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Title of the Thesis: **STATE LIABILITY IN TORT: A CASE
STUDY OF INDIA**

BRIEF ABSTRACT

STATEMENTS OF PROBLEM:

The problem of State liability was not pressing as long as the concept of '*laissez-faire*' was predominating. In the period when individualism was predominating, the State was merely a '*Police State*'. Now the static view of State activities has given way to a dynamic view, with the abandonment of concept of individualism, the concept of socialism has emerged. The modern Welfare State is assuming more and more positive functions, the State acts as dispenser to social service, manager of industries and controller of economic and social affairs of the nation. The problem of State liability for wrongful activities of its employee has gained tremendous importance in recent years as the State has become a major litigant in the court of law. Since, the emergence of the concept of welfare state, the doctrine of sovereign immunity has been narrowed down in all civilized countries including India. The change in the concept of tortious liability in India is reflected by judicial pronouncements. However, there is no clarity on the point of State liability in tort. Hence there is a need to assess the State liability in clear-cut ways.

HYPOTHESIS OF THE STUDY:

The present study is based on the hypothesis that the State liability in tort is not free from controversies even after more than five decades. In India the initial confusion witnessed from the *P & O case* is still in existence. The law on this point is not certain. Hence, the hypothesis is how to avoid the uncertainties in relation to the State liability in Tort and to examine the procedural aspects pertaining to tort cases for payment of

damages or compensation to a wronged person. Hypothesis has been tested by applying the methods of research.

AIMS AND OBJECTIVES OF THE STUDY:

This study is an endeavour to thoroughly examine the Liability of State in Tort and make suggestions to avoid the confusion as sovereign and non-sovereign functions of the Government.

The present study is divided into six chapters. On the basis of the above study the basic findings are that the doctrine of sovereign and non-sovereign function is out of tune and can not be applied with logical consistency in modern complex society. Today, the State is a big litigant, most of the cases filed against the State, so there is a need to establish an independent Tribunal to dispose of the cases relating to State liability against the State.

The distinctions between sovereign and non-sovereign function particularly in case of violation of fundamental rights and human rights have broken down. But it is necessary that the law should be made by the Parliament as early as possible. In absence of codified law there is a danger that development of tortious liability may proceed in different directions as happened earlier. Uniformity is desirable in the interest of certainty and can only be achieved through legislation.