

We all know that a car is a dangerous object. The driver must exhibit a measure of 'care, skill and dexterity' at all times in order to remain in control of the vehicle even, especially, when a sudden emergency occurs. If the driver fails then s/he is negligent. Consider Mrs Lombard, a driver who upon approaching a stop street was stung by a hornet on the face. She panicked, lost control of the vehicle, shot through the approaching stop street and collided with another vehicle. The court held that a reasonable driver would, despite the hornet's sting, have kept control of the motor car and stopped at the stop street. Mrs Lombard was convicted of negligent driving, this conviction was upheld.

In Labour Law the test for negligence is objective. In other words what duty of care would be expected of a reasonable person at the workplace? A trier of fact should ask whether the offending employee would have foreseen the reasonable possibility of the conduct injuring the employer and causing it loss. Therefore, negligence is when the offending employee should have taken reasonable steps to guard against the foreseeable occurrence of harm.

Gross negligence denotes recklessness, an entire failure to give consideration to the consequence of his/her actions or omissions and a total disregard of duty. A person is guilty of gross negligence who gives no consideration whatsoever to the consequences of his/her act or omission. In the application of the recklessness test, a trier of fact should have regard to the scope of operations of the company, the role, functions and powers of the offending employee. The question is whether the conduct complained of departs from the standard of the reasonable man to such an extent as to amount to gross negligence. Further, did the employee give consideration to the consequences of his/her act or omission? The Employee's conduct would therefore have to be viewed, objectively and on a balance of probabilities, as being reckless. In other words, the employee's action or omission was deliberate to an extent that s/he could have foreseen the potential of harm to the employer.

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**DO YOU GRAPPLE WITH
NEGLECTANCE AND
GROSS NEGLIGENCE,
THEIR DEFINITIONS
AND DIFFERENCES?
HERE IS A QUICK STUDY
TO ASSIST YOU**

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