DELICTS - RESPONSIBILITY OF KIN HEAD FOR DELICT OF IMMATE.


"..." undertaken by him in accordance with the law as defined in the Code of Basic Native Law, the head of a household is held liable for the delict of minors of his household. A parent is liable for the delict of his children, however young, committed with him."

Under the Common Law, a father is liable in the event of the delict being committed by his minor son in the execution of his father's work or in the discharge of any duty imposed on him by his father.

- Chaday v. Mathura, 1911 C.P.D. p.704. Furthermore, a father is liable in tort in circumstances where a young boy, whether he is an employee or not, in work which results in injury to a third party. The action is based upon the law of negligence, under which the parental relationship is equated with duty, that is, '...'

It is true that culpa can be 'lata' if there becomes duty that is "In Cleave, In Cleave v. Cleave, culpa est" - Simba, "Rahaya, Panchayat, "2.2. Liability attached to the fault of master under the law of torts is the same as that of the master or employer if there was their negligence to perform their duties or might have been negligent if he had been careful, the liability of the master or employer being justified."

The liability is based on the action of the one but not that of the master or employee in his service knowing his incompetence. Similarly, a dominie is liable for damage done with his knowledge. The court recepted liability although the act was done without his command. Simba, p.255. This rule was applied in Dev Matham v. Chandra, Atmikala, 1915 N.B.C. p.724."