

## NEGLIGENCE UNDER LAW OF TORTS: A CASE COMMENT ON “SOUTH INDIAN INDUSTRIAL LTD., MADRAS V. ALAMELU AMMAL”

---

**Jiya Arora\***

### INTRODUCTION

Law of Torts is however an uncodified law but has a major impact in protecting individuals and their rights in society. It is a branch of law that deals with civil wrongs that are intentional or negligent and result in harm to the person's property, body, reputation, etc. One such branch in the Law of Torts is Negligence. It is known as the omission or failure to show the due care that is required in performing a particular action. However, many people especially larger organizations fail to show due diligence and care towards their employees or workers and thus, it becomes really important to highlight this issue of negligence especially to spread awareness among those workers to approach the court for justice. These organizations also appeal for the defence of *Volenti Non-Fit Injuria* from the court to defend and prove themselves not guilty of negligence. But sometimes, the defendants are not able to prove all the three essentials or conditions in regard to the *volenti non fit injuria* which then ultimately proves them guilty. One such case to be highlighted and discussed is “South Indian Industrial Ltd., Madras v. Alamelu Ammal, AIR 1923 MAD.565.” In this case, the defendants i.e. the organization named South Indian Industrial Ltd. were doing the business of cast iron breaking for which they had to put on the heavy weight on the cast iron and as a result, one such broken piece of cast iron struck the plaintiff who is Alamelu Ammal when he was standing at a distance of more than 70 yards. The plaintiff sued the defendants for negligence and the defendants appealed in the lower court for the defence of *volenti non fit injuria*. This case clearly states that mere knowledge of the risk is not sufficient and negligence defeats *volenti non fit injuria*.

### FACTS

South Indian Industrial Ltd. had the job of breaking blocks of cast iron by throwing the iron in the iron pit at 35 feet of height with the intention of breaking the iron into smaller pieces. They used to also keep a screen so that the particles or fragments of the broken cast iron pieces could not fly away too far from the pit and it was common that the iron pieces used to fly only over four to five yards from the pit. The plaintiff, Alamelu Ammal was standing 70 yards away from the pit. The broken piece of iron block flew close and hit him badly. The employee then filed

---

\*BBA LLB, FIRST YEAR, SYMBIOSIS LAW SCHOOL, NOIDA.

suit against the organization to claim damages because he believed that the organization was negligent enough to ensure due care. This organization is the defendant appeals before the Madras High Court for *volenti non fit injuria* as they have issued various warnings in the best way for the public that dangerous activity is being taken place in the organization but they did not provide any warning to the employees of the organization that they could also get hurt by the iron pieces at a distance because they were employees.

### LEGAL ISSUES

1. Can South Indian Industrial Ltd. be held liable for the negligence?
2. Whether South Indian Industrial Ltd. should get the defence of *Volenti Non Fit Injuria*.
3. How much amount of damages should be provided to the plaintiff?

### OBSERVATION OF COURT

Hon'ble Judges were C.J. SIR. KC. WALTER SALIS SCHWABE & MR. JUSTICE WALLACE. The court is of the opinion that the organization has not taken the required care, and caution to prevent the accident that happened. Also, they did issue warnings to the public that dangerous activity was taking place in their organization but they did not bother to inform or warn the employees working there that iron pieces could fall from such a huge distance of 70 to 90 feet where the plaintiff was standing at the time of the accident. Therefore, the defendants were guilty of negligence. The defendant's factory manager and engineer claimed that no precautions were taken since the accident took place which amounts to the grossest kind of negligence. The defendants claim for the defence of *volenti non fit injuria* but they did not prove all the three essentials of the maxim and of course, the person cannot willfully take a risk that he does not appreciate.

### DECISION

The court held the defendant guilty of negligence and the appeal given by the defendant to the court of granting the defence of *volenti non fit injuria* was also rejected as it could not be proven that the plaintiff was well aware of the danger or the injury being caused to him and that he very well appreciated or voluntarily accepted the risk of being hit from an enormous distance of 70 to 90 feet. Hon'ble Judges, C.J. SIR. KC. WALTER SALIS SCHWABE & MR. JUSTICE WALLACE granted one year's wages to the widow of the plaintiff which was Rs.500 to compensate for the loss caused by the accident due to negligence of the defendants.

## ANALYSIS

According to the ruling of “South Indian Industrial Ltd., Madras V. Alamelu Ammal, AIR 1923”, [1] the plaintiff claimed damages from the court because he got hurt by the broken piece of iron when he was standing 70-80 yards away due to the negligence of the organization. However, South Indian Industrial Ltd. appeals to the court to grant the defense of *Volenti Non Fit Injuria*. They argued that the plaintiff was well aware of the consequences of the danger that an iron piece could fall upon him but he voluntarily took the risk of working there and there was no negligence on the part of the organization’s side as they provided warnings for the public as well that a dangerous activity is taking place in the area. But the court held that to get the defense of *Volenti Non Fit Injuria* one has to prove 3 things which are:

- Aggrieved should be aware of the danger
- He/she must appreciate this fact and work accordingly
- He/she has taken the risk voluntarily

It was found that even though the plaintiff was aware of the risk he did not appreciate the fact that the iron block piece would fall from such a huge distance and would hurt him. It was also assured by the experienced engineer that the plaintiff wouldn’t be able to foresee the risk or danger that iron would hit him. Also, there was negligence on the part of the organization established by the court as if any dangerous activity is taken place by the person in any organization it is their responsibility to maintain due care for their workers and employees as well not just the public. Therefore, the court granted one year's wages to the widow of the plaintiff which was Rs.500 and also rejected the defendant’s appeal for granting the defense of *Volenti Non Fit Injuria* as it could not be proven that the plaintiff was well aware of the danger or the injury being caused to him.

Negligence [2] is well justified in this case as negligence is a failure or omission to bestow the due care and diligence that is required by the situation. As discussed above in the case, there was negligence by the organization named South Indian Industrial Ltd., the organization however issued warnings to the public outside that a dangerous activity was being carried out inside the premises but they failed to inform or warn the employees and workers working in

---

<sup>1</sup> Dullbonline, ‘South Indian Industrial Ltd., Madras v. Alamelu Ammal Air 1923 Mad. 565’ (*One Stop destination for DU LLB students*, 6 November 2020) <<https://dullbonline.wordpress.com/2017/06/25/south-indian-industrial-ltd-madras-v-alamelu-ammal-air-1923-mad-565/>> accessed 16 October 2023

<sup>2</sup> Warren, Charles, “‘Volenti Non Fit Injuria’ in Actions of Negligence.” (1895) 8 JSTOR <<https://doi.org/10.2307/1321649>> accessed 2 November 2023.

their organization that iron pieces can even hit them from such a huge distance of 70 yards. When the court asked the skilled engineer to confirm about the same that whether the plaintiff, Alamelu Ammal was aware of or could foresee the risk of injury or not, the engineer also said that the plaintiff could only foresee the risk of injury by iron pieces from the distance of 4 to 5 yards.

Also,<sup>[3]</sup> after these facts were put before the court, the defendants i.e. the organization appealed in the court to grant them the defence of *Volenti Non Fit Injuria* as according to this defence if the plaintiff is well aware of the risk then no remedy is to be given by the court. But as the defendants were not able to fulfill all the three essentials of *Volenti Non Fit Injuria* their appeal was rejected by the court and they were hence, not granted the said defence.

## CONCLUSION

In the case of “South Indian Industrial Ltd., Madras v. Alamelu Ammal, AIR 1923” negligence and *Volenti Non Fit Injuria* have been discussed where the plaintiff sued the organization for damages due to the injury caused to him because of which he died when a broken piece of iron fell upon him. The defendants i.e. the organization presented the defence before the court of *Volenti Non Fit Injuria* as they believed the plaintiff was voluntarily knowing the risk of the injury and they were not negligent enough in any such way. However, there was no clear evidence to prove their point and the court rejected their appeal.

Supporting the plaintiff's side the court should have at least increased the amount of compensation to the widow of the plaintiff because due to the negligence of the organization the plaintiff died, but otherwise, the decision was in support of the plaintiff only which is absolutely right as the organization cannot be given the defence under *Volenti Non Fit Injuria* because they were not able to prove that the plaintiff was very well aware of the danger which was even confirmed by the engineer of the organization as well.

---

<sup>3</sup> India B, ‘Know about the Case Brief of South Indian Industrial Ltd vs Alamelu Ammal - BareLaw’ (*BareLaw.in*, 11 June 2023) <<https://www.barelaw.in/know-about-the-case-brief-of-south-indian/>> accessed 19 October 2023