

What role does the principle of reasonableness play in the law of negligence?

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Abstract:

This essay advances a belief that reasonableness plays a paramount role in the law of the negligence, highlighting the essence, advantages and disadvantages of it and the arguments made by legal representatives. The essay contains an introduction to the reasonableness standard, its primary functions, and the significance of this theory to the law of negligence, along with pertinent legislation and cases.

Key words: reasonableness standard, negligence, law, reasonable man, objective test.

To encourage individuals and organizations to exercise caution in their actions and to abstain from negligence that could harm or impair others is one of the fundamental goals of the law of negligence. The standard of reasonableness must be met in order to do the task most effectively. As a result of divergent perspectives, levels of expertise, and institutional settings, defining reasonableness in negligence law is a difficult issue. The concept of reasonableness in the law of negligence acts as a focusing magnet for the study of law, which could be one of the essentials, such as "rights", "responsibility" and "reasonableness".

It must be stated that in order to assess the reasonableness standard, the Courts apply to an objective test. This test often does not reflect the defendant's own opinion, but rather how a "reasonable man" would behave in a given scenario. The mainstream theorists always puzzle in achieving "a truly egalitarian conception of responsibility". Undoubtedly, when determining a reasonable standard for a certain circumstance, the courts always consider a number of considerations and attempt to achieve a balance between them.

Generally, evaluating the reasonable standard must satisfy five criteria that are often noticed by judges. They include:

1) Was it practical to prevent in opposition to the risk?

It indicates how far the risk could have been avoided. For instance, this element is well known in *Latimer v. AEC Ltd*, where the House of Lords stated that closing the area would have been the sole effective defence against the risk of people falling.

2) The possibility and earnestness of harm.

It talks about the seriousness and likelihood of the danger. The phrase has been employed in *Bolton v. Stone*, where the House of Lords ruled that no more safeguards beyond those taken by the defendants were necessary since the likelihood of a ball being struck out of the ground and damaging someone was so remote. The case *Paris v. Stepney BC* is also used in determining the possibility of a harm. Here, the House of Lords stated that the duty has been breached by an employer towards employee.

3) Characteristics of the parties (defendant and claimant);

When reaching a decision, the courts always consider the manner of the plaintiff and defendant.

4) A standard procedure in the field;

5) Any advantages to society from the reckless activities or circumstance.

The fundamental reason why the standard of reasonableness is exceptional is because it offers certain benefits. To clarify, reasonableness assists not only courts in making judgments, but also defendants in avoiding liability for their actions. The fundamental advantage of reasonableness in negligence law is that the defendant may avoid liability for his actions under negligence law. In fact, it has been stated that "unlike in the law of trespass, the litigant can't be held accountable for his or her reasonable actions". As an illustration in *KD v Chief Constable of Hampshire*, the taking of the statements was a course of conduct and was plainly harassment.

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Here, despite the fact that the defendant was behaving in a reasonable manner, the court found him responsible for the crime.

Contrary to the highlighted points of view that emphasise the importance of the reasonableness criteria in the law of negligence, there are critics who disagree with the idea that reasonableness has certain limitations. Despite the fact that reasonableness standard is confined as “*coptis trifolia groenlandica*” (golden thread), there are some factors which are controversial to imply. The fact that the reasonableness is determined by an objective method should not be overlooked. Therefore, it is possible to deduce that an objective approach is not always valuable in all circumstances. To provide one example, the objective test is unable to resolve circumstances in which the people involved have developed at various rates and possess varying levels of mental capacity. It is self-evident that an objective test cannot be administered to differentiate between a child and an adult, a doctor and a person, or a mentally disabled person and a qualified one. As a result, there could be certain situations in which the objective standard of reasonableness won't be enough to satisfy the requirements. Thus, it occasionally directs courts to adopt subjective criteria for plaintiffs who are vulnerable.

In conclusion, it should be elucidated the reasonableness standard plays a significant part in evaluating a litigant's responsibility, approaching to the objective test. Judges often prefer to use the reasonableness criteria, inspite of the fact that this standard is occasionally ambiguous in certain instances. The fundamental function, substance, and features of the test of reasonableness in negligence law were drawn.

References:

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