

Torts law

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What is Torts Law?

Tort is a Wrongful act, Tort is derived from French word. Tort is a Civil Wrong & Damages and Injury. Tort arises any person rights were infringed or violated. Tort is a Civil suits awarded damages were against the specific person. However in criminal the award is punishment and the suit is Criminal Suit and the against the public.

In Tort Law there is no Act or Section therefore the law not based on the Ordinance or Bill is purely based on the historical case laws. The person who commits tort known as Tortfeasor.

Tort based on Doctrine (Principle's) 1. Injury with out Damages 2. Damages without Injury. The above two doctrine play a vital role in tort law. The classic case law of **Ashby vs White** - is a noteworthy case for the Doctrine - Injury without damages.

Types of Tort

- **Intentional Tort:** A tort caused by an intentional wrongful act by the other person/ group of persons (i.e the defendant) is called as an Intentional Tort. These include acts such as Assault, Battery, Trespass, false imprisonment, defamation.
- **Negligence:** a wrongful act caused by the negligence of another person/ group of persons is called Negligent Torts. These include incidents which usually occur because a person has failed to behave with the level of care that a person with an ordinary prudence would have done. Such torts include negligent harm to the body or the property of a person.
- **Strict Liability:** In the torts committed under this category a person is considered to be liable irrespective of his intention to commit the wrong-doing. These Torts are of such a strict nature, that the courts deem it fit to rule out the need for proving intention here. Usually such torts include acts of production of defective goods and products which cause a serious injury to the life of the consumer. In such cases, it is not only the manufacturer who is held liable but all those involved in the distributors of the faulty product as considered to be liable until it is established who was indeed at fault.

Principle of Tort

- **Compensation:** An action under Tort is tried in civil courts where the relief sought is usually compensation i.e. damages or injunction. The objective here is to rectify the wrong-doing and put the victim in a position he would have been in had the wrong not been committed. Hence, in Torts, the amount of damages is calculated and awarded to the victim if it is proved that the wrongdoing was indeed committed.
- **Concept of Injury:** Injuries and damages do not always go hand in hand, this concept is explained in Latin as *damnum sine injuria* and *injuria sine damnum*. The first principle - *damnum sine injuria* means a person suffers damage but there is no injury to his legal rights. In such cases no action under tort can be initiated. g. **Rylands vs Fletcher**
- **Burden of Proof:** The plaintiff under Tort must prove the following to establish the commission of tort , Breach of this duty, Injury caused to the plaintiff because of breach of this

duty and, Damages suffered by the plaintiff due to such a breach.

- **Vicarious Liability:** This means that if the defendant has committed tort while acting under direct orders and supervision of his seniors, his seniors are vicariously liable to his act and are hence held liable. A Carpenter appoint a servant to perform the Chair or Window under his supervision , if the servant has made any damage or injury. In such circumstances, the Carpenter is also held equally liable for the wrongdoing.
- **Contributory Negligence:** If the plaintiff has contributed to a part of the wrongdoing, then it is said that the plaintiff has contributed to the negligence and is not liable to be compensated. For example If a person Enters into a testing Lab despite of entered without unauthorised access , if he suffers any damages or injury from the restricted place. In such cases, it is considered that the person has voluntarily accepted the risk and cannot hold anyone else liable at a later stage.
- **Joint and Several Liability:** It is a well established principle in Tort law that when the injury is caused due to the wrongdoing of two or more people, then, all such people are liable to pay the compensation / damages under tort. The Plaintiff can also decide to seek damages from any one defendant.
- **Self Defence:** It is a well established principle in Tort law that when the injury is caused due to the wrongdoing of two or more people, then, all such people are liable to pay the compensation / damages under tort. The Plaintiff can also decide to seek damages from just one defendant.

Development of Tort in India

In India supreme court has come through lot of judgement which helped emphasis Tort Law in India. Land Mark Supreme Court Cases:

- 1). MC Metha vs Union of India,
- 2) Bhim Singh vs State of J&K
- 3) Union Cardbidge Corporation vs Union of India.

Unlike counties like US, UK and Asian nations the tort law is getting shaped nowadays and this evident that law of Tort is critical for every business and Civil wrong doers. In most of the Indian companies as per the act they cover the damages with Insurance, especially Motor vehicle Act, Contract Act, Consumer Protection Act and Other Acts as well. The Limitation period for Tort Law is 3 years from the date of event.

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