



# Theoretical Basis of Compensation in *MACT* Cases.

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# MINU B MEHTA VS BALKRISHAN (1977) 2 SCC 441

- ▶ **Basis of liability is negligence**
- ▶ **Road Traffic Act, 1930, The Third Parties (Rights against Insurers) Act, 1930 and the Road Traffic Act, 1934 were enacted in England.**
- ▶ **System of compulsory insurance was enforced.**
- ▶ **In India we have borrowed the same system.**

# PUSHPABAI P UDESHI VS RANJIT (1977) 2 SCC 745

- ▶ Liability of master for acts done by servant in the course of employment. Liberal interpretation is adopted.
- ▶ ‘Third party’ would not cover all persons except insured person and the insurer.
- ▶ Section 95 of 1939 Act says:- ‘except where the vehicle is a vehicle in which passengers are carrier for hire or reward...’

## GUJRAT SRTC VS RAMABHAI PRABHATBHAI (1987) 3 SCC 234

- ▶ Provisions of Chapter VIII are not merely procedural.
- ▶ Provisions of Fatal Accident Act 1855 has been substantially modified by provisions of Motor Vehicle Act in relation to cases arising out of motor accidents.
- ▶ Observations of SC to the contrary in *Minu B Mehta* are obiter.

- ▶ Today, thousands of motor vehicles are put on the road and the largest number of injuries and deaths are taking place on the roads on account of the motor vehicles accidents.
- ▶ The motor vehicles upon the roads may be regarded to some extent as coming within the principle of liability defined in *Rylands v. Fletcher*.
- ▶ From the point of view of the pedestrian the roads of this country have been rendered by the use of the motor vehicles highly dangerous.
- ▶ Where a pedestrian without negligence on his part is injured or killed by a motorist whether negligently or not, he or his legal representatives should be entitled to recover damages if the principle of **social justice** should have any meaning at all.

## Smt. Kaushnuma Begum And Ors vs New India Assurance Co. Ltd 2001 ACJ 428

- ▶ Negligence is only one of the species of the causes of action for making a claim for compensation in respect of accidents arising out of the use of motor vehicles.
- ▶ Like any other common law principle, Rule in Rylands vs. Fletcher can be followed at least until any other new principle which excels the former can be evolved, or until legislation provides differently.
- ▶ Hence, we are disposed to adopt the Rule in claims for compensation made in respect of motor accidents.

# Rule of Rylands vs. Fletcher

- ▶ A 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 at his peril, and, if he does not do so, he is prima facie answerable for all the damage which is the natural consequence of its escape.
- ▶ The Rule has gained approval in a large number of decisions rendered by courts in England and abroad and has been applied to a variety of situations: fire, gas, explosions, electricity, oil, noxious fumes, colliery spoil, rusty wire from a decayed fence, vibrations, poisonous vegetation. .

# ORIENTAL INS.CO VS MEENA VARIYAL (2007) 5 SCC 428

- ▶ V, a regional manager of the company was using the car given by the company. He expired in an accident.
- ▶ Whether V is treated as owner of car or employee of the company, he will not be covered by a statutory police.
- ▶ Unless a person is a 'third party' insurance company cannot be made liable by resorting to Swaran Singh's case.
- ▶ Section 149(1) cannot be invoked to enlarge the liability is not there under Section 147.