

Efficiency of Liability Rules: A Reconsideration*

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Abstract

In the mainstream of law and economics the notion of negligence is defined as the failure to take at least the legally specified due care level. In the standard tort model, with this notion of negligence, the efficient liability rules are characterized by the condition of negligence liability which requires that if one party is negligent and the other nonnegligent then the entire accident loss must be borne by the negligent party.

This paper is concerned with the question of efficiency of liability rules when the notion of negligence is defined as failure to take some cost-justified precaution. The main result of the paper shows that there does not exist any liability rule which is efficient when negligence is identified by the existence of some cost-justified untaken precaution.

Keywords: Liability Rules, Efficient Liability Rules, Notion of Negligence, Untaken precaution, Negligence Rule.

JEL Classification: K13

[†] The author wishes to thank Sugato Dasgupta, Rajendra Kundu, Taposik Banerjee, Papiya Ghosh, Anirban Mitra and two referees for helpful comments.

*A slightly revised version of this paper was published in *The Journal of International Trade and Economic Development*, Volume 15, No. 3, 2006, pp. 359-373.