

A Law Useful In Daily Life

Shagun Tiwari

BA.LLB (H), From Amity University Lucknow Campus

ABSTRACT

Laws are set of rules made to maintain peace in the society. It aims to provide a secure and justified life to each and every section of society. However there are instances in daily life that are small but demand justice, but due to lack of knowledge, they don't know whom to appeal. For example, what if your neighbor throws garbage in your garden, you are being mentally or physically tortured in school or college, get foodpoisoned by food of some canteen, or suffer some loss due to negligence of some other person. Matters related to daily life are covered under the torts law. This concept of Torts Law has been prevailing in India for a long time but still unaddressed.

Keywords: daily life, torts law, India.

INTRODUCTION

The world is full of cases where people are harmed in one way or another by an individual, a company or an organization. These cases, sometimes feel so out of the legal clutches that the victim doesn't understand whether to file a complaint regarding it or not. Torts law is one of the solution of such conditions. Tort law provides monetary compensation to redress a plaintiff's claim that the defendant injured her, interfered with her property, invaded her privacy, or invaded another legally protected interest¹.

Tort is a civil wrong, i.e. it is a wrong against an individual. The word Tort is derived from a Latin word 'tortum' which means crooked or twisted. In this sense, it is equivalent to the English word 'wrong.' A tort occurs when someone deliberately or through carelessness causes harm to someone. There are certain laws defined in the society that aim to protect a person's rights and regulates working of organizations. Torts law is applicable when someone breaches those rights or laws.

FAMOUS CASES

Liebeck v. McDonald's

It is one of the most famous negligence cases of the United States. The incident took place when a lady named Liebeck was trying to open a coffee cup she had bought from McDonald's, it accidentally spilled and caused 3rd degree burns on her upper legs and groin. Liebeck retained counsel and sued the fast food giant for just \$20,000 after they offered her a measly \$800 as compensation for her injuries. They found McDonald's 80% responsible for the incident and awarded Liebeck \$160,000 in compensatory damages. The court also awarded Liebeck 2.86 million dollars in punitive damages because they deemed McDonald's actions willful, wanton, and reckless.

Grimshaw v. Ford motor Company

The Grimshaw case changed the rulebook of safety measure taken into consideration by motor vehicle manufacturers. When Ford Pinto was launched, the company knew that it was unsafe to drive the car at a speed higher than 25mph as it would explode the gas tank but the neglected the problem. This negligence was compensated by Lily Gray who was driving a Ford Pinto when she was rear-ended by another car at 30 mph. The gas tank in the Pinto ruptured, and Gray died in a ball of fire. Gray had a passenger in her car, 13-year-old Richard Grimshaw.

¹<https://blog.ipleaders.in/an-insight-of-law-of-torts-in-india/#:~:text=1%201%29%20The%20law%20is%20uncertain.%20...%202,Furthermore%2C%20the%20judicial%20system%20is%20very%20expensive.%20>

Grimshaw survived but was permanently disfigured. The two families filed a civil lawsuit against Ford. The jury, in this case, awarded \$2.5 million to Grimshaw, \$559,000 to Gray's State, and \$125 million in punitive damages. Ford appealed the decision, and the judge reduced the punitive damages to \$3.5 million.

CODE OF CONDUCT ACROSS NATIONS

Torts Law In United States –

In United States, Torts law is broadly categorized into three types: Intentional torts, negligence and strict liability. Intentional torts deals with the harms caused by defendant in his conscious such as defamation, emotional distress or assault. Negligence is a failure to provide level of care that someone of ordinary prudence would have exercised to under the same circumstances, which leads to unintentional damage by the defendant to the plaintiff^[2].

Strict liability exists when a defendant is committing an action, regardless of what his/her intent or mental state was when committing the action. In this case the plaintiff only need to prove that the tort occurred and the defendant was responsible.

Torts Law In England –

Similar to United States, torts law in England can also be categorized into intentional torts, negligence and strict liability. Intentional torts covers the acts of defamation, assault, battery, trespass and emotional distress. Negligence is a central concept in English torts law. To claim negligence, the plaintiff needs to prove duty of care owed by the defendant, breach of that duty and resulting damages^[3]. Two main highlights of the strict liability are Vicarious liability and Contributory liability.

TORTS LAW IN INDIA

“We have to evolve new principles and lay down new norms which will adequately deal with new problems which arise in a highly industrialized economy. We cannot allow our judicial thinking to be constructed by reference to the law as it prevails in England or for the matter of that in any foreign country^[4].” The Indian torts law resembles the English torts law, however, it has undergone amendments as per Indian legislation. The Indian torts law aims to provide compensation to the plaintiff but some writers also believe that it objects to punish than to compensate. The Indian torts law is based upon five principles,

The first principle is *Injuria Sine Damnum and Damno Sine Injuria*, it means legal injury without damage and damage without legal injury i.e. the punishment should be based upon money, comfort and health and injury should be legal i.e. infringement of legal rights. The principle aims to punish support of tort, it means if employees are connected to employer in a tort then employees will also be taken under judicial actions.

The third principle keeps a check on the misuse of torts law. It states that if a person voluntarily involves in a risk then he has no right to claim torts. The fourth principle aims at emotional loss i.e. defamation. In India it is considered as civil and criminal offence. Most of the cases filed are related to defamation. The fifth principle defines its focus on minorities in the nation i.e. a person below 18 years of age. A minority can file a torts law as well can be sued as per torts law.

SHORTCOMINGS IN INDIA

Torts law doesn't find much popularity in India as in other nations. Some of the prime reasons are that the law is still under developing stages and lacks precedents which leads to vagueness of the law. Another reason is that people in India are unaware of their rights due to illiteracy, as a result, a very few number of torts cases are filed. Also, another factor observed is the poverty. The population in India is economically backwards, therefore despite they know their rights, they are unable to meet the high cost of the judicial system. As a result people prefer to suffer the pain than to file a case in the court.

²Cornell law school/negligence<https://www.law.cornell.edu/wex/negligence>

³British institute of international and comparative law

⁴Justice Bhagwati mentioned in *M.C. Mehta v. Union of India*



CONCLUSION

Torts law holds the potential to serve justice to the unaddressed part of the society. In case of India this law needs a lot of development. The shortcomings must be taken into consideration and amendments should be made to meet the demand of the nation. The fee involved in filing these case must be revised so that every individual is able to approach the court for justice. Solutions to these drawbacks will definitely bring the legislature of the nation to new standards