MC MEHTA VS THE UNION OF INDIA: CASE COMMENT

Written by ***Hamzah Patel***

1st year BA LLB, NALSAR, Hyderabad, India

"The life of the law has not been logic: it has been experience"

- Oliver Wendell Holmes, Jr., 1881

INTRODUCTION

Through this case comment, I seek to bring out the essentiality and critique of the judicial pronouncement in the 1986 case of "MC Mehta Vs. Union of India" contextualizing the jurisprudential application Absolute liability under the framework set after the Shriram Food and Fertilisers Ltd. tragedy which was about application of article 21[i] and 32[ii] of constitution alongside the environmental laws. I will direct focus towards the judicial rationale creating a theoretical foundation for subsequent discursive analysis and seek to clarify the essence of replacement of strict liability with absolute. Ultimately, I attempt to engage in a consequential analysis while clarifying the possible implications of the judgment in a setting of increasing environmental and public health consciousness while also taking into consideration some of the tenets of the constitution of India. Utilizing such analysis, this draft attempt to shed light upon a few inevitable inadequacies of the decision.

SETTING OF THE CASE

Sriram Food and Fertiliser Ltd. Was an undertaking of the Delhi Cloth Mills Ltd. And had numerous units distributed in the 76 Acres of land in the vicinity of it. It started its operation in 1949.[iii] As the aftermath of Bhopal gas tragedy, the government appointed a firm "Technica"

to investigate caustic chlorine plan run by Shriram, moreover, an expert committee *"Manmohan Singh Committee"* was setup in order to formulate a report containing various recommendations and multiple measures to control pollution.[iv]

MC Mehta owing to the article 32 of Indian constitution filed a writ petition sought shutting down of these units as they were located in decently populated area. During the course of this first civil writ petition unfortunately oleum gas was leaked again by Shriram. Hence, Shriam Food and Fertiliser Ltd. Were already challenged by two civil writ petitions in the court of law.[v]

Facts

On the fourth of December 1985, a significantly dangerous oleum gas leak took place harming the general population and killing an advocate who practised in tis hazaari by Shriram. Furthermore, on sixth of December 1985 another minor oleum gas leak took place by Shriram itself. Due to the aforementioned incidents the Delhi Administration reprimanded the Shriram and issued an order under Section 133(1) of Code of Criminal Procedure, 1973[vi] and obligated them to follow the following;

- *"To stop using harmful chemicals and gases in the unit within two days;*
- *Remove the said chemicals to a safer place within seven days and not keep or store the chemicals in the same place where the disaster happened again;*
- *Or, to appear in the Court of District Magistrate, Delhi to show cause for the non-enforceability of the mentioned order on 17th December 1985."*[vii]

  This order though was very short-lived as the very next day supreme court although acknowledged but quashed it by noting "inadequacies"

Understanding the trial

The supreme court appointed "*Nilay Choudhary Committee*" to investigate on whether the recommendations suggested by the aforementioned "*Manmohan Singh Committee*" were executed or not. Secondly, the court gave the petitioner the freedom to pick and choose a team of professionals and examine the chlorine unit and deduce whether the workers and common

people are at the risk of another gas leak. Lastly, and of paramount importance, court appointed a magistrate for the affected to claim damages. [viii]It doesn't end here; Inspector of Factories in Delhi forbade Shriram from exercising multiple activities including the use of caustic chlorine henceforth by practising the Section 40(2) of the Factories Act.[ix] In fact, a show cause notice was also directed towards the industry to show as to why their license shouldn't be expired under section 430(3) of the Delhi municipal corporation act, 1957.[x]

ANALYSIS

Arguments presented by multiple stakeholders:

The counsel of Shriram argued that close to 4000 people would be unemployed on the closure of Shriram industries. It further pleaded to revamp the operations with adequate safety measures and maintenance as per the aforementioned two reports (Manmohan Singh committee and Nilay Chaudhary committee). Lokahit congress and Karamchari Ekta union were two trade unions that protested against permanent closure of Shriram further reiterating the loss of job of 4000 workers. On the contrary the petitioner claimed about the inadequacies in safety measures taken by Shriram. Additional Solicitor general added that IF the court decides to reopen the industry, the reopening ought to be alongside stringent safety measure.[xi]

Ratio:

A five-judge bench tackled this case and laid down an instrumental principle," ABSOLUTE LIABILITY". To substantiate the same, it said that even if such chemical industries are pivotal to our developmental ambitions, they can't absolve themselves of the responsibilities just by claiming that they were not negligent or all the reasonable precautions were taken. The court while quoted Rylands vs. Fletcher "*that a person who for his own purposes being on to his land and collects and keeps there anything likely to do mischief if it escapes must keep it at his peril and if he fails to do so, is prima facie liable for the damage which is the natural consequence of its escape"* declared that it evolved in 1866 and since then there has been an immense development in science and technology.[xii]

Final Judgement:

In the end, the Supreme Court decided to grant Shriram permission to reopen the aforementioned facility. The Court imposed fines and ten stringent criteria along with a temporary operating permit for the plant. The Court further declared that if the conditions weren't upheld, the permission it had granted would be rescinded.

The Critique:

The then CJI P.N. Bhagwati in the judgement defined absolute liability as "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 nondelegable 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."

In the past, common-law rules regarding absolute liability for damages or injuries caused by animals were seen as historical anomalies that were expected to be gradually replaced by fault-based principles in all tort cases. However, absolute liability, does not even recognize "Act of God" as a defence. Imagine a scenario where this principle is applied, and you are held liable for damages caused by a trespassing buffalo, even if the buffalo was released into your pasture by an illegaly trespassing third party. Even In such a case, absurdly enough, you would be held responsible regardless of your lacking of any fault or the direct involvement of external factors. Another inherent flaw in the principle of absolute liability is how it discourages safety measure, to elaborate, since absolute liability does not consider any reasonable precautions taken by the defendant, there might be reduced incentives for companies to invest in safety measures or adopt advanced technologies to minimize environmental risks. This is ludicrously counterproductive. Also, it, in exceptional cases, could become an unwarranted burden on taxpayers. For example, in cases where industries could not afford to compensate fully for damages, the burden might have fallen on taxpayers and public funds, leading to an indirect

impact on the general population. Following the Bhopal gas tragedy, there were extensive legal proceedings to hold UCIL accountable for the damages caused. The Indian government sought compensation for the victims and remediation of the environmental damage caused by the gas leak. However, despite prolonged legal battles and attempts to make UCIL pay for the full extent of the damages, the company claimed it did not have sufficient funds to meet the compensation demands.[xiii] Hence, the practicality of absolute liability holds a question mark. And this concept of "absolute liability" with these constraints and size and form was formalised and verbalised after this case. Moreover, one of the main legal issues in the judgement is the lack of clarity in defining what constitutes "hazardous activities" under the absolute liability standard. The judgment does not even provide a specific and well-defined list of such activities, leaving room for ambiguity in its application and creating uncertainty for industries unsure about their potential liability and leaving them at the mercy of the authorities and an overreaching/overarching judiciary. Environmental protection is a clubbed under concurrent list i.e., both the state and the centre have the ability and the right power to legislate issues pertaining to it. While acknowledging the fact that the court was addressing a genuine environmental concern, it would not be incorrect to claim that it has exceeded its jurisdiction by effectively legislating new standards of liability and imposing obligations on industries without a clear legislative mandate. It could also be added that the MC Mehta judgment imposes a uniform standard of absolute liability without considering the proportionality of liability based on the level of harm caused. It can be contended that a one-size-fits-all approach might not be suitable for all cases, and liability should be proportional to the extent of the environmental damage. Again, a lack of nuances could be observed throughout the judgement, to enunciate the same, the judgment does not offer clear guidelines on establishing causation in complex environmental cases where multiple factors may contribute to environmental harm. This lack of clarity could lead to disputes over causation, making it difficult to hold parties accountable. The Supreme Court's expansive interpretation of Article 32[xiv] and its power to award compensation as part of the remedy was highlighted in the case of Rudul Sah v. State of Bihar (1983).[xv] This landmark judgment significantly broadened the scope of Article 32 and affirmed the court's authority to provide compensation to victims whose fundamental rights have been violated. Now, coming to another inadequacy in the judgement, which would be the inadequacy in the holistic approach to award compensation and the value of compensation itself. The damages that were provided were not well thought of and were superficial in

substance, to substantiate, in a complex environmental case like this, environment in itself was neglected and damages were provided only to the affected humans. The lack of addressal of then ongoing or now long term environmental consequences was detrimental as a precedence for multitude of cases to come in the future. This complete disregard of the environmental restoration was obnoxious and abhorrent. In my opinion compensation in environmental cases should not only account for direct damages but also include restorative measures. To elucidate the same, restorative measures often involve actions taken to restore ecosystems affected by the environmental harm, such compensation/measures may include funds allocated for the implementation of pollution control measures and technologies to prevent further harm.

An example of the same would be; A chemical factory due to waste leak into a river causes severe pollution of it, leading to the death of aquatic life and contamination of the water supply for nearby communities. The affected communities suffer health issues and economic losses due to the damage to fisheries and agriculture.

In this case:

Direct Compensation: The court awards monetary compensation to the affected communities to cover medical expenses, loss of income, and property damage.

Restorative Measures: In addition to monetary compensation, the court orders the chemical factory to implement restorative measures. These measures may include setting up a water treatment plant to purify the contaminated water, conducting ecological restoration efforts to revive the river's ecosystem, and establishing a community development fund to support alternative livelihoods for affected residents.

A brilliant example of the same would Vellore Citizens Welfare Forum v. Union of India[xvi] wherein the Supreme Court, in its judgment, not only directed the closure of polluting tanneries but also ordered the implementation of various restorative measures to address the environmental damage caused.

CONCLUSION

Absolute liability with all its flaws remains to be a principle that conforms the values inherent in the constitution of India, especially, article 21[xvii] and article 32[xviii] of the Indian constitution

which talks about "Right to Life" and "Right to judicial Remedy" respectively. Absolute liability as a principle is a necessary evil, at times when it discourages innovation and discoveries, it also holds the industries accountable for their action which Is the need of the hour. The context of the MC Mehta case emphasis on the same too. Having said the aforementioned, the judgement brought the discourse around liabilities inherited by industries from academic scholars and legal papers to direct engagement with courts and at the very least, thrusted other subsequent judgements to pay heed to this new evolving principle. While the judgment falls short on various grounds as expounded upon, the inadvertent effects led to a recognition by the legal community of the shortcomings of legal precedent and dictum on environmental case specific application of absolute liability and hence, led to ensuing efforts to consolidate and clarify the law on these matters.

ENDNOTES

[i] INDIA CONST. art 21.
[ii] INDIA CONST. art 32.
[iii] Dhristi Chattanni, *"Shriram Food and Fertilisers Gas Leak Case"*, *Lawtimesjournal (April 1 2021)* "Shriram Food and Fertilisers Gas Leak Case" (lawtimesjournal.in).
[iv] Sarbjit Kaur, Shabnam & Shivani Singh, *LB-103-Law of Torts Including Motor Vehicles Accidents and Consumer Protection Laws*, (2022).
[v] 1 R.K. BANGIA, LAW OF TORTS (26 ed.).
[vi] The code of criminal procedure, No. 02 of 1974, §133(1) (Ind.).
[vii] Rachit Garg, *MC Mehta vs. Union of India (1986): Case Analysis*, (Oct. 3, 2022), https://www.studocu.com/in/document/university-of-mumbai/bachelors-of-law-3-years/new-mc-mehta/52455683 (last visited Jun 8, 2023).
[viii] *Supra* note 4.
[ix] Factories Act, 1948, No. 63 of 1948, §40(2) (Ind.).
[x] Delhi Municipal Corporation act, 1957, No. 66 of 1957, §430(3) (Ind.).
[xi] 1 PROBONO INDIA, COMPILATION OF SELECTED CASES BY SHRI MC MEHTA (1 ed. 2020).
[xii] MC Mehta Vs Union of India, (1986) 965 SCR (1) 312.

[xiii] Edward Broughten, *The Bhopal Disaster and Its Aftermath: A Review*, 4 NATIONAL LIBRARY OF MEDICINE 9 (2005).

[xiv] *Supra* note 2.
[xv] Rudul Sah vs State of Bihar, (1983) 4 SCC 141 (Ind.)
[xvi] Vellore Citizens Welfare Forum v. Union of India (1996) 5 SCC 647
[xvii] *Supra* note 1.
[xviii] *Supra* note 2.