

Foreseeability in law

Law



Does the requirement for a plaintiff in a negligent case to prove foreseeability make sense? Shouldn't a defendant be responsible for all the actual consequences of the careless conduct? Is it fair that an injured party might be able to recover from no one?

The tort of negligence is a breach of a duty of care on the part of the defendant which results in the injury of the plaintiff. One component of negligence is foreseeability. It must have been reasonably foreseeable (what a reasonable person would anticipate) that the conduct of the defendant could result in the injury of another party. This element must be satisfied in order for the tort of negligence to be found.

There are numerous arguments claiming this requirement is unjust and that the defendant should be held responsible for the actual consequences of any careless conduct that results in injury, whether foreseeable or not. However, this broadens the scope of the tort considerably and would open up endlessness of liability.

Accidents occur all of the time. While it would be fantastic for the injured party to always have recourse for legal action, it would not be fair to those defendants of whom are undeserving.

Foreseeability ensures blame can only be laid at the feet of those who should have reasonably foreseen the consequences of their actions. This is fair. This is just. Taking away the requirement of foreseeability would make the opposite true.

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