

# STRICT LIABILITY

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# The origin of the principle of Strict Liability

- The principle of strict liability has its origin in the leading case **Ryland V. Fletcher**.
  - In this case B, a mill owner employed independent contractors who were competent, to construct a water reservoir for the purpose of his mill. In the course of construction the contractors came across some old shafts and passages on B's land. They did not block them up, but completed the construction. When the reservoir was filled with water, water gushed through the shaft and flooded the mines of A. A sued B. The court held that B was liable on the ground of "Strict liability".
  - **Blackburn J held** we think that, the true rule of law is that the 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 and if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape" . **This is the rule in Ryland V. Fletcher.**

# Exceptions to the general rule

- **1. Consent of the plaintiff:**

If the plaintiff has given his consent the strict liability rule will not apply but 'volenti non-fit injuria' applies. Hence, the defendant will not be liable. In a leading case, **Peter V. Prince of Wales Theatre**, A took a lease of a theatre which had been fixed with pipes with running water to be used in case of fire hazard. Due to frost there was leakage in the pipes resulting in the damage to the property of P. P sued D the owner. The court held D not liable as there was consent of the plaintiff.

- **2. Common Benefit :**

If source of danger is for the common benefit of both the plaintiff and the defendant, the defendant is not liable. **In Carstairs V. Taylor**, B was in the first floor and A was in the ground floor as a tenant. Water from the roof collected in a box and was discharged out through a pipe. A rat gnawed a hole in the box and water leaked out and damaged the goods of A. Held B not liable. The reason was that the arrangement was for the common benefit of both the parties

## Exceptions to the general rule

3. **Act of Stranger** : If the escape of a thing is due to the act of stranger, the rule will not apply. In **Richards V. Lothian**, a stranger deliberately blocked up the waste pipe of a lavatory fixed in the premises of D. This caused flooding the premises of P. P sued D. Held, the defendant D was not liable as the act was due to a stranger.

4. **Statutory authority** : Sometimes the law made by parliament or State Legislature excludes strict liability. In **Green V. Cheisea Water Works Company**, the Parliament had authorised the company to lay the main pipes. The pipes burst flooding the premises of P. It was held that the company was not liable, (of course, the act should not be due to the negligence of the defendant).

5. **Act of God** : It is a general defence and may be set up to establish that the escape was due to some natural cause which was beyond the control of the defendant

6. **Default of the Plaintiff**: If the injury is due to the default of the plaintiff then there is no compensation. In a decided case, the plaintiff teased a Chimpanzee in a zoo and the animal caused injury by biting the hand of the plaintiff. Held the plaintiff alone was responsible and the defendant was not liable.

## Scienter Action :

Means "Action when there is Knowledge". This is the principle applied in respect of animals. In a number of cases decided, the Courts have held that in order to constitute a tortious liability it must be established:

1) That the animal was savagery

(2) That the defendant knew or had knowledge of the tendency of his animal.

### In Hudson V.

Roberts : The bull of Roberts gored Hudson on seeing in his hands a red hand-Kerchief.

**Held** Defendant liable as 1) the animal had so attacked others many times previously (2) that defendant had knowledge of it.

### In Jackson V.

Smithson : The facts were that one person by name Catherine was attacked by a ram, which goaded her and threw her down. **Held**, defendant liable as he had knowledge of the propensity of the animal.

# Thank You !!

**Determining when strict liability applies  
often comes down to case-by-case analysis**

