned, are clear. There are many instances of pollution being causes by materials or substances brought onto land escaping from that land. "Over the years the rule has been applied in relation to water, fire, gases, electricity, oil, chemicals, colliery spoil, poisonous vegetation and even a chair-o-plane at a fairground! The sheer simplicity of the principle would seem to cover many potentially hazardous situations. However, the limitations of the principle are such that it is rarely successful nowadays".[32]

8.3. Non-delegable Duty of the Enterprises :

The rule of strict liability was applicable as much in India as in England before the historical judgment of the Supreme Court of India in the case of *M.C. Mehta v. Union of India,*[33] (*Oleum Gas Leak* Case). The Constitutional Bench of the Supreme Court modified the 19th century English law principle of 'strict liability' and evolved a new rule suitable to the social and economic conditions prevailing in India, i.e., the rule of 'Absolute Liability'. In this case the Supreme Court was dealing with claims arising from the leakage of oleum gas on 4th and 6th December, 1985 from one of the units of Shriram Foods and Fertilizers industries in the city of Delhi, belonging to Delhi Cloth Mills Ltd. As a consequence of this leakage, it was alleged that one advocate practising in the Tis Hazari Court had died and several others were affected by the same.

The Supreme Court utilized this occasion for taking a bold decision by holding that it was not bound to follow the 19th century rule of English law, and it could evolve a rule suitable to the social and economic conditions prevailing in India at the present time. While explaining the reasons for adoption of the new rule, Bhagwati C.J.

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31. *Northwestern Utilities Ltd. v. London Guarantee and Accident Co. Ltd.*, (1936) A.C. 108.
32. S. Ball and S. Bell, *Environmental Law*, 161 (2nd Ed., 1994).
33. AIR 1987 SC 1086; the case was decided by a Bench consisting of five judges on a reference made by a Bench of three judges.

observed, "This rule (*Rylands v. Fletcher*) evolved in the 19th century at a time when all these developments of science and technology had not taken place, cannot afford any guidance in evolving any standard of liability consistent with the Constitutional norms and the need of the present day economy and social structure".[34]

The Court further opined that law has to grow in order to satisfy the needs of the fast changing society and keep abrest with the economic development taking place in this country. As new situations arise the law has to be evolved in order to meet the challenge of such new situations. The Court formulated the rule of 'Absolute Liability' in the following words -

> [A]n enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise must be held to be under an obligation to provide that hazardous or inherently dangerous activity in which it is engaged must be conducted with the highest standards of safety and if any harm results on account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part.[35]

The Court gave following reasons for its decision -

Firstly, the persons harmed on account of the hazardous or inherently dangerous activity carried on by the enterprise would not be in a position to avoid such harm;

Secondly, such hazardous or inherently dangerous activity for private profit can be tolerated only on condition that the enterprise indemnifies all those who suffer due to the activities of the enterprise regardless of whether it is carried on carefully or not;

Lastly, the enterprise alone has the resource to discover and guard against hazards or dangers and to provide warning against potential hazards.

After citing the reasons the Court held in explicit terms -

> Where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the

34. *Id.* at 1098.

35. *Id.* at 1099.

operation of such hazardous or inherently dangerous activity resulting for example, in escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-a-vis the tortious principle of strict liability under the rule in *Rylands v. Fletcher*.[36]

The Court further laid down that the measure of compensation must be correlated to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. "The larger and more prosperous the enterprise, greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise".[37]

According to Prof. C.M. Jariwala, "the present ruling now makes it mandatory for the industrialist to pay serious attention in conducting their business with the highest standard of safety so as to avoid strict and absolute liability".[38] There is no doubt about the justness and relevancy of 'absolute liability' in developing country like India. But, some judges of the Supreme Court have doubted the validity of this new principle on technical grounds.

8.4. Viability of the Principle :

The legal basis and status of the 'absolute liability' principle was first time put on the acid test in *Bhopal* Case.[39] On the night of December 2/3, 1984 the worst industrial mass disaster of 20th century occurred due to leakage of Methyl Isocyanate Gas (MIC) from the Plant if Union Carbide India Ltd. (UCIL) in Bhopal. UCIL was a subsidiary company of Union Carbide Corporation (UCC), a multinational company, registered in United States of America. The disaster resulted in the death of at least 3,000 persons and very large number of people suffered serious injuries, permanently affecting their eyes, respiratory system and causing scores of other complications including damage to the foetus of pregnant women. After long drown litigation for over four years there was a settlement between the Union of India and the Union

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36. *Id.*
37. *Id.* at 1099-1100.
38. C.M. Jariwala, "Direction of Environmental Justice in India : Critical Appraisal of 1987 Case Law", 35 *JILI*, 101 (1993).
39. *Union Carbide Crop. v. Union of India*, AIR 1992 SC 248.

Carbide Corporation. In terms of the aforesaid settlement the Supreme Court in *Union Carbide Corporation v. Union of India,*[40] passed order directing the payment of a sum of 470 million US Dollars or its equivalent amount in Rupees. The 'Absolute Liability' principle was invoked by the Supreme Court (Pathak bench) during the settlement accounting exercise. Thus, the 'Absolute liability' principle, it seems, got indirect positive support under the settlement order dated 4th May 1989.

At the stage of review of the settlement in *Union Carbide Corporation v. Union of India,*[41] the principle laid down in *Oleum Gas leak* Case was not allowed to operate by the Supreme Court because it was "notionally submitted by the settlement fund which now represent and exhaust the liability of alleged hazardous entrepreneurs". According to Venkatachaliah J., "the settlement can not be assailed as violative of *Mehta (Oleum Gas leak* Case*)* principle which might have arisen for consideration in strict adjudication".[42]

Ranganath Misra, C.J., in his concurring opinion, however, specially went into this question and observed that what was said by the Supreme Court in *Oleum Gas Leak* case was "essentially obiter". Pointing out the 'due process' condition as laid down by the American Courts, he advocated for a pragmatic approach.

This opinion of Misra. C.J. attracted criticism from jurists and the issue was agitated before the three different Constitution Benches subsequently, but due to one or another reasons none of the Benches felt it a necessity to apply the absolute liability principle in the *Bhopal* Case, yet, except Misra, C.J., none of the remaining fourteen justices put a question mark on the ratio of the *Oleum Gas Leak* Case principle itself. On the contrary the absolute liability principle was used by the Pathak Bench, as mentioned before, to demonstrate the reasonability and justness of the settlement amount.

At some occasion during the Bhopal Litigation, the principle of 'absolute liability' as enunciated in *Oleum Gas Leak* case was termed as 'uncertain province of the law', the reason behind this statement was not the in-viability of the principle but the fact

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40. AIR 1990 SC 273.
41. *Supra* note 39.
42. *Id.* at 309.

that any Indian decree based on this principle had to be executed in USA - a place beyond the jurisdiction of the Supreme Court of India. Perhaps, this was the logic in the minds of the judges of the Supreme Court while promoting and upholding a settlement instead of deciding the *Bhopal* case on merit. It seems, however, that the Supreme Court deliberately missed an opportunity to develop new principle relating to Multinational Corporations operating with inherently dangerous technologies in the developing countries like India, without taking proper safety measures.

The doubts relating to viability of absolute liability principle, to a great extent, has been removed by the judgment of the Supreme Court in the case of *Indian Council for Enviro-legal Action v. Union of India.*[43] The writ petition was filed by an organization on behalf of villagers who were suffering from the pollution caused by the toxic industrial wastes of the chemical industries situated in the vicinity of the village. Here, again a question mark was put on the validity of 'absolute liability' principle, learned council for the respondents argued before the Court that the rule of 'absolute liability' was not accepted in England or other common wealth countries, and that the rule evolved by the House of Lords in *Rylands v. Fletcher* was the correct rule to be applied in such matters.

The Supreme Court rejected this argument in view of binding decision of *Oleum Gas Leak* Case and held the contention of respondents untenable, for, the said decision expressly refers to the rule in *Rylands v. Fletcher* but refuses to apply it saying that it is not suited to the conditions in India.

During the course of judgment the two judges bench of the Supreme Court discussed some recent judgments of English and Australian Courts along with the *Rylands v. Fletcher* case, to indicate why the *Rylands v. Fletcher* rule is inappropriate and unacceptable in India. Firstly, the Court took the case of *Cambridge Water Co. Ltd. v. Eastern Counties Leather, Plc.,*[44] where the House of Lords had approved the rule of 'strict liability' as propounded in *Rylands v. Fletcher.* The plaintiff, Cambridge Water Company, was a statutory corporation engaged in providing public water supply within a certain area including the city of Cambridge. The Cambridge Water Company

43. AIR 1996 SC 1446.
44. (1994) 1 All ER 53.

began to abstract the water for public consumption in June 1979. Unknown to the water company was the fact that the water was contaminated by a solvent, which had leached into the aquifer from a nearby tannery operated by Eastern Counties leather. The plaintiff's case was that on account of the solvent percolating into the ground, the water in its well became contaminated and unfit for human consumption and that on the account it was obliged to find an alternative source at a substantial cost. It sued the defendant for the resulting damages on the grounds of nuisance, negligence and the rule in *Rylands v. Fletcher.*

The High Court dismissed the action in nuisance and negligence because it was decided that the defendants could not have foreseen the damage caused to the aquifer arising from their tannery operations. Regarding *Rylands v. Fletcher* rule it was held that the solvent used by the defendants was a 'natural use' of the land. The decision of the High Court was, however, reversed by the Court of Appeal and Cambridge Water Company was awarded £ 1,000,000 in damages, plus costs. The Court of Appeal based its decision on basis of the tort of nuisance and the case of *Ballard v. Tomlinson.*[45] The Court of Appeal held that no person having a right to use a common source is entitled to contaminate that source so as to prevent his neighbour from having a full value of his right of appropriation.

On appeal by the defendant, the House of Lords allowed the appeal holding that foreseeability of the harm of the relevant type by the defendant was a prerequisite to the right to recover damages both under the heads of nuisance and also under the rule in *Rylands v. Fletcher* and since that could not be established by the plaintiff, it has to fail. The House of Lords, though, held that the defendant's use of the land was a non-natural use but dismissed the suit because of the plaintiff's failure to establish that pollution of water by the solvent used by the defendant was, in the circumstances of the case, foreseeable by the defendant.

The Court, after discussing the *Cambridge Water Co.* case went on to discuss an Australian case, *Burnie Port Authority v. General Jones Pty. Ltd.*[46] General Jones Ltd. had stored frozen vegetables in three cold storage rooms in the building owned

45. (1881-5) All ER Rep 688.
46. (1994) 6, 8 Australian Law Journal, 331.

by the Burnie Port Authority. The remaining portion of the building remained under the occupation of the Authority. The Authority wanted to extend the building. The extension work was partly done by the Authority itself and partly by an independent contractor. The contractor used an insulating material called EPS for the purpose of its work, which was highly inflammable substance. On account of negligent handling of EPS, there was a fire, which damaged the rooms in which the vegetables were stored. On an action by the General Jones, the Australian High Court held by a majority that the rule in *Rylands v. Fletcher* having attracted many difficulties, uncertainties, qualifications and exceptions, should now be seen, for the purposes of Australian Common Law, as absorbed by the principle of ordinary negligence. It was held further that "under the rules governing negligence, if a person in control of a premises, introduces a dangerous substance to carry on a dangerous activity, or allows another to do one of those things, owes a duty of reasonable care to avoid a reasonably foreseeable risk of injury or damage to the person or property of another. In a case where a person or the property of that other is lawfully in a place outside the premises, the duty of care varies in degree according to the magnitude of the risk involved and extends to ensuring that such care is taken."

Applying the aforesaid principle the Australian High Court held that the authority owed a non-delegable duty of care to General Jones to ensure that its contractor took reasonable steps to prevent the occurrence of a fire and the breach of that duty attracted liability pursuant to the ordinary principles of negligence for the damage sustained by General Jones Ltd.

After considering different lines of thought in aforesaid foreign cases the Court observed, "we are of the opinion that any principle evolved in this behalf should be simple practical and suited to the conditions obtaining in this country. We are convinced that the law stated by this Court in *Oleum Gas Leak* Case is by for the most appropriate one".[47]

The Court expressed its disagreement with the view that the 'absolute liability' principle stated in the *Oleum Gas Leak* case was obiter. Referring to the opinion of

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47. *Id.* at 1465.

Misra, C.J. in *Union Carbide* case[48] the Court observed -

> The majority judgment delivered by M.N. Venkata Chaliah J. (on behalf of himself and two other learned judges) has not expressed any opinion on the issue. We on our part find it difficult to say, with great respect to the learned chief Justice, that the law declared in *Oleum Gas Leak* Case is obiter; it does not appear to be unnecessary for the purposes of that case. Having declared the law, the Constitution Bench directed the parties and other organizations to institute action on the basis of the law so declared.[49]

Though there is no doubt about the worthiness of the absolute liability principle under the Indian conditions.A state of confusion regarding the actual status of the absolute liability principle in the judicial sphereis still prevailing, nevertheless, the principle of 'no fault liability' has got statutory recognition in laws enacted by the Parliament i.e. The Public Liability Insurance Act, 1991 and the National Environment Tribunal Act, 1995.

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48. *Supra* note 39.
49. *Supra* note 43 at 1463.