

# Finance Fundamentals

## Author Profile



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### **How negligence can cost a fortune through a third-party liability claim!**

Enterprises are exposed to several risks; one of these risks is third party claims because of organizational negligence. Whether run by owners themselves or by professional staff, risk of negligence always exists. Below is an example of how a Media industry behemoth faced a third party claim due to negligence.

Newspapers and Television channels often carry “regrets” for mistakes done the previous day. This one cost a leading television channel a hefty price.

The plaintiff had complained that the channel in September 2008 had wrongly displayed his photo in a provident fund scam-related news report. It was a case of mistaken identity wherein the channel showed the picture of the plaintiff instead of the real alleged person.

The city court passed a decree directing the channel to pay Rs. 100 crore as damages. On an appeal from the company, the High Court directed it to deposit Rs. 20 crore in cash and Rs. 80 crore by way of bank guarantee. The channel sought the quashing of the impugned order and an interim stay of its operation.

The Supreme Court in November 2011 declined to interfere with an interim order of the High Court. The Bench said: “there is no error in the High Court's interim order. We find no reason to interfere with the order.”

Appearing for the channel, senior advocate said there were serious questions arising out of the High Court order and it should be stayed. There was no evidence to show that anyone was misled by showing the wrong photograph. The court should go into whether showing a wrong photograph would amount to defamation and how the amount of Rs. 100 crore was quantified.

The Bench, however, dismissed his plea, but clarified that the High Court would not be influenced by its proceedings and would decide the case on merits.

### **Conclusion**

Apart from the punitive damages, hefty litigation costs will be borne by the company to defend its case. Such claims can be insured against through Liability Insurances. The insurance indemnifies against compensation awarded in court and the associated costs of defending the claim for damages caused due to bodily injury, advertising injury or property damage due to acts of omission or error by the insured.

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### **Links to Bondia’s articles in previous issues:**

[http://www.fisme.org.in/newsletters/April1\\_2012/docs/finance\\_fundamentals\\_abhishek.pdf](http://www.fisme.org.in/newsletters/April1_2012/docs/finance_fundamentals_abhishek.pdf)

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