



BOOK REVIEWS

THE LAW OF NEGLIGENCE (1996). By Gourdas Chakrabarti. R. Cambay & Co. Private Ltd., Calcutta. Pp. 506 + lx. Price Rs. 595.

UNDER THE law human beings violate the law either willingly or negligently. In criminal law generally crimes are punishable if committed willingly. It is very rare that a person can be held liable for a crime because of negligence. Generally wherever crimes are punishable only with the element of negligence the courts insist upon gross negligence act or omission in order to punish a person under the criminal law. But then once a negligent act is punishable under criminal law contriutory negligence of the victim is not relevant atleast for the purpose of conviction of the accused even though it may be relevant for purposes of sentencing the accused. Whereas in tort or civil law if the negligence of person has caused damage to the plaintiff then the latter can claim damages from the defendant even if he has been slightly negligent under the law. The importance of the concept of negligence in law is important basically under the civil law.

The book under review¹ gives complete and comprehensive coverage to law. The foreword has been written by a learned ex-judge of the Supreme Court of India, Justice V.K. Krishna Iyer. He observes :

Dr. Gourdas Chakrabarti, rated high in the legal profession and possesses academic scholarship of a rare order, is the author of the work for which I have the privilege to write a brief foreword.²

This opinion of the learned judge itself bears testimony to the quality of the author's work. Krishna Iyer points out :

The rule of law must be close to the rule of life and so when society is threatened with dangers on account of the negligence of some members, the law of negligence defends the citizen and grants relief in various ways. Constitutional wrongs also justify mass compensation.³

In torts or other civil law it is provided that every neighbour has a right not to be injured and every person has a duty of care towards his neighbour. But alas such kind of social consciousness is absolutely missing in India and what we find is anarchic, chaotic and unpleasant situations in every day life. The reviewer thinks in India such kind of consciousness is not present. Rather the way the people whether in your neighbourhood in the family or elsewhere think that perhaps they have the right to interfere in others affairs. Of course as far law is

1 Gourdas Chakrabarti, *Law of Negligence* (1996)

2 *Id.*, foreword iii

3 *Ibid*



concerned it is the same whether in India, UK or for that matter any country following the common law system of governance.

The present book is a very big and comprehensive treatise on the subject and the reviewer believes that it is for the first time at least in India that an authentic attempt has been made to purely write on the law of negligence in all the fields of law. The reviewer congratulates the author as well the publishers for having published such a useful book for the lawyers, scholars and serious students of law. The author states very correctly :⁴

Importance of the law of negligence can be well understood from the fact that the Chapters of Negligence are never closed. What germinated as a lant in the fifteenth century in the action of tresass, has turned into a big tree with hundreds of ramfications at the end of the twentieth century.

And this reviewer is of the view that the field of negligence in law has to be taken care of more in the 21st Century because the world is becoming very small as result of the media and modern means of communications. Now the concept of neighbour is not limited only to one country but may be extended to any remote corner on the earth.

The book has been presented in thirteen chapters, each of which has been very carefully planned and authentically written with the help of Indian and English decisions³¹ which definitely is a quality of the book, rarely to be found. The language of the book is very intelligible and any person who has good English would be able to grasp the subject of law of negligence from the book.

The publishers have printed the book almost flawlessly with an attractive jacket. Of course its price is a bit on the higher side with the hardbound edition. However, it will be useful to students of law, lawyers, judges, scholars of law, and the common people also. The reviewer is sure that all categories or lawyers would love to read it. The book is highly recommended and must be kept in all law libraries.

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⁴ *Id* preface, p v

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