

APPLICATION OF EGG-SHELL RULE IN CRIMINAL LAW

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ABSTRACT: *The purpose of this paper is to provide a structure to untangle the Theory of Causation and the Egg-Shell Skull Law with an appropriate interpretation, reasoning, regulatory requirements and pattern of cases. The law of the Egg-Shell is neatly illustrated by the sentence 'as you catch them, you take your victim.' The law specifies that if the defendant causes injuries to the victim that suffers from a certain weakness or pre-existing physical disability and resulting in severe damages, the defendant is responsible for the outcome. It is possible to remember the Egg-Shell Law in S.299 and in the Indian Penal Code example of S.300. The Egg-Shell Law is an exception to the reasonableness standard that is widely used to measure causal liability. The presumption of evidence rests on the prosecutor where the cause is in question, that the defendant was the factual cause as well as the moral cause of the outcome. The widely used test to prove objective cause is the 'but for' test, which essentially decides that the outcome may not have happened but for the actions of the defendant. The prosecutor must show that there was no novus actus interveniens ('new interfering act') that broke the chain of causation in order to prove legitimate causation, often referred to as 'chain of causation.'*

KEYWORDS: *Crime, Damages, Egg-Shell, IPC, Test, Victim.*

INTRODUCTION

The standard of causation under Criminal Law presents exceptionally troublesome issues in criminal law. In different cases there exists a level of distance between the demonstration or exclusion of the blamed and the outcome that is asserted to establish an offense. Now and then the mediating activities are more straightforwardly associated with the eventual outcome than the lead of the charged. The law of causation decides the circumstances under which the result can be ascribed to the blamed. Such attribution of causation includes gauging commitment of the blamed against different elements that are answerable for the outcome.[1]

The underlying advance in deciding causation includes investigation of easygoing association and easygoing duty. To build up causation the court decides if there exists any nexus (Principle of however for cause) between the direct of blamed and the supposed outcome. In the event that the response to this inquiry is confirmed, at that point the following inquiry is choose whether the association is sufficiently sufficient (Principle of Imputable Causation) to legitimize attribution of causal duty to the blamed.[2]

A causal association will exist if the outcome would not have happened without the direct of the denounced. Then again if the outcome would have happened paying little heed to the lead of the charged then there is no causal association. This is called 'Yet for' test in which causal association is considered actually instead of matter of law.

The circumstance will be with the end goal that event of the outcome would not have occurred without the predecessor factor and really at that time the factor fulfills however for causation standard. At times an outcome may happen on account of two free however for causes contributed by two distinct litigants. For instance an individual 'A' has been shot by 'B' and projectile went into his lungs which could prompt casualty's demise in 60 minutes. Simultaneously, second shot discharged by 'C' entered the core of casualty which brought about casualty's passing quickly. The court will conclude that 'C' is answerable for homicide while 'B' is liable for endeavor to Murder. In such situations where there are two causes, court needs to recognize 'imputable' cause from the other reason.[3]

PRINCIPLE OF IMPUTABLE CAUSATION

If causation is the point of dispute, so the victim's act should be not only for cause, but also for 'imputable' direct' or 'valid' cause. It suggests that in order to hold him accountable, the conduct of the accused, being about more than cause should also be closely linked to the final result. The theory of imputable causation is that the accused is not legally liable for events that are too distant or incidental to his behavior. In terms of "remoteness of consequence," imputable causation is specified. It is not necessary for the accused's actions to be the primary cause or even the major cause of the outcome, it is important that the act contributes 'significantly' to the outcome.[4]

'Multiple Adequate Causation' is a case in which two actors are done in two acts such that all acts are required for the intended consequence and cannot be distinguished by the effect of their contribution. The point is that the consequence must either be induced by both, or neither. Suppose, at the same time, 'A' and 'B' stab 'X' in his abdomen and he dies as a result of the injuries. If 'A' and 'B' had similarly caused the same wounds, so the wound was not fatal enough to cause a person's death. In those cases where all suspects' actions together lead to an offence, both of them can be booked for causing death and can be guilty of murder crime.[5]

THRESHOLD OF CASUAL RESPONSIBILITY

In itself, the causal relation between action and association is not adequate to hold an accused responsible for the outcome. The action should be considered accountable for the outcome only when the relation is significant enough to warrant the attribution of causal blame. To assess the casual liability, it is possible to use two general criteria, i.e. the 'substantive trigger' test and 'fair foresight' test.

Substantive Cause Test

This measure is a retrospective test that includes looking backward to determine whether the effect has played a major role in a specific cause. Another soldier was stabbed by a soldier and when the victim was rushed to the hospital, the medics lost him twice. Besides this, the deceased received inadequate medical care that inevitably caused his death. The man was acquitted of murder although the court was of the view that the chain of causation was not breached by medical negligence and the stabbing was therefore 'substantive'. The cause of death and the process. He

should only be held accountable for the outcome only if the doctor is undisputedly incorrect due to lack of expertise or gross negligence

REASONABLE FORESEEABILITY TEST

This exam is a prospective test that includes walking into the accused's shoes and then thinking at the results from his viewpoint. In such cases, the key question is whether the action made the outcome a fairly predictable consequence in the sense that it was beyond the usual spectrum of anticipated outcomes. An person is not criminally responsible 'for an occurrence that occurs by mistake' or an occurrence 'that occurs by chance.' The defined test for assessing reasonableness is that the accident or chance occurrence may not have been predictable. Fair foreseeability checks help to assess the causal chain and dial down the mistake or chance protection. While the basic reasonableness test tests whether the defendant would fairly expect, in fact it is not a matter whether the reasonable defendant can answer automatically in terms of what happens later if asked beforehand what he foresees. What may happen later could be one out of an infinite number of possibilities and it is still considered probable for literality. What occurs when looked at with hindsight rather than foresight is the issue in this test.

EGG-SHELL RULE

The 'Egg-Shell' or 'Thin-skull' lays down a special principle of causation which establishes an exception to general principles of causal responsibility. The principle specifies that assailant must take their victims as they find them. It is immaterial that the unusual sensitive condition of victim was unforeseeable by the ordinary person. This principle has been named on the famous example where an imaginary person who has extremely thin skull is as fragile as egg-shell but looks completely normal. If someone hits this person's head then this person dies whereas a normal person would only get bruised by the hit the person who hit the eggshell-skulled person is liable for death caused even though it was not his intention to do so, having no knowledge of deceased's condition.

DISCUSSION

In *Smithers v R*, the assailant kicked the deceased in the stomach area which induced vomiting. Subsequently malfunctioning epiglottis caused aspiration of vomit which ultimately resulted in death. Court held that Un-foreseeability of the malfunction is immaterial hence convicted the accused for culpable homicide.[6]

In landmark case of *R. v Blaue*, the defendant entered the home of a young girl and stabbed her. The wound pierced her lung which necessitated a surgery and blood transfusions to save her life. She refused to undergo blood transfusion as she was a Jehovah's Witness (a kind of religious belief) which eventually led to her death. Medical Evidence showed that her life could be saved if she consented to the treatment. The defense contended that refusal to take medical treatment broke the chain of causation between the stabbing and her death. Lawton LJ in this case ruled that "who uses violence on others must take their victims as they find them." Lord Parker in the course of

judgement held that if original wound was the operating and substantial cause at the time of death then the original wound can properly be said to be the result of wound albeit some other cause is also operating. If the subsequent cause is so overwhelming that the original wound looks like a mere part of history can it be said that death does not flow from the wound. In this case bleeding caused due to stabbing is the primary cause of death hence accused is guilty of murder.[7]

Indian Penal Code expressly adopts Egg-Shell Rule under Explanation 1 of S.299 which states that “A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.” Illustration B of S.300 of Indian Penal Code also imported egg-shell rule by laying down that – “A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.”[8]

The combined reading of the above stated text of Indian Penal Code makes it clear that difference between of Section 299 and Section 300 is one of degree of probability of death resulting from the intended bodily injury. To put it more broadly, it is the degree of probability of death which determines whether a culpable homicide is of the gravest, medium or the lowest degree. If the requisite Mens Rea to kill or even cause grievous hurt is almost impossible to establish then court will not make him liable for culpable homicide as it would amount to miscarriage of justice.

In *Rewaram v State of MP*, the appellant inflicted injuries on her wife which were sufficient in ordinary course of action to cause death. The appellant in the present case was rushed to hospital. She had to undergo an operation and post operation starvation which was necessary for her recovery. The deceased developed hyperpyrexia i.e. high temperature few hours before her death due to debilitated condition. The doctor was of the opinion that deceased did not die as a result of multiple injuries but because of hyperpyrexia as a result of atmospheric temperature on weakened debilitated individual. The appellant was held liable as hyperpyrexia was the direct result of the multiple injuries and could not be independent with the serious injuries sustained by her. The court was of the view that intervening or supervening cause of hyperpyrexia was the direct result of multiple injuries and could not be independent with the serious injuries sustained by her. Therefore the appellant was rightly convicted under S.302 of IPC. [9]

In some cases where the assailant does not intend to cause serious bodily injury or grievous hurt and causes such injury which is not capable of endangering life of ordinary persons then the person is not liable for culpable homicide if the consequence of his conduct is death; the person would be liable under S.323 i.e. Voluntary Causing Hurt.

In *Re: Marana Goundan* the appellant caused death of the deceased by kicking him on the abdomen. The court held that there was no mark of injury external or internal, and it was difficult to hold that Appellant intended or knew that by kicking on abdomen as he did he was likely to endanger life. The appellant was held liable under S.323 of IPC for causing hurt because it could result in great miscarriage of justice to convict the accused for Culpable Homicide.

In *Ruli Ram and Anr. v. State of Haryana* the court stated that the punishment has to be always proportionate to the crime. The principle of proportion between crime and punishment is a principle of just desert that serves as the foundation of every criminal sentence that is justifiable.

The criminal law adheres in general to the principle of proportionality in prescribing liability according to the culpability of each kind of criminal conduct. Sometimes the conduct of the victim is so unreasonable which nearly breaks the chain of causation. *R. v Holland* is the best example of victim's unreasonableness where a deep cut was inflicted on the victim's finger by the defendant.

The victim refused to treat the wound and any kind of medical aid, which resulted in infection. Subsequently gangrene set in and victim refused to get his arm amputated which resulted in death of the victim. Here the defendant is liable even though victim's action contributed to his own death. Therefore in such cases where actual injury is not even severe enough it is unjust to make the defendant liable especially when harm was purposely aggravated. The eggshell skull rule has therefore excluded cases where remote possibilities exist and largely takes into account foreseeable cases, with exceptions such as where religious sensitivities exist.

Egg-Shell rule is based on the concept that a person who acted unlawfully shall be responsible for all the natural consequences emerging from it. But blanket application of this rule may result in prejudiced judgement in favour of plaintiff. There are two situations when blanket application of this doctrine can be problematic.

Firstly, the cases can emerge where act of accused is not the substantial or the operative cause of the harm. Secondly, in some cases the chain of causation is broken because of victim's intervening acts, but accused would be still liable because egg shell rule ignores causation in most cases. Therefore the egg-shell rule has been reconsidered and limited to a great extent by keeping in mind the principle of reasonable foreseeability.

In *Union of India v Maharashtra State Electricity Board*, goods were being carried by the railway and reached the consignee in a damaged condition. The goods were damaged during the transit due to an electric fault as the goods were conductor of electricity. The court held that Electricity Board could not be held liable for exceptionally sensitive nature of the goods. The Board used reasonable foresight and care in handling the goods therefore exceptional situations arising from absolutely remote possibilities would not hold the board liable.

The egg-shell doctrine deals with two facets which are sensitivity and hypersensitivity. The first situations is covered by the notion that victim must be taken as it is and sensitivity of victim cannot be used as a defence. Whereas in second situation the victim is so sensitive that the conduct of the

accused cannot be connected to the eventual consequence because the hypersensitivity could not be foreseen reasonably or as a probable consequence of the act. The defendant is not liable for hypersensitivity of victim because prosecution has to establish beyond reasonable doubt that harmful consequences of the act could be reasonably foreseen by the accused.

When a person is attacked it is highly unlikely that he will die of fright or shock, but if he does, the death might be attributed to the assailant on account of the principle that “those who use violence must take their victims they find them”. But this principle is not pushed so far where victim dies of fright when he himself is not in danger.

The Egg-Shell Rule is not applicable when the defendant is causing any harm which is so slight that no person of ordinary sense would complain of it. If the plaintiff is hypersensitive that even a slightest harm could lead to his death then the defendant cannot be made liable for such death. Section 95 of IPC states – “Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm”. This provision makes it clear that a defendant is not liable for any adverse consequence resulting from intention of causing slightest harm. The Egg-Shell rule prevents the accused from taking defense that the victim was sensitive and makes him liable for the consequence. This rule cannot be applied without taking the principle of causation into consideration.

CONCLUSION

The principle of causation involves weighing the contribution of other factors which are responsible for the result and establishing the chain of causation. The Egg-Shell Rule has been adopted in IPC through Explanation 1 of S.299 and Illustration B of S.300. If the prosecution fails to establish mensrea to kill or even cause grievous injury than accused cannot be held guilty for culpable homicide. But the accused can still be held responsible under S.323 (i.e. hurt) even if accused caused death or grievous injury to the sensitive plaintiff without any knowledge or intention. The foundation of every criminal sentence adheres to the principle that punishment has to be always proportionate to the crime.

The court will ignore the egg-shell rule if the chain of causation is broken. In some cases the grossly unreasonable conduct of the accused or a supervening act is capable of absolving accused from his liability. IPC recognized certain distinction between the egg-shell rule and hypersensitivity because of cases where the consequence of defendant's act is so remote that it was not foreseeable in any way. But S.300, illustration 2 implies that if the accused was fully aware of the oversensitivity of deceased then he cannot claim the defense of oversensitivity by doing a harm which kills the deceased. Therefore Egg-shell principle allows the court to nullify the defense of accused who caused severe injury or death.

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