

VIDYAVARDHAKA LAW COLLEGE

II Semester 5 Years BA, LL.B

SYNOPSIS

Subject- Law of Torts

UNIT I

1. Law

- a. Nature
- b. Aims and scope
- c. Classification
 - i. Substantial and Procedure Law
 - ii. Private and Public Law
 - iii. Civil and Criminal Law
 - iv. Common Law

2. Evolution Of Law Of Torts

- a. Ancient period
- b. Midvale period
- c. Modern period
- d. Torts in India

3. Nature Of Law Of Torts

- a. Tort is civil wrong
- b. Common law remedy
- c. Not a breach of contract or trust
- d. Unliquidated damage

4. Meaning And Definition Of Torts

- a. The word 'tort' is derived from the Latin tortus, meaning 'twisted'. It came to mean 'wrong', In English, the word 'tort' has a purely technical legal meaning – a legal wrong for which the law provides a remedy.
- b. Definition - John Salmond, Winfield, Fraser, Limitation Act 1963- Sec 2 (m)

5. Essential Elements Of Torts

- a. Wrongful Act/ intentional, negligent, strict liability, vicarious liability

- i. Municipal Corporation Of Delhi V Subhagwanti
 - ii. Glasgow corporation V. Taylor, 1992
- b. Legal Damage/violation of legal right
 - i. Right in Personum
 - ii. Right in rem
 - 1. Injuria Sine Damno
 - a. Ashby vs. White,
 - b. Bhim Singh vs. State of J & K And Ors
 - 2. Damno sine Injuria
 - a. Gloucester Grammar School Case
 - b. Mayor of Bradford vs. Pickles
- c. Legal Remedy
 - i. Ubi Jus Ibi Remedium
 - 1. Ashby vs. White,
 - 2. Bhim Singh vs. State Of J & K And ors

6. Torts Distinguished From Contract And Crime

- a. Tort and Contract
- b. Tort and Crime

7. Mental Elements In Torts

- a. Intention
 - i. The intentional personal torts are battery, assault, false imprisonment, and outrage- The intentional property torts are trespass to land, trespass to chattels, and conversion
- b. Motive
 - i. Mayor & Co. Of Bradford V . Pickles
- c. Malice
 - i. Malice in Law
 - ii. Malice in Fact

UNIT II

1. General Defenses

i. Volenti Non Fit Injuria

- a. Padmavati v. Dugganaika, Smith v. Baker, Padmavati v. Dugganaika, Dann v. Hamilton: Miss Dann

ii. Inevitable Accident

- a. Brown v. Kendall, A. Krishna Patra v. Orissa State Electricity Board, Stanley v. Powell, Fardon v. Harcourt-Rivington

- iii. **Plaintiff The Wrongdoer**
 - a. Ashton v. Turner and another, Ponting v. Noakes, Pitts v Hunt
- iv. **Act Of God/Nature/Vis Major**
 - a. Nichols v. Marshland , Ramalinga Nadar v. Narayana Reddiar, KallulalV.Hemchand
- v. **Private Defense**
 - a. Ramanuja Mudali v. M. Gangan, In Bird v. Holbrook, Sitaram v. Jaswant Singh, Morris v. Nugent
- vi. **Necessity**
 - a. Salus Populi Suprema Lex i.e. the welfare of the people is the Supreme Law, “necessitas inducit privilegium quod jura private”
 - b. Surroco v. Geary, Leigh V. Gladstone
- vii. **Statutory Authority**
 - a. Smith v. London and South Western Railways, Kasturi Lal v. State of U, Hammer Smith Rail Co. v. Brand
- viii. **Mistake**
 - a. Mistake of law: No defence in both civil and criminal case.
 - b. Mistake of fact: Not valid in torts but may be defence
 - c. Morrison v. Ritchie & Co, Consolidated Company v. Curtis

2. Vicarious Liability

- i. **Doctrines**
 - a. Qui facit per alium facit per se- “he who acts through another does the act himself”.
 - b. Respondent Superior: The literal meaning of the doctrine is “let the master answer”.
 - c. Doctrine of Attribution
- ii. **Essentials**
 - a. There must be a relationship of a certain kind.
 - b. The wrongful act must be related to the relationship in a certain way.
 - c. The wrong has been done in the course of employment.
- iii. **Relationship Governed by Vicarious Liability**
 - a. Master-Servant Relationship
 - b. Principal-Agent Relationship
 - c. Partners Relationship
 - d. State
- iv. **Master-Servant Relationship**
 - a. Contract of service- Contract for service- Doctrine of common employment

- b. Limpus V/S. London General Omnibus Co
- c. Morgan V/S. Incorporated Central Council: B. Govindarajulu V/S. M.L.A Govindaraja Mudaliar: Performing Right Society Ltd. v Mitchell, etc. Ltd.
- v. **Principal and Agent**
 - a. Lloyd V/S. Grace, Smith & Co.: Mclaughin V/S. Pyor: SBI v Shyama Devi
- vi. **Relationship**
 - a. Partnership Act 1932
 - b. Hamlyn V/S. Houston & Co:
- vii. **Vicarious Liability of State**
 - a. Article 300
 - b. Sovereign Power and Non Sovereign.
 - c. State of Rajasthan v. Vidyawati; State of M.P. v. Chironji Lal ; P& O. Steam Navigation Co. v. Secretary of State; Nobin Chandra Dey v. Secretary of State for India; Satyawati Devi v. Union of India; Union of India v. Sugrabai; Rudal Shah v. State of Bihar; Bhim Singh v. State Of Jammu And Kashmir

UNIT-III

1. Negligence

- a. Essentials
 - i. Duty To Take Care; Grant v. Australian Knitting Mills Ltd, Municipal Corporation of Delhi v. Subhagwanti,
 - ii. Duty To plaintiff; Donoghue v. Stevenson
 - iii. Breach Of Duty To Take Care, **Gian Chand v. Vinod Kumar Sharma**
 - iv. Damage
 - b. Donoghue v Stevenson (1932)- Neighbor principle
 - c. Defenses For Negligence
- #### 2. Nuisance (smoke, sound, noise, dust, vibration, etc)
- a. Public nuisance
 - b. Private nuisance

- a. Essentials
 - a. Unreasonable interference (radhey shyam v. Gur prasad- (flour mill),shanmughavel chettiar v. Ramkumar (ginning firm),ushaben v. Bhagyalaxmi chitra mandira)
 - b. Interference with the life and use or enjoyment of property or land
 - c. Damage

3. Strict Liability

- a. No fault liability- inherent hazards of the situation or product.
- b. Essentials
 - i. Dangerous Substances
 - ii. Escape
 - iii. Non-natural Use
 - iv. Damage
- c. Rylands v Fletcher- Ponting v Noakes- Box v Jubb
- d. Exception to the Rule of Strict Liability

4. Absolute Liability

- a. Will have no access to any defence or exception and will be absolutely liable to pay compensation to the aggrieved parties
- b. M.C. Mehta vs. Union of India- Bhopal Gas Tragedy / Union Carbide Corporation v. Union of India- Indian Council for Enviro-legal Action vs. Union of India

5. Legal Remedies-Awards-Remoteness of Damage.

- a. Remedies in Tort Law
 - i. Types of remedies in Tort Law.
 - 1. Judicial Remedies
 - 2. Extra-Judicial Remedies
 - ii. Judicial Remedies
 - 1. Damages
 - a. Nominal Damages
 - b. Contemptuous Damages
 - c. Compensatory Damages
 - d. Aggravated Damages
 - e. Punitive Damages
 - 2. Injunction
 - 3. Specific Restitution of Property

- iii. Extra-Judicial Remedies
 - 1. Expulsion of trespasser
 - 2. Re-entry on land
 - 3. Re-capture of goods
 - 4. Abatement
 - 5. Distress Damage Peasant
- iv. Remoteness of Damage

UNIT-IV

1. Assault

- a. Essentials of Assault
 - i. An intent to inflict a battery upon another person or to cause to him an apprehension of a battery
 - ii. (2) An act done for this purpose, as distinguished from mere violent or abusive language
 - iii. (3) An apprehension of a battery.
- b. Tuberville v. Savage- Stephens v. Myers- R vs. Constanza
- c. Defenses
 - i. Statutory authority
 - ii. Continued – easement
 - iii. Act of others
 - iv. Public good

2. Battery

- a. A harmful, or an offensive, touching of the plaintiff's person, caused directly or indirectly by a voluntary act of the defendant with an intention to inflict a harmful or an offensive touching, is a battery

3. Mayhem

- a. Mayhem deals with the disfigurement or loss of any body part due to physical injury caused by the tortfeasor
- b. Fetter v. Beale-Garrett v. Taylor

4. False Imprisonment

- a. Essentials
 - i. There was a willful detention;
 - ii. The detention was without consent; and
 - iii. The detention was unlawful.

- b. Meering v. Grahame White Aviation Co-Herring v Boyle-Bird v Jones

5. Defamation-Libel and Slander

- a. Essentials
 - i. Someone made a statement
 - ii. The statement must refer to the plaintiff-
 - iii. The statement was published
 - iv. The statement caused you injury
 - v. The statement was false; and
 - vi. The statement did not fall into a privileged category.
- b. Ram Jethmalani v. Subramaniam Swamy-In South Indian Railway Co. v. Ramakrishna-Morrison v. Ritchie & Co-Newstead v., London Express Newspapers Ltd-Harsh Mendiratta v. Maharaj Singh-Mahender Ram v. Harnandan Prasad
- c. Innuendo
- d. Types- Libel and Slander
- e. Defenses Available
 - i. Justification or truth
 - ii. Fair Comment
 - iii. Privilege

6. Malicious Prosecution

- a. Essentials
 - i. Prosecution by the defendant.
 - ii. Absence of reasonable and probable cause.
 - iii. Prosecution with malicious intention.
 - iv. Termination of the proceeding in the favour of the plaintiff.
 - v. The plaintiff has to prove that he has suffered in person, reputation, or pocket due to the initial proceeding.
- b. Nagendra Nath Ray Vs. Basanta Das Bairagya-Abrath Vs. North Eastern Railway-Allen Vs. Flood-Antarjami Sharma Vs. Padma Bewa-Ram Lal Vs Mahendra Singh

7. Trespass

- a. Kedar vs. K.A. Alagarwami- Stephens vs. Myers-- Herring vs. Boyle-- Madhav Vithal Kudwa vs. Madhavdas Vallabhdas- Kirk vs. Gregory- Cresswell vs. Sirl

UNIT- V

1. The Consumer Protection Act, 1986

a. **Definitions-** ‘consumer’, ‘consumer dispute’, ‘deficiency in service’, ‘defective goods’

b. **Features of the Act**

- i. The Act applies to all the goods, services and unfair trade practices. Nothing is exempted unless explicitly done so by the Central Government.
- ii. The Act covers all the sectors regardless of being private, public or co-operative.
- iii. The Act provides the facility to establish consumer protection councils at the Central, State and District levels.
- iv. This is ensured to promote and protect the rights of a consumer. Three-Tier quasi-judicial machinery is organized to deal with the grievances or disputes of consumers.
- v. The Act provides a statutory recognition to all the reasonable rights of the consumer.

c. **Rights of a Consumer**

- i. Right to Safety
- ii. Right to be Informed
- iii. Right to Choose
- iv. Right to be Heard
- v. Right to Seek Redressal
- vi. Right to Consumer Education

d. **Consumer Disputes Redressal Forum**

- i. District Forum
- ii. State Commission
- iii. National Commission

e. **Consumer Protection Council**

- i. Central Consumer Protection Council
- ii. State Consumer Protection Council
- iii. District Consumer Protection Council

2. 1986, Motor Vehicles Act

- a. Motor Vehicle Accidents and Torts
 - i. Negligence

- ii. Recklessness or wanton conduct
- iii. Intentional misconduct
- iv. Strict liability (regardless of fault)

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