

CLAIMS FOR DAMAGES CAUSED BY AN AMUSEMENT RIDE FALL UNDER STRICT LIABILITY, AS SUCH RIDES MAY BE CLASSIFIED AS "INHERENTLY DANGEROUS MECHANISMS."

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Executive Summary:

- A recent legal precedent in Mexico has classified amusement park rides as "inherently dangerous mechanisms." This classification means that any claim for damages resulting from an amusement ride accident falls under the doctrine of Strict Civil Liability. This eliminates the need to prove negligence on the part of the amusement ride operator, simplifying the process for victims to obtain compensation in a straightforward manner.
- This precedent, based on Article 1913 of the Federal Civil Code, is a shield of protection. It states that anyone using dangerous mechanisms must compensate for damages caused, even without fault, unless the damage was caused by the victim's inexcusable fault or negligence. In essence, it makes it easier for victims of amusement park accidents to obtain compensation for damages by not having to prove operator negligence. Still, simply the damage suffered and the connection to the inherent risk of the ride.

A Collegiate Civil Court recently issued a legal precedent establishing that amusement rides, by their very nature, qualify as "inherently dangerous mechanisms." Consequently, any claim for damages arising from an amusement ride would warrant invoking the doctrine of Strict Civil Liability.

To fully grasp the legal framework governing damage claims and the concept of Strict Civil Liability, it is necessary to make a few clarifications. Both the Federal Civil Code and the Civil Codes of the respective federal entities regulate Strict Civil Liability.

In general terms, the Federal Civil Code classifies Civil Liability into two categories: contractual and non-contractual. On the one hand, Contractual Civil Liability arises from obligations created by a contractual relationship (e.g., breach of contract, improper performance, etc.). On the other hand, Non-Contractual Civil Liability (also known as tort liability) stems from harm caused to a person in the absence of any legal relationship between the wrongdoer and the injured party.

Within Non-Contractual Civil Liability, there are two subcategories: Subjective Civil Liability and Strict Civil Liability. The judicial criterion issued by the Collegiate Court pertains specifically to Strict Civil Liability. To briefly outline the key differences:

- Subjective Liability arises from an unlawful act, which in turn creates an obligation to provide compensation; and
- Strict Civil Liability does not necessarily require an unlawful act but merely the occurrence of a harmful event, which automatically generates an obligation to compensate for the damage.

Legal doctrine has defined Strict Civil Liability under the "Created Risk Theory", which essentially holds that any activity posing a risk imposes liability on the party conducting or managing such activity for any resulting harm.

In this regard, Article 1913 of the Federal Civil Code provides as follows:

Article 1913. When a person utilizes mechanisms, instruments, devices, motor vehicles, or inherently dangerous substances—either by their nature, speed, explosive or flammable properties, the energy they conduct, or other similar factors—such person is obligated to compensate for any damage caused, even if no unlawful act was committed, unless it is demonstrated that the damage resulted from the victim’s inexcusable fault or negligence.

In all cases, the owner of such mechanisms, instruments, devices, motor vehicles, or dangerous substances shall be jointly and severally liable for the damages caused.

This provision establishes a list of “inherently dangerous objects” (mechanisms, instruments, devices, substances, etc.) that, by their nature, present a risk. If they cause harm, Strict Civil Liability is triggered. However, the text of the article does not explicitly specify which types of activities and objects fall within the scope of Strict Civil Liability.

Faced with this legal ambiguity, a Collegiate Court issued a judicial precedent (which, for the time being, is not binding, as it constitutes an isolated thesis and serves only as guidance). This precedent holds that amusement rides are, by their very nature, inherently dangerous mechanisms.

This conclusion is based on the premise that amusement rides are constructed using heavy metals, are powered by electrical systems, and are exposed to weather conditions (given their placement in amusement parks), leading to progressive wear and tear that makes them more susceptible to malfunctions and accidents.

The judicial precedent arose from a Strict Liability lawsuit in which the defendant was the owner of an amusement ride that caused harm. The defendant argued that the amusement ride did not qualify as an inherently dangerous mechanism because it was equipped with adequate safety measures.

The issuance of more specific judicial interpretations is a positive development, as the broad legal concept of “inherently dangerous objects” could encompass countless items. Over time, the application of this concept will need to be refined through case-by-case determinations and the continued development of judicial precedents.

[1] STRICT CIVIL LIABILITY. AMUSEMENT RIDES ARE INHERENTLY DANGEROUS MECHANISMS, SUBJECT TO LIABILITY (APPLICABLE LEGISLATION FOR MEXICO CITY).

Digital Record Number: 2029897 – Available at: <https://sjf2.scjn.gob.mx/detalle/tesis/2029897>

[2] This legislation shall be used for illustrative purposes only.

[3] CONTRACTUAL AND NON-CONTRACTUAL LIABILITY. THEIR DISTINCTION.

Digital Record Number: 2004315 – Available at: <https://sjf2.scjn.gob.mx/detalle/tesis/2004315>

[3] Campos Díaz, M. (2000). Strict Liability or the Created Risk Doctrine.

Institute for Legal Research, UNAM. Available at: <https://archivos.juridicas.unam.mx/www/bjv/libros/7/3496/8.pdf>

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