

UNIT – III

Negligence, Nuisance & Strict Liability

Law of Torts • Core Tortious Liability & Remedies

Key Principles & Cases

What We Will Cover

01

Negligence

Essentials, Duty of care, Standard of care

02

Nuisance

Public & Private nuisance

03

Strict & Absolute Liability

Rylands v. Fletcher & M.C. Mehta rule

04

Legal Remedies & Awards

Damages, Injunction, Specific restitution

05

Remoteness of Damage

Wagon Mound & reasonable foreseeability

Essentials of the Tort of Negligence

Negligence is the breach of a legal duty to take care which results in damage undesired by the defendant to the plaintiff. The landmark case is **Donoghue v. Stevenson (1932)**.

1

Duty of Care

Defendant owed a legal duty of care to the plaintiff (neighbour principle).

2

Breach of Duty

Defendant failed to meet the standard of care expected of a reasonable person.

3

Damage

Plaintiff suffered actual damage which was caused by the breach and is not too remote.

Neighbour Principle & Reasonable Man

Duty of Care

Donoghue v. Stevenson established the neighbour principle:

“You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.”

Neighbour = persons so closely and directly affected that one ought reasonably to have them in contemplation.

Standard of Care

The standard is that of a reasonable man (objective test).

Factors considered:

- Magnitude of risk
- Seriousness of possible harm
- Cost and practicability of precautions
- Utility of the defendant's conduct

Professionals are judged by the standard of a reasonably competent professional in that field.

Public & Private Nuisance

Private Nuisance

Unlawful interference with a person's use or enjoyment of land, or some right over it.

Essentials:

- Interference must be substantial
- Continuity or repetition (usually)
- Unreasonableness

Remedies: Damages, Injunction, Abatement.

Who can sue: Person with interest in land.

Public Nuisance

Act or omission that causes inconvenience or damage to the public or a section of the public.

Examples: Obstructing a highway, polluting a public water source.

Special damage required for private action.

Also a crime under IPC / local laws.

Attorney-General or local authority can sue on behalf of public.

Rule in Rylands v. Fletcher

Rylands v. Fletcher (1868): A person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his peril. If it escapes and causes damage, he is prima facie liable.

Dangerous Thing

Something likely to do mischief if it escapes (water, gas, electricity, animals, etc.).

Escape

The thing must escape from the defendant's land to a place outside his control.

Non-natural Use

The use of land must be non-natural (special use bringing increased danger).

Defences

Plaintiff's default, Act of God, Consent, Act of third party, Statutory authority.

Rule in M.C. Mehta v. Union of India

M.C. Mehta v. Union of India (Oleum Gas Leak case) evolved the principle of **Absolute Liability**. An enterprise engaged in a hazardous or inherently dangerous industry owes an absolute and non-delegable duty. No exceptions available under Rylands v. Fletcher apply.

No Exceptions

Defences available under Rylands (Act of God, third party, etc.) do not apply.

Hazardous Industry

Applies to enterprises engaged in inherently dangerous or hazardous activities.

Compensation

Measure of compensation must be correlated to the magnitude and capacity of the enterprise.

Public Interest

Developed to protect victims in a developing industrial society with weak regulatory enforcement.

Key Differences

Point	Strict Liability	Absolute Liability
Origin	Rylands v. Fletcher (UK)	M.C. Mehta (India)
Exceptions	Several defences available	No exceptions
Scope	Non-natural use of land	Hazardous industries
Escape	Required	Not always required
Compensation	Ordinary measure	Higher, capacity-based

Remedies Available in Tort

Damages

Most common remedy. Monetary compensation for the loss suffered. Can be ordinary, special, exemplary or nominal.

Injunction

Court order restraining the defendant from continuing or repeating the wrongful act. Preventive in nature.

Specific Restitution

Restoration of specific property to the plaintiff (e.g., recovery of goods wrongfully taken).

Self-Help / Abatement

In limited cases (especially nuisance), the plaintiff may abate the nuisance himself after due notice.

Types of Monetary Compensation

Ordinary / Compensatory

Compensate the actual loss suffered by the plaintiff. Put him in the position he would have been if the tort had not occurred.

Special Damages

Quantifiable pecuniary losses (medical expenses, loss of earnings) that must be specifically pleaded and proved.

General Damages

Non-pecuniary losses (pain, suffering, loss of amenity) assessed by the court.

Exemplary / Punitive

Awarded to punish the defendant for high-handed or outrageous conduct. Rare and exceptional.

Nominal Damages

Small sum awarded when a legal right is violated but no substantial loss is proved.

Contemptuous Damages

Very small amount indicating the court disapproves of the plaintiff's conduct in bringing the action.

Which Losses are Recoverable?

Remoteness of damage limits the losses for which the defendant is liable. Even if causation is proved, only those damages that are not too remote can be recovered. The modern test is **reasonable foreseeability**.

Directness Test (Re Polemis)

Defendant liable for all direct consequences, even if unforeseeable. Now largely overruled.

Foreseeability Test (Wagon Mound)

Defendant liable only for consequences that a reasonable man would have foreseen. Current prevailing test.

Thin Skull Rule

Defendant must take the victim as he finds him. If the type of injury is foreseeable, full extent is recoverable.

Novus Actus Interveniens

A new intervening act may break the chain of causation and limit liability.

IMPORTANT CASE LAWS

Landmark Decisions

Donoghue v. Stevenson (1932)

Neighbour principle – duty of care established. Foundation of modern negligence.

Rylands v. Fletcher (1868)

Strict liability for escape of dangerous things from land.

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

Absolute liability for hazardous industries – no exceptions.

Wagon Mound (No.1) (1961)

Remoteness test – reasonable foreseeability of the type of damage.

Re Polemis (1921)

Direct consequences test (now largely discarded in favour of foreseeability).

Smith v. Leech Brain (1962)

Thin skull rule – defendant takes the victim as he finds him.

KEY TAKEAWAYS

Summary of Unit-III

01

Negligence

Duty + Breach + Damage. Donoghue v. Stevenson is the foundation.

02

Nuisance

Private (land interference) and Public (public inconvenience). Different standing rules.

03

Strict Liability

Rylands v. Fletcher – escape of dangerous thing from non-natural use.

04

Absolute Liability

M.C. Mehta – no exceptions for hazardous industries in India.

05

Remoteness

Wagon Mound – only reasonably foreseeable types of damage are recoverable.

Thank You

“You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.”

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