

What is a Tort?

The word tort originates from the French language and it is equivalent to the English word "Wrong". and it is derived from the Latin word "tortum" which means "wrong" or "injury". Thus the "tort" means a conduct which is not straight or lawful but on the other hand "twist".

A tort arises when a person's duty towards others is affected, an individual who commits a tort is called a tortfeasor or a wrongdoer. and where ^{there are} multiple individuals involved, then they are called joint tortfeasors. Their wrong doing is called as a tortious act and they can be sued jointly or individually. The main aim of the Torts is the compensation of victims.

Definition

Salmond: "Civil wrong for which the remedy is common law action for unliquidated damages and which is not exclusively the breach of contract or the breach of trust or other merely equitable obligation".

Objectives of Tort

1. To determine rights between the parties to a dispute.
2. To prevent the continuation or repetition of harm i.e. by granting orders of injunction.
3. To protect certain rights of every individual recognized by law i.e. a person's reputation.
4. To restore one's property to its rightful owner. i.e. where the property is wrongfully taken away from its rightful owner.

Essential Elements of a tort:

Three Essential Elements which constitute a tort are.

1. A wrongful act (or) commission, and
2. Duty imposed by the law.
3. The act must give rise to legal or actual damage or

It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Act (or) Commission.

In order to make a person liable for a tort, he must have done some act which he was not expected to do (or) he must have omitted to do something which he was supposed to do.

Example:

'A' erects a wall on his land which obstructs the light to 'B's' house. Although it is undoubtedly a lawful act to erect a building on one's own land but since the neighbour has enjoyed uninterrupted light for years, he has acquired the legal right to have this enjoyment, so erection of construction by A on his own land is an invasion of the right of 'B' hence, not only damage but it is also unlawful and injurious.

Moral (or) Religious duty Can't be considered under the ⁽³⁾ head, But, it must be a duty primarily fixed by the Law.

Example: Moral Duty.

My friend 'A' falls ill and requested me as his family is not caring and not getting medicines. ~~and~~ I being a close friend taken care of him and extended all types of help like providing food, medicine and making him comfortable of my presence at the time of need. He recovered and after some time I felt ill and I requested him and he didn't took ~~care~~ proper care I lost and damaged my kidneys/Eyes/Lost limb/leg..

Here my act regarding with my friend was moral. and cannot be held as a legal duty.

Since, Moral duty is not fixed by law and I cannot sue my friend and take ~~up~~ any legal against him.

Religious Duty.

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Dhulphale v Ghorar, (1881) 6 Bom 122,

Dhulphale was a servant in the temple and had a right to get the food to the idol and Ghorar was under obligation to offer the food to idol but he failed to do so and the servant Dhulphale brought a suit against Ghorar for damages. It was held by the Court that Ghorar was not under legal obligation to give the food to the servant of the temple, failure to offer the food to idol was a breach of religious duty and not the legal duty hence, the plaintiff was not entitled for damages.