

## SYNOPSIS OF NOVUS ACTUS INTERVENIENS: A TORT LAW

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### ABSTRACT

*This study examines how distance and intervening activities are governed by law. The causation can happen in a range of conditions, constructing the litigant's action as a hand-out component in the pretender's loss. To break the chain of causation, one or more ensuing events must furthermore contribute to the eventual damage in some way. These are sometimes referred to as intervening acts (or Novus actus interveniens), and they fall into one of three categories: the claimant's actions, the actions of a third party, or natural occurrences. Causation, which is also known as remoteness in legalese, is a simpler term that refers to the scope of a defendant's duty.*

**Keywords:** Causation, Ensuing events, Intervening acts, Remoteness

### REVIEW OF LITERATURE

The damages suffered by the plaintiff after the causality caused by the defendant's tort was severed are too far-reaching to justify an award of damages against the defendant. It is easy to formulate this proposition, but the difficult part lies in formulating the principle by which an action or event breaks the chain of causality. A break in the causal chain may be caused by human action or by natural phenomena.

As respects human activities, two standards are settled; human activity does not per se serve the interfacing arrangement of acts; in other words, the genuine reality that human activity intercedes does not avoid the figure from saying that harm is due to that human activity as one of the components is the arrangement is recoverable from the first Cretan; and besides that to break the chain of causation is must be appeared that there's something ultroneous, something unwarrantable, a modern cause which irritate the arrangement of occasions, something which can be portrayed as either preposterous or unessential or outward. On the off chance that there's an obligation to maintain a strategic distance from the hazard to children, their unforeseen conduct does not break the chain of causation "for their

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inventiveness in finding unforeseen ways of doing insidiousness to themselves and others ought to never be thought little of.

## INTRODUCTION

Novus Actus interveniens implies, "An irrelevant activity is intervening". The rule of Novus actus interveniens applies to cases of ambush and inadvertent damage. When the aggressor attacks his adversary, he is held mindful of all the results of his act for both the prompt and inaccessible complications which may interface the damage with passing. At times, a few modern startling happenings which cannot be sensibly a predictable complication, may break the progression of occasions. Novus actus interveniens happens with such happening when the legitimate continuing within the case will stand altered.

## APPLICATION OF NOVUS ACTUS INTERVIENS IN TORT LAW

The Academic definition of a fresh intervening act is "novus actus interveniens." An independent incident that, after the wrongdoer's act has been ended, either caused or contributed to the consequence in question is referred to as a Novus actus interveniens, according to Neethling's Law of Delict, Sixth Edition<sup>1</sup>. The link between the wrongdoer's initial action and the culpability that results from it is severed by a Novus actus.

An additional criterion for an act or exclusion to qualify as a Novus actus is that it was not reasonably anticipated before the original wrongdoer's act. It is not appropriate to treat a subsequent event as a Novus actus that can diminish the liability that should be attributed to the initial wrongdoer if it was reasonably foreseeable at the time of the initial wrongful act.

When a third party's intervening act of human violation causes the damage, or when the plaintiff's injury may have been caused by the plaintiff's own intervening act of violation, the damage is typically considered to be too remote. The use of another test that has recently gained attention, namely the test of isolation<sup>2</sup>, would determine whether or not an originally negligent individual would be accountable for all outcomes indefinitely, whether they are foreseen or unexpected, probable or improbable.

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<sup>1</sup>Parth Purohit, 'The Law of Torts: Cutting Down the Chain of Causation' (2017) C.R. NAIDU & CO. <<http://www.crnaidu.in>> accessed 19 May 2023

<sup>2</sup>MA Milner, 'Novus Actus Interveniens: The Present Effect of Wagon Mound' (1971) 22(2) Hein Online <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/nllq22&div=24&id=&page=>>> accessed 19 May 2023

Using this test, the link between the unlawful conduct and its repercussions is said to have been broken, and the defendant is no longer responsible for any consequences that resulted from the other act of human isolation. The chain of causation from the earlier act has run its course, the law has been violated and the perpetrator can no longer be held accountable for additional consequences.

A NOVUS ACTUS isn't restricted to either honest-to-goodness or genuine causation because it was and can prevent the causal chain at either point. Inside the respect of genuine causation, a Novus actus ruins the nexus between the wrongful act of the beginning Cretan and the comes about of his act to such a degree that it frees him of the commitment of his exercises.

In any case, when studying Novus actus concerning authentic causation, regard must be had to the points of view of approach, sensibility, sensibility and value in organize to choose whether the hazard for the beginning wrongful act can still be attributed to the beginning fraud and whether the causal chain has been broken<sup>3</sup>. A Novus actus, hence, disturbs the unequivocal quality angle of the starting act and the subjective test of lawful causation cannot be satisfied.

As a Novus actus is an independent capture act, it can be occasioned by anyone or anything other than the beginning Cretan. This common category as well joins the hurt party himself, another third party, or the act of God. In this way, a hurt understanding who walks on an unsafe floor after having been hurt from that point occasioning energize surgery will have made him have Novus actus, or where a storm causes progress and more unmistakable hurt to a property after it has been hurt by a transgressor will additionally be seen as a Novus actus.

## CATEGORIES OF INTERVENING ACTS

To be precise, intervening acts are of three genres: -

- **The activity of the third party, unless the activity was predictable such as carelessness by the third party:** It can be seen in Scott v Shepherd [1773], The respondent hurled a little lit firecracker into a swarmed commercial centre. It landed on a seller's showcase slowdown, who hurled the firecracker absent to secure himself.

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<sup>3</sup>African L.J., 'Reflections on the Novus Actus Interveniens Concept' (1959) HeinOnline <<https://heinonline.org/HOL/>> accessed 19 May 2023

It landed on another seller's slowdown, who at that point too hurled the firecracker absent, where it hit the claimant, detonated, and blinded him in one eye<sup>4</sup>. The court held that the litigant was mindful of the claimant's wounds - even though there had been interceding third-party acts, they might be considered the results of the initial destructive act.

- **The activity of the claimant where their activity was outlandish or unbalanced:** There as well exists the validity for the claimants themselves to require a mediating act, breaking the chain of causation between the defendant's act and the unavoidable work. *McKew v Holland and Hannen and Cubitts*. The claimant was harmed at work due to carelessness on the divide of his executive. This cleared out him with a combination of minor transient issues, counting a debilitated leg, which was slanted to give way. Various days a whereas afterwards, when seeing pads to lease, he attempted to move down a flight of stairs which did not have a handrail. The claimant's leg gave out, and the claimant bounced down the remaining 10 steps (in organizing to reach his feet, instead of dropping). This broke his lower leg and cleared out him with hurt. The claimant at that point sued his boss once more, communicating that the unused hurt was a result of the old-fashioned hurt. Whereas the prosecutor recognized the danger of the essential hurt, it talked approximately the commitment to this moment's hurt. The courts concurred, controlling that the claimant had acted incredibly in falling the stairs without taking fitting security measures (i.e., moving consistently so that he might respond to his leg giving way.) Taking note of the unforeseeable nature of the claimant's unused wounds, the courts in this way ruled that the claimant had taken a capture act (in falling the stairs hazardously), and the miniature the claim fizzled.<sup>5</sup>

A few characteristic occasions or coincidences, such as an exceptional climate occasion.

- **The act is due to nature itself:** Such an act can be seen in *Carslogie Steamship Co Ltd v Distinguished Norwegian Government* [1952]. The claimant (the Distinguished Norwegian Government) had one of its ships hurt by the respondent in a collision (and the prosecutor conceded fault.) This suggested that the celerity had to be repaired by chance inside the UK a few times as of late it travelled to the US for enduring repairs to be carried out. During the crossing, the claimant's transport bolstered helped hurt when it was caught up in a storm. The claimants declared that

<sup>4</sup>Scott v Shephard [1773] 96 Eng Rep. 525

<sup>5</sup>McKew v. Holland & Hannen & Cubitts (Scotland) Ltd. [1969] 3 All ER 1621

but for the beginning collision, the alacrity would not have had to have made the trans-Atlantic travel, and so would not have kept up the additional storm hurt. The courts<sup>6</sup> rejected the claim, and so the litigant was because it was held committed for hurts rising from the essential collision, and not the resulting storm hurt - the storm was held to be a Novus actus interveniens, and so the claim was based on an imperfect scrutinizing of causation.

### **TEST TO DICTATE NOVUS ACTUS (INTERVENING ACTS)**

For discovering, when the act can be named as "intervening", one must consider two tests:

- **TEST OF FORESEEABILITY:** It alludes to whether the mischance, may have been anticipated by the respondent to infer the magnitude of expanded hurt it may lead to.
- **TEST OF UNDEVIATING HARM:** It comes into the frame when one must check if the mishap was a coordinated result of the act that was caused by the litigant.

If the answer for both these tests is affirmative then the defence fails and the defendant is held reliable.<sup>7</sup>

### **EXCEPTIONS TO NOVUS ACUS INTERVENIENS**

Novus actus interveniens is a defence against the injury suffered by the plaintiff. The defendant can plead not guilty based on an intervening act and the break of causation. However, Novus Actus Interveniens may not be accepted as a defence in certain cases. Such cases are called Exceptions to Novus Actus Interveniens.

**The exceptions are mentioned as follows: -**

- **Where the intervening act has been intentionally procured by the defendant:**

In a case, where the offended party has been Harmed after the break of causation, there exists a window of Novus Actus Interveniens. Be that as it may, if the interceding act has been performed by the litigant himself, as well, with the men's rea (mental component) and purposeful to cause harm. In case there's purposeful and malice of law display, the guard isn't accessible and the respondent is held at risk of committing the tort.

<sup>6</sup>Carslogie Steamship Co Ltd v Royal Norwegian Government[1952] AC 292

<sup>7</sup>Mark Lunney, 'A review of The Law of Intervening Causation by Douglas Hodgson' (2015) 21(2) King's Law Journal <<https://doi.org/10.5235/096157610792240759>> accessed 21 May 2023

- **Where the intervening actor is not fully responsible: -**

When the mediating act is the result of a third party's activity the obligation of the torts is either shared between the third party and the respondent or the third party is separately held at risk. Be that as it may, in certain cases, the litigant is held obligated despite the nearness of an interceding act between the initial act of the litigant and the injury/harm endured by the offended party. This happens when the interceding on-screen character was not completely at blame and hence cannot be held blameworthy.

- **Where the intervening act is such as could be justifiably predicted: -**

The concept of Novus actus interveniens applies as a guard for the litigant when there's a break within the chain of causation due to the mediating act. In case the modern act breaks the chain between the act done by the respondent and the harm endured by the offended party at that point the respondent cannot be held obligated<sup>8</sup>. In any case, it comes up short to serve as a guard, in case, the interceding act was predictable by any reasonable man. If the interceding act was self-evident as a result of the introductory act performed by the respondent, at that point the respondent should be held at risk.

- **Where the intervening act is a mere reflex or involuntary action: -**

In a few scenarios, indeed although there's a mediating act and a break within the chain of causation, the obligation still falls on the litigant. In cases where the interceding act was fair a reflex or an inadvertent, unconstrained response to any other act, the protections of Novus Actus Interveniens cannot be claimed.

## **CASE STUDY**

### **Chaurasia and Co. and Anr Vs. Smt. Pramila Rao and Ors. (1934)AIR 1975 MP 31**

#### **FACTS: -**

In this case, which happened on July 17, 1969, a traveller transported having a place to M/s. Chaurasia and Company were cleared absent by floodwaters while crossing the Sunar waterway in Batiagarh. Seven individuals, counting Satyanarayan Rao, a Piece Expansion

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<sup>8</sup>Managay Reddi, 'General Principles' (2003) Hein Online<<https://heinonline.org/HOL/LandingPage?handle=hein.journals/soafcrimj16&div=25&id=&page=>> accessed 21 May 2023

Teacher, misplaced their lives in the mischance. The dowager and three minor children of Satyanarayan Rao recorded a claim sometime recently to the Tribunal looking for compensation.

The appealing party, M/s. Chaurasia and Company contended that the driver of the transport, John Victor, was not careless. They claimed that the water level on the causeway was as it were four to six inches and it was sensible to endeavour to cross it. They moreover fought that the travellers themselves were negligent for remaining within the transport and ought to have crossed the causeway on foot.

The Tribunal found that the driver was undoubtedly careless in driving the transport over the causeway despite the rising water levels. Witnesses affirmed that the water was at slightest two feet tall on the causeway, and the drive of the current caused the transport to slip and get stuck on the stones. The Tribunal concluded that the driver breached his obligation of care towards the travellers by endeavouring to cross the causeway in such unsafe conditions, making him capable of the accident.

The appealing party moreover contended that the Tribunal did not have a locale to engage the claim since the mischance did not emerge from the utilisation of the engine vehicle. In any case, the court rejected this contention, expressing that the mischance was caused by the careless utilization of the engine vehicle and fell inside the ward of the Claims Tribunal.

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Regarding the recompense, the Tribunal assessed the deceased's month-to-month profit and the reliance of the claimants. They decided on the recompense sum by applying a multiplier to account for the deceased's remaining working life. Be that as it may, the Tribunal fizzled to deduct the family annuity the claimants were accepting, as well as the tip as of now paid to them. The court altered the grant, decreasing the emolument to Rs. 20,400 and coordinating the protection company to pay Rs. 2,000 of those amounts.

Overall, the court found the driver careless, held the appealing party vicariously obligated for the driver's activities, and decided the suitable remuneration for the claimants, considering the annuity and tip sums gotten.

## ASPECTS OF PRACTICALITY BETWEEN NOVUS ACTUS INTERVENIENS AND CONTRIBUTORY NEGLIGENCES

Novus Actus Interveniens is frequently befuddled with contributory Negligence owing to the truth that it covers inside its ambit, acts that can be named 'intervening' on the portion of the offended party as said supra. To kill this inconsistency, the time when the omission/commission on the portion of the offended party influences the chain of causation is considered<sup>9</sup>. As in, when this act coincides with the 'original harm' caused by the respondent at that point it may be ascribed as 'contributory' and when it takes put post the happening of the 'original harm' at that point it may be ascribed as 'an act breaking the causation change'.<sup>10</sup>

### CONCLUSION

Recapitulating the conjecture of Novus actus interveniens can be a modern interceding act that breaks the causal cycle of occasions set in movement by the act of the off-base practitioner. The unused act diminishes the obligation of the genuine off-base practitioner. For illustration, A causes harm to B whereas driving and assembly with a mischance with B. B are taken to a healing centre and while working on B hence specialist carelessly injects him with 10 mg of anaesthesia rather than 2 mg which causes the passing of B. In this case the real off-base practitioner A will as it was be held at risk for Careless driving and not the passing of B.

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<sup>9</sup>Douglas Hodgson, 'The Law of Intervening Causation' (2008)16(2) The University of Western Australia <[http://legalonline.thomson.com.au/static/jour/intropages/TORTLREV\\_intropage.html](http://legalonline.thomson.com.au/static/jour/intropages/TORTLREV_intropage.html)> accessed 21 May 2023

<sup>10</sup>Id.