

**Intention** -> must be the right of reason. It means something is done or said by the person which affects the right of another.

**Negligence** -> means failure to provide safety when a person got physical injury not by impact (by hit, bullet or sword) but merely by falling forward since although what he had seen or heard.

**Malicious Prosecution** -> must have been done by impact (by hit, bullet or sword) but merely by falling forward since although what he had seen or heard.

**Defamation** -> without consent. Defamation = unhelpful. Elements: 1. Statement of fact. 2. Publication. 3. Fault. 4. Damages.

**False Imprisonment** -> illegal confinement of one individual against his will for an unreasonable time. Elements: 1. Confinement. 2. Without consent. 3. Unreasonable time.

**Medical Negligence** -> negligence of a dependent which causes harm (physical/psychic). Elements: 1. Duty of care. 2. Breach. 3. Causation. 4. Damages.

**Under the Crown** -> part of England, we have no statutory provision as to the liability of the Crown. Elements: 1. Crown. 2. Liability. 3. Statutory provision.

**Liability for the acts done by servant** -> Employer is liable whenever his servant commits a tort in course of employment. Elements: 1. Employer. 2. Servant. 3. Tort. 4. Course of employment.

**Head** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

**Human** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

**Alive** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

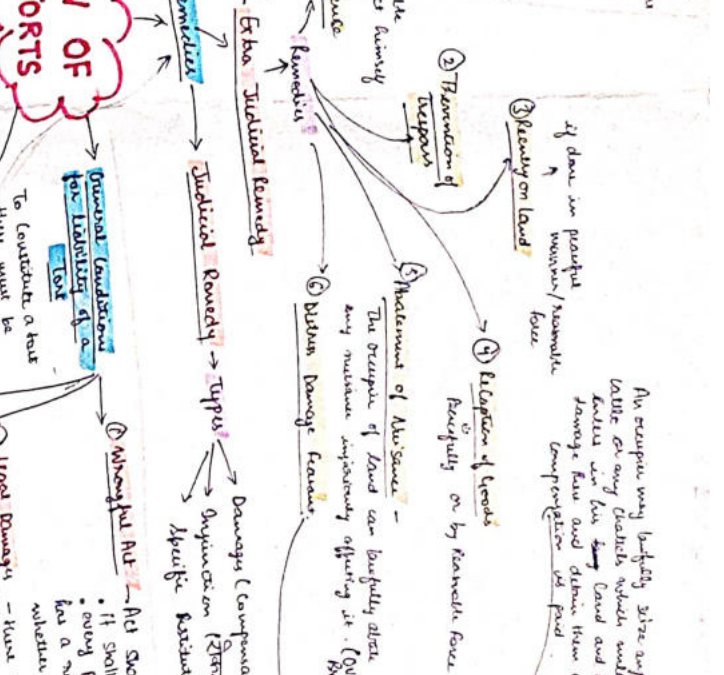
**Defendant** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

**Plaintiff** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

**Plaintiff** -> must be a natural person. Elements: 1. Natural person. 2. Human. 3. Alive at birth.

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**Meaning** -> derived from language term. Every tort is a wrong, but every wrong is not a tort.

**Elements of Tortious Liability** -> 1. Duty of Care. 2. Breach. 3. Causation. 4. Damages.

**Remedies** -> Judicial Remedies, Torts, Damages.

**Defences** -> Strict/Absolute Liability, Negligence, Consent, Self-Defence, Necessity.

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**Defamation** → Attack on the repute of Person. It means something is done or said by the person which affect the repute of Another.

**Heads**

- Libel** - Permanent form, eg. written words, pictures, statue etc. in cinema, Both photographic part and speech amount to law.
- Slander** - Publication of defamatory statement in some transient form. Temporary Nature. eg. spoken words / Gestures.

India → Defamation = tort + crime. IPC recognises libel & Slander as offence.

**Nervous Shock** • recent Origin  
 • provide Relief when a person get physical injury not by impact (by Stick, Bullet or sword) but merely by the nervous shock through what he had seen or heard.

**Malicious Prosecution**  
 • tort of initiating criminal prosecution or civil suit against another party with malice and without Probable cause with results in damage to his Reputation, Personal Freedom or Property.

**Elements**

- There must have been Prosecution of Plaintiff by Defendant
- There must have been want of reasonable & Probable cause for that Prosecution
- The defendant must have acted maliciously (without proper motive)
- Plaintiff have suffered Damages
- Prosecution terminated in the favour of plaintiff

**Detention** = without consent  
 • There must be lawful detention  
 • Detention = Unlawful.

**False Imprisonment** - Illegal confinement of one individual against his/her will by another indiv. in such a manner as to violate the confined indiv. Rights  
 • It is a unlawful restraint of person against his/her will by someone without legal Authority restricts another's freedom of movement without their consent (or without legal justification) may be liable.

**Bodily Harm** - wrongful act of Defendant which causes physical harm to the Plaintiff (Plaintiff)

**Torts/Wrongs to Personal Safety and Freedom**

1) Assault  
 2) Battery  
 Upon to Dehra

**Vicarious Liability of State**

**LAW OF TORTS**

**Meaning** → derived from language from the word tortum  
 • Civil wrong  
 • every tort is a wrong, but every wrong is not a tort

**Kinds of Tortious Liability**

1) **Vicarious Liability**  
 • in some cases the a person may be held liable for the tort committed by another.

a) **Principal & Agent**

• For the acts done by the agent but in ordinary course of Business, Principal shall be held liable  
 • in a landmark case, the Managing Clerk of a Firm of Solicitors, while acting in ordinary course of business committed fraud against lady client by fraudulently inducing her to sign docs. transferring her property to him. His principle was held liable because this was done in ordinary course of Business.

b) **Partners of a Partnership Firm**

• For any tortious act done by 1 Partner with or without knowledge of other partners in ordinary course of Business, All partners of such firm shall be held jointly & severally liable  
 • in a landmark (celebrated) case, 1 of 2 partners bribed the plaintiff's clerk & induced him to divulge secrets related to Employer's Business. Both Partners were held liable.

c) **Master & Servant**

Any act done by servant in course of his employment for the benefit of his master, with or without knowledge of Master, Master shall also be held liable.

d) **Employer & Independent Contractor**

• Not liable for the work of Indep. Contractor.  
 Indep. Contractor = works for others & not controlled by Employer.

e) **Where employer is liable for the act of Independent Contractor**

• when the employer authorises to commit a tort  
 • in the torts of strict liability  
 • Negligence of Indep. Contractor.

f) **Where employer is not liable for the act done by Indep. Contractor**

When the employer has taken proper care in the Appointment of the Contractor.

**Liability for the acts done by servant**

Employer is liable whenever his servant commits a tort in course of Employer's course of Employment deemed to be done when:-

• Wrongful act authorised by the employer.  
 • Wrongful & Unauthorised use of doing some act authorised by employee.

in a landmark case, Driver of a Petrol lorry while transferring petrol from lorry to underground tank, struck a match to light cig, there it ignited. An explosion & fire happened.

Unlike the Crown Proceeding Act 1947 of England, we have no statutory provision w.r.t. the liability of State in India when a case of tort. liability in tort comes before the courts. The Ques is whether the particular govt. activity which gave rise to a tort, was the sovereign function or Non-Sovereign function. If it is a sovereign function it could claim immunity from the tortious liability otherwise not. Commercial Activities for private indiv = non-sovereign

if done in pe...

2) **Prevention of trespass**

to use reasonable forces to protect himself

1) **Self Defense**

by self help without Recourse to the Court → Extra Judicial Remedy

Remedies → Judicial

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1) **Str...**

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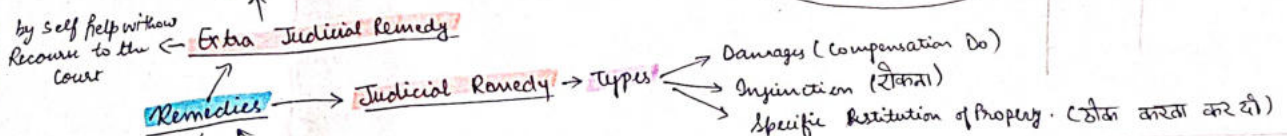
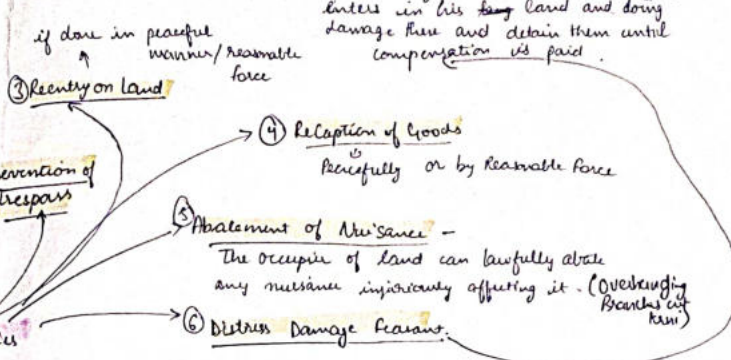
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document form, eg. written words, pictures, statue etc.  
 • Both photographic print and speech amount to tort.  
 - Publication of defamatory statement in some transient form.  
 • Temporary Nature  
 • Spoken words / Gestures  
 → Defamation = tort + crime.  
 IPC recognizes libel & Slander as offence.

An occupier may lawfully seize any cattle or any chattels which unlawfully enters in his land and doing damage there and detain them until compensation is paid.

Tort	Meaning	Purpose	Important Aspect	Example
Battery	Any Direct Application of force to the person without legal justification is a tort of battery.	To cause Physical Harm to other.	Physical contact is mandatory.	To throw a stone at someone so that the person gets physical injury.
Assault	When the defendant by his acts creates an apprehension in the mind of the plaintiff that he is going to commit battery against him.	To just threaten to other person.	Not Mandatory.	If a person shows a stone to other person and make apprehension that he is going to throw it or throw it or throw it.



# LAW OF TORTS

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## General Conditions for Liability of a Tort

To constitute a tort there must be

- Wrongful Act** → Act shall be wrong in the eye of law
  - It shall be violation of legal rights
  - every person whose legal rights are violated without legal excuse has a right of action against the person who violated them, whether loss occurred or not
- Legal Damages** → there must be a damage that law recognizes
  - Damnum sine Injuria**
    - Harm without legal wrong
    - Damage, however substantial, is not actionable in law, unless there is violation of legal right examp - Shop wala.
  - Injuria sine Damnum**
    - Breach of legal right without damage
    - cover those cases in which action lies when the rights are violated even though no damage has been occurred.
    - example - trespassing
- Legal Remedy**
  - Compensation for Damages
  - Injunction (रोकना)
  - Restitution (सीक करता कर दो)
  - Self Help

## Kinds of Tortious Liability

1 **Nicarious Liability**  
 • in some cases the a person may be held liable for the tort committed by another.

## 1 Strict / Absolute Liability

• Defendant is held liable without his fault  
 • if a person brings anything from outside & accumulate on his land which it escapes may cause damage to his neighbours. He will be responsible for the damage, no matter how much careful he might have been and whatever precautions he might have taken.

### Rylands vs Fletcher

Fletcher (Plaintiff) had an underground coal mines next to the land of Rylands (Defendant). Rylands owned a mill and built a Reservoir on his land to supply water to that mill. While making the Reservoir, employees get to know that there is an underground coal mine under the land. This fact was unknown by the Rylands. After the Reservoir completed, it broke through a shaft & flooded Fletcher's coal mines. Fletcher filed a suit against Rylands. Rylands was held strictly liable for the damage.

### Read vs Lyons

Condition  
 1 Escape of something from the control of Defendant which is likely to do mischief.  
 2 negligent defendant in making new natural use of land.

## Exception to the Rule

- Damage due to Natural Use of land
- Consent of Plaintiff
- Act of Third Party
- Statutory Authority
- Act of God
- Escape due to Plaintiff's own Default

if either of these conditions absent, Rule of Strict Liability not Applied.

Principal & Agent  
 • For the acts done by the agent but in ordinary course of business, Principal shall be held liable.  
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An occupier may lawfully seize any cattle or any chattels which unlawfully enters in his land and doing damage there and detain them until compensation is paid.

if done in peaceful manner / reasonable force

③ **Recentry on land**

④ **Relaption of Goods**  
Peacefully or by Reasonable Force

⑤ **Abatement of Nuisance** -  
The occupier of land can lawfully abate any nuisance injuriously affecting it. (Overhanging Branches etc.)

⑥ **Distress Damage Feasant**

person get physical injury but merely by the seen or heard.

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- There must have been want of reasonable & probable cause for that prosecution
- The defendant must have acted maliciously (without proper motive)

Plaintiff have suffered damages

Prosecution terminated in the favour of plaintiff

to use reasonable forces to protect himself

① **Self Defense**

by self help without recourse to the court

**Extra Judicial Remedy!**

② **Prevention of trespass**

Remedies

**Judicial Remedy** → Types

- Damages (Compensation)
- Injunction (Tikari)
- Specific Restitution of Property

of one individual by another indiv. injured indiv. Rights his / her will

freedom of legal justification

causes

**Torts / Wrongs to Personal Safety and Freedom**

① **Assault** ② **Battery**  
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contractor =

controlled by

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