

Intra Moot Court Competition, 2015

Moot Proposition

‘Vidhishwa Pradesh’ is a country of continental dimensions whose legal system resembles India’s legal system, including the constitutional structure. The ‘Tort Law’ of the Country is not codified. Jargon Weaponries Ltd. is a public listed company incorporated under the laws of Vidhishwa Pradesh with the object of manufacturing of defence equipments for the State. It is a large company known for making highly advanced weapons.

The company was also engaged in the project of manufacturing Drones for surveillances and procuring information. The senior officials of the company on 16 May, 2015 decided to test the Drone, and so they sent it for a test drive. It was advised by the scientists to first test the drone in a jungle or a desert area because the technology used to make that advanced drone was unstable. For first three hour the drone was used in the jungle, and when it worked fine for such time, the senior management ordered to use it in the nearby city because it was meant to be used in inhabited area.

However, when the drone was being tested in the city, the cells in it got overcharged which resulting in its explosion. Because it was being used at a very low altitude, it caused fire in a dwelling house. A 7 year boy was stuck inside when the house caught fire. Sherina Jwotsik, the mother of while returning from the nearby store saw the house on raging fire and rushed to rescue her child, but was stopped by the people. She was shouting for someone to help her boy, and then a man named John Spark who was at that time roaming with his girlfriend rushed to rescue the child. At that point of time an Army Jawan also arrived at the scene to help the boy but when he saw that John Spark was rescuing the child, he refrained from rescuing the boy because there was not enough space for the rescue to be completed by two people. But John got afraid when entered the house and so he came out without completing the rescue mission. Then the Army Jawan went into the house and got the boy out but by that time it was too late and the boy was dead. In was observed by the Doctors that if the boy would have saved few minutes earlier, he would not have been dead.

The mother of the child filed a petition in the 'Court of Vidhishwa Pradesh'(the court having the jurisdiction) under Section 21 of Court of Vighisha Pradesh Act, 1993 and sued both 'Jargon Weaponries Ltd.' and 'John Spark'. She argued that Jargon Weaponries Ltd. was not just negligent when it was operate its first test in the city but was 'grossly negligent' and hence the company has killed her son, therefore would be liable under 'Law of Corporate Manslaughter'. She further contended that although there is no law dealing with Corporate Homicide but the Court of Vidhishva Pradesh has power under Article 999 of the Constitution of Vidhishva Pradesh (similar to Article 142 of the Constitution of India) to make the laws whenever there is a vacuum, and so in the interest of justice the court must make law. She prayed the Court to grant the appropriate remedial order and imposition of fine along with the direction to the company to publish on its website and newspaper about the offence which it has committed of killing a 7 year old boy. These are such orders which are passed by the court in cases of Corporate Manslaughter and not in the case of simple negligence.

She further argued that John Spark is liable to pay compensation to her for the loss of her child because if either he would have completed the rescue process or would have not opted for the same, her child would have lived but as he did not do any of them, he is liable for negligence.

It was argued by the Company that the guidelines cannot be given by the court on the law of Corporate Homicide as the company can never have a 'guilty mind' or 'mens rea' to kill a person. Further, she has remedy under different laws, hence there is no vacuum.

And *assuming arguendo* there is any law, the conduct of the company cannot be treated to be 'grossly negligent' so it cannot be held liable under it.

It was argued by John Spark that he cannot be made liable for negligence because for that there has to be a 'duty of care' by the respondent towards the plaintiff, but in this case he had no duty to take care.

The Issues determined by the Court are:-

1. Whether the Court of Vidhishwa Pradesh can make the 'Corporate Manslaughter Law' while exercising its power under Article 999 of the Constitution?
2. Whether the company Jargon Weaponries Ltd. has killed the boy under 'Law of Corporate Manslaughter'?
3. Whether John Spark can be held liable for negligence?

The counsel need to prepare the memorial and argue from both the sides.

The 1st semester students can skip the 1st issue and can argue on 2nd and 3rd issue.