

LAW

CAPSULE



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For Law Competitive Exams

NATURE AND DEFINITION OF TORT

Tort is a civil wrong, which is redressable by an action for unliquidated damages. Section 2(m) of the Limitation Act defines tort as a civil wrong, which is not exclusively a breach of contract or breach of trust.

Some of the classic landmark cases with reference to development of tort are enumerated as follows :

S. No.	Classical Cases	Landmark Developments
1.	<i>Winterbottom v. Wright</i>	Theory of Privity of Contract recognized.
2.	<i>Donoghue v. Stevenson</i>	Lord Macmillan has overruled the Privity of Contract fallacy developed in the above case.
3.	<i>Ashby v. White</i>	"If a man will multiply injuries then action must be multiplied too" (<i>Ubi Jus ibi remedium</i>). Holt C.J. in 1702.
4.	<i>Pasley v. Freeman</i>	(1789) Tort of Deceit.
5.	<i>Lumley v. Gye</i>	(1853) Inducement to breach of Contract.
6.	<i>Ryland's v. Fletcher</i>	(1868) Rule of Strict Liability.
7.	<i>Winsmore v. Greenbank</i>	(1745) Inducement to wife to leave her husband.
8.	<i>Rookes v. Barnard</i>	Tort of Intimidation.

Essentials of a Tort

As recognized by the Court of Law are as follows:

S. No.	Essentials of a Tort
1.	Act or omission on part of the defendant.
2.	Act or omission should result in legal damage (<i>injuria</i>). There must be violation of a legal right vested in the plaintiff.

'*Injuria Sine Damno*' means violation of legal right without causing any harm, loss or damage to the plaintiff. Torts can be divided into two parts. First is "Actionable *per se*", i.e. torts actionable without the proof of any damage or loss. Second is "Actionable" only on proof of some damage caused by an act.

The case of *Ashby v. White* is a leading case of *injuria sine damno*. In this case a qualified voter was refused from casting the vote. No loss was suffered because the candidate for whom he wanted to vote won the elections.

Damnum Sine Injuria means that Damage which is not coupled with an unauthorized interference with the plaintiff's lawful right. The leading case of *Damnum Sine Injuria* is *Mogul Steamship Co. v. Mc Gregor Gow and Co.* In this case number of Steamship Companies combined together and drove *Mogul Steamship Co.* out