

CHAPTER SIX

**LIMITATION:
SECTION 6(3)**

LIMITATION : SECTION 6(3)

6.1 Section 6(3)

Under Section 6(3) of the Public Liability Insurance Act, the application for claim for compensation must be made within five years of the occurrence of the accident. Since the proceedings are to be commenced by an "application", the question can arise whether Section 5, Limitation Act, 1963 which gives power to the "Court" to extend the period of limitation for sufficient cause will apply. Judicial decisions on the subject must be awaited. Since the period itself is large enough, the question may not arise in practice, except as regards the situation of "latent damage", discussed in the next paragraph.

6.2 Limitation and latent damage

Under Section 6(3), time begins to run as soon as the accident occurs. This starting point applies even where the damage is latent and is discovered only at a later date, because such damage is not a new cause of action, but is merely a consequence of the main occurrence.¹ Thus, if exposure to dust damages the plaintiff's lungs but he discovers it only after the limitation period has expired, the suit would become barred before the plaintiff acquires knowledge of his right to sue.² In England, the Limitation Act, 1980 was amended by the Latent Damage Act, 1986 on this point. Under these laws, the period of limitation for tort in general is 6 years, while the period for suits for personal injuries and defamation is 3 years. However, certain special provisions have been made to deal with cases of latent damage. The present discussion is confined to personal injuries. Sections 11 to 14 and 33 of the Limitation Act, 1980 apply to "any action for damages for negligence, nuisance or breach of duty" (whether the duty exists by virtue of a contract or of provision made by or under a statute or independently of any contract or any such provision), where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

Where Section 11 applies,³ the limitation period is 3 years from the date on which the cause of action occurred or the date (if later) of the plaintiff's knowledge. An elaborate provision is made in Section 14 as to when a person is said to have knowledge. Besides this, Section 33(1) gives the court power to override the statutory limit, if it appears to the court to be equitable.⁴ Here again, certain elaborate criteria are laid down in the Act.

-
1. *Howell v. Young*, (1826) 5B & c 259; Winfield and Jolowicz, *Tort* (1990), page 719.
 2. *Cartledge v. Jopling and Sons Ltd.*, (1963) A.C. 758 (H.L.).
 3. *Cf. Davies* in (1981) 44 *Modern Law Rev.* 710.
 4. *See Thompson v. Brown*, (1981) 1 W.L.R. 744.