

Justifications of the Vicarious Liability

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Introduction

Vicarious liability holds that the legal responsibility for the misdeeds of a wrongdoer should be borne by another person who is the employer in this report. The traditional foundation of vicarious liability arose where corporate agents or employees committed a tort within the scope of their employment. The common law requires that the employers be held vicariously liable for crimes committed by their employees. For instance, considering a police officer who deliberately shoots an innocent civilian in the line of duty, the development of vicarious liability requires the government (the employer of the police officer) to bear the compensation cost. The common law provides that it is fair that the risk of the officer's activity should be assigned to the employer (Chamallas 1315). The rationale for the vicarious liability lies in the contractual relationship that binds the employee and employer. The orthodox premise of the vicarious liability test was underpinned by two conditions. Firstly, the wrongdoer and the defendant had to be in an employment relationship. Secondly, it was required that the committed tort should fall within the scope of the occupation. These two limbs of the vicarious doctrines have changed in the modern times as justifications have been expanded to include situations outside the scope of the employment. This paper presents the justifications of the vicarious liability as applied in the contemporary world.

Defining Vicarious Liability

Vicarious liability is the accountability attached to a person or organization following the commitment of a tort. The person who commits the tort is referred to as tortfeasor while the one held responsible for the act is the defendant (Anselmi 45). The main thrusts for vicarious liability encompass three basic elements namely a tortious act by another person mainly an employee, a relationship between the tortfeasor and defendant, and a connection between the tortious act and that relationship. For wrongdoers to be regarded as employees, the vicarious liability requires that they have to satisfy three conditions. There must be an agreement between the employer and subordinate on the provision of skills in return for a reward in the form of wages or other

Law Report Vicarious Liability

AN Whitehead



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