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"Doctrine of Absolute Liability vis-a-vis Right to a Safe Environment"

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Introduction

Before beginning with the basic argument based on the concept of Absolute liability and its correlation with the safe environment, we will discuss in detail the concept of 'Strict liability' and see how the doctrine of Absolute liability came into existence from the former principle. These principles have been discussed in tort law and it is of paramount significance because it not only aims to provide justice to the victims but also emphasize on the part of the accused to foresee such acts which are bound to take place irrespective of any fault. In other words, it provokes the authorities which are indulged in the administration and manufacturing of such substances and articles which are inherently dangerous and threatening to human lives to foresee and take such preventive and precautionary measures so as to avoid any mishap.

The role played by the doctrine of Absolute Liability in the Environmental Law is indeed indispensable because without such doctrine it would be a herculean task to preserve as well as promote the growth of environment and grant justice to those victims who have been entangled in the whereabouts of the path of seeking Compensation. The burden lies heavily on the authorities to grant compensation to the victims of environmental disaster which had been caused due to any kind of fault as well as restore the environment back to its former state. Here, the doctrine of absolute liability is invoked so as to hold the culprit accountable and it would be an important point to note that under the concept of Strict liability, several loopholes are there which makes it easier for the culprit to escape the severity of the penalty.

In order to deliberate further on the abovementioned argument, we will substantiate with the help of several case laws and environmental landmark judgments so as to comprehend the subject in a better manner. Few of the principles such as the polluter pays principle' and the precautionary principle as laid down under the concept of Sustainable Development are in consonance with the doctrine of absolute liability. The principle cannot be studied in a water-tight compartment as it has applicability in different areas of law. Another important factor which we will discuss is the effect of applicability of such principle and the success rate in granting justice to the victim through means of compensation and other effective measures. The main objective of this paper is to enunciate the principles of strict and absolute liability and show its relevance under Environmental Law and further substantiate whether it has been successful in making our environment a safe vicinity for all kinds of living beings.

Strict Liability

[1]The rule laid down in *Rylands v. Fletcher* is generally known as the 'Rule of Strict Liability'.

[1] R.K. Bangia, *Law of Torts* 324 (Allahabad Law Agency, Faridabad, 24th edn., 2018).

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Facts of the case – Rylands v Fletcher

In **Rylands v Fletcher**, the defendant got a reservoir constructed, through independent constructors, over his land for providing water to his mill. There were old disused shafts under the site of the reservoir, which the contractors failed to observe and so did not block them. When the water was filled in the reservoir, it burst through the shafts and flooded the plaintiff's coal mines on the adjoining land. The defendant did not know of the shafts and had not been negligent although the independent contractors had been. Even though the defendant had not been negligent, he was held liable.

Thus, the principle mainly states that the person who for his own purposes brings on his lands 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 at first sight answerable for all the damage which is the natural consequence of its escape. He can excuse himself by taking the help from exception enunciated under the principle such as that the escape was due to the plaintiff's own default; or that the escape was due to the act of God; or that it was a statutory duty of the authority, etc. The liability arises not because there was any fault or negligence on the part of a person, but because he kept some dangerous thing on his land and the same has escaped from there and caused damage. Since in such a case the liability arises even without any negligence on the part of the defendant, it is known as the rule of Strict Liability.

[2]Essentials of the Strict Liability

For the application of the rule, therefore, the following three essentials should be there:

1.) Some ***dangerous thing*** must have been brought by a person on his land.
2.) The thing thus brought or kept by a person on his land must ***escape***.
3.) It must be ***non-natural*** use of land.

Dangerous Thing – As per the rule the liability arises when a dangerous thing or anything which is capable of spoiling and destructive in nature escapes from one's land, it must be dangerous in nature i.e., a thing which is likely to do mischief if it escapes. In Rylands v. Fletcher, the thing so collected was a large body of water. Other dangerous things which are likely to cause mischief by escaping includes gas, electricity, vibrations, sewage, explosives, noxious fumes, and rusty wires.

Escape – For this rule to be apply, it is necessary that a dangerous thing which is capable of causing damage must escape to the area outside the occupation and control of the defendant. Thus, if a branch of a poisonous tree is projected and leaned towards the neighbor's land and the cow on the neighbor's land dies in consequence of consuming the fruits from such projected branch of the poisonous tree then the defendant shall be held liable for the same. The branch of such poisonous tree has escaped from the vicinity of the defendant by leaning towards the neighbor's land and being within the reach of the cattle possessed by the plaintiff. It is the duty of the defendant to ensure that the branch of such poisonous tree do not fall

[2] R.K. Bangia, *Law of Torts* 327 (Allahabad Law Agency, Faridabad, 24th edn., 2018).

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within the adjoining property of his neighbor and thus he must take reasonable care by trimming the branch of such tree on a regular basis. However, in a case, where the plaintiff's horse intrudes into the house of the defendant and nibbles the leaves of such poisonous tree and in consequence of such nibbling dies then in such a case, the defendant shall not be held liable because there is not as such any escape of a dangerous thing on its own. [3]In a case of Read v. Lyons & Co., the plaintiff was an employee in the defendant's ammunition factory. While she was performing her duties inside the defendant's premises, a shell, which was being manufactured there, exploded whereby she was injured. There was no evidence of negligence on the part of the defendants. Even though the shell which had exploded was a dangerous thing, it was held that the defendants were not liable because there was no "escape" of the thing outside the defendant's premises and, therefore, the rule of Strict liability did not apply to this case.

Non-natural use of land – The distinction between natural and non-natural use of land is simple to comprehend. Water collected in the reservoir in such a huge quantity in Rylands v. Fletcher was held to be non-natural use of land. Whereas storing water for ordinary domestic purposes is natural use.[4] To meet the criteria of non-natural use, the special use should be such which brings with it an additional danger to others and it must not be a general or ordinary use of land for the common benefit of all. If a land is being used for growing a medicinal tree which could prove to be poisonous if its fruit are consumed in raw form by humans as well as animals, then the same land is being used for a special purpose (non-natural) use as it brings with a special danger which could take a life of its consumer and as a matter of fact, such use is obviously not ordinary or general in nature because it has a totally unique purpose. However, it is significant to take note of judgment in *Noble v. Harrison which states that non-poisonous trees on one's land are not non-natural use of land.* Consequently, if a branch of such tree overhung on the highway falls on the oncoming car of the plaintiff due to some latent defect, the defendant cannot be held liable for the same as the growing of trees is not non-natural use of land. There's a distinction between growing of poisonous and non-poisonous trees, the former category falls under the non-natural use of land whereas the latter category falls under the natural use of land, the former category falls under the non-natural use of land because it brings with it a special danger which could cause harm to others.

[5]Similarly, if a mere land is being used for display of fireworks to its spectators and during the commencement of such fireworks if any untoward incident occurs which leads to injury of its spectators then the rule of Strict Liability shall apply and consequently the culprit will be held liable. Even if such incident occurs due to the negligent behavior of the independent contractor, still the defendant shall be held liable. Here, the duty to take care of such extra-hazardous object is non-delegable in nature and thus the appellants cannot escape such liability by hiring independent contractors.

[3] Read v. Lyons (1947) AC 156 House of Lords
[4] Rickards v. Lothian, (1913) A.C. 263.
[5] T.C. Balakrishnan Menon and ORS v. T.R. Subramanian and ANR AIR 1968 Ker 151

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Electric wiring in a house or a shop[6], supply of gas in gas pipes in a dwelling house[7], water installation in a house are other examples of natural use of land.

The basic notion of Strict liability simply states that it is not concerned with the proof of negligence, what it really relies on is the nature of the act and the gravity of such act is solely deemed on the basis of its capability to destroy, spoil or harm the goods/living beings on such a scale which could only be undone through retribution or just compensation and then accountability is taken into consideration in a strict manner so as to make such a "Duty of Care" non-delegable in nature at all costs so that the culprits are unable to escape the deserved penalty.

Exceptions to the rule of Strict Liability

In Rylands v. Fletcher, the following exception to the rule have been laid down as under:

(a) Plaintiff's own default;
(b) Act of God;
(c) Consent of the Plaintiff;
(d) Act of third party;
(e) Statutory authority.

The exceptions and the abovementioned essentials provided under the rule of Strict liability somehow acts as a loophole in the principle itself and enables the defendant to escape the liability by relying on such rules. Perhaps, it is a discrepancy in the underlying principle which had become archaic and null due to its flexibility and cordial approach towards holding the accountability of the defendant(s). [8]For instance, in Read v. Lyons & Co., the claimant was employed in the defendant's ammunition factory to manufacture explosives. During the course of her employment an explosion occurred which killed a man and injured others including the claimant. Due to lack of proof of negligence on the part of the defendant and the escape of such a "dangerous thing", the claimant's appeal was dismissed and the rule of Strict liability as enunciated under "Rylands v. Fletcher" was applied while giving such a decision. Thus, there was no cause of action on which the claimant could succeed.

An ammunition factory, as we all know, brings with it a special kind of danger because the subjects deal with all sorts of elements which are inflammable and noxious in nature. Consequently, they have to be extra cautious during the procedure of manufacturing and processing of such shells and bullets. The rule of Absolute Liability fits well in this case as an employee is not merely working for a living wage or for the sake of employment, if they are injured due to some untoward incident, then the defendants must be held liable unequivocally as they have a non-delegable 'duty of care' towards their employees. The employees have a right to safety and a right to seek damages for bodily injuries and such factories must be

[6] Collingwood v. Home and Colonial Stores Ltd., (1936) All. E.R. 200.
[7] Miller v. Addie and Sons Collieries, 1934 S.C. 150.
[8] Read v. Lyons (1947) AC 156 House of Lords

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bound by the rule of Absolute Liability. An employee is working in such a factory so that he could maintain the welfare of himself and his family. We cannot strip them of their right to damages and it is immaterial as to whether the dangerous thing escaped or not.

Absolute Liability

Introduction

[9]With the expansion of chemical based industries in India, increasing number of enterprises store and use of hazardous substances. These activities are not banned because they have great social utility, for example, the manufacture of fertilizers and pesticides. Traditionally, the doctrine of strict liability was considered adequate to regulate such hazardous enterprises. The doctrine allows for the growth of hazardous industries, while ensuring that such enterprises will bear the burden of the damage they cause when a hazardous substance escape. Shortly after the Bhopal Gas leak tragedy of 1984, the traditional doctrine was replaced by the rule of 'absolute' liability, a standard stricter than strict liability. Absolute liability was first articulated by the Supreme Court and has since been adopted by Parliament.

The genesis of absolute liability was the *Shriram Gas Leak case* which was decided by the Supreme Court in December 1986. The case originated in a writ petition filed in the Supreme Court by the environmentalist and lawyer, M.C. Mehta as a public interest litigation (PIL). The petition sought to close and relocate Shriram's caustic chlorine and sulphuric acid plants which were located in a thickly populated part of Delhi. Shortly after Mehta filed this petition, on 4th December 1985 oleum leaked from Shriram's sulphuric acid plant causing widespread panic in the surrounding community.

Also, it is an interesting fact to note that the absolute liability theory laid down by the Supreme Court in Shriram case was first applied by the MP High Court to support its award of interim compensation to the Bhopal victims.[10]

[11]The Shriram Gas Leak case

The case was originally filed as a PIL (WP No. 12739 of 1985) in the Supreme Court by the environmentalist and lawyer M.C. Mehta. The sole objective of the petition was to close and relocate Shriram's caustic chlorine and sulphuric acid plants located in a densely populated section of Delhi. One month after the filing of this petition, oleum leaked from the sulphuric acid plant located in the same 76-acre industrial complex as the chlorine plant, affecting several people. It leaked on 4th December 1985 – a day after the first anniversary of the Bhopal Gas leak – and caused widespread panic in the surrounding community.

[9] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 105-106 (OUP, New Delhi, 2020)
[10] Union Carbide Corporation v Union of India Civil Revision No. 26 of 1988, 4 April 1988.
[11] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 520-521 (OUP, New Delhi, 2020).

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Consequently, the Inspector of Factories and the Assistant Commissioner issued two separate orders under the Factories Act 1948 to shut down both the plants in consequence of which the aggrieved party (Shriram) filed a Writ Petition challenging the two prohibitory orders issued and sought interim permission to reopen the caustic chlorine plant.

However, records show that Shriram Foods and Fertilizers was compliant with the orders of the Supreme Court as it had no intention to jeopardize the prestigious name of the company and also it had a future stake in the same. We will discuss few of the orders in detail as it will help us to determine the significance of such orders in averting danger and catastrophe. Several of these orders required Shriram to deposit significant sums of money to finance the court's exercise of seemingly executive and legislative functions in the process of adducing evidence in the case.

It would be wise to see this case as a benchmark to lay down the principle of absolute liability so as to mitigate the conditions of the victims of Bhopal gas tragedy which took place on 3-4 December 1984 by setting a precedent which would create stricter standards for all such industries and factories and hold their management completely accountable. Thus, when it comes to accountability under the rule of Absolute liability, there is no requirement of evidence of extra-caution or such measures which could have averted the outbreak of such disaster because had their been such measures adopted in its entirety, there would have no occurrence of such a disaster. Still if a company fails to avert such dangers, it shall be held absolutely liable for the same causation.

The Chief Justice – P.N. Bhagwati, who presided over the Supreme Court bench, was extremely concerned for the safety of Delhi's citizens and was anxious to improve plant safety at the caustic chlorine unit.

[12]As per the records – "The 15-minute leak from a tank at the Shriram plant resulted in vapor clouds rapidly spreading to the thickly populated neighborhood, sending residents into a tizzy. Some 700 people had to be hospitalized for eye and respiratory irritation, though most were out the next day itself. There was however, one casualty – Advocate Charanjit Singh Walia, who was at the Tis Hazari Courts some 7 Km away, died the next morning in hospital. At the plant itself, three workers and two officers were affected."

Significant questions raised by the Petitioner

[13]This Writ Petition raises some of the important questions which determines the Ambit and scope of Article 21 and 32 of the Indian Constitution and the rules which determine the liability of large enterprises engaged in manufacture and sale of hazardous products, and the basis on which such damage is quantified and whether such large enterprises should be

[12] Oleum leakage spells big trouble for Shriram Food and Fertilizers, *available at:* https://www.indiatoday.in/magazine/economy/story/19860115-oleum-leakage-spells-big-trouble-for-shriram-food-and-fertilisers-800495-1986-01-15 (Last modified – January 16, 2014).

[13] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 522 (OUP, New Delhi, 2020) *M.C. Mehta v. Union of India AIR 1987 SC 965.*

allowed to continue to function in thickly populated areas, and, if they are permitted so to function, what measures must be taken for the purpose of reducing to a minimum the hazard to the workmen and the community living in the neighborhood. These questions are of paramount importance and also these questions had perplexed lawyers and jurists when MIC gas leaked from Union Carbide Plant in Bhopal on 3rd of December 1984. Many of the lawyers and judges contemplated as to what controls would completely remove the harm caused to the people and the environment and what measures could be adopted – whether by way of relocation or by way of adequate safety devices, need to be imposed on Corporations employing hazardous technology and producing toxic or dangerous substances and if any liquid or gas escapes which is injurious to the workmen and the people living in the surrounding areas, on account of negligence or otherwise, what is the extent of liability of such Corporations and what remedies can be devised for enforcing such liability with a view to securing payment of damages to the persons affected by such leakage of liquid or gas.

While the writ petition was pending there was escape of Oleum gas from one of the units of Shriram Foods and Fertilizer Industries on 4th and 6th December 1985 and applications were filed by the Delhi Legal Aid & Advice Board and the Delhi Bar Association for award of compensation to the persons who had suffered harm on account of such escape of gas. According to the Petitioner and the Delhi Bar Association, one advocate practicing in the Tis Hazari Courts died. The former part of the reply to the Writ petition of the Petitioner, the major question was whether the Shriram Foods and Fertilizer Industries should be permitted to restart the functioning of its caustic chlorine plant and in consequence of deciding such question the independent team of experts were recruited and consequently Committees were set up such as that of Nilay Choudhary and Dr. Aghoramurthy and Mr. R.K. Garg to inspect the caustic chlorine plant and submit a report to the court.

[14]As a result, two reports were compiled, one of Manmohan Singh Committee and two of Nilay Choudhary committee which set out recommendation which were to be mandatorily complied with by the Management of Shriram Foods and Fertilizer Industries so as to minimize the hazard which the chlorine plant pose to the workmen and the public. Thus, eleven rules were laid down so that it could be compulsorily followed by the Shriram. It was clearly stated that failure to abide by these rules would lead to forfeiture of the permit to continue the functioning of the caustic chlorine plant and would lead to closure of the same plant.

[15]Final Verdict

Whether compensation is payable under Article 32 of the Constitution?

The dissension regarding the payment of compensation between the respondent and the petitioner was taken up seriously by the Court. In a preliminary objection, the respondent

[14] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 523 (OUP, New Delhi, 2020) *M.C. Mehta v. Union of India AIR 1987 SC 965.*

[15] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 530-532 (OUP, New Delhi, 2020) *M.C. Mehta v. Union of India AIR 1987 SC 1086*.

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(Shriram) contended that since the petitioner had not made any such claims for compensation in the Original Writ petition or amended his pleadings to incorporate a compensation plea, the court should not decide the issues arising from compensation claims. The court, however, dismissed the objection stating that a 'hyper-technical' approach would defeat the ends of justice. Thereafter, the court scrutinized the scope and ambit of Article 32 of the Indian Constitution and concluded that under that article the Supreme Court may award compensation in relevant and appropriate cases.

Whether 'Shriram Foods and Fertilizer Industries Corporation' would fall within the ambit of Article 12 of the Constitution?

The second question which came in for consideration on the application for compensation was rejected by the Court. The Court stated that – "We do not propose to decide finally at the present stage whether a private corporation like Shriram would fall within the scope and ambit of Article 12, because we have not had sufficient time to reflect and consider on this question in depth…" They further stated that they had only four days to deliver the judgment and thus, they did not make any pronounce on the same point as it was a secondary question as it did not deal with a major perplexing element of liability. However, they left the same question for scrutiny for future.

[16]What is the measure of liability of an enterprise which is engaged in a hazardous or inherently dangerous industry? Does the rule in Rylands v. Fletcher apply?

This is the most important question as it forms the major component of this case. This question was answered in the following words – "We are of the view that an enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of the 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 account of such activity, the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part."

Thus, If we look at an Enterprise which has been solely responsible for an environmental catastrophe, it would be pertinent to notice that such an enterprise had been totally irresponsible in administration of safety measures and has completely ignored the significance of safety measures such as weekly/monthly check-up of all the machines by a committee of experts, installment of fire-fighting equipment in relevant areas of an

[16] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 531-532 (OUP, New Delhi, 2020) *M.C. Mehta v. Union of India AIR 1987 SC 1086*.

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Enterprise, etc. This principle plays an inherent role here to hold the accountability of the Occupier/Management Committee in case of any mishappening such as an escape of toxic fumes.

Therefore, it was held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such hazardous and inherently dangerous activity resulting, for example, the escape of toxic gas ***the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such liability is not subject to any of the exceptions which operate vis-à-vis the tortious principle of strict liability under the rule in Rylands v. Fletcher***.

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

Thus, as we have discussed above the case of Shriram Gas leakage, it becomes cogent and clear to conclude that the rule of Strict liability failed to increase its potential as it was archaic and dull in nature. This principle did not work in its entirety because of the presence of the exceptions, in other words, it gave way to the culprit to escape the liability instead of penalizing him for the same. The rule is not coherent because it goes against the natural principle of "***Right to a safe and healthy environment***". [17]As a matter of fact, Union Carbide Corporation relied on a Sabotage theory (Act of a third party), one of the exceptions enunciated under the rule in *Rylands v. Fletcher*, to shield itself from the claims of the Bhopal victims. It was suggested that a disgruntled employee working in the pesticide factory owned by Carbide's Indian subsidiary may have triggered the escape of the gas. Such a theory afforded a defense under the rule of strict liability laid down in *Rylands v. Fletcher*. But as we all know, Chief Justice Bhagwati with utmost valor and courage defied the rule of Strict Liability and its exceptions in the Shriram case and stated that such enterprises which are involved in the manufacturing and processing of hazardous substances shall be absolutely liable for the escape of any dangerous thing resulting in harm to the workers or the public in general.

Statutory recognition granted to the no-fault/absolute liability

[18]The Public Liability Insurance Act, 1991

In 1991, Parliament enacted the Public Liability Insurance Act, giving statutory recognition to no-fault liability in small measure. The victims of a hazardous industrial accident were now entitled to compensation at prescribed levels, without proof of negligence. The maximum compensation under the Act on a 'no-fault' basis however is limited to Rs. 25,000. However, the right of a victim to claim larger damages is expressly reserved. To safeguard

[17] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 106 (OUP, New Delhi, 2020).
[18] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 62 (OUP, New Delhi, 2020).

the interest of victims, the law requires all hazardous enterprises to obtain sufficient insurance cover.

- As per the act, the 'owner', who is defined to mean a person who owns or has control over the handling of any hazardous substance at the time of the accident, is liable to compensate the victims on a 'no-fault' basis.
- The heads under which compensation may be claimed are set out in the schedule to the Act which contains five clauses.
- An 'accident' is defined to cover a sudden unintended occurrence while 'handling' any hazardous substance resulting in continuous, intermittent or repeated exposure leading to death or injury to any person, or damage to property or the environment. However, accidents resulting from war or radio-activity are excluded from the scope of the Act. The definition of 'handling' is exhaustive which includes manufacture, trade and transport of hazardous substances.
- Accordingly, an Environment Relief Fund has been constituted by the Central Government wherein every owner is supposed to contribute apart from contributing for the insurance cover. The primary objective of this fund is to provide relief to the victims of an accident. The Principle administrative authority under the PLIA is the collector, who is required to verify the industrial accident, give publicity to the event and invite applications for compensation and award relief for the same.

Relation between Absolute Liability and the rule of Polluter pays Principle

The 'polluter pays principle' is an extension to the rule of Absolute liability because it maximizes its potential to restore the harm done to the environment such as discharge of untreated effluents into the river which percolates deep into the bowels of the Earth and deeply affect the aquatic animals and plants, and contributes in an ecological imbalance, or through any other kind of pollution. The restoration of harm could be taken up by adopting remedial measures depending upon the gravity of the harm caused to the environment. However, where restoration could not take place, hefty amounts may be imposed as a penalty on the accused. The restoration of the harm shall be done both to the environment as well as living beings. A unique proposition which was added under this principle was that the cost of degradation of the environment shall be paid so as to restore the environment to its natural or former state. The principle exposes the polluter to two-fold liability, namely, compensation to the victims of pollution and ecological restoration.

[19]In *Indian Council for Enviro-Legal Action v. Union of India*, the rule of polluter pays principle says that – "Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on." In this case, the

[19]Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 108-110 (OUP, New Delhi, 2020) *Indian Council for Enviro-Legal Action v. Union of India AIR 1996 SC 1446.*

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chemical industries – Jyoti Chemicals and Silver Chemicals situate in a small village called Bichri in Udaipur District of Rajasthan. These industries were involved in the production of 'H' acid which led to the production of iron and gypsum-based sludge (a very thick black colored and tar like liquid). The production of this acid had been banned in several western countries as it is considerably harmful to the environment and living beings. However, in States like Gujarat and Rajasthan, several industries have been indulging in the manufacturing and production of the same acid irrespective of taking into consideration its negative repercussions on the environment. It was estimated that these two units – Jyoti and Silver Chemicals had given birth to about 2400-2500 MT of highly toxic sludge besides other pollutants.

Consequently, the disposal of such sludge into the river led to the degradation of water which rendered it unfit for human consumption and also destroyed the same for irrigating lands and further led to the spread of disease and health complications. As a matter of fact, the manufacturing of 'H' acid was discontinued in consequence of revolt by the villagers which led the District Magistrate of the area to close the industries. *But the consequences of their action remained – the highly toxic sludge and the damage to earth, to underground water, to human beings and cattle, to the village economy.*

As a result, the respondents were held absolutely liable to compensate for the harm caused by them to the villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove the sludge and other pollutants lying in the affected area and also to defray the cost of the remedial measures required to restore the soil and the underground water sources.

Thus, the 'polluter pays' principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remedying the damaged environment is part of the process of 'Sustainable Development' and as such the polluter is liable to pay the cost to the individual who suffers as well as the cost of reversing the damaged ecology.

Precautionary Principle vis-à-vis Doctrine of Absolute Liability

The Precautionary principle as well as the principle which we discussed above are enunciated under the heading – "Sustainable Development". These principles have been enacted mainly to attain the objectives of sustainable development. The doctrine of Absolute liability guard against the principles of sustainable development and ensure that there is no breach of the same. The penalizing element as well as the element of restoration of the environment back to its former state plays a vital role in protecting the environment and its subjects. When there is an imposition of hefty amount of penalty on the defaulter, that makes him absolutely liable to compensate for the same damage as well as to restore the environment to its former state, whereas on the other hand when the foreseeability beckons the occupier/owner to take preventive measures so as to avert considerable harm or danger in the near future, then the

owner/occupier shall be liable to take such preventive measures so as to avoid harm resulting in the death/injury of the workers or degradation of the environment. The doctrine of Absolute liability and precautionary principle are parallelly significant as they promote the concept of equity in protection of the environment as well as those human beings who have been involved in the handling of hazardous substances in an enterprise. Both are interdependent on each other for optimal protection of the environment and its subjects. In the absence of either of them, the existing one could not work to its complete potential. The precautionary principle has been mainly enacted to magnify the need for adopting preventive measures so as to avert all kinds of danger which could lead to the degradation of the environment as well as accidents. Thus, the doctrine of Absolute liability act as a guardian as well as the promoter of sustainable development goals.

[20]The 'precautionary-principle' – in the context of the municipal law means:

(i) Environmental measures – by the State Government and the statutory authorities – must anticipate, prevent and attack the causes of environmental degradation.
(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
(iii) The 'Onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

[21]The suggestion of this principle is that the developers must assume from the fact of development activity that harm to environment may occur and that they should take necessary action to prevent that harm. It is this "precautionary principle" which ensures that a substance or activity posing a threat to the environment is prevented from adversely affecting it, even if there is no conclusive scientific proof linking that particular substance or activity to the environmental damage. The words "substance" and "activity" imply substance or activity introduced as a result of human intervention. Principle 15 of the Rio Declaration defines the Precautionary principle in a similar manner wherein it states that where there are threats of serious or irreversible environmental damage, lack of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

[22]Moreover, the concept of 'Environmental Impact Assessment' is a technique to ensure that the effects of development activity on the environment will be taken into consideration before it is authorized to proceed. The main objective of EIA is to cross-check that a developmental activity does not pose serious or irreversible harm to the environment, it is backed by the precautionary principle which mandates that the EIA should be made obligatory for all developmental activities which pose serious or irreversible damage to the environment. The concept of EIA must be perpetual in nature, in other words, not functional only in the

[20] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 588 (OUP, New Delhi, 2020) *Vellore Citizens' Welfare Forum v. Union of India AIR 1996 SC 2715*
[21] Gurdip Singh, Environmental Law 38 (EBC, Lucknow, 2nd edn., 2016)
[22] Gurdip Singh, Environmental Law 40-42 (EBC, Lucknow, 2nd edn., 2016)

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beginning but also after the commencement of the operation of developmental activity. It must involve continuous assessment and evaluation of the impact of developmental activity on the environment. As we have looked into the concept of 'Absolute liability', it must have been clear by now that these principles which have been implored under "Sustainable Development" more or less seek to preclude harm to the environment and helps in ascertaining the liability of the occupier in administration of preventive measures and procedures adopted so as to avert harm to the environment as well as its subjects. These principles are based on fair principles of Justice and Equity, inasmuch as it provokes the authority/occupier/developer to adopt all such measures which can help in subverting irreversible harm to the environment and still if they fail to adopt such measures then the doctrine of Absolute liability shall come into the picture and grant justice to the victim(s). The concept of Sustainable Development is a universal concept and it basically accommodates all those principles which are in favor of development vis-à-vis ecology and it sees poverty as one of the scrupulous reasons for environmental degradation because hunger and poverty persuades the individual to exploit the natural resources which could further lead to breach of the safety of the environment.

Necessity of Absolute liability in India

As we have discussed about the concept of strict and absolute liability, it is clear enough that the handling of hazardous substances is not a child's play and one needs to make this clear that it involves considerable amount of danger to life as well as environment in case there is an escape of such a dangerous thing or explosion or in other forms. The life of any individual is not saleable and you cannot put it at stake merely for the sake of generating economy or running a machinery. As a humanitarian, I would like to make my point clearer by stating that if a person is working in any factory which requires the handling and manufacturing of any hazardous or dangerous substances which is life threatening or which tend to harm the environment if it escapes in consequence of negligent behavior of the occupier/developer, then such a victim shall not only be entitled to compensation but an exemplary amount of compensation so that it has a deterrent effect and which must be able to stop the occurrence of such a disaster/accident in the near future. The applicability of this principle stretches as well to a defective design/architecture which might prove to be life-threatening to the user of such architecture.

[23]The principle of Absolute liability was applied by the Delhi High Court in Klaus Mittelbachert v. East India Hotels Ltd. A German co-pilot, who stayed in New Delhi in Hotel Oberoi Inter-continental, a five-star hotel, was badly injured when he dived in the hotel swimming pool due to the defective design of the swimming pool and insufficient amount of water in it. The injuries resulted in his paralysis and ultimate death after 13 years of the accident. It was held that a five-star hotel charging high tariffs from its guests owes a high degree of care to its guests. A latent defect in its structure or service attracts absolute liability.

[23] R.K. Bangia, *Law of Torts* 343 (Allahabad Law Agency, Faridabad, 24th edn., 2018).

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The high price tag hanging on its service pack attracts and casts an obligation to pay exemplary damages, if an occasion may arise for the purposes. The plaintiff was held entitled to rupees 50 lacs for this accident.

Here the maxim "res ipsa loquitur" is also applicable which means "things speak for itself". In the common law of torts, it is a doctrine that infers negligence from the very nature of an accident or injury in the absence of direct evidence on how any defendant behaved. The structural standard and measure of the swimming pool was defective as it did not meet the general criteria for diving which is more than 12ft of depth and consequently, the diver suffered a severe head injury and died.

[24]Similarly, where a board of persons are responsible for managing high voltage electricity from being escaping and causing grievous hurt to any persons then such a board shall be held absolutely liable in case of any accident and no justification would be entertained on their part that they took all the reasonable precautions and safety measures while carrying on such activity. The High-voltage electricity is capable of taking lives of men when they come in contact with the same. The Supreme Court in the case of Madhya Pradesh Electricity Board v. Shail Kumari, applied the principle of absolute liability, wherein the man who fell of a bicycle and got entrapped by a snapped live wire which was inundated in rain water and consequently he was electrocuted. The electricity board made an effort to defend themselves by stating that the wire was snapped and diverted by the deceased so as to misuse the energy. The Apex court observed that the responsibility to supply electric energy in the particular locality was statutorily conferred on the Electricity board. If the energy so transmitted causes injury, the primary liability to compensate the sufferer is that of the supplier of the electric energy. It was a duty of the electricity board to cut the power supply of the wire which was snapped and ensure that it did no harm to anyone by removing it with precision.

Bhopal Gas Tragedy – An administrative as well as legal failure of the system to dispense justice

The doctrine of Absolute liability makes good the loss caused to anyone by compensating the affected party through damages. As we have been discussing about the concept in detail with several cases, there are still many reformations which needs to be done in statutory environmental departments which have been dealing with cases of incessant environmental pollution and which have considerably affected the beneficiary in terms of health as well as the environment. The doctrine itself does not suffice to grant justice to the victims of such an environmental disaster, what we really need is a government which can uphold its accountability as well as the State Pollution Control Boards with stricter standards for permitting such hazardous industries to run its machinery. There must be some amount of transparency in distribution of funds among the victims.

[24] R.K. Bangia, *Law of Torts* 335 (Allahabad Law Agency, Faridabad, 24th edn., 2018).

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[25]The Bhopal disaster, which took place just after midnight on 3rd December 1984, is undoubtedly the worst industrial accident in history. Forty tons of highly toxic methyl isocyanate (MIC), which had been manufactured and stored in Union Carbide's chemical plant in Bhopal, escaped into the atmosphere and was wind-borne directly towards the city center. The lack of documentation of deaths that fateful night, the subsequent chaos in administering aid to the victims since then, and the ongoing disputes over causes of illness, deaths, and the effects of the exposure all lead to the conclusion that the actual numbers of sick and dead will never be accurately fixed. The numbers also fail to convey the anger, resignation, fear and suffering of many thousands of survivors who continue to evidence patterns of psychological and physical damage through exposure to the initial gas and the lingering fears of unknown illnesses and future genetic mutation.

[26]The dreadful account of the disaster is indeed ignoble and discusses about the plight of the victims when they came in contact with methane isocyanate gas. When the gas first started seeping into their huts and wooden homes, many residents thought that their neighbors were burning chilies and consequently they started coughing and their eyes became stingy and scarlet. As they came out of their huts, they saw the deadly panic, people started coughing and vomiting and running after the common hospital not knowing that the MIC gas was the main reason of their plight which erupted from the plant. People dropped dead in their own fluids as they were asphyxiated by the dreadful gas and some fell unconscious. Mrs. Bee tells in the report that her husband spent two months in the hospital ward and the family suffered health issues such as chronic chest pain to loss of vision. She stated that she received Rs. 25,000 compensation in total and that too in installments in over five years. Aziza Sultana was 20 years old at the time of the gas leak. She was pregnant at that time and was resting at home with her son and daughter, as a result, they woke up in midnight and started coughing and vomiting. Due to this leakage Mrs. Sultana suffered miscarriage and even to this day in every fifth house children are born with some congenital defects. However, her family decided not to have a third child after such a dreadful mishap. All six members in her family suffered chronic breathing problems and two of her children developed disabilities.

[27]Who was to be held accountable for such a life-threatening disaster?

As a matter of fact, if we look at the surrounding area of Union Carbide plant in Bhopal, it would be clear and cogent to see that very near to the plant, around 200 metres away is the slum area known as JP Nagar which accommodates 60,000 individuals. Both the parties, Union Carbide Corporation (UCC) as well as the Indian Government overlooked the fact that the area was densely populated and it never came to their mind that production of hazardous substances in the plant would prove to be fatal to the nearby population. And a review of the

[25] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 547 (OUP, New Delhi, 2020)
[26] Bhopal gas leak: 30 years later and after nearly 6,00,000 were poisoned, victims still wait for justice, *available at:* https://www.independent.co.uk/news/world/asia/bhopal-gas-leak-anniversary-poison-deaths-compensation-union-carbide-dow-chemical-a8780126.html (14th February 2019)
[27] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 550-551 (OUP, New Delhi, 2020)

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situation prior to the catastrophe shows that both of these main parties not only looked the other way, but knowingly accepted the risk. The abovementioned argument was raised by R.L. Chouhan, a former chemical worker at the Carbide plant. *Was this a cost-cutting method for the giant company UCC to set up its subsidiary in a slum area endangering the lives of the poor people? Does development supersede fundamental rights?*

Investigations following the Bhopal catastrophe showed that the responsibility of both the company and the government went far beyond the mere neglect of elementary safety measures. In an analysis in the British trade publication *Project Management*, a UN expert enumerated 16 factory shortcomings, 13 operational errors, 19 failures in communication and 26 system shortcomings. Many of these were the fault of company management, but many were also the government's fault.

[28]Several mistakes committed by the giant company were indeed responsible for such a catastrophe to take place:

1.) The cooling system which was supposed to keep the MIC at a temperature of zero degrees Celsius to prevent a reaction, had been turned off six months before the accident; the same held for the burner in the tower for burning off the poison. Both steps had been taken with the approval of company headquarters.
2.) The scrubbers capable of neutralizing MIC exhaust fumes had been placed in 'passive mode' two months before the disaster.
3.) The spray system designed to pull escaping MIC fumes to the ground by surrounding them in a water mist was effective only to a height of 12 meters, but the MIC fumes were released at a height of 33 metres.
4.) The pipes attached to the MIC tanks were made of iron instead of the stainless steel called for by regulations; the iron ions in the rinse water were one of the major causes of the accident.
5.) The government authorities, responsible for monitoring adherence to safety regulations, had simply accepted management assurances that everything was in order.

The abovementioned points which portrays the failure of administrative as well as regulative system justifies the accident which took place in the mentioned time. *The safety measures and preventive orders can be best laid down by the experts and a mere common man cannot comprehend beyond his capability to ascertain the underlying defects. It would not be correct to allege the reasons which led to the accident based on speculations and surmises.* Here, the parent company should have been held absolutely liable rather than coming to a settlement amount instead. The Indian Government is equally responsible for such a disaster to occur because it blindly allowed the giant Corporation UCC to establish one of its plant with low safety standards. It was the primary duty of our government to ensure that no such hazardous industries were to be setup in such a densely populated area. Secondly, if it allowed the corporation to do so it was unequivocally bound to ensure that it caused no harm and then it

[28] Ibid.

would have made sense for our government to keep a contingency plan ready in advance so as to evacuate the entire civilization from the surrounding area. To allow the industry to operate with such low standards and with the absence of safety measures is to invite danger in the country and bring death upon the people in the name of employment, development and corporate foreign investment. The negligent behavior of the government shall be counted first because it caused all kinds of suffering to the victims of the disaster. [29]Moreover, quite often we have witnessed the public staging a protest by burning effigies of Warren Anderson (CEO of UCC). How likely is it that prosecuting Anderson would prevent similar disasters in the future? Does it not make more sense to hold the Indian government accountable, thereby putting into place safeguards against future similar events? If there is a good industrial development in the country, it brings with it a greater amount of responsibility to ensure that no such disaster takes place and makes the company (Subsidiary and Parent), government authorities and agencies collectively liable. *Cost-cutting measures cannot be adopted if it compromises with the safety needs of the industry.*

Perhaps the most devastating testimony against both Carbide and the Indian government is that of T.R. Chouhan, a chemical plant operator who used to work in the factory and has studied in detail the causes and implications of the accident. His book, *Inside the Killer Carbide Plant – A Bhopal Worker's Story,* discusses in detail with the aid of charts, logs and chemical formulae several design faults, inadequate or non-existent safety measures, disregard of warnings and cost-cutting at the expense of safety. He also details the company's failure to disclose its research on the intricate mixture of gases that escaped, their effects on the human organism and the best antidotes or treatment.

The Indian Government at that time had an opinion that giant corporation like UCC would bring new technology and set up shops and generate employment as well in this developing country. But as we all have discussed above, it overlooked the functioning of the company and ignored to establish all such applicable safety standards which led to such a grievous disaster. Such negligent behavior would have made the government a defendant but that never happened. After the enactment of Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 the government named itself as sole plaintiff in all litigation arising from the gas disaster, a role that created enormous conflicts of interest. The records show that government had no knowledge of MIC technology and designated the plant as a non-hazardous chemical plant because its final product was just fertilizers. However, the chemicals (Sevin and Temik) which went to make them were highly toxic.

The Settlement

[30]*Rosencranz, Divan & Scott; Legal and Political Repercussions in India, in Learning from Disaster: Risk Management after Bhopal (S. Jasanoff, ed. 1994)*

[29] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 552 (OUP, New Delhi, 2020)
[30] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 556-557 (OUP, New Delhi, 2020)

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This area raised some of the most perplexing questions as to whether the outcome of the disaster should be the settlement and if there is a conclusion of settlement between both the parties then what will be the best way to ensure that all the victims are covered under the settlement within the best possible time. *On one side were those – usually seriously affected victims – who wanted compensation from Carbide as quickly as possible*. Many of the injured were unable to work and had severe and persistent medical problems. Without compensation they could not meet their medical bills, bare subsistence needs, and could not work. Dependents of breadwinners who had been killed or disabled faced similar difficulties. The desire and need for compensation were so strong that it dwindled all other significant issues. The victims wanted relief and they wanted it as quickly as possible. *On the other side were those – often the leaders of the advocacy groups – for whom compensation was an issue but severe and deserved punishment against Union Carbide was equally important.* These advocates were in opposition to any settlement which was not in consonance with what could be awarded in the United States for a disaster of comparable proportions. In other words, they wanted the compensation according to the US's standard and not on the speculation of the Company (UCC).

[31]This disaster brought with it some of the most difficult and troubling issues. The petitioners have contended boisterously that the criminal proceedings pending for the commission of non-compoundable offences could not be quashed in the settlement. It was argued that the terms of the settlement which quashed pending non-compoundable criminal proceedings were not legally valid. It was felt by the petitioners that the amount of settlement (USD 470 million) was hopelessly inadequate as it did not envisage and provide for many heads of compensation such as the future medical surveillance costs of a large section of the exposed population which was put at risk, and the toxic tort actions where latency period for the manifestation of the effects of exposure was unpredictable. The major issue was the asymptomatic patients and those who later developed some amount of defect. It was evident that in many people infliction of the gas was not conspicuous but after a certain point of time they showed several health complications. The main point of the argument was that the settlement did not imagine the possibilities of delayed manifestation or aggravation of toxic morbidity to the exposed population which could be taken care of in these ways – firstly, there was a requirement of financial provision for medical surveillance cost of the victims and secondly there was a need for a structured settlement to contemplate the future contingencies.

The primary concern of the victims and the victim groups was on the issue of the adequacy of the amount of settlement fund. An apprehension arose on account of the possibility that the totality of the awards made on all the claims might exceed the settlement fund and, in that event, the settlement fund would be insufficient to satisfy all the awards.

[31] Gurdip Singh, Environmental Law 167-168 (EBC, Lucknow, 2nd edn., 2016)

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[32]Was Absolute liability applicable in this case?

The petitioners urged that the doctrine of absolute liability i.e., the rule - Strict liability in *Rylands v. Fletcher* without exceptions must be applicable and also contended that the size of the award be proportional to the economic superiority of the offender containing a deterrent and punitive element. The court stated that it was not necessary to apply the Shriram ruling in this case because the settlement was concluded in a strict adjudication and as such it was not violative of the Shriram principle. As a result of the settlement as per the Bhopal Gas Disaster (Processing of Claims) Act, 1985, there is no scope of applying the Shriram ruling because the tortfeasor's liability to pay the settlement fund has been effectuated and consequently this fund exhausts the liability of UCC and UCIL.

The Court contemplated over the question whether the Shriram Principle could have application against Union of India which was required to make good the deficiency, if any, and responded negatively by stating that it was not possible to impute Union of India, the position of a joint tortfeasor. The Union of India, according to the court, was a welfare state and could not be treated as a joint tortfeasor. ***Accordingly, the court held that the Shriram principle could not be applied to determine the quantum of compensation to the victim-claimants***.

It would have been an unjustified move to apply the doctrine of Absolute liability in this case because this principle holds the accountability of the offender in its entirety and as we all know that this disaster is not a baneful gift given by just one party. [33]The Supreme Court lawyer Prashant Bhushan alleged that our Government agreed to do the company's dirty work for it at the expense of the victims, whose compensation was – and still is – long delayed so that, they would accept less. The establishment of the plant was seen as an opportunistic move and felt that it would provide decent jobs but unfortunately it never provided more than 1,400 jobs and on an average fewer than 1000. It is also stated that it gave lucrative employment to the relatives of VIPs. It is widely believed to have contributed toward party funds, primarily those of the ruling Congress party. It gave donations to such Congress-run, scandal-ridden charities as the Churhat Children's Relief Fund. *Basically, the interests of the foreign corporation and that of the elite of Indian State were enmeshed to exploit the oppressed class by adopting all kinds of cost-cutting measures in establishing an industry with an extremely low standard.*

Had it been the Indian Government took all preventive measure to abort such disaster and ensure the recovery of damages done to the victims at a large scale and maintained sustainable approach towards the environment, then it would have made sense to apply the Shriram ruling and incriminate UCC. When there is an existence of ulterior motive for an unlawful consideration between the parties then either of the party cannot be held absolutely liable for such a disaster or escape of a dangerous thing because that is against the rule of

[32] Gurdip Singh, Environmental Law 170 (EBC, Lucknow, 2nd edn., 2016)
[33] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* 555 (OUP, New Delhi, 2020)

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law. The records show that production of MIC in Bhopal first began in 1980. In 1982, there was an accident which prompted the workers union to protest against inadequate safety measures. The request made for relocation of the factory to a remote region was denied and consequently, the efforts of M.N. Buch were in vain. The corrupt practice of the then Chief Minister Arjun Singh led to the legalization of the slum area known as JP Nagar which authorized the operation of the factories in the vicinity thus, endangering the lives of the poor and underprivileged.

Conclusion

The right to a safe environment must never be diluted for the ease of doing business or generation of profits. It is high time that we realize the significance of Environmental and labor laws which are responsible for holding the accountability of the offender in case of an industrial accident. We cannot exploit the oppressed class in the name of employment and development just because they voluntarily agree to be a part of the workforce. The handling and manufacturing of hazardous substances must bring with it an additional duty of care to the workers. In a developing nation like India, we must not forget our responsibility to protect the major workforce from such industrial accidents like the Bhopal Gas tragedy.

The doctrine of Absolute liability alone will not suffice to work in favor of the victims. We need principles enumerating stricter standards and patrolling so as to ensure that the industries professing in manufacturing and handling of hazardous substances are not able to escape the liability. Usually, in cases of industrial accident, it is often contended that whether the industries are situated within the belt of the industries and afar from the densely populated area. The procedure to obtain a license for such industries must be difficult and it should as well be made mandatory for such industries to submit a technical report stating that it qualifies for meeting the safety standards. The presence of corruption and middlemen often raises the question on lack of administrative and legal policing and weak enforcement policies.

The statutory provisions alone will never suffice to avert such dangerous accident because with the advancement of technology and machinery, the need arises to study the impact of interaction of such chemicals with the atmospheric pressure and see what harm it can do to our environment and its living beings. As a matter of fact, many countries have adopted the principle of absolute liability when it comes to the introduction of genetically modified organisms. The Cartagena Protocol on Biosafety 2003 (under the convention on Biological Diversity) is the world's first such attempt to hold operators responsible for damage – both from imminent and real threats – from the use of new technology.

The Bhopal gas tragedy was indeed one of the most grievous and grim accident which our country faced. Even to this day, victims have not been able to lead a peaceful life for the fact that they miserably failed in obtaining their just compensation. The machinery of dispensing compensation was in vain because of the presence of corruption and middlemen. The corporation UCC was purchased by the Dow Chemicals and consequently, the latter company

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is responsible for cleaning up the site of Bhopal plant and pay the remediation cost. The residents of JP Nagar apprehend that the hazardous chemical will someday seep into the underground water and cause further harm to the environment and cattle. As we can see, there is a grave violation of "Polluter pays principle".

Vizag Gas leak - 7th May 2020

An accident took place in the Vishakhapatnam (AP) unit of LG polymers wherein styrene gas leaked in the wee hours and claimed 11 lives and hundreds were admitted in the hospital. [34]It is estimated that 1,800 tonnes of Styrene was stored in the plant at the time of the leak. Initial reports indicated that several people from the surrounding villages – RRV Puram, Venkatapuram, BC Colony, Padmapuram and Kamparapalem – fell unconscious on the roads. It is a flammable liquid that is used in the manufacturing of polystyrene plastics, fiberglass, rubber, and latex. Symptoms include headache, hearing loss, fatigue, weakness, difficulty in concentrating, etc. *A statement from LG Polymers said that stagnation and changes in temperature inside the storage tank could have resulted in auto polymerization and could have caused vaporization. The investigation is underway to ascertain the cause of the accident.* As a result of this accident, the NGT has imposed an interim fine of 50 crores on LG Polymers.

In this difficult time, we must contemplate on the safety of our environment and determine the lacuna in our system. The statutory principles which have been laid down in favor of the environment are no good as long as they are not implemented and enforced. If the experts of the industries who are involved in the manufacturing and handling of hazardous substances are not well versed with the standard operating procedure then are, they even qualified to be called as an expert? Does it not make sense to prioritize safety standards? Is it always about adopting cost-cutting measures so as to save some penny? Are we not exploiting our oppressed class in the name of foreign investment? We have to ponder over these questions and see if we can ever bring a change in our country.

[34] Vishakhapatnam gas leak: What is Styrene gas? *Available at*: https://indianexpress.com/article/explained/vizag-gas-leak-what-is-styrene-gas-6398020/ (May 9th 2020)