# Material Fact Of The Scenario

The plaintiff purchased a chemical compound of the defendant as skin wash for the use of his wife. The Liquid Soap wash was made up of ingredients known only to the defendant and by him represented to be “fit and proper to be used for washing the skin.” There was also an express statement that the defendant knew the purpose for which the article was ught. Due to the defendant’s “unskillful; negligent and improper” make of the compound, caused injury complained by the plaintiff.

# ▪Issue raised

Whether an action at the suit of the plaintiff (wife) her husband being joined for

conformity, will lie (or was there a cause of action against the defendant?). Whether the manufactured of products was liable in spread of the product but the seller was liable to enter into contract with the buyer

▪Argument by the Counsel for defendant:there was no warranty, express or implied

towards the purchaser, therefore any liability.

▪Argument by the Counsel for the plaintiffs:The defendant was a chemist who made the

compound which he sold for a particular purpose, and knowing the purposes, for which it

was bought, is liable in an action on the case for unskillfulness and negligence in the

manufacture of it whereby the person who used it was injured.

## ▪Holding:

Judgment for the plaintiffs against the defendant

### ▪Ratio Decidendi:

Apart from the question of warranty,express or implied there is a duty on the defendant, the vendor, to use ordinary care in compounding his wash for the skin.

There was such a duty to wards the purchaser and it extends to the person whose use the

vendor knew the compound was purchased Langridge v Levywas cited as an authority for

this proposition. Here a similar duty a rose towards the person who was known to the

defendant to be about to use this wash; namely the duty that the article sold should be

reasonably fit for the purpose it was bought for and compounded with reasonable care.

▪Obiter Dicta: Kelly, C.B. distinguished the case of Longmeid Elisa v Hollidayfrom this

case in that the former cases’ decision was not based on the negligence of the Vendor.

Piggott, B; was of the same opinion and he added:…. Where the thing purchased is for the

use not of the purchaser himself but, to the defendants’ knowledge, of his wife, does the

defendant’s duty extend to her? I can see no reason why it should not [The judge points to the

incapacity of women to sue on their own in those days which area reason why a husband had to

be joined with her as co-plaintiffs).

➢A major breakthrough occurred inHeaven v Pender7, where the court finally recognizedthat a duty of care can be owed to third parties. In a scenario where rdinary care or skill is required to prevent injury to the plaintiff, a duty of care exists even in the absence of a contract.