

LIABILITY AND NEGLIGENCE: ANALYSING THE 2006 MEERUT FIRE TRAGEDY

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*(Sanjay Gupta & Ors. v. State of Uttar Pradesh through its Chief Secretary & Ors.)*¹

ABSTRACT

*A vibrant exhibition turned into a catastrophic event, claiming more than 60 lives at Meerut in 2006, owing to the state officials' and organisers' utter negligence and dereliction of statutory duties. After more than a decade, the Hon'ble Supreme Court brought the culprits to book recently in the Sanjay Singh case, being a significant precedent in the Law of tort specifically. This piece brings back attention to the oft-neglected arena of the law of Tort and comprehensively analyses and explores the issues surrounding the tragedy (dividing them primarily into questions of liability apportionment and compensation). The case brings out the interplay between the foremost right to life and the tort of negligence by the concerned authorities. Relying on important judicial precedents where required, the piece delves into several important aspects of constitutional tort cases, both procedural and substantial, arising out of a serious violation of the right to life of innocent visitors, including the extent and vicarious liability of the state, application of *res ipsa loquitor* and more. It highlights the lax implementation of fire safety laws in the country, reinstating the importance of their adherence. It discusses the need for specific laws for directly fixing liabilities on the state for breach of duty of its officers and occupiers of premises. The case will continue to serve as a reminder for adherence to safety rules and the need to adopt a comprehensive approach which involves all stakeholders to ensure public safety.*

KEYWORDS: *Constitutional torts; Meerut fire tragedy case; res ipsa loquitor; respondent superior; apportionment of liabilities; quantum of damages*

1. INTRODUCTION

Fire accidents are very common in India and abroad. While an important recommendation of the First Law Commission² regarding the state's vicarious

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¹ *Sanjay Gupta & Ors. v. State of Uttar Pradesh through its Chief Secretary & Ors.*, (2022) 7 SCC 203.

² Law Commission of India, *Liability of the State in Torts*, Report No.1 (May 1956).

liability lies abandoned, cases of nonchalant behaviour of authorities towards the implementation of safety laws are frequent. One of the major causes behind major mishaps like fire accidents is also the negligence on the part of the organisers who overlook statutory duties and do not pay heed to safety measures.

The Meerut Fire Tragedy (2006)³ claimed more than 60 lives and injured about 160 people- a serious violation of the right to life of innocent visitors caused by the gross negligence of the organisers and breach of statutory duties by state officials. The case at hand plays a significant role in understanding the complexities of liability, government responsibility and compensation and also comprehensively covers several other significant aspects of constitutional torts, including the maxim *Res Ipsa Loquitur*. This piece delves into and attempts to analyse the fundamental questions of who, what and whys of liability, underscoring the importance of compliance with statutory provisions, and the need for effective oversight, enforcement and proactive measures in preventing such accidents and protecting human rights.

2. FACTS OF THE CASE

A fire accident occurred on the day of the culmination of the India Brand Consumer Show i.e., 10 April 2006 (at about 5:40 p.m.) organised at Victoria Park, Meerut, Uttar Pradesh by Mrinal Events and Expositions (hereinafter “Organisers”). Consequently, the victims filed this writ petition.⁴

Hon’ble Mr Justice O.P. Garg (Retired) was appointed by the state in accordance with the Inquiry Act⁵ to find out the causes behind the accident; work out the ways and means of controlling the situation; determine the liability and its extent and suggest measures to prevent such accidents in future.

The Commission report, however, was not sustained as the opportunity for cross-examination was not given to the organisers. The apex Court consequently appointed a one-man Commission of Hon’ble Mr Justice S.B. Sinha (Retired), who submitted a report on 29 June 2015, the noteworthy findings of the report being:

1. While applying for the grant of permissions, the organizers had *intentionally suppressed material facts* before the authorities, including

³ See *supra* note 1.

⁴ The Constitution of India, 1950, art. 32.

⁵ The Commissions of Inquiry Act, 1952.

misleading them that Marshal Security's personnel were qualified for firefighting.

2. The organizers *enjoyed great clout* with the concerned authorities and thus were confident they would be granted permission upon mere asking.
3. The provisions of the Electricity Act⁶ and Rule 47A of the Indian Electricity Rules⁷ were not complied with, requisite permissions were not obtained and the organizers were *wholly negligent* in the organization of the event.
4. The Organizers were in *complete control* of the work of erecting structures and deciding the material to be used.
5. The contractor erected pandals, made stalls, etc., and thus contributed to organizing the event.
6. The possible causes of the fire were *short-circuiting, usage of substandard wires and cables, or overheating*.
7. Being the controller and supervisor of the exhibition, the organizers were to be deemed as the *occupiers of the premises*⁸ and hence *owed a special duty to care* towards the persons who put up their stalls and the visitors of their Exhibition.
8. The ability and competence in the erection of structures are not disputed. However, the organizers and the concerned District Administration and Police officers, including the District Magistrate himself, were unaware of the Electricity Act, 2003 provisions. The concerned authorities were obligated to follow a procedure of asking the fire department to conduct an inspection and submit a report which was followed neither by the District Administration nor the Police. The conduct of the CFO also appeared nonchalant.
9. Thus, the State is liable for compensating for the lives lost owing to the omissions, acts and commissions of the statutory authorities.
10. Furthermore, the organisers are also liable for gross negligence as they benefitted from such omissions and had organised the exhibitions in violation of legal provisions.

⁶ The Electricity Act 2003, s.54.

⁷ The Indian Electricity Rules, 1956.

⁸ Uttar Pradesh Fire Prevention and Fire Safety Act, 2005, s.2(g)

3. ISSUES FRAMED

The prominent issues that have been dealt with in the Judgement are:

- I. Whether the fire accident should be the liability of the Contractor (who gave orders for the construction of infrastructure) or the Organisers (for failure to take precautions)?
- II. Whether a writ petition under Article 32 of the Constitution⁹ seeking compensation for families of victims of fire accidents maintainable for want of a statutory provision?
- III. Whether the word “safety” in the work order of the contractor is to be read in isolation or contextually?
- IV. Whether the compensation for victims of fire accidents (when not computed) have to be computed according to principles of just compensation?

4. ARGUMENTS PRESENTED

(A)ISSUE I

1. Counsel on behalf of Organisers (“Organisers”)

First, the Contractor was portrayed as an independent Contractor and it was argued that a turn-key project was handed down to the Contractor by the organisers on March 9, 2006. Further taking the support of several authorities¹⁰, it was asserted that since the Commission report did not put forth any detection of negligence by Organizers, the liability allotted is not justified.

Second, the provisions under which permission had to be sought were discussed. It was further contended that since the responsibility to seek permission was on the one who installed generators and that as it wasn’t the Organizers who supplied generators, the liability fixed on the Organizers by the Court Commissioner for not seeking permission under section 54 of the Electricity Act, 2003¹¹ is wrong. Further, the Organizers had obtained permission for organisation by way of Section 144 of the CrPC.¹² According to the learned

⁹ See *supra* note 4

¹⁰ *Halsbury’s Laws of India*, Vol. 29, (1) 91; *American Jurisprudence*, Vol. 41, (2d) 774/777 Pr. 24; *Haseldine v. C.A. Daw and Son Limited & Ors.*, (1941) 3 All. E. R. 156 (C.A.) 159, 168-169; *Green v. Fibreglass Ltd.*, (1958) 2 All. E. R. 521 (523 bottom to 524-H/525-B).

¹¹ The Electricity Act, 2003, s.54.

¹² The Code for Criminal Procedure, 1973, s.144.

Senior counsel, since permission under Section 144¹³ was given to the organisers, another permission under Section 133¹⁴ of the Code was not needed.

Third, the validity of the report in ascertaining liability was questioned. It was argued that the Commissioner is a substitute for the commissioner appointed by the state and is hence, only a commissioner under the Inquiry Act.¹⁵ Also, any action against the organisers can't be based on the Commissioner's report as it is submitted to the State as mere recommendations.

Fourth, it was contended that since the Court Commissioner had not found a specific conclusion about *the causation of the fire*, liability can't be fixed.

2. Counsel on behalf of Petitioners ("Petitioners")

The **third** argument was disputed by the Petitioners by stating that the factual background of each of the cases mentioned by the Organisers is different from the case at hand and that *none of the judgments has stated that the Commission's report is irrelevant*. (Other arguments presented by the Organisers were dealt with in detail in light of the Commissioner's report by the Hon'ble Judges)

(B) ISSUE II

1. Organisers

It was contended that such liability cannot be construed to be falling within the scope of Article 32.¹⁶ Several authorities were cited to support the contention.¹⁷

2. Petitioners

The counsel for writ petitioners primarily referred to cases wherein writ petitions under Article 32¹⁸ and Article 226¹⁹ were admitted and negligence fixed. As was

¹³ *Id.*

¹⁴ The Code for Criminal Procedure, 1973, s.133.

¹⁵ *Shri Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar & Ors.*, AIR 1958 SC 538; *T.T. Antony v. State of Kerala & Ors.*, (2001) 6 SCC 181; *Sham Kant v. State of Maharashtra*, (1992) Supp (2) SCC 521.

¹⁶ The Constitution of India, 1950, art. 32.

¹⁷ *Nilabati Behera (Smt.) alias Lalita Behera v. State of Orissa & Ors.*, (1993) 2 SCC 746; *Sube Singh v. State of Haryana & Ors.*, (2006) 3 SCC 178; *Shri Sohan Lal v. Union of India & Anr.*, AIR 1957 SC 52; *Radhey Shyam & Anr. v. Chhabi Nath & Ors.*, (2009) 5 SCC 616 (Radhey Shyam I); *Radhey Shyam & Anr. v. Chhabi Nath & Ors.*, (2015) 5 SCC 423 (Radhey Shyam II); *Praga Tools Corporation v. Shri C.A. Imanual & Ors.*, (1969) 1 SCC 585.

held in the latter case, “The compensation is like 'exemplary damages' awarded against the wrongdoer for the breach of its public law duty and is independent of the rights available to the aggrieved party to claim compensation under the private law in an action based on tort, through a suit instituted in a court of competent jurisdiction or/and prosecute the offender under the penal law.”²⁰

(C) ISSUE III

1. Organisers

Trying to fix liability upon the Contractor, the counsel contended that the word ‘safety’ in the work order for the contractor includes safety from fire. Thus, it was the contractor’s job to provide fire safety measures. Adding on, it was contended that 25 fire extinguishers were handed over by the Organizers on Contractor’s asking who was not locally available. (The argument was dealt with by the Hon’ble Judges themselves in view of the report.)

(D) ISSUE IV

1. Organisers

The arguments of the learned counsel were found to be similar in substance as were raised in the *Uphaar Tragedy*²¹ case (which weren’t accepted by the Hon’ble Court then as well). (The argument presented was answered in detail by the Hon’ble Judges themselves)

5. THE JUDGEMENT AND ITS RATIONALE

The judgement was delivered on 12 April 2022 by the division bench of Hon’ble Judges Hemant Gupta and V. Ramasubramanian.

(A) ISSUE I

First, the Court drew attention to the finding of the Court commissioner that the Contract was not a turn-key project. Also, the contractor wasn’t appointed as an independent contractor. Even if it had been otherwise, the Organizers

¹⁸ See *supra* note 4, *M.C. Mehta & Anr. v. Union of India & Ors.*, (1987) (1) SCC 395.

¹⁹ The Constitution of India, 1950, art. 226, *Association of Victims of Uphaar Tragedy v. Union of India & Ors.*, (2000) SCC OnLine Del 216.

²⁰ See *supra* note 19, ¶64.

²¹ See *supra* note 19.

would've been held vicariously liable for the contractor's negligence. This is because the Contractor was only responsible for the execution of the work which was assigned to him.

Moreover, the court opined that the aspect of whether the Contractor was independent or not is not necessary to be examined as the subject matter presently is not the relationship between the contractor and organizers, but rather the organizer's liability towards those who bought tickets to visit their exhibition.²²

Additionally, there existed no privity of contract between visitors and the Contractor. Rather, it was the responsibility of the Organisers (who had organized a purely commercial event and had collected the entry fee from the visitors to earn a profit), to ensure their well-being at the event. The organizers failed in their obligation of exercising due care, thus leading to the loss of precious lives of unwary visitors. Yet again, the authorities cited were found to be irrelevant to the current proceedings.

Second, regarding permission under Section 144, CrPC,²³ the contention of the organisers doesn't hold as "The permission under Section 144 of the Code is to allow the gathering of people in relaxation of the promulgation, whereas, Section 133 permission was needed to ensure the structure's safety to not endanger the visitors' lives."²⁴

Furthermore, regarding the contention that permission was to be sought by the one who installed generators and that it wasn't the Organizers who supplied them under section 54 of the Electricity Act, 2003,²⁵ it was held that the contractor was working *on behalf of the organisers*. Thus, no matter the relationship between the two, all permissions, including permission to use generators had to be and were sought by the organisers themselves. In the event of not being sanctioned by the Power Corporation, the organisers managed their requirement for additional electricity from the generators alone.

Next, attention was drawn to section 16 of the U.P. Fire Service Act,²⁶ which also talks about the property owners' liability to compensate. The people responsible for the organisation of the exhibition and information of visitors were the Organizers. Hence, the Organizers' property caught fire due to their

²² See *supra* note 1, ¶30.

²³ The Code for Criminal Procedure, 1973, s.144

²⁴ See *supra* note 1, ¶40.

²⁵ See *supra* note 11.

²⁶ The U.P. Fire Service Act, 1944, s.16

negligence and hence must pay compensation under the aforementioned provision. Thus, the organisers have been rightly held liable to an extent of 60% and the state for 40% of the total liability, owing to the negligence in performing statutory duties.

Also, since the organisers paid a sum of Rs.40,000/- to obtain permission of conducting the exhibition on the college lawns, they are to be considered occupiers under s. 2(g) of Uttar Pradesh Fire Prevention and Fire Safety Act, 2005²⁷. However, permission was not applied by them under the Act nor did the required authority cause the inspection. Therefore, owing to their lack of undertaking statutorily mandated precautions and omissions, both the Organizers and the State have been aptly encumbered with liabilities.

Third, over the contention of the reliance on the Commission's report, the Court noted that a commissioner can't be appointed under the Inquiry Act²⁸ by the court and that such a power is bestowed upon the Executive and Legislature only. Therefore, the jurisdiction under which Hon'ble 25 Mr Justice S.B. Sinha (Retd.) was appointed as a Court Commission (to find out the actualities) by the Apex court is that of Article 142.²⁹

Fourth, regarding the contention of the exact cause being unknown by the organisers, it was observed that the cases presented had no semblance to this case and thus were not applicable.

While rejecting the contention that liability cannot incur when the exact cause behind the accident isn't known, *Res Ipsa Loquitur*³⁰ was used in the present case as "Organizing an exhibition of such substantial magnitude without proper and adequate safety factors which may endanger the life of the visitors is an act of negligence including negligence of the officers of the State.³¹ The fact of the accident may, sometimes, constitute evidence of negligence and then the maxim *Res Ipsa Loquitur* applies.³²"

In cases where the accident can be proved by the plaintiff but it cannot be proved how it occurred, to establish the defendant's negligence, the principle is applied and it is for the defendant to either prove that it wasn't due to his

²⁷ See *supra* note 8.

²⁸ See *supra* note 5.

²⁹ The Constitution of India, 1950, art. 142.

³⁰ *Barkway v. S. Wales Transo*, (1950) 1 All ER 392, 399.

³¹ See *supra* note 1, ¶52.

³² *Shyam Sunder & Ors. v. State of Rajasthan*, (1974) 1 SCC 690.

negligence or that there was a higher probability that the accident might have happened without implying negligence at his/her behest.³³ Therefore, since negligence can be inferred from the circumstances, the cause not being known is of no consequence for recovering damages.

(B) ISSUE II

The court held that a violation of Article 21³⁴ is always actionable. Being the most sacred right under the Constitution, it must be read into all public safety statutes there exists no requirement of a statutory provision. Also, the duty of care expected from the State or its officials functioning under the public safety legislation is, therefore, very high.³⁵

(C) ISSUE III

Regarding the interpretation of the word ‘safety’, held, that the word ‘safety’ in the work order has to be read contextually³⁶.

The word referred to rides which were to be provided by the contractor and not fire safety measures. Further, the contention that fire extinguishers were provided by organisers appears far-fetched. Since the invoice was raised on 6/7 April 2006 it doesn’t seem believable that the Contractor wasn’t present in Meerut with the exhibition at hand. Also, there is no supporting evidence which shows that these fire extinguishers were given at the Contractor’s asking.

(D) ISSUE IV

About the matter of compensation under Article 32 of the Constitution³⁷, three categories of cases were noted:

1. Acts or omissions of the state or its officers.³⁸
2. A corporate entity’s activity of such nature that can potentially affect people’s lives and well-being.³⁹
3. Apportionment between the State and the Organizers of the event.⁴⁰

³³ *Pushpabai Purshottam Udeshi v. Ranjit Ginning & Pressing Co. Pvt. Ltd. & Anr.*, (1977) 2 SCC 745.

³⁴ The Constitution of India, 1950, art. 21.

³⁵ *See supra* note 1, ¶21.

³⁶ *See supra* note 1, ¶26.

³⁷ *See supra* note 4.

³⁸ *Rudul Sah v. State of Bihar & Anr.*, (1983) 4 SCC 141.

³⁹ *See supra* note 18.

(The present case was found to be falling under the third category by the Court)

The views as opposed to the organisers were endorsed by the Court, as expressed in several precedents⁴¹ and refused to interfere with them.

Since no dispute regarding the percentage of liability determined was raised by either party in the instant case, the Hon'ble Court went forward with the matter of compensation to be handed to the victims and/or their families.

In terms of the Court's order, the state of U.P. had paid Rs.5 lacs, Rs. 2 lacs and Rs. 75,000/- each to the departed, the sufferers of serious injuries and minor injuries respectively, alongside the payment made by the Union government. The Hon'ble court found that the compensation payable to each victim, along with the families of the departed has not been calculated. It was therefore held that the same must be computed following the principles of just compensation as is done in instances of accidents under the Motor Vehicle Act.⁴² The court thus, asked the Hon'ble Chief Justice of the Allahabad High Court to entrust this task to a Judicial officer after taking into account all factors concerned and ended with a direction of listing the case again after four months.

6. CRITICAL ANALYSIS

(A) ABOUT LIABILITIES

The Hon'ble Court was apt in holding both the organisers and the state liable for their utter negligence and dereliction of duties which led to the loss of 65 innocent lives and left 161 or more with burns.⁴³ The contractor was rightly not held accountable since he was not an independent contractor but was working on the directions and behalf of the organisers themselves. Thus, their relationship would be construed as similar to that of a master and servant and the organisers are vicariously liable, applying the principle of *Respondeat Superior*.⁴⁴ Also, it

⁴⁰ *Dabwali Fire Tragedy Victims Association v. Union of India & Ors.*, (2009) SCC OnLine P&H 10273.

⁴¹ *Assn. of Victims of Uphaar Tragedy* (2000) SCC OnLine Del 216; *DAV Managing Committee & Anr. v. Dabwali Fire Tragedy Victims Association & Ors.*, (2013) 10 SCC 494; *M.S. Grewal & Anr. v. Deep Chand 16 Sood & Ors.*, (2001) 8 SCC 151.

⁴² The Motor Vehicle Act, 1988.

⁴³ SCC Online, "2006 Meerut Fire Tragedy Organizers Held Guilty! 60:40 liability to compensate victims fixed on Organizers & State: SC", April 13, 2022, *available at* <https://www.sconline.com/blog/post/2022/04/13/meerut-fire-tragedy-compensation-organizers-supreme-court-judgments-legal-research-updates-news/>.

⁴⁴ *Silver Jubilee Tailoring House v Chief Inspector of Shops*, (1974) 3 SCC 498, ¶509.

was not within his work order to upkeep fire safety measures for the event, rather the conduct and control of the organisers imply their duty to keep such measures in place. The organisers were also found guilty of misrepresentation before the concerned authorities.

The state officials had granted them all permissions bereft of any procedures established by law, clearly breaching their statutory duties. The fact that owing to their great clout with the officials, the organisers seemed confident that all permissions would be granted upon their mere asking (which indeed seems the case) and that the officials, including the District Magistrate, were not aware of the concerned law, is very concerning. Statutory officials owe a duty to work as per the mandates of the law and not to the people they favour. They are not supposed to relax or dilute the mandates of the statutes for any individual whatsoever without reasonable grounds and ignorance of law is no excuse, more so for public officials. Public interest is gravely harmed by such acts.

Moreover, in view of the utter violation of the foremost right to life of the visitors caused due to utter neglect and indifference of the state officials towards their statutory duties, the application of the rule of absolute liability could have created a more pronounced deterrent effect upon the officials. The principle was devised in the landmark ruling of *M.C. Mehta v. Union of India*, in the view that with emerging situations, the law must evolve accordingly to satisfy the requirements of a fast society. The negligence of officials has become a pressing concern in many spheres as regards the discharge of public duties. Thus, though the rule was restricted to the use of hazardous substances, it may be expanded by the Hon'ble Courts to include cases such as the present one. This is because though there was no direct handling of a hazardous substance, still the fact that measures of fire safety were not followed and a possibility was indicated by the Court Commissioner regarding the use of substandard wires by the organisers (showcasing their knowledge of possible harm and still neglecting their duty of care), a dangerous/hazardous situation was thus created by the organizers, leading to a serious violation of the right to life of several persons.

Adding on, the two rules that were given justifying the rule can be interpreted as applicable to the current scenario as well. **First**, the *enterprise* carrying on such *dangerous activity* for *private profit* has a social obligation to compensate those *suffering therefrom* and it should absorb the loss as an item of overheads.⁴⁵ Though the activity here wasn't directly dangerous, since the wiring in the infrastructure was negligently put up, devoid of any adherence to statutory

⁴⁵ See *supra* note 18.

provisions, the exhibition had in essence become dangerous for the visitors and thus, may be included in the rule, considering *the intent* behind the rule. The rest of the factors i.e., Activity by an enterprise, for private profit, have been fulfilled in the instant case. **Second**, the *enterprise alone* can discover and safeguard against such dangers. In the case at hand, the organisers and the contractors alone had the knowledge and means of setting up the wiring of the premises. Thus, the second justification is also fulfilled in this case. By holding the organisers absolutely liable, a strong deterrent effect would have been created amongst companies which, out of their sheer negligence, created dangerous environments for, and in this case, even led to several deaths and injuries of the visitors for saving their money and increasing their profit. The rule has already been expanded and has seen application in *Jagdish v. Naresh Soni*⁴⁶ where the Division Bench had applied the rule against the Electricity Board. Also, though not held absolutely liable, the Hon'ble Courts have already handed down liability to persons who generate, transmit, supply or use high voltage electric energy in a catena of judgements, *the risk being foreseeable and inherent in the activity*.⁴⁷

Yet if not the rule of absolute liability, the Hon'ble courts have held the state strictly liable for constitutional torts in numerous cases⁴⁸, which could've been done in the instant case as well. A claim in public law for compensation for unconstitutional deprivation of a fundamental right has been held to be based on strict liability and is besides the private law remedy.⁴⁹ Under Article 38(1),⁵⁰ the state must ensure the citizens' welfare and the duty of care expected from public officers towards citizens is very high. Thus, such breach of statutory duty should be accounted for in stringent terms. Furthermore, the principle of strict liability can be and should be developed for fixing liabilities dehors the statutory provisions.⁵¹ Though the Hon'ble Court relied upon authorities where the state has been held strictly liable,⁵² it didn't do so expressly in this case. An express fixing of strict accountability might've brought a better deterrent effect than merely holding them liable for plain negligence.

⁴⁶ *Jagdish v. Naresh Soni*, (2007) 3 MPHT 234.

⁴⁷ *Gittan Ram v. State of J&K*, A.I.R. 2013 J&K 83; *M.S. Grewal V. Deep Chand Sood*, A.I.R. 2001 S.C. 3660; *D.K Basu v. State of W.B.*, A.I.R. 1997 S.C. 610.

⁴⁸ *M.P. Electricity Board v. Shail Kumari*, (2002) 2 SCC 162.

⁴⁹ *D.K. Basu v. State of W.B.*, A.I.R. 1997 S.C. 620.

⁵⁰ The Constitution of India, 1950, Art. 38(1).

⁵¹ *Union of India v. Prabhakaran Vijaya Kumar*, (2008) 9 SCC 527.

⁵² *For eg. Nilabati Behera v. State of Orissa and others*, (1993) 2 SCC 746.

(B) ABOUT COMPENSATION

Another dimension that has been considered in previous cases and could've been put into consideration concerning fixing the quantum of compensation on the organisers is the *magnitude of business and capacity of the enterprise*. Since they benefitted from the neglect of duties and overlooked statutory mandates to increase their profit from the event, it might have only been fair if the compensation they were saddled with was in accordance with the scale of income of their business.

As far as the state officials are concerned since several lives were lost due to the nonchalant and biased behaviour of the concerned officials while discharging crucial public duty, *exemplary damages* and fines should be imposed upon such officials to deter such acts in future. Moreover, "In cases of violation of the right to life and liberty, the duty of care expected from State or its officials functioning under the public safety legislation is very high and liabilities strict, compared to the statutory powers and supervision expected from the officers functioning under statutes like the Companies Act."⁵³

Further, a breach of statutory duty has been held to be conceptually separate and independent from other related torts such as negligence.⁵⁴

Since most of the cases where the Constitutional Courts put to use their constitutional powers are of grave violations of personal liberty, right to life or human rights, the courts are expected to vindicate the parties constitutionally, compensate them for the resulting harm and *also deter future misconduct* in such situations.⁵⁵ Thus, in view of the foregoing, an imposition of exemplary damages along with fines upon the erring officials would've better deterred such deplorable conduct on the part of state officials.

7. A NEED FOR SPECIFIC LAWS

Additionally, a law fixing the liability of the occupiers of premises, as has been done in England by way of the *Occupiers Liability Act, 1957*,⁵⁶ wherein an 'occupier' (one with a sufficient degree of control over the place) owes a duty of care on him/her towards lawful entrants, that is, to make sure that the visitor is

⁵³ *Khatri (2) v. State of Bihar*, (1981) 1 SCC 627, ¶98; *Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association & Ors*, (2011) 14 SCC 481.

⁵⁴ *Sarla Verma v. DTC*, (2009) 6 SCC 121, ¶78.

⁵⁵ *Id.* ¶80.

⁵⁶ The Occupiers Liability Act, 1957.

reasonably safe in using the premises (under section 2(2)).⁵⁷ Thus, though there are provisions for holding the owners of a property liable in cases of fire in the state of U.P as was mentioned before,⁵⁸ had there been such a discrete and specifically-worded legislation in India which comprehensively included liability for occupiers as a class holistically, the organisers would have been more wary of such negligent behaviour and could've been directly held liable under the Act.

Furthermore, it is disheartening to note that the recommendations of the Law Commission made in its First Report⁵⁹ (way back in 1956) regarding statutorily recognising the liability of the State for its employees' negligence have not been given effect to date. Such measures have already been effected in England and the U.S.A. by way of the Crown Proceedings Act 1947⁶⁰ and the Federal Torts Claim Act 1946⁶¹ respectively. Thus, considering such acts of gross negligence by state officials who act nonchalantly as they enjoy an absence of statutory authority to certainly hold them accountable, to rejuvenate the trust of the common populace in the state officials and reinforce the concepts of social justice and the welfare state, it is high time that a law is passed to this effect.

8. CONCLUSION

By and large, the case covers crucial aspects of liability, compensation and government accountability in fire tragedies. By raising questions about the functioning and responsibility of state officers in case of breach of statutory duties, it underscores the concepts of vicarious liability, of both the state and private entities and emphasises the need for compliance with statutory regulations. It even brings to light the chronic problem that our country faces, namely, lax implementation of well-written laws; had the statutory requirements been fulfilled, the fire might have been prevented and precious lives would not have been lost. By holding that the right to life doesn't require a statute for its enforcement, the Hon'ble Court has indeed laid a commendable precedent and reinstated the importance of an individual's fundamental rights. By and large, it underscores the significance of adopting a comprehensive approach involving all stakeholders to ensure the populace's safety and prevent such accidents in future.

⁵⁷ *Wheat v E Lacon & Co.*, (1966) 1 All ER 582.

⁵⁸ *See supra* note 28.

⁵⁹ *See supra* note 2.

⁶⁰ The Crown Proceedings Act, 1947.

⁶¹ The Federal Torts Claim Act, 1946.