

UNIT - V

Liability & Wrongful Acts

Damnum Sine Injuria • Mens Rea • Strict & Vicarious Liability • Substantive & Procedural Law

Unit Structure

01

Conditions for Imposing Liability

Wrongful act, causation, fault elements

02

Damnum Sine Injuria & Injuria Sine Damno

Damage without injury and injury without damage

03

Mens Rea, Intention, Negligence, Recklessness

Mental elements of liability

04

Strict & Vicarious Liability; Substantive vs Procedural Law

No-fault liability and the distinction of law

Conditions for Imposing Liability

Liability arises when the following elements are present (in varying combinations depending on the area of law):

1. A wrongful act or omission (actus reus in criminal law; breach of duty in tort/contract)
2. Causation – the act must cause the harm complained of
3. A mental element (mens rea) in many cases – intention, knowledge, recklessness or negligence
4. Absence of a valid defence or justification
5. Damage or injury of a kind recognised by law (in tort and contract)

The precise combination differs between criminal law, tort, contract and other branches.

Damnum Sine Injuria & Injuria Sine Damno

Damnum Sine Injuria: Damage without legal injury. A person may suffer harm or loss, yet have no cause of action because no legal right has been violated.

Example: Opening a competing business that causes loss to an existing trader (Gloucester Grammar School case).

Injuria Sine Damno: Legal injury without actual damage. Violation of a legal right is actionable even if no actual loss is proved.

Example: Trespass to land; Ashby v. White (right to vote).

These maxims illustrate that liability depends on the violation of a right, not merely on the suffering of harm.

Mens Rea, Intention, Malice, Negligence, Recklessness

Mens Rea: The “guilty mind” – the mental element required for criminal liability.

- Intention: The aim or purpose of bringing about a particular consequence.
- Knowledge: Awareness that a consequence is practically certain.
- Recklessness: Conscious taking of an unjustified risk.
- Negligence: Failure to take reasonable care; in criminal law it is less commonly the basis of liability than in tort.
- Malice: Ill-will or improper motive; sometimes required for specific wrongs (e.g., malicious prosecution).

Different offences and torts require different levels of mens rea. Strict liability offences dispense with mens rea altogether.

Strict Liability

Strict liability means liability without proof of fault (intention or negligence).

Classic illustration: *Rylands v. Fletcher* – a person who brings onto his land and keeps there anything likely to do mischief if it escapes is liable for the damage caused by the escape, regardless of fault.

Modern applications: liability for defective products, certain environmental harms, industrial accidents under special statutes.

Absolute liability (Indian development – *M.C. Mehta v. Union of India*): In the case of enterprises engaged in hazardous or inherently dangerous activities, liability is absolute; no exceptions (such as act of God or third-party act) are allowed.

Vicarious Liability

Vicarious liability is the liability of one person for the wrongful act of another, based on the relationship between them.

Most common instance: Liability of a master for the torts of his servant committed in the course of employment.

Rationale: The master benefits from the servant's work and is better able to absorb and distribute the loss (deep-pocket / enterprise liability).

Other relationships: Principal and agent, partners, sometimes parent and child or owner and independent contractor (limited).

The wrongful act must be committed in the course of employment; frolics of one's own and purely personal acts are excluded.

Substantive Law and Procedural Law

Substantive Law: Defines rights, duties, liabilities and statuses. It answers the question “What are the legal rights and obligations of the parties?”

Examples: Indian Penal Code, Contract Act, Transfer of Property Act, personal laws.

Procedural (Adjective) Law: Prescribes the method and machinery for the enforcement of rights and duties. It answers the question “How are those rights enforced?”

Examples: Civil Procedure Code, Criminal Procedure Code, Evidence Act, Limitation Act.

The distinction is important for retrospectivity, interpretation and the competence of legislatures. Procedural changes are often applied retrospectively; substantive changes are presumed to be prospective.

Landmark Judgments

Rylands v. Fletcher (1868)

Foundation of strict liability for escape of dangerous things.

M.C. Mehta v. Union of India (1987)

Absolute liability for hazardous enterprises – no exceptions.

Ashby v. White (1703)

Injuria sine damno – violation of the right to vote is actionable.

Gloucester Grammar School Case

Damnum sine injuria – competition causing loss is not actionable.

Key Takeaways – Unit V

- Liability requires a wrongful act, causation, and usually a mental element, subject to exceptions.
- Damnum sine injuria means damage without legal injury; injuria sine damno means legal injury without damage.
- Mens rea includes intention, knowledge, recklessness and (sometimes) negligence.
- Strict liability dispenses with fault; absolute liability (Indian) allows no exceptions.
- Vicarious liability holds one person liable for the wrongs of another based on their relationship.
- Substantive law defines rights and duties; procedural law provides the machinery for their enforcement.

End of Unit – V

Liability • Wrongful Acts • Substantive & Procedural Law

All Five Units of Jurisprudence Completed

Meaning of Law • Schools • Justice • Sources • Concepts • Liability