

# Tort law



*by Abhishek gupta*  
*(OT of 94th FC)*

# What is tort ?

- ❖ “tortum” latin word meaning ‘twist’ or ‘wrong’
- ❖ civil wrong not a criminal wrong; mens rea not relevant

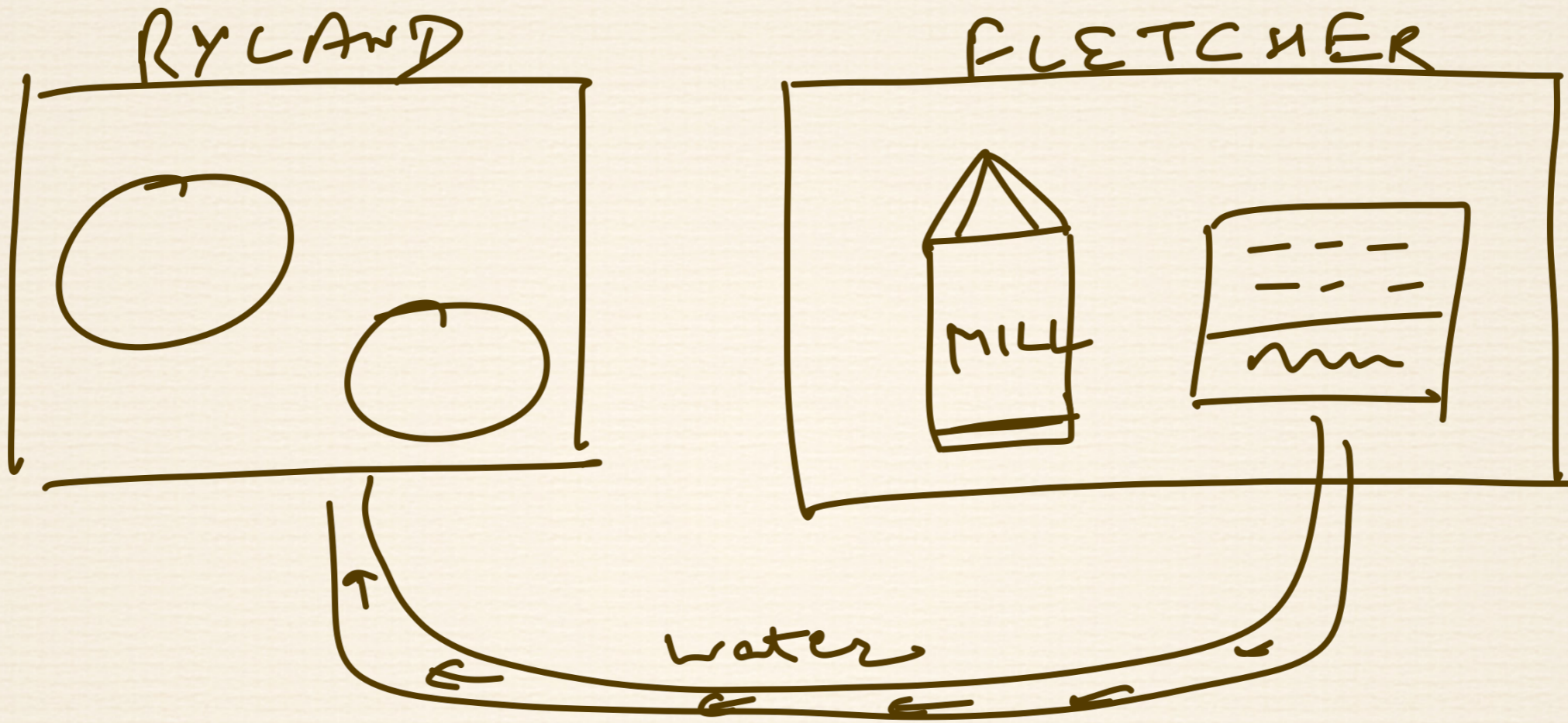
- ❖ Municipal Corporation of Delhi vs. Subhagwanti (1966): corporation failed to repair the clock tower—many people died because of its fall down—corporate liable for its omission to take care
- ❖ Ashby vs. White: “*Injury without damage*”—a person was stopped from casting its vote—his preferred candidate won—one who stopped is still liable for legal injury caused though no damage occurred.

❖ Gloucester grammar school master case: “*damages without injury*”— opening of a new school nearby— drop in admissions—damage suffered due to competition—but no legal injury—thus no compensation under tort law

# *STRICT LIABILITY TORT*

- ❖ no need of 'negligence' or 'intention' to constitute a tort
- ❖ **INGREDIENTS**
  1. Non-natural use of land
  2. escape
  3. prima facie liability
- ❖ burden of proof is always on defendant

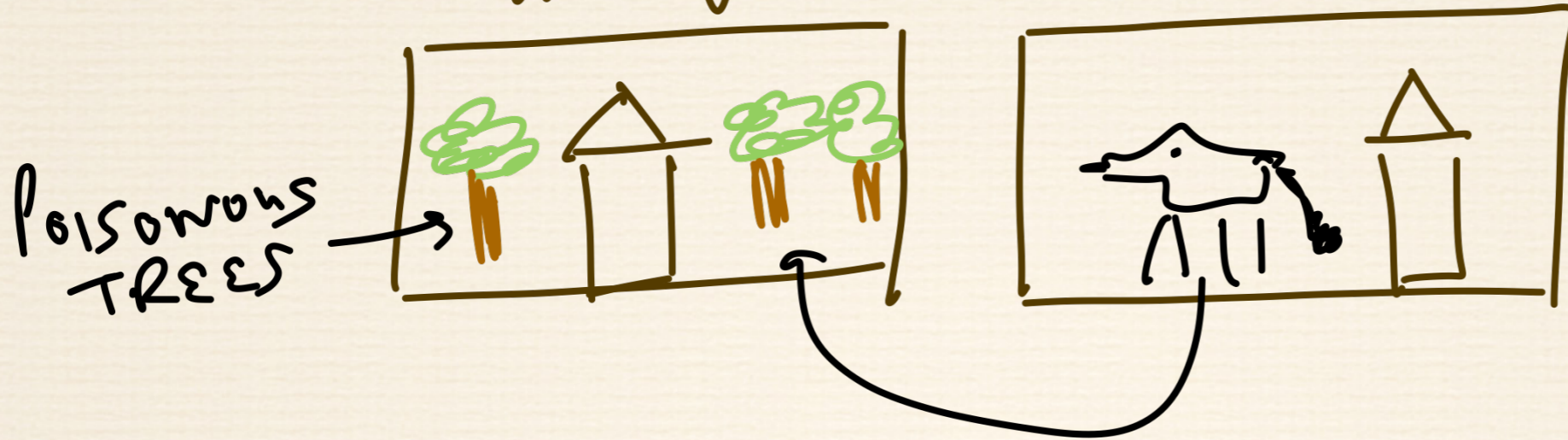
① RYLANDS vs. FLETCHER (STRICT LIABILITY)



→ Private contractors  
→ No fault

⊙ EXCEPTIONS =>

① Plaintiff's fault



② Act of God



③ VOLENTI NON FIT INJURIA  
(Mutual Benefit)

④ Act of stranger

⑤ Statutory authority  
(ex: construction of roads etc)

\* These exceptions are too wide.



## ② MC MENTA vs Union of India

- 2-2-1984: UNION CARBIDE (BHOPAL GAS TRAGEDY)
- 3000 PEOPLE KILLED (APPROX)
- 40 TONNES OF METHYL ISOCYANATE LEAKAGE OCCURRED
- ALL SAFETY SYSTEMS WERE NON-FUNCTIONAL
- SC RAISED RELIEF TO ₹750/- CR. AND GAVE ABSOLUTE LIABILITY CONCEPT

# ABSOLUTE LIABILITY INGREDIENTS

- Enterprise (commercial objective)
- Hazardous activity
- Escape not necessary  
(workers can also sue)

\* NO EXCEPTIONS [Act of God; III party; Mutual BENEFIT]

\*\* Quantum of  $\alpha$  DAMAGES  $\propto$  SIZE OF THE ENTERPRISE

# NEGLIGENCE

- ❖ It is a breach of legal duty to take care which results in a damage.
- ❖ It is a legal duty not a moral duty.

# Essentials of Negligence

## A. Duty to take Care:

### Ishwardevi v. Union of India



**Passengers on  
footboard**



**Conductor rung  
the Bell**



**Driver overtake  
another bus**

# Essentials of Negligence

## A. Duty to take Care:

### Donoghue v. Stevenson



# Essentials of Negligence

## No Liability when Injury not foreseeable.

- o There is no liability upon the defendant if the harm is not foreseeable.

### Gates v. Mangini Bros.

- o Lady visitor to the restaurant was injured by the falling of a ceiling fan on her.
- o Reason for the falling of the fan was a latent defect in the metal of the suspension rod of the fan.
- o The defendant would not have been discovered by a reasonable man.

