

A shop operates an aircraft supply business serving the needs of owners of private airplanes. A pilot contracted with the shop to replace the engine in his plane with a more powerful engine manufactured by an engine company. The shop purchased the replacement engine through a representative of the engine company and sold it to the pilot. A short time after it was put into use, the new engine failed, and the plane crashed into a warehouse owned by a woman, destroying the warehouse and its contents.

The shop was guilty of no negligence in the procurement or inspection of the engine. The failure of the engine was caused by a manufacturing defect that would not be disclosed by inspection and testing procedures available to a supplier. There was also no negligence on the part of the pilot in the installation of the engine or the piloting of the plane.

The woman recovered a judgment for damages from the shop for the destruction of her warehouse and its contents, and the shop has asserted a claim against the engine company to recover compensation on account of that liability.

In that action, what amount of compensation will the shop most likely recover?

- A. No compensation, because the shop sold the engine to the pilot.
- B. No compensation, because the woman's judgment established the shop's responsibility to the woman.
- C. Contribution only, because the shop and the engine company were equally innocent.
- D. Full compensation, because the engine was defective.

Explanation:

Any **commercial supplier** along the **chain of distribution** may be **strictly liable** for physical harm caused by a product's manufacturing defect that existed when the product left the supplier's control. However, commercial suppliers who did not negligently, recklessly, or intentionally fail to discover the product defect (ie, **no independent culpability**) can seek **indemnity** (ie, full compensation) from commercial suppliers earlier in the chain of distribution.

Here, the woman recovered a judgment against the shop (retailer) because it sold the pilot a defective engine that caused his plane to crash into her warehouse (physical harm). But since the shop was not negligent in failing to discover the engine defect, it was not independently culpable. Therefore, the shop can recover full compensation from an earlier commercial supplier—the engine company (manufacturer).

(Choice A) Although the shop is subject to strict products liability because it sold the defective engine to the pilot, it can still recover full compensation (indemnity) from the engine company because it was not independently culpable.

(Choice B) The judgment establishing the shop's responsibility to the woman does not prevent the shop from recovering full compensation from the engine company since the judgment did not address whether the shop negligently, recklessly, or intentionally failed to discover the engine defect (independent culpability). But if the shop had been found independently culpable, the judgment would have precluded its indemnity claim.

(Choice C) Contribution allows one independently culpable commercial seller to recover the proportional share of damages attributable to another independently culpable commercial seller (eg, if a negligent retailer pays 100% of an injured party's claim but is only 60% at fault, it can recover 40% from the negligent manufacturer). But since the shop was not independently culpable, it can recover full compensation (indemnity)—not just a share (contribution).

Educational objective:

Although any commercial supplier in the chain of distribution may be subject to strict products liability, suppliers who did not negligently, recklessly, or intentionally fail to discover the product defect (no independent culpability) can recover full compensation (indemnity) from suppliers earlier in the distribution chain.

References

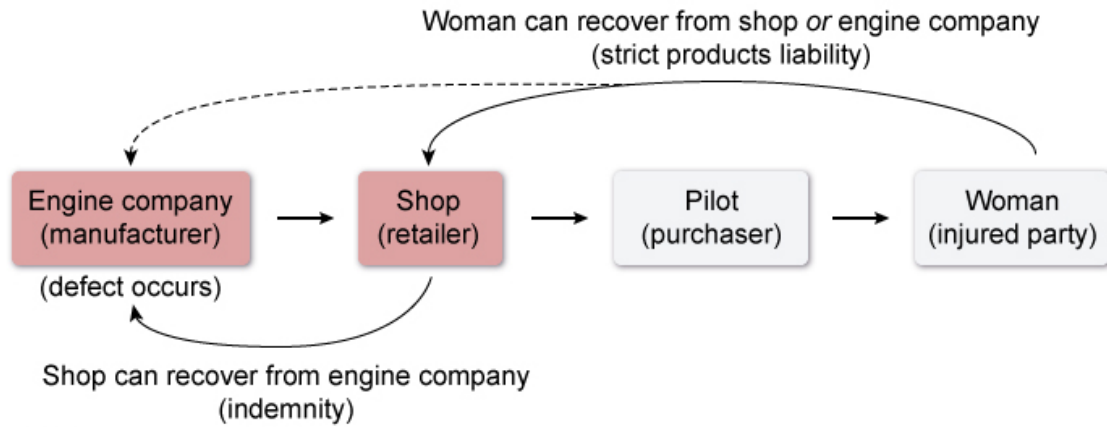
Restatement (Third) of Torts: Apportionment of Liab. § 22 (Am. Law Inst. 2000) (indemnity).

Restatement (Third) of Torts: Prods. Liab. §§ 1, 2(a) (Am. Law Inst. 1998) (strict products liability for manufacturing defects).

Copyright © 1995 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.

Strict products liability and indemnity



© UWorld