This thesis is an attempt to analyze the conceptual perspective pertaining to the evolution and development of negligence in both as a model of tort and criminal law. The overwhelming assent of the thesis is on tort of negligence and the system under review is common law. It was not possible to analyze the entirety of the wide sweep of civil and criminal negligence; hence both were synthesized and then compared. In common law the development of the concept of negligence alternated between expansionary and conservative stages. At one time the common law seeks a vehicle for new flexible remedies and obligations, and at another, it seeks the certainty of fixed rules. This process is incessant as for every swing in one direction, at a certain point on the pendulum, there will be a reaction. This thesis explores the pathology of these development through such selected models, including the symptoms exhibited by the initial ad hoc characteristics of the birth of a principle of negligence, the maturing phase of such principles created by the emergence of categories of liability, the abstraction from such categories of a general principle, and either the over-extension of such general principle, or the narrowing of such general principle leading to its ultimate demise as a flexible vehicle of liability. In the event of the death of a principle of negligence, as a flexible vehicle of liability, the common law will seek to find or create another avenue of flexible remedy. The thesis seeks to investigate the reasons or causes of such development, but is content to examine the symptoms exhibited by the various phases of such development. The initial two chapters summarize the general perspective of negligence and existing literature available on the subject and briefly outline the templates of the concept created by the early origins of the common law. The modern pragmatic case-by-case negligence formula, based on the open-ended elements of 'duty of care', 'breach of duty' and 'causation and remoteness', illustrate the problems caused by a remedy or obligation whose conceptualization is vague and uncertain. The common law itself until 1875, apart from equity, had the ability through the action on the case to provide the common law with flexibility when needed. The closest that the common law in modern times has come to emulating the action on the case has been the remedial use of the negligence mechanism. While the action on the case did not survive the procedural reforms of the
19th century, it had developed general rules that limited the scope of such open-ended action. These general over-arching rules are important to a study of modern negligence liability. This thesis will endeavour to show that the modern open-ended negligence formula should be limited by comparable general rules to resist the inevitable pressure upon it to define its fault component or duty mechanism too narrowly. Synthesis by use of the tool of comparative legal systems show the constant tension in the common law between the quest for certainty through rules, on the one hand, and the ability to administer individual justice, despite the presence of a general rule, on the other. The third chapter deals with the empirical methodology adopted for investigation the issue and the constraints faced and limitations adhered by the research scholar while preparing the thesis. The fourth chapter examines the notional perspective of the concept of negligence and overwhelming influence of changing social values, development in science and technology in formulating the borders of negligence. It is a doctrinal inquest of the notional perspective of negligence. The fifth chapter deals with the emerging dimensions of negligence i.e. Multi National Corporation and Mass Tort; Product liability; Professional negligence and State liability. In this chapter, the research scholar has adopted a comparative methodology to unearth the layout and theory of the above mentioned emerging dimensions of negligence. The sixth chapter exclusively deals with the judicial attitude of Indian Courts pertaining to negligence, as well as emergence of independent perspective on statutory negligence i.e. concept of absolute liability in India. The last two chapters deal with the summing up the whole perspective on negligence as well as future challenges against a backdrop of the perspective of the common law, which treats it as a dynamic constantly moving instrument that reflects the policy moods of contemporary society. Such a view of the law of negligence is not one-dimensional and may provide answers as to the past and present evolution of the conception and may give clues as to its future direction. The law is stated as at the 1st day of April 2009.

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