

Inspector Gadget - An Outline Of Product Liability

Manufacturers face a very high area of liability if products fail and cause harm, injury or distress. Despite all kinds of statutory warnings and disclaimers announced, the manufacturer becomes liable in case a claim for injury, misuse or accidents.

According to the law of liability under negligence and strict liability, disclaimers or warnings are irrelevant if property damage or personal injury results.

However, the claimant need to prove that the product was defective, so that liability can be clearly outlined and it was so when it left the manufacturer's premises. Liability thus can be attributed to distributors and retailers also.

A product can be rendered defective in the following ways:

Manufacturing defects: If the product becomes more dangerous due to improper manufacturing process, while a proper process might have made the product safer and different.

Design defects: When a particular type of products in a category share the same repercussions on usage, the design is said to be defective.

Inadequate warnings: When a product does not include some warnings that highlight the dangers caused through misuse, the warning is deemed to be inadequate. In these cases a claimant has to prove that the product's performance did to match the user's expectations or the product could have been manufactured with safer standards without a substantial change in price or usage.

This law still excludes factors where

a. The manufacturer could not have foreseen the dangers arising out of usage of the product while he put it on the market.

OR

b. He has no other way to make the product safer. For example, the product may be a knife or an air gun.

Areas of Liability - Product Liability Outline

Product liability covers various areas like:

Intentional act: This category of liability arises not only out of a defective product but the manufacturer knew of the impending harm coming out of its use and did not warn the consumer in any way.

Manufacturing defect: Due to the defects in the manufacturing process, the product has been rendered more dangerous than normal and the consumer is at a greater risk using this product.

Negligence: The manufacturer failure outlines that the defective product wasn't manufactured with reasonable care and proper procedures thus causing liability.

Implied legal warranties: As adopted by various countries worldwide, the Uniform Commercial Code implies certain warranties on sale of goods. These warranties basically imply that the product will function as intended. And in the marketing process if a salesperson or manufacturer defines the purpose of the product's usage, then it will perform for that purpose.

Express Representations: Liability of the manufacturer also arises when he releases any express written statements (may be oral statements) about the manufactured product which may be published in any literature, advertising, packaging, manuals or any other form. Liability becomes two tiered - for breach of express warranty and misrepresentation or fraud.

Strict liability: Under the strict liability clause, the claimant has to prove that the product was defective, dangerous and the defect was inbuilt or existed when it left the manufacturer's premises.

Product manufacturing can prove to be a costly and risky venture. The article serves to outline potential product liability. Therefore, it becomes extremely important to consult an attorney early on to ensure that you're labelling and processes lower your risks to the maximum.

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