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## The general classification of civil wrong “Tort” in India

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### Abstract

A tort is a civil wrong that results when one person violates the legal rights of another. It can be done on purpose, as in the case of the battery, or accidentally by acting negligently or by mistake, without intending to conduct such an act. In some torts, the idea of the mental element may or may not be significant since, in order to make that determination, we must first understand the type of tort the person committed. A collection of "excuses" that you can use to avoid responsibility are known as general defenses. In tort cases, the goal of redress is to put the party who was wronged back in the same situation as before the tort occurred.

Both judicial and extrajudicial remedies are options. The remedies are known as judicial remedies when a party must follow the requirements of the law in order to obtain relief, and when the courts are engaged. The remedies for civil wrongs are governed by tort law. Whether it was done on purpose or by mistake, someone is responsible for the wrongdoing. By paying for damages, the damaged or harmed party is made whole.

**Keywords:** civil, damage, judicial, law, legal, remedy, tort

### Introduction

You are going down the street one second, and the next you are falling into the pit that the Municipal Corporation has left open. You swiftly stand up to hide your shame without turning to look around. What can you do, though? This occasionally occurs, especially in a nation like India. Can anyone be held accountable for this? I should take extra care the next time because I got hurt. Is it not? No, the Municipality was accountable for this circumstance. They failed to perform their duties with care. The tort law covers all of this and many more.

It differs from a violation of trust or a contract. When one party's action harms the other party as a result of another party's negligence or carelessness, this is referred to be a tort. The "plaintiff" is the party suing, and the "defendant" is the party being sued. The individual who causes this harm must be held accountable and must compensate the affected party (plaintiff), who may get financial compensation. Damages are the funds obtained in the form of compensation. A duty breach toward the plaintiff must have occurred in order for the plaintiff to be able to make a claim for damages.

Even if the harm was unintentionally inflicted due to carelessness or negligence, the other party may still be held liable. Tort law enables victims to hold the offender responsible for their injuries.

Any instance of harmful behaviour, such as physical assault on one's person or interference with one's possessions, or with the use and enjoyment of one's land, economic interests (under certain conditions), honor, reputation, or privacy, is referred to as a tort in common law, civil law, and the vast majority of legal systems that derive from them. The word "tortum" means "anything twisted, wrong, or crooked" in Latin. Only those civil wrongs that are not related to contracts are included in this concept.

### Origin of Tort Law

The legal system in England prior to 1066, when William the Conqueror of the Norman conquest of England, conquered it, was a bit disjointed and operated more or less on a case-by-case basis. Eminent judges were sent to visit a certain region after 1066 in order to integrate the village rules that had evolved over a two-century period.

These judges took note of and used the principles they thought would be most unbiased in their own court's decisions after learning this information. When cited frequently enough, these cases eventually evolved into what is now referred to as legal precedents. Through England, tort law was introduced to India.

Following the Norman Conquest, French replaced English as the official language of the judiciary. As a result, many technical terminologies in English law-including tort-have French roots. The idea that everyone in society has certain rights is the foundation of the term "tort". This atrocity law is meant to uphold obligations and rights.

### What Is a Tort?

The term tort comes from the French language. It is synonymous with the English word "wrong" and the Romanian legal term "delict". It comes from the Medieval Latin term "tortum", which means "wrong" or "damage" and was derived from the Old Latin word "torquere", which means "to twist". It is a breach of duty that constitutes a civil wrong. A tort occurs when a person's obligation to others is violated; the person who commits a tort is known as a tortfeasor or offender. When numerous people are implicated, they are referred to as joint tortfeasor. Their misconduct is referred to as a tortious act, and they can be sued mutually or singly. The primary goal of tort law is to compensate victims.

Tort law is a set of rules concerned with resolving harms produced by another person's improper or damaging activities. For example, if a surgeon entrusted with amputating a patient's left leg commits medical malpractice by instead amputating her right leg, the patient may be able to sue the surgeon for monetary damages.

Tort law has traditionally been a matter of state rather than federal law, with a few notable exceptions. Tort law has also historically been a topic of common law rather than statutory law; that is, many of the essential ideas of tort law were formed by judges (rather than lawmakers) through case-by-case adjudication. However, throughout time, state legislatures and USA Congress have begun to play a larger role in tort law development. Compared to India it's a fewer cases of torts nobody sued case regarding tort because in India the common people has poor knowledge of the law of Tort.

### Development of the law of torts in India

Tort laws had existed in Hindu and Muslim law to address the malevolent behaviour of individuals, however, it may be stated that the Crown of India officially instituted tort in India. It is founded on the ideals of justice, equity, and morality. The ideas of "common law", which primarily refers to English tort law, serve as the foundation for tort law. In Indian courts, the application of tort law is done so only when it is appropriate given the conditions of Indian society. As compared to UK and USA tort is less developed in India. But after the development of India, when people know about it that time will be the law of tort also developed powerfully in India.

The Charter of 1726 is connected to the beginning of torts in India. The English courts referred to as "Mayor Courts", were founded under the charter of 1726 in three presidencies: Bombay, Calcutta, and Madras. The common law was made applicable to these courts in India as well, but there were instructions to only use the term "common law"

in quotation marks. The common law was being applied while the values of equality, justice, and morality were being upheld. The common law was thought to be inseparable from the law of torts. This was considered applicable to India in this example, but care was taken to ensure that it did so in accordance with the country's circumstances, traditions, and customs.

In the case of *Naval Kishore vs. Rameshwar Nath and Others*, it was ruled that the tort laws of England should be applied in accordance with the Indian environment, that is, in accordance with its customs and traditions.

### Objectives of the law of tort

- To decide the rights of the disputing parties.
- To prohibit the continuance or repetition of injury, i.e. by issuing injunction orders.
- To safeguard specific legal rights of every individual, such as a person's reputation.
- To return one's property to its rightful owner, after it has been unfairly taken away from them.

### Essential Elements of a tort

There are three key essentials that make up a tort:

- A Wrongful Act or unlawful deed or omission,
- The legal obligation.
- The action must result in either legal or actual harm. and

It must be of a character that could give rise to a claim for damages as a form of legal relief.

If the plaintiff incurred damage or loss as a direct result of the defendant's breach and the defendant had a legal obligation to act in a certain way but failed to confirm his or her behaviour properly, the defendant committed a civil wrong. And this committed civil wrong is a tort.

### What is a Wrongful Act? Or An unlawful deed or omission

A negative or positive act must occur in order for there to be a tort to exist. To qualify as such an unlawful deed or omission, there must be some sort of duty violation. It indicates there was an obligation to act in a way that a reasonable man would be expected to act in a given situation, whether that duty was to act in that way or not. If a business cares for a children's park with a hazardous plant but neglects to install necessary fencing. The company may be held responsible for such a failure if one of the kids consumes the fruit from that tree and perishes. No one can be held accountable for immoral or social behaviour.

Wrongdoing can be both ethically and legally incorrect, as well as both simultaneously.

A legal wrongful act is one that violates the law and has an impact on someone's legal rights. A legal wrongful act must also be one that is recognized by the law. Innuendo, which is when a statement is made that may initially appear innocent but may also have a secondary meaning that damages another's reputation in the eyes of the public or the person who learns of such information, is an example of an action that may initially appear to be innocent but ultimately end up violating someone else's legal rights.

Tort liability arises when the improper act complained of violates a legitimate private right or is a breach or violation of a legal duty. i.e. *Ashby v White* 92 ER 126, If someone prevents a person from voting, even if the candidate for

whom he intended to vote wins, his legal right to vote has been infringed.

For instance, if someone consumes non-vegetarian cuisine despite their religion forbade them from doing so, they are ethically wrong but not legally illegal. And if someone forces a person whose religion forbids them from eating meat and who completely adheres to that religion to eat, it is illegal on the side of the person pushing the other person to consume the food they do not want to.

#### **What is a duty imposed by law or the legal obligation**

Every person has a duty of care, which entails a standard of reasonable care that he would consider harmful to others. As a result, a legal obligation is one that can be enforced in Indian courts.

A duty sometimes referred to as the duty of care, is the first component of negligence. Duty is what? It is an obligation to either do or not do anything that will hurt someone else, to put it simply. Consider a duty as a commitment. Everybody has a responsibility to act in a way that doesn't harm or injure another person, or to act appropriately in refraining from doing certain things. For instance, it is our responsibility as car owners to abide by the traffic laws when using public roadways. As licensed drivers, it is our duty to do so. We are aware that regulations like speed limits are put in place to safeguard others. Anyone with common sense is aware that breaking traffic laws can hurt innocent bystanders.

#### **What is Legal damage or either legal or actual harm.**

A legal duty must have been broken for it to qualify as a tort. The plaintiff's legal right should have been violated, meaning that some actions or inactions led to a breach of the law. If there is a violation of legal rights, the action may be brought. The plaintiff could sue for damages for the harm he suffered.

To harm someone is the definition of damage in the literal sense.

Although they may have a similar appearance, the terms "damages" and "damage" have different meanings and are very different from one another. While "damages" relates to the recompense sought, "damage" relates to the actual damage or injury.

#### **Within the scope of the topic of the tort**

Legal injury is the second essential component of a tort. The plaintiff must demonstrate that there was an unlawful act or an act or omission that resulted in the violation of a legal duty or right in order to establish a claim for tort in court. Therefore, there must be a violation of a person's legal rights for there to be a cause of action under tort law; otherwise, there cannot be a violation of a person's legal rights. Whether the plaintiff has experienced a loss or not, there has been a violation of a legal right, and that is actionable.

This is summed up in the adage "Injuria sine damno", where "damnum" refers to "serious pain, loss, or damage to that individual" and "injuria" refers to "infringement of the legal right of a person". Sine means "without" in Latin. Even though the defendant caused the plaintiff loss, harm, or damage, no legal action can be brought in court if there hasn't been a violation of their legal rights.

#### **Illustration**

The school has been running successfully. Five months later, a rival school opens up nearby, causing A to suffer significant business losses. However, in this situation, A has not suffered any actual legal harm; instead, he has only lost business value, so he is not entitled to compensation from the rival school similar to the Gloucester Grammar School Case (1410) Y B 11 Hen IV 27.

#### **Two maxims demonstrate the factual significance of legal damage**

- Damnum sine injuria, and
- Injuria sine damnum.

#### **Damnum sine injuria**

Damnum sine injuria, which means to damage without injury, refers to a situation in which the party affected suffers damage, which may even be bodily, but there is no infringement of their legal rights. In other words, it refers to the occurrence of an actual and substantial loss to a party that occurs without the infringement of a legal right. As there is no infringement of a legal right, the plaintiff has no cause of action.

This maxim states that the plaintiff has suffered some harm without any improper interference with their legal rights. Though the other party is exercising his legal right, a person cannot sue for damages even if the injury was caused by the defendant's intentional behaviour. For instance, a defendant built a school directly in front of the plaintiff's school. Due to the competing school, the plaintiff lost money since he was forced to decrease his prices and a large number of students were admitted to the defendant's institution. There is no way to make up for the loss he endured. Nothing that the defendant has done goes beyond what is permitted by law.

#### **Injuria Sine Damnum**

Injury without harm is known as injuria sine damnum. Under tort law, such harm is actionable. It happens when someone experiences legal harm rather than a physical loss, meaning that someone else has violated his legal rights. In other words, a person's absolute private right is being violated without any actual harm being done to them.

Injuria refers to an illegal intrusion on the plaintiff's rights. Damage or loss sustained in terms of convenience, cash, health, etc. is referred to as "damnum". The plaintiff may petition the court when their legal rights are violated without any harm to them.

In the famous landmark case of *Ashby v. White* (1703) 92 ER 126, the plaintiff, Mr. Ashby, was denied the right to vote by the constable, Mr. White. The classic adage "Ubi jus ibi remedium", which means "where there is a right, there will be a cure", serves as the foundation for this rule.

Similar to this, the plaintiff in *Bhim Singh v. the State of J&K* was a J&K MLA who was unjustly held by a police officer when he was on his way to the Assembly session. He was denied his fundamental right to personal liberty, and he wasn't brought before the magistrate in the allotted time. In this case, the defendant's illegal and malicious act was actionable, and as a result, the court awarded *Bhim Singh* a judgment of Rs 50,000 in exemplary damages.

### **The difference between Damnum sine injuria and Injuria sine damnum.**

- On just one hand, i.e. in the instance of Injuria sine damno, there is no actual loss or bodily harm suffered by the plaintiff, but in the case of Damnum sine injuria, the plaintiff suffers actual harm and loss.
- The second difference between Injuria sine damnum and Damnum sine injuria is that in the former, the party involved experiences a violation of their legal rights, but in the latter, there is no such violation.
- The third point is that while Damnum sine injuria is not actionable in court, Injuria sine damnum is actionable.
- Lastly, while Damnum sine injuria deals with moral wrongs, Injuria sine damno deals with legal wrongs.

### **The Different types of torts**

These types of tort are actionable.

#### **Intentional Tort**

An act must be performed with a purpose, i.e., there must be an intention to commit an act, in order to be considered an intentional tort. It is commonly accepted that no one should purposefully assault another person for the sake of society. For instance, there was a deliberate attempt to harm the victim in a certain way if you struck them on the head with an iron rod.

Included in intentional tort is the following

##### **1) Assault**

When a person's actions give another person reason to believe that they would likely injure them or are meant to do so, that action is considered an assault. It might be anything from verbally threatening someone to waving a pistol at them. Fear should not be confused with apprehension. When someone is aware that an injury is about to occur, they feel apprehensive. Even if the victim later realizes the gun wasn't loaded, it still counts as an assault if someone points a gun at him and threatens to shoot him. An assault doesn't involve any physical contact, in a contrast to a battery. An assault occurs, for instance, if someone flinches without really punching the victim.

#### **Essential elements of assault are**

- There needs to be a fear of injury.
- The use of force must be intended.

##### **2) False imprisonment**

This is when a person is imprisoned without his will and against the law. False imprisonment does not require that a person be imprisoned; rather, it only requires that the person be unable to leave a particular location against their will. Physical barriers like a locked room, the use of force (though actual use of force is not always required), and improper use of legal authority are all examples of this. False incarceration means holding a person by the police without a warrant, which includes false arrest.

#### **Important components are**

- There must be a purpose.
- The confinement period.
- The plaintiff Knowledge.
- Confinement Place.

False incarceration includes malicious prosecution as a subset. It also covers malicious searches, fraudulent bankruptcies, and liquidation proceedings in addition to malicious proceedings and fraudulently made arrests. It's important to remember these components in order to demonstrate malicious prosecution:

- Malice must exist against the plaintiff.
- the lack of a valid reason
- Charges brought by the Defendant
- The plaintiff incurred harm as a result of the prosecution.

#### **3) Battery**

When physical force is used on another person's body in a hurtful way that results in some harm, it is referred to as a battery. The battery is defined as offensive touching that is performed without the other person's consent. Though someone knows that their acts could harm someone in any way, even if they did not mean to hurt the other person, they are nonetheless guilty of battery. Any way that a person's own freedom interferes with a malicious purpose is considered to be harmful. The battery frequently takes the form of hitting or sticking someone with a stick or punching them in the face.

#### **Battery components include**

- The intention to employ physical force must exist.
- There must be direct physical contact with another person's body.
- It must cause some harm.

#### **4) Defamation**

Defamation is the harm or hurts done to a person's reputation, goodwill, or character. Libel and slander are the two main forms of defamation. Libel is the publication of a false statement with the intent to damage another person's reputation. The publication indicates that a third party should be made aware of it. Printed versions of things like essays, artwork, cartoons, monuments, etc. are required. Slander occurs when a false comment is made that damages another person's reputation. According to the ruling in *Harsh Mendiratta v. Maharaj Singh*, only the person who has been falsely accused can bring legal action—not his acquaintances, family, or relations.

Even while a statement could seem benign at first glance, it occasionally has a deeper meaning. The plaintiff must establish this hidden meaning in order to bring a defamation lawsuit. Libel is the main topic of defamation in tort law. The claim must be proven to be defamatory in order to establish. Then it could be false things, written false drafts, defamatory elements, Published news, etc.

If a defamation claim is successful, the plaintiff may get compensation in the form of damages, and in some circumstances, a court may grant an injunction to stop the publishing of particular materials that the plaintiff believes to be defamatory.

#### **Defamation defences include, among others**

- A report that was largely accurate was released.
- It is not libellous to offer an honest judgement on the case's merit after the court has reached a decision.
- Any truth that is made public in the interest of the public.

## 5) Trespass

Trespassing is the wilful, unreasonable invasion of another's land, possessions, or person. No matter how minor, the inappropriate interference can bother or hurt the other person. Because the misappropriation or exploitation of the owner's legal right deprives him of the ability to benefit from the property, the owner's legal right is violated. Trespasses can take the following forms:

### Trespass to the person

When an injustice is committed against a person and their body or personal freedom is somehow interfered with. It is an infringement on someone's right to privacy. It safeguards the person's dignity even if no bodily harm is done. Take someone's fingerprints without their consent, as an example. Assault, battery, and false imprisonment are among the torts that make up this offense.

### Trespass to the land

Trespassing on someone else's property is known as trespassing on their land. Here, the land includes the surface, the buildings, as well as subsoil, and the air. Even if there is no physical harm to the property, trespassing occurs when someone enters another person's property without that person's consent. When a delivery boy enters a room he was not authorized to enter after discovering the house is open when he intended to deliver the items at the front door, he has committed a trespass on the property. If someone enters a building or piece of property to save another person's life, they won't be held responsible for trespassing. For instance, if a person discovers a baby imprisoned in a house on fire, he will not be charged with trespassing if he enters the house to save the child. The property owner owes the visitor some obligations. If a visitor is hurt while on the owner's property, the owner may be held accountable.

### Trespass to chattels

Trespass to chattels, also known as trespass to personal property or goods, is when someone enters someone else's property without their consent and interferes with their rightful possession of it. Whether it moves or not, a chattel is considered personal property; nevertheless, it does not apply to real estate or land. For instance, two friends were enrolled in the same course. One of the pals snatched another's book after they finished their studies, thinking it was his. There was a purpose to taking the book, hence there was trespassing on the chattel. Therefore, in this instance, the error of ownership cannot be raised as a defence. The person has the right to compensation for actual damages, which are calculated based on how much the defendant's acts reduced the value of the chattel.

### Tort based on the Negligence

Negligence is the lack of reasonable care that is expected of everyone to avoid endangering the other person by one's actions. It is the omission to take a certain action while anticipating the harm that might be caused by one party's carelessness.

The Elements of negligence:

### Duty or Obligation

Someone must owe another person a duty or obligation. The defendant may be held accountable if, in the view of the law, he fails to perform the obligation he has to the plaintiff.

Therefore, it should first be determined whether the defendant owes the plaintiff any duty of care or not. A legal responsibility or obligation to act a certain way may occasionally be created by the relationship between the plaintiff and defendant. For instance, the doctor has a responsibility to the plaintiff to treat the patient with care. If a ring was left in the patient's abdomen after therapy, the doctor may not have provided the best possible care. The doctor had a responsibility to take care of his patient, but he didn't.

### Breach

Once it has been determined that the defendant owes the plaintiff a duty of care, it must then be proven that there was some breach of that obligation, such as one person failing to exercise due care. The care that a reasonable person would have exercised under given conditions is referred to as the "amount of care". There are both subjective and objective ways to determine if there was any duty violation. If the defendant did not act in a particular way while knowing how his actions would harm the other person, this is considered negligence. For instance, if the dog's owner is aware of the dog's vicious behaviour, he should post a warning like "Beware of the pet" or "Enter at your own risk" on the gate. He can be accused of being careless if he doesn't take this kind of precautions.

### Causation

This aspect tries to show that there was some negligence on the side of the defendant that resulted in the plaintiff's injury or harm. The plaintiff must establish causation between the defendant and the loss. The (but for) rule is used to demonstrate causation, or whether the harm endured would have occurred but for the defendant's conduct that is the subject of your lawsuit.

### Proximate cause

How could someone be held responsible if they were unable to predict that anything awful may happen to another person? It must be demonstrated that the person's alleged activity was the primary or secondary reason why the injuries occurred in order to hold him accountable. If the act was predictable, only then is the person responsible; for instance, if a motorbike ran into a pedestrian on the street and caused serious head injuries. A woman whose home was near the road experienced heart failure after viewing the image on the internet. Due to his negligence, while operating the motorcycle, the rider was responsible for the pedestrian. However, since the woman's heart attack was unexpected, he is not responsible for her.

### Damages

The final component of negligence-related harm. The injured party should receive compensation for their losses. To determine whether or not the plaintiff is entitled to compensation, the reasonable person test is crucial. The plaintiff should be able to return to his pre-incident situation with the help of the compensation awarded to him. The compensation that the automobile driver could be required to pay, for instance, should cover the motorcyclist's medical costs, missed wages, and the pain and suffering he had as a result of the accident that caused him to incur injuries and miss work.

### General defenses under the law of torts

The defendant would be held accountable for the same whenever sue a case was brought against them for committing a tort and all the necessary components of that wrong were present. Even under these situations, the defendant can escape liability by pledging one of the several defences under tort law.

Some defences have a special connection to certain offences. The various defences in a defamation case include fair remarks, privileges, and justification, among others. Let's examine these possible defences that a person may have under tort law, how they can be argued, and some of the key instances.

### General Defenses' purpose

When a plaintiff files a lawsuit against a defendant for a tort he committed, the defendant will be held accountable for it if all the conditions necessary for that wrong were present. But he has various defenses at his disposal that he can use to extricate himself from responsibility for the wrongdoing. In tort law, these are known as "General defences".

### The following are the available defenses

- Volenti non fit injuria or "Consent" as a defence
- Inevitable accident
- Statutory authority
- The wrongdoer is the plaintiff
- Private defense
- Mistake
- Act of god
- Necessity

### Volenti non fit injuria

A plaintiff who willingly suffers harm has no legal recourse and is not permitted to file a claim in such a situation. This defense is used because no one may use a right that they have freely given up or renounced. A person can declare their consent or imply it.

### Several instances of the defense include

- If you personally invite someone to your home, you cannot bring a trespass lawsuit against them.
- Likewise, if you consent to a surgical procedure, you cannot bring a medical malpractice lawsuit against the doctor who performed it.
- A participant in the games is believed to be willing to sustain any damage during play.
- A cricket game spectator is not eligible to file a claim for compensation for any losses incurred.

The act must not exceed the scope of the consent in order for the defense to be effective.

### Free consent is required.

- It is crucial to establish that the plaintiff's consent was freely granted for this defence to be effective.
- It is not a strong defence if the permission was gained fraudulently or via coercion.
- For a defendant-performed act, consent is required.
- For instance, if you have a guest over for supper and he enters your bedroom without your permission, trespass charges will be brought against him.

### Fraudulently obtained consent

- Fraudulently obtained permission is not valid consent and cannot be used as a defense.
- When seized by deceit that caused the victim to misjudge the true nature of the conduct, mere compliance in some criminal circumstances does not establish consent.
- Fraud cannot be regarded as a factor vitiating consent if the error it causes does not create a false impression about the true nature of the act.

### Consent that was forced upon someone

- When someone agrees to something against their will or under coercion, there is no consent.
- It is also appropriate when the person granting consent does not have complete discretion.
- This circumstance typically occurs in a master-servant relationship where the servant is required to carry out all instructions from his master.
- Therefore, the adage "volenti non fit injuria" does not apply when a servant is made to perform a task against his will.
- However, if he acts on his own initiative and without being coerced, he may raise the defense of consent.

### Knowledge alone does not constitute acquiescence

The following prerequisites must exist for this maxim to be applicable:

- The risk was acknowledged by the plaintiff.
- He was aware of this and voluntarily consented to be harmed.

### Discharge of the Torts

A tort is a perverted act or behavior. It refers to when another person's action violates a person's legal rights, or when that other person's legal rights are breached. Although the tort is a civil wrong, not all civil wrongs are covered by the tort law. When a civil wrong is committed against another person and the wrong falls under the definition of a tort, the victim is entitled to unliquidated damages as compensation.

However, the law of torts also covers a number of ways the tort act might be absolved.

A tort can be discharged in seven distinct ways, and no remedy exists for tort. It is the method by which the tort is terminated. An offender is not held accountable for his acts. The procedures for tort discharge are described below.

#### 1) Death of the parties

Actio personalis moritur cum persona, or "personal right of action dies with the person", is applicable here.

The essential maxim "Actio personalis moritur cum persona" states that if the person who performs the wrongdoing or the person against whom the wrongdoing is committed passes away, the personal right, the right to compensation, or the right to bring an action passes away as well.

#### Illustration

If A brings a claim against B's tortious behavior. If A passes away while the case is still pending in court and the trial is still ongoing. Because only he has the right of action, the tort is discharged as a result of A's passing.

**2) Death of the defendant, who committed the tort**

It indicates that when the defendant, the one who committed the tort against the other person, passes away, the tort is dismissed.

**Illustration**

If Ram wrongs Geeta and Geeta files a complaint against him, but Ram passed away during the process of the trial, then Geeta no longer has a cause of action, and the tort is discharged.

**3) By Waiver**

The waiver is the second way to get rid of a tort. When a person has a choice between several remedies, he must choose one of them. This is known as the waiver notion. Except in cases of violence and defamation, he cannot request both remedies.

**Illustration**

If A brings a lawsuit alleging that B violated A's rights, B may be found liable. If A is entitled to more than one remedy, he must choose any one of them. For example, if A is entitled to both a remedy under contract law and under tort law, he must now choose between the two.

**4) Accord and Satisfaction**

The term "accord" refers to a settlement of a disagreement between the parties to a tort, i.e., the person who commits the tort and the person against whom it has been committed. Accord is the name given to such a contract. In a broad sense, it refers to resolving the conflict by agreeing to something in exchange for the right to take legal action. Satisfaction is defined as the real payment of the agreed-upon consideration by both the one who conducts the wrongdoing and the person who was wronged. When the agreement and satisfaction are both finished, the tort is discharged and the case is not taken to court.

**Illustration**

If B's car causes an injury that results in A dying. The Accord situation would arise if A's family decides that B will compensate them with Rs. 150,000. The problem was satisfied when they received the genuine payment of 1,50,000 Rs. from B. Therefore, by reaching a resolution and accepting payment, as family lost their right to sue, and the tort was absolved.

The party's assent must be free from fraud, coercion, or undue influence in order for the idea of Accord and Satisfaction to apply.

**5) Release**

A Release entails renouncing one's claim to the action. When someone discharges a tort on his own volition. Only the individual against whom the harm has been committed is granted this right.

**Illustration**

**Situation 1:** A is the person against whom B commits any tort, and he may release B from obligation with A's free consent.

**Situation 2:** A is the party against whom B and C both commit a tort, and while A chooses to absolve B of responsibility, this does not absolve C of responsibility.

The aggrieved party must voluntarily and freely consent to the release. The assent should not be considered a release and the tort is not abated if it was obtained through coercion, undue influence, or any other illegal methods.

**6) Judgement**

In this approach, the court's decision results in the discharge of the tort. No appeal for the same act of negligence can be made for the same remedy in court if, after the court renders its decision, the tort is discharged.

The idea behind this technique of tort discharge is founded on the legal principle of Res-Judicata, which states that if a court has previously decided on a cause of action, it should not consider it again.

**Illustration**

If A receives redress from B for the accident that B previously caused through a judicial decision. Later, he discovered that he must have another procedure. He is not permitted to seek the same relief in a court of law again.

**7) Acquiescence**

In this manner, the tort is dismissed due to the plaintiff's own incapacity, such as lack of time to travel to court, lack of funds to cover court costs, or any other disability. When a party has the authority to enforce a claim but chooses not to do so over an extended period of time, the other party is deemed to have waived their responsibility.

**Illustration**

Whether A has the authority to take legal action against B. If A fails to enforce his right for an extended period of time, B is automatically released from responsibility.

**Law of Limitation Act**

This procedure results in the dismissal of the tort due to the statute of limitations, meaning that no one is permitted to exercise their legal rights once the time restriction for filing the case has passed.

For example, the deadline for filing a lawsuit in cases of false imprisonment or libel is one year, the deadline for trespassing on real property is three years, and so forth. Once the deadline has passed, no one will be able to make use of their legal rights.

**Illustration**

If A fails to file a lawsuit in court within three years after B has committed the tort of trespassing on A's land, he loses his right to do so since the statute of limitations has run.

**What are the Legal Remedies Available in the Torts?**

The injured party is considered to have received a legal remedy when they are returned to the standing they held before the violation of their rights. Different categories of legal remedies exist. For instance, if a party takes away anything you own, the court may order them to reimburse you financially or to return your possessions in their original condition. In some circumstances, the court may also penalize the offending party.

There are two categories of damages in tort law:

**Judicial Remedies**

These are the remedies that a party who has been wronged is entitled to under the law.

### Extra-Judicial Remedies

Extra-judicial remedies are those used when the harmed party decides to enforce the law on their own (though legally).

There are three primary categories of tort judicial remedies:

#### 1) Damages

The sum of money paid to the party who has been wronged to put them back in the position they were in before the tort occurred is known as damages or legal damages. They are given to a plaintiff in order to aid in their effort to recoup their losses. The main relief available in a tort case is damage. The word "damages" should not be confused with "damage", which denotes "hurt" or "injury" in the plural.

#### 2) Injunction

An injunction is an equitable remedy that the court may grant in tort cases. An equitable remedy is one in which the court orders the other party to uphold his end of the bargain rather than paying the party who was wronged. Therefore, when a court orders someone to stop doing something or to take positive action to make up for the harm caused to the harmed party, the court is issuing an injunction.

#### 3) Restitution of Specific Property

Restitution of Specific Property is the third legal remedy accessible under Tort Law. Restitution is the process of returning property to its rightful owner. A person is entitled to the restitution of his property when it has been unfairly taken away from him.

### Extra-judicial Remedies in Tort

There are five primary categories:

#### 1) Expulsion of trespasser

A person is permitted to eject a trespasser from his property using a reasonable level of force.

#### 2) Re-entry on land

In this situation, the owner of the property may use reasonable force to drive away the intruder and re-enter his property.

#### 3) Re-capture of goods

In this situation, the owner of the items has the right to reclaim them from anyone who is unlawfully in possession of them.

#### 4) Abatement

In the event of a nuisance, whether it be public or private, a person (the harmed party) may remove the annoyance-causing item.

#### 5) Distress Damage Pheasant

Last but not least is distress damage. In this scenario, a person's cattle or other animals travel to another person's farm, ruining his crops. Until he receives compensation for the loss he experienced, the property owner has the right to keep the animals under his care.

### What are the causes of the tort law's sluggish advancement in India?

English law is responsible for the stability of India's tort law. This law has been in effect in Indian courts since 1726, but it has developed very slowly. The following are the causes:

### The law is not codified

Because the absence of codified tort law in India is the fundamental cause of its delayed development. As a result, there is perpetual doubt in front of the court. Choosing which actions fall under the definition of a tort and which do not is particularly challenging. In most cases, precedents serve as the foundation for court judgments.

### Unawareness of the law

Law ignorance is the second factor. The public is unaware of its legal rights. Being uneducated and ignorant of their rights are commonplace. Because of this, even when their rights are violated, they do not seek justice in court.

### Poverty

It has also slowed down the evolution of tort law. Many persons refrain from approaching the Court because of their poverty. They remain mute while undergoing the humiliating extradition and tannery ordeal. However, there are currently measures being made such that a person may be denied justice due to financial considerations. There are provisions in the constitution's paragraph 39(A) for free legal aid. Currently, the idea of public interest litigation has also advanced the applicability of tort law.

### Insufficient political willpower

Political representatives do not consciously favour the creation of sufficient legislation or its implementation, which thus inhibits the growth of the tort law. In terms of law and justice, the government is not as effective as it should be.

### Expensive and Delaying Judicial System

Because the judicial system is very expensive and takes a very long time to render a judgment, it is the reason why the law of torts has not developed.

### Conclusion

Since tort, a private action, used to be more frequently utilized than criminal laws in earlier ages, there are certain similarities between crime and tort. A tort enables the sufferer to receive a remedy that is tailored to their needs.

The law of torts is a subset of the legal system that shares some characteristics with the majority of other branches but differs significantly from them overall. The law has evolved and has established itself firmly in the legal arena, despite the fact that there are variations in opinion among the many jurists regarding the culpability of torts. In tort law, there are specific factors and prerequisites for liability.

Everyone is obliged to act honestly, and when someone veers off the straight and narrow and takes a wrong turn, they have committed a tort. Therefore, tort refers to behaviour that is crooked or twisted and not straight. The legal term "tort" in English has taken on a unique connotation as a category of civil wrong or injury. Not all civil wrongs constitute torts. Only when an action for unliquidated damages is the appropriate remedy for a civil wrong can it be classified as a tort.

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