# IPC Section 85

## Section 85 of the Indian Penal Code: Act of a person incapable of judgment by reason of intoxication caused against his will  
  
Section 85 of the Indian Penal Code (IPC) addresses the criminal liability of individuals who commit offenses while intoxicated, specifically when that intoxication was involuntary. It provides a defense against criminal charges if the individual, at the time of the act, was incapable of knowing the nature of the act, or that it was wrong or contrary to law, due to intoxication caused against their will. This section, alongside Section 86, recognizes that individuals should not be held criminally responsible for acts committed while lacking the necessary mental capacity due to involuntary intoxication.  
  
\*\*The precise wording of Section 85 is as follows:\*\*  
  
"Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law, provided that the thing which intoxicated him was administered to him without his knowledge or against his will."  
  
\*\*Breaking Down the Elements of Section 85:\*\*  
  
1. \*\*"Nothing is an offence..."\*\*: Similar to Section 84, this establishes a complete defense against criminal charges if the specified conditions are met. The actions performed under involuntary intoxication, rendering the individual incapable of understanding their actions or their illegality, are not considered offenses.  
  
2. \*\*"...which is done by a person who, at the time of doing it..."\*\*: This emphasizes the importance of the defendant's mental state at the time of the act. The law focuses on the impact of intoxication on the individual's cognitive and moral capacities during the commission of the act, not before or after.  
  
3. \*\*"...is, by reason of intoxication..."\*\*: This clause establishes intoxication as the direct cause of the defendant's incapacity. The intoxication must be of such a degree as to impair the defendant's ability to understand the nature and consequences of their actions or to distinguish right from wrong.  
  
4. \*\*"...incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law..."\*\*: This mirrors the language used in Section 84 regarding unsoundness of mind. The defendant must demonstrate that, due to intoxication, they were unable to understand either the physical nature of their act or its legal and moral implications. They may understand one but not the other and still qualify for the defense.  
  
5. \*\*"...provided that the thing which intoxicated him was administered to him without his knowledge or against his will."\*\*: This is the crucial distinguishing factor of Section 85. The defense only applies if the intoxication was involuntary. The intoxicating substance must have been administered without the person's knowledge or against their will. This excludes cases where the individual voluntarily consumed the intoxicating substance. The involuntary nature of the intoxication is a cornerstone of this defense.  
  
\*\*Distinction between Section 85 and Section 86:\*\*  
  
Section 86 deals with offenses committed under voluntary intoxication. While it doesn't offer a complete defense like Section 85, it does provide a limited exception. Under Section 86, a person who commits an act while voluntarily intoxicated is treated as if they had the same knowledge as they would have had if they were sober, unless the specific intent of a particular offense requires a specific state of mind. In such cases, voluntary intoxication can be used to negate the required \*mens rea\*. The crucial difference is that Section 85 deals with involuntary intoxication and provides a complete defense, while Section 86 deals with voluntary intoxication and offers a limited exception based on specific intent.  
  
\*\*Burden of Proof:\*\*  
  
Similar to Section 84, the burden of proving the defense under Section 85 lies with the defendant. They must establish, on a preponderance of probabilities, that they were involuntarily intoxicated to the extent that they were incapable of knowing the nature of the act or that it was wrong or contrary to law. This burden requires demonstrating both the involuntary nature of the intoxication and the resulting incapacity.  
  
\*\*Evidentiary Considerations:\*\*  
  
\* \*\*Medical Evidence:\*\* Medical testimony plays a crucial role in establishing the degree of intoxication and its impact on the defendant's mental state. Toxicology reports, blood alcohol content levels, and expert opinions from medical professionals are essential pieces of evidence.  
  
\* \*\*Circumstantial Evidence:\*\* Evidence surrounding the circumstances under which the intoxicating substance was administered is vital. Witness testimonies, physical evidence, and any other relevant information can help establish whether the intoxication was involuntary.  
  
\* \*\*Defendant's Conduct:\*\* The defendant's behavior before, during, and after the act can also be relevant in assessing their mental state. However, the primary focus remains on their mental capacity at the time of the act.  
  
  
\*\*Judicial Interpretations and Case Law:\*\*  
  
Indian courts have interpreted and applied Section 85 in various cases, clarifying its scope and application. Some key principles that have emerged from these interpretations include:  
  
\* \*\*Involuntary Intoxication:\*\* The courts have emphasized the importance of establishing that the intoxication was genuinely involuntary. The defense is unavailable if the individual willingly consumed the intoxicating substance, even if they were unaware of its potency or potential effects.  
  
\* \*\*Degree of Intoxication:\*\* The level of intoxication must be sufficient to render the individual incapable of understanding the nature of their act or that it was wrong or contrary to law. Mere impairment of judgment or reduced inhibitions is insufficient to trigger the defense.  
  
\* \*\*"Without Knowledge" vs. "Against Will":\*\* Courts have clarified the distinction between these two aspects of involuntary intoxication. "Without knowledge" implies the person was completely unaware they were consuming an intoxicating substance. "Against will" implies they were forced or coerced into consuming it.  
  
\* \*\*Burden of Proof on the Accused:\*\* The accused bears the burden of proving the defense of involuntary intoxication. The standard of proof is "preponderance of probabilities," meaning the accused must demonstrate it is more likely than not that they were involuntarily intoxicated to the extent required by Section 85.  
  
  
\*\*Examples of Involuntary Intoxication:\*\*  
  
\* \*\*Spiked drinks:\*\* If someone unknowingly consumes a drink that has been laced with an intoxicating substance without their consent, they may qualify for the defense under Section 85.  
  
\* \*\*Forced consumption:\*\* If a person is physically forced or threatened into consuming an intoxicating substance, it constitutes involuntary intoxication.  
  
\* \*\*Mistaken consumption:\*\* If a person mistakenly consumes an intoxicating substance believing it to be something else, such as medication, it can be considered involuntary intoxication, provided they were not negligent in their consumption.  
  
  
\*\*Consequences of a Successful Defense:\*\*  
  
A successful defense under Section 85 leads to acquittal of the charges. Unlike Section 84, which may result in detention in a mental health facility, Section 85 doesn't typically lead to further detention, as involuntary intoxication is generally considered a temporary condition.  
  
  
\*\*Conclusion:\*\*  
  
Section 85 of the IPC recognizes that individuals should not be held criminally responsible for actions committed while involuntarily intoxicated to the point of incapacity. It provides a complete defense against criminal charges in such circumstances. The crucial elements of this defense are the involuntary nature of the intoxication and the resulting impairment of the individual's cognitive and moral capacities. The burden of proving this defense rests on the defendant, who must establish the involuntary nature of their intoxication and its impact on their mental state at the time of the act. The section, alongside Section 86, provides a nuanced approach to the complex issue of intoxication and criminal liability, ensuring that while intoxication does not excuse criminal conduct lightly, those who commit acts while involuntarily and severely intoxicated are not unjustly held responsible.