

DE JURE NEXUS LAW JOURNAL

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THE IMPACT OF TORT LAW ON VICARIOUS LIABILITY CLAIMS

Abstract— *The following presented study is an attempt to understand the impact of tort law on Vicarious Liability Claims.*

The study discusses what all comes under the ambit of Vicarious Liability with the help of leading cases falling under the different facets of the same.

As the study proceeds it dwells into the intricacies of vicarious liability and analyses along with legal and judicial precedents. The study has adopted descriptive and analytical research methodology to critically analyze the impact of cyber law on online contracts and electronic signatures.

Keywords: *Tort law, Vicarious Liability Claims.*

**1. INTRODUCTION**

In the study, the author discusses the impact of tort law on Vicarious Liability Claims and specifically focuses on Vicarious Liability. In this paper, various leading case laws have been examined to get a critical understanding of the same.

Vicarious liability refers to the legal responsibility that an employer or principal (such as B) holds for the acts of their employees or agents (such as A) that are carried out within the scope of their employment or agency.

In cases where an employee or agent causes harm or injury to a third party (such as C) while carrying out their work duties, the employer or principal can be held responsible for the actions of the employee or agent. This means that C can make a claim for damages against B, even though it was A who directly caused the injury.

Vicarious liability is a common principle in many areas of law, including employment law and tort law, and is designed to ensure that victims of harm or injury are able to receive compensation from those who have the means to pay for it.

2. ANALYSIS

Meaning of Vicarious Liability

Vicarious liability is a type of legal responsibility that arises when there is a special relationship between two parties, such as an employer and employee, that makes one party responsible for the actions of the other party.

Under vicarious liability, if an employee commits a wrongful act or omission during their employment, the employer can be held responsible for the employee's actions, even if the employer did not commit the wrongful act themselves. This is because the employer has a special relationship with the employee, and is therefore responsible for the employee's actions while they are acting within the scope of their employment.

The principle of vicarious liability is often applied in cases of negligence, such as in the case of an employee causing injury or harm to a third party. In such cases, the injured party may hold the employer responsible for the employee's negligence under the principle of vicarious liability.

Overall, vicarious liability is an important legal concept that helps to ensure that parties with special relationships, such as employers and employees, are held accountable for their actions and the actions of those under their supervision.

Illustration

Under the principle of vicarious liability, an employer (such as B) can be held liable for the acts of their employees (such as A) that occur during the course of their employment.

In the scenario you described, A was acting on behalf of B when the injury to C occurred, and therefore B can be held responsible for A's actions under the principle of vicarious liability. This is because B has authorized A to perform work on their behalf, and therefore B is responsible for any wrongful acts committed by A while performing that work.

3. UNDERSTANDING THE IMPACT OF TORT LAW ON VICARIOUS LIABILITY CLAIMS

Principles of Vicarious Liability

It is based on two very important principles or maxims which are:

a. Qui facit per alium facit per se

“Qui facit per alium facit per se,” which means “he who acts through another does the act himself.” This maxim expresses the principle of vicarious liability, which holds that a person who authorizes another person to act on their behalf can be held liable for any wrongful acts committed by that person during the course of their authorized activities.

Under this principle, if someone authorizes another person to act on their behalf, they are responsible for ensuring that the authorized person acts lawfully and does not cause harm to others. If the authorized person does commit a wrongful act and causes harm to someone else, the person who gave the authorization can be held vicariously liable for the harm caused.

For example, if a company authorizes one of its employees to drive a company vehicle, and the employee causes an accident that injures someone else, the company can be held vicariously liable for the harm caused by the employee. This is because the employee was acting on behalf of the company when the accident occurred, and therefore the company is responsible for the employee's actions.

b. Respondeat Superior

“Respondeat superior,” which means “let the master answer.” This maxim expresses the principle of vicarious liability, which holds that an employer (or superior) can be held liable for the wrongful acts of their employees (or subordinates) that are committed within the scope of their employment.

Under this principle, if an employee commits a wrongful act during the course of their employment, their employer can be held vicariously liable for the harm caused by the employee's actions. This is because the employee was acting within the scope of their employment, and therefore the employer is responsible for the employee's actions.

For example, if an employee of a grocery store negligently spills water on the floor and fails to clean it up, causing a customer to slip and fall and sustain injuries, the grocery store can be held vicariously liable for the customer's injuries. This is because the employee was acting within the scope of their employment, and therefore the grocery store is responsible for the employee's actions.

When does the liability arise?

This obligation doesn't emerge haphazardly hence on the grounds that An accomplished something wrong it won't make B responsible consequently for it however just where there is an exceptional relationship which exists between two individuals, the vicarious risk will apply. In this way, if An and B have a relationship which is covered under vicarious risk, really at that time B will be obligated for A's demonstration.

There are numerous relations where the idea of Vicarious obligation emerges they are:

- a. Expert and Worker
- b. Head and Specialist
- c. Accomplices in an organization firm
- d. Organization and its Chiefs
- e. Proprietor and Self employed entities

On the off chance that there is a connection of the previously mentioned type between two individuals, vicarious obligation can emerge for an individual despite the fact that such a demonstration is finished by someone else. For e.g., on the off chance that An and B are in an expert worker relationship, for any off base done by A, a his B expert will likewise be responsible in the event that the demonstration is finished over the span of A's work.

a. Vicarious Liability by Authorization

At the point when the vicarious risk emerges because of a demonstration which is finished by one more with the authority being given to follow up for their benefit, such obligation is known as a vicarious responsibility by authorization.

In such cases, there is an express or suggested power which is given to someone else and since the demonstration is finished for someone else, such an individual for whose benefit the demonstration has been done will be expected to take responsibility.

In these circumstances, an individual likewise becomes at risk for the immediate results which happen in the commission of the approved demonstration.

Illustration

B is a driver of A who is driving the vehicle with A's position and keeping in mind that driving it he makes a mishap due his carelessness. Here despite the fact that A was not the one driving the vehicle, he will be responsible on the grounds that it was finished for his sake by B with his position.

b. Vicarious Liability by Ratification

Normally, when an individual is acting through someone else, that other individual is given power by such individual to do a demonstration. For e.g., in the event that An is doing a follow up for B, it is done just when B has given his position to A to do such a demonstration and in the event that any responsibility emerges in view of A's demonstration, B will be held obligated in light of the fact that he had given his power to A for doing such demonstration.

However, it isn't generally the situation and commonly an individual can represent one more even without their power and the individual can be held responsible regardless of him not giving a position to do such a demonstration. This happens when the individual confirms a demonstration which was finished for his benefit by the other individual.

Confirmation implies that the individual for whom a demonstration is finished by another supports such a demonstration after it has been finished. In this way, the expert for following up for his sake is given after the demonstration has proactively been finished. In the law of misdeeds, the impact of approval is that, it will be treated as though the demonstration was finished with the authority all along.

Illustration

An is a specialist of B who goes into a settlement for B's sake with C for an unlawful demonstration without B's position. Later B supports such agreement consequently endorses it. In this way, B will be vicariously obligated for such unlawful demonstration since he has endorsed it.

On account of Chief of Police of the Justice City v. Woks (2012) EQLR 209, it was expected that for a business to be to take responsibility for the demonstrations of his representative, he probably given his position to such an individual to act thusly and such an authority can be given either explicitly or impliedly and it very well might be finished before the commission of the demonstration, or after the demonstration has been finished.

Hence, in the above case, the legitimacy of the vicarious obligation by endorsement was maintained and in this manner such a demonstration will make the confirming individual responsible for the tortious demonstration of another.

This depends on the proverb *Omnis rati habitio retro trahitur et mandato aequiparatur*. It implies any demonstration which has previously been finished for which assent is given a short time later will make a review difference and such assent will be treated similarly as though the demonstration was finished on the order of the confirming individual.

c. Conditions for Ratification

There are sure circumstances which must be satisfied for endorsement to be substantial and hold the individual vicariously at risk under the law of misdeeds. These circumstances are:

i. An Individual will be vicariously responsible for just those acts which are finished for him for his sake by someone else.

That's what it intends in the event that an individual does a demonstration which is to support someone else then the individual for whose benefit it has been done can be expected vicariously to take responsibility for any unjust demonstration which emerges out it. Yet, assuming the demonstration is finished by someone else for his own advantages or advantage and not for someone else then no one else can be held responsible regardless of whether the other individual approves that demonstration.

Illustration

And is a specialist of B and he is on an excursion. While holiday A commits a tortious represent his own advantage which harms C. Here since the demonstration was finished by A for his own advantage and not for B thusly, B can't endorse this demonstration and he won't be obligated.

ii. The Individual who confirms the demonstration should have full information about the tortious idea of the Demonstration.

Assuming an individual who is sanctioning the demonstration of someone else doesn't know about the way that some illegitimate demonstration is being finished, he can't be expected to take responsibility for such endorsement since he has not supported the unlawful demonstration and in

this manner without having full information about the realities a confirmation isn't legitimate to make him at risk. Along these lines, an individual can be safeguarded from unconsciously supporting some unacceptable demonstration and in these cases, the individual who committed such a demonstration is obligated alone regardless of whether he such a represent the other individual without his position.

Illustration

And is a specialist of B who buys a property for shameless purposes for B's sake. In the event that B realizing about such reason endorses the demonstration of A, it will make B vicariously at risk for the resultant wrong which will emerge for this situation.

iii. Endorsement ought to be finished at such a period at which the individual who is confirming might have done that act himself.

In the law of misdeeds, vicarious obligation emerges in light of the fact that an individual is considered to have done an unlawful demonstration through someone else and subsequently it is expected in such a circumstance that the individual did that act himself. In any case, in the event that an individual isn't equipped for committing that demonstration at the hour of confirmation then he can't sanction it since here he personally isn't in that frame of mind to make it happen and in this way he can't be said to have acted through someone else.

iv. An unlawful or void demonstration can't be endorsed.

This is the last condition which must be satisfied in instances of vicarious responsibility by approval. A sensible man won't eagerly confirm an unlawful demonstration on the grounds that in such a case he realizes that he will be obligated for such a demonstration and the law likewise doesn't permits such endorsement to be substantial. In this way, assuming that a legitimate demonstration is finished and during the commission of such a demonstration any tortious demonstration has been committed, the individual will be vicariously at risk assuming he sanctions that act since he has approved someone else to do a lawful demonstration and keeping in mind that doing such a demonstration an unlawful demonstration was likewise dedicated as a result of it. So the individual must be responsible for its ramifications also.

4. **CONCLUSION**

In this paper, the author has explained the impact of tort law on vicarious liability claims.

In vicarious risk, an individual can be expected to take responsibility for the improper demonstration of someone else as a result of the relationship which exists between them. It can emerge when the individual approves someone else to follow up for his sake and it is known as a vicarious obligation by authorisation. At times regardless of whether an individual approve someone else to follow up for his sake yet, later on, supports the demonstration and consequently approves it after its bonus, it has a similar impact as though the demonstration was finished on his order and this is known as a vicarious responsibility by sanction. At the point when the fundamental circumstances are satisfied really at that time the sanction will be substantial and an individual will be expected to take responsibility for the wrongs emerging out of such endorsed acts.

5. **ACKNOWLEDGEMENT**

This work was supported by my guide and mentor Dr. Shrikant Juneja. He has contributed his worthy experiences to the accomplishment of this research project for which I am highly obliged to him for providing me with in-depth knowledge of the topic and for giving me a better understanding of the same.