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Artificial Intelligence and Tort Liability in India: Lessons from the European Union's Risk-Based Framework.

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ABSTRACT

The rapid development of artificial intelligence technologies has posed significant challenges to the conventional legal framework governing tort liability in India. Artificial intelligence systems are increasingly deployed in sectors such as healthcare, transportation, finance, and manufacturing, where autonomous or semi-autonomous decision-making can directly affect human safety, welfare, and property. However, Indian tort law, rooted in common law principles and formulated prior to the emergence of artificial intelligence, lacks specific provisions to address liability arising from such technologies.

This study examines whether developers, users, programmers, and organizations can be held liable for physical, reputational, and pecuniary harm caused by artificial intelligence under existing doctrines of vicarious liability in Indian law. It adopts a comparative approach by analysing the evolving regulatory and liability framework of the European Union to identify relevant lessons for India. Through an examination of sector-specific examples from healthcare, autonomous vehicles, financial markets, and industrial manufacturing, the research highlights the gaps and limitations in the Indian legal system.

The study concludes by proposing a structured framework for allocating tortious liability in artificial intelligence-related cases in India, blending traditional tort principles with modern policy considerations and drawing inspiration from the European Union's risk-based and sector-specific regulatory approach.

INTRODUCTION

European policy makers were among the first individuals to soothe questions posed by artificial intelligence as it slowly started challenging long established concepts of fault and responsibility under the law of torts.

The European Commission's liability for artificial intelligence and others next generation digital technologies accounts for the black box of machine reasoning that renders traditional

elements like duty of care and causation hard to establish and suggest procedural mechanisms, such as duties of disclosure and rebuttable presumptions to facilitate claimants' burden of proof[1]. Parallel issues crop up in the volume edited by Sebastian Lohsse, Reiner Schulze and Dirk Staudenmayer, outlining how persistent updating and distributed control in AI and Internet of Things make liability allocation more difficult[2]. Capitalizing on such controversies, Cambridge Handbook of Law, Ethics and Artificial Intelligence calls for risk based strict liability or mandatory insurance for highly risky use, retaining normal rule of negligence for low-risk ones[3].

In India, where the tort is based on common law foundations, the European Union has some useful practical lessons. There could be a limited strict liability or an insurance scheme that will act as a safety net for high-risk areas like autonomous cars or predictive medicine technologies. Thus, a sectoral regulation with coordination will prevent enforcement that hampers technological development with the assurance of compensation to the injured.

SUMMARY

The problems and opportunities presented by artificial intelligence include new legal challenges. This research looks at these legal problems particularly about the area of tort liability. The use of artificial intelligence technologies in medicine, finance, transport and government create new opportunities but also complex problems of accountability. The established legal principles and concepts which relate to human activity do not fit so easily into this field and often fail to provide a basis upon which to determine the issues of accountability arising from such activities where there is autonomous decision making by artificial technologies. This work examines the current position in India, particularly with the provisions of the Information Technology Act 2000 together with such legal developments as they exist within the increasingly sophisticated European Union framework, which is still in a transition phase compared to the European Union position but is much more developed in that it appears to be moving towards a structured formula for determining issues of liability, transparency and risk management.

[1] *European Commission Expert Group on Liability for New Technologies, Liability for Artificial Intelligence and Other Emerging Digital Technologies 4-5 (2019)*

[2] *Sebastian Lohsse, Reiner Schulze & Dirk Staudenmayer, Liability of Artificial Intelligence and Internet of Things 11-12 (Nomos 2019)*

[3] *Woodrow, Handbook of Law, Ethics and Policy of Artificial Intelligence: Tort Liability and Artificial Intelligence 158-159 (Cambridge Univ. Press 2020)*

By carrying out a review of the literature and comparative analysis the project identifies the strengths and weaknesses in the existing legal systems, the areas where the Indian law system can usefully learn from the position in Europe. The broad conclusions which emerge from the review are that guidelines, legislative measures and the ethical questions arising therefrom are of vital importance to facilitate the effective and proper administration of justice in this area so that innovation can take place without hindrance. Consequently, the study reaches the inevitable conclusion that it is necessary to adopt a proactive approach to the regulation of the area to deal with the rapid development of the new techniques relating to artificial intelligence to achieve the protection of the public good.

By taking a structured approach in relation to the examination of the effects of artificial intelligence the study serves to contribute in some small way to our understanding of the way in which it can be expected that the legal system will change if not evolve. It provides real suggestions for practical use by legislators of countries, in the way of the introduction of liability provisions and transparency and the adoption of appropriate international practices, if an effective mechanism for regulation and control. It thus serves as a general overview of the implications in general terms of artificial intelligence and of the way in which such technology affects tortious liability, but it is clear that a satisfactory and balanced approach has to be adopted if the continuity of technological development is to take place so that the existing systems of legal regulation can be adhered to and maintained.

HISTORICAL BACKGROUND

The origin of vicarious liability in India is from English Common Law, and it holds employers liable for torts committed by an employee during employment and this principle of vicarious liability is now being adopted to contemporary challenges posed by artificial intelligence[4].

The European Union has been proactive in artificial intelligence development and regulations and implemented various legal frameworks to conduct research on artificial intelligence and ensure safety and security of its citizens[5]. In the European Union vicarious liability evolved

[4] *Vicarious Liability Doctrine in the United Kingdom and India, Indian Institute of Management Ahmedabad, https://www.iima.ac.in/sites/default/files/2022-12/WP%202022-12-01.pdf*

[5] *European Approach to Artificial Intelligence, European Commission, https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence.*

through case laws and legislations. This principle helped the nation to hold employers accountable for the action of employees, especially in the case of artificial intelligence[6].

RESEARCH METHODOLOGY

This study uses comparative, descriptive and analytical approaches to understand artificial intelligence and tort liability and provides solutions and recommendations. This study is based on doctrinal research as it examines case laws, interprets principles and answers legal questions by organizing law in a systematic way.

Comparative Study

This study uses comparative study to understand the difference between India and the European Union in artificial intelligence and tort liability in the field of medical, finance, industrial and manufacturing sectors so that India can take key lessons from the European Union.

Descriptive Study

This work uses descriptive study as it provides a detailed understanding of the current legal landscape in India and technological, social, and regulatory aspects of artificial intelligence, highlighting patterns, challenges, and trends in the application of liability.

Analytical Study

This work uses analytical study as it evaluates, interprets and gives solutions and recommendations by analysing case laws from the European Union and comparing it with India. This gives the research not only a theoretical but practical approach.

Sources

This research uses data from both primary sources which includes government policies and secondary sources, including research articles, academic journals, and other freely available online resources. The collected information for completing the project is first analyzed and then written adding new perspectives and providing solutions to the existing problems.

Citations

The citation used in this project is Bluebook 21st edition citation.

[6] *Vicarious Liability, Max Planck Institute for Comparative and International Private Law, https://max-eup2012.mpipriv.de/index.php/Vicarious_Liability.*

AIMS AND OBJECTIVES

The main goal of this project is to explore and suggest a complete framework for artificial intelligence and tort liability in India. This will be done by examining and learning from the European Union's methods of artificial intelligence liability.

a) To analyze European Union Case laws and highlight its strengths and applicability to India.
b) To conduct a comparative study between India and the European Union to identify key differences and lessons that can guide India to prevent liability of artificial intelligence.
c) To understand artificial intelligence and tort liability in various sectors through case laws. To provide recommendations for artificial intelligence and torts liability in India, ensuring responsibility while using it

RESEARCH QUESTIONS AND HYPOTHESIS

Research Question 1:

Are European Union case laws relevant to India in terms of artificial intelligence and tort liability?

Research Question 2:

Is there any difference between India and the European Union in artificial intelligence and torts liability?

Research Question 3:

Can we understand artificial intelligence and torts liability through case laws?

Research Question 4:

Why should we use artificial intelligence and tort liability with responsibility?

$H_{0:}$ European Union case laws are not relevant to India in terms of artificial intelligence and tort liability.

$H_{1:}$ European Union case laws are relevant to India in terms of artificial intelligence and tort liability.

$H_{0:}$ India and the European Union show similarity in artificial intelligence and tort liability.

H_1: India and the European Union have differences in artificial intelligence and tort liability.

H_0: We cannot understand artificial intelligence and tort liability through case laws.

H_1: We can understand Artificial intelligence and tort liability through case laws.

H_0: Should not use artificial intelligence and tort liability with responsibility. H_1: Should use tort liability and artificial intelligence with responsibility.

SCOPE AND LIMITATIONS

This research focuses on drawing lessons from the European Union case laws and evaluating differences between Indian and European Union in Artificial intelligence and liability to identify potential areas for reform in India. It also provides a detailed study on vicarious liability in the context of artificial intelligence and provides insights into how India can develop by ensuring accountability. This project uses both primary sources and secondary sources which will help in the practical understanding of artificial intelligence liability.

- Artificial Intelligence is a rapidly evolving field so new laws, policies, or judicial interpretations may emerge after the completion of this project.
- While The European Union is used for comparison, this research does not show regulatory lessons of artificial intelligence from other countries, which may provide various additional insights.
- The project is largely analytical and descriptive, without empirical data and surveys. ● The recommendations given at the end of this study may face challenges in implementation due to differences in socio-economic, technological and political factors in India and The European Union.
- The use of primary data in this project is limited like government policy and framework, but this research is based mostly on secondary sources including research papers and articles.

LITERATURE REVIEW

The advent of artificial intelligence has made jurists and policymakers rethink the pillars of tort law and artificial intelligence challenges. In Europe, this understanding led to one of the first detailed studies on responsibility for smart systems. In India though no specialized legal regime is in place, the report suggests the necessity for existing tort doctrines-vicarious liability in particular-to be modified to introduce technology-facilitated injury. This shows an awareness

about Indian policy making that economic development should be integrated with legal protection[7].

Both jurisdictions' legal scholarship has started to explore how fault and responsibility doctrines are to be interpreted in the age of automation. The doctrine of vicarious liability has drawn attention. Traditionally, an employer is responsible for actions taken by an employee during work, if there is enough control. However, when an artificial intelligence system operates on its own, this control becomes unclear. That is, the doctrine does not have to be replaced but reinterpreted to maintain justice in emerging technological contexts[8].

The experience of the European Union provides lessons for India. It helps in bringing together product liability modernization, consumer protection, and tort law has presented Europe with a more unified approach to artificial-intelligence related damage. Third, by acknowledging the active role of employers, developers, and operators in artificial intelligence breakdowns explicitly, European legal scholarship offers an existing model for India to follow. If the Indian courts and policymakers learn from the European Union, then India can progress and ensure responsibility[9].

ARTIFICIAL INTELLIGENCE AND TORTS LIABILITY- ACROSS ALL SECTORS

There is rising use of artificial intelligence across various sectors in India and the European Union with the following rising complex liability issues. Medical practice is not ruled out, India's Prem Kishore v. Union of India, W.P.(C) 6058/2018, where a medical negligence charge for a robot-assisted ureterolysis surgery[10]. The doctor stayed on even in the event of complications to infuse harm, and medical records were manipulated to conceal the facts, according to the petitioner. Despite robot involvement, the court viewed the issue mainly as a case of human error. It focused on the lack of any acknowledgment of artificial intelligence liability in India. Indian courts continue to attribute liability to human actors even when AI systems are involved, reflecting the absence of AI-specific tort jurisprudence. The European Union, on the other hand, had established an official system for addressing artificial intelligence in healthcare. The European Commission report, Liability of Healthcare artificial

[7] *NITI Aayog, National Strategy for Artificial Intelligence (Discussion Paper) 12-14 (2018), https://www.niti.gov.in/sites/default/files/2019-01/NationalStrategy-for-AI-Discussion-Paper.pdf.*

[8] *M.P. Ram Mohan & Sai Muralidhar K., In Pursuit of Balance: Vicarious Liability Doctrine in the United Kingdom and India, IIM Ahmedabad Working Paper No. WP 2022-12-01, at 15-16 (Dec. 2022).*

[9] *Id. at 8–10.*

[10] *Prem Kishore v. Union of India, W.P.(C) 6058/2018 (Delhi H.C. 2019), https://supremetoday.ai/doc/judgement/01100062175.*

intelligence providers in The European Union, 2025[11] ,and under the guidance of CJEU, prescribes the position of artificial intelligence providers and supervising healthcare professionals. Vicarious liability in the above sense is addressed specifically, and there should be transparent and safe practice of artificial intelligence by institutions.

In the banking world, India has recourse to advice policy rather than binding case law now. Banks and sellers of artificial intelligence are responsible for mistakes that impact customers. This is a clear example of liability in artificial intelligence driven by financial choices.

Autonomous car liability regimes have been established by the European Union, however the European Parliament's 2024 report on motor vehicle-based artificial intelligence describes the roles of producers, users, and suppliers of artificial intelligence systems, including vicarious liability as a part of law.

Indian manufacturing and industrial artificial intelligence lack binding case law. The European Union, in the 2022 report of MedTech Europe[12], gives official recommendations for liability in the event of industrial mistakes by artificial intelligence, and it advocates oversight and transparent responsibility.

Finally, India employs work in conceptual forms like doctor, bot, or both: questioning the medicolegal liability (2024)[13], whereas the new European Union responsibility and liability landscape for Smart Medical Devices (2025)[14], establishes vicarious liability standards for institutions, professional supervisors, and artificial intelligence providers, as a tangible example of the medical industry.

[11] *European Commission, Liability of Healthcare AI Providers in the EU (Bird & Bird 2025), https://www.twobirds.com/en/insights/2025/liability-of-healthcare-ai-providers-in-the-eu-how-to-navigate-risks in-a-shifting-regulatory-ecosys.*

[12] *MedTech Europe, Liability Challenges in AI Medical Technologies (2022), https://www.medtecheurope.org/wp-content/uploads/2022/10/medtech-europe_liability-challenges-in-ai-medical -technologies_document-paper_13-october-2022.pdf.*

[13] *Doctor, Bot, or Both: Questioning the Medicolegal Liability (2024), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11470824/.*

[14] *New EU Responsibility and Liability Landscape for Smart Medical Devices (White & Case 2025), https://www.whitecase.com/insight-alert/new-eu-responsibility-and-liability-landscape-smart-medical-devices- gl obal-context.*

COMPARATIVE TABLE OF INDIA AND THE EUROPEAN UNION

Aspect	India	European Union
Legal Recognition of Artificial Intelligence	Liability on humans and no specific law for artificial intelligence.	Artificial Intelligence is recognized and liability is shared among both the provider and the user.
Vicarious Liability	Conceptual, no binding framework and institution may be liable.	Rule of joint accountability of institutions, operators and artificial intelligence providers and it is codified in law.
Transparency	Human oversight is recommended and documentation is not standardized.	Transparency is necessary and the process of documentation is standardized.
Laws for different sectors	No specific laws in artificial intelligence for different sectors.	There are different laws for different sectors that includes- healthcare, finance, automotive, manufacturing.
Innovation	In India innovation is promoted but risk of liability due to uncertain rules exists.	In The European Union there is a balance of innovation with liability by providing rules and regulations.

This table shows a comparative analysis of artificial intelligence and tort liability between India and the European Union in various aspects like legal recognition, vicarious liability, transparency, laws for different sectors and innovations. Hence the table provides a proper understanding of key differences, and the lessons India can take from Europe to reduce artificial intelligence and tort liability.

KEY TAKEAWAYS FROM THE EUROPEAN UNION

a) India should recognize artificial intelligence and provide responsibilities to artificial intelligence providers and operators to reduce ambiguity in liability.
b) India should develop a framework where institutions are equally liable as users when it causes harm.
c) The process of documentation must be standardized for convenience and gaining people's trust in India.
d) In India, there must be sector specific guidelines-healthcare, finance, manufacturing and industry.
e) India must advocate the use of artificial intelligence by combining with human oversight and not replacing it completely which reduces legal problems.

OUTCOME AND CONCLUSION

Research Question 1:

Are European Union case laws relevant to India in terms of artificial intelligence and tort liability?

Outcome:

European Union case laws are applicable to India for implementing legal frameworks related to artificial intelligence by taking lessons from the European Union.

Hypothesis 0:

European Union case laws are not applicable to India.

Hypothesis 1:

European Union case laws are applicable to India.

Conclusion:

We can understand from the study that European Union case laws are applicable to India. Hence Hypothesis 1 is correct.

Research Question 2:

Is there any difference between India and the European Union in artificial intelligence and torts liability?

Outcome:

There are differences between India and the European Union in areas like legal recognition, vicarious liability, transparency, innovation and laws for different sectors. Hypothesis 0:

India and the European Union show similarity in artificial intelligence and tort liability.

Hypothesis 1:

India and the European Union have differences in artificial intelligence and tort liability.

Conclusion:

Hence from this study we can conclude that there are differences in India and the European Union, therefore Hypothesis 1 is supported.

Research Question 3:

Can we understand artificial intelligence and torts liability through case laws? Outcome:

By providing cases from different sources available proves that we can understand that artificial intelligence and torts liability through case laws.

Hypothesis 0:

We cannot understand artificial intelligence and tort liability through case laws.

Hypothesis 1:

We can understand artificial intelligence and tort liability through case laws.

Conclusion:

This research shows the comparison of cases between India and the European Union which thus proves Hypothesis 1 that artificial intelligence and torts liability could be understood through case laws.

Research Question 4:

Should we use artificial intelligence with responsibility?

Outcome:

We should use artificial intelligence with responsibility as both developer and consumer should be liable and this promotes innovation with liability.

Hypothesis 0:

We should not use artificial intelligence with responsibility.

Hypothesis 1:

We should use artificial intelligence with responsibility.

Conclusion:

The comparative table helps to understand the proper use of artificial intelligence. Hence Hypothesis 1 is correct, and we should use artificial intelligence with responsibility.

SUGGESTIONS

a) India should adopt a comprehensive framework world torts liability and artificial intelligence inspired by the European Union.

b) The Indian judiciary should examine cases from other parts of the world when disputes regarding artificial intelligence are involved.

c) India should encourage the responsible use of artificial intelligence not only among the developers but also the users to ensure transparency.

d) India should introduce sector specific policies and guidelines to reduce cases regarding artificial intelligence.

e) India should promote education about artificial intelligence, liability so that the future generations can address issues regarding artificial intelligence.

f) India should integrate law and technology to develop the framework required to reduce liability of artificial intelligence

g) India must not only ensure innovation but there must also ensure safety, security and justice of people living in the society.

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