

## **Topic: Doctrine Of Absolute Liability**

Name of the case: MC Mehta v. UOI, AIR 1987 SC 1086

Bench: Chief Justice P.N. Bhagwati, Justice Ranganath Misra, Justice GL Oza, Justice M.M. Dutt, Justice K.N. Singh

Fact of the case: At 4th and 6th December, 1985 leakage of Oleum Gas from one of the unit of Shriram foods and Fertilisers Industries in Delhi, belonging to Delhi Cloth Mill Ltd. In this leakage one advocate practising in Hazari Court had died and several other affected.

A writ petition under Article 32 of the Constitution was brought by the way of Public Interest Litigation.

Judgment: The Supreme Court took a hard and bold decision holding that it was not bound to follow the 19th century rule of English law, and it could evolve a rule which is suitable to prevail in the Indians of social and economic at the present day. It evolved the rule of 'absolute ability' as a part of Indian law in preference to the rule of strict liability laid down in Ryland vs Fletcher. In the words of Chief Justice Bhagwati;

"this, rule (Ryland v. Fletcher) evolved in the 19 century at a time when all these developments of science and technology has not taken place cannot afford any guidance in evolving in a standard of liability that is consistent with the constitutional norms and the need of present-day economy and social structure. We do not feel inhibited by The Sun which was evolved in the context of a totally different kind of economy. Law has to grow in order to satisfy the need of the fast-changing society and keep abreast with the economic developments, taking place in this country. As a new situation arise the law has to be evolved in order to meet the challenge of such new situations. Law cannot allow our judicial taking to be constrained by reference of the law as it prevails in in England or for that matter that in other foreign legal order. We in India cannot hold our hands back and venture to evolve a new principle of liability which English courts have not done."

So, the Supreme Court evolved a new rule creating absolute liability for harm caused by dangerous substance. The following statement of Chief Justice Bhagwati which lays down the new principle may be noted:

"we are of the view that an enterprise which is engaged in hazardous or inherently dangerous industry which poses a potential threat to the health and safety of person working in the factory and residing in the surrounding areas owes an absolute and non-degradable duty to the community to ensure that no harm results to anyone on the account of hazardous or inherently dangerous activity which it has undertaken.

The enterprise must be held to be under an obligation to provide that the 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 the account of such activities the enterprise must be absolutely liable to compensate for such harm and it should be no answer to enterprise to say that it has taken all reasonable care and that the harm occurred without any negligence on its part."

The court also led down the measure of compensation payable within the capacity of enterprise, so that the same can have the different effect. The court held that "we would also like to point out that the measure of compensation in the kind of cases referred to must be correlated to the magnitude and capacity of the enterprise because such compensation must have a different effect. The large and more

prosperous enterprise, greater must be the amount of compensation payable by it for the harm caused on account of accident in carrying on hazardous or inherently dangerous activity by the enterprise.”