

UNIT – IV

Specific Torts

Person • Reputation • Freedom • Domestic Rights • Property

Detailed Tort Categories

Law of Torts • Modern Legal Education

What We Will Cover

01

Torts Affecting Body

Assault, Battery, Mayhem, False Imprisonment

02

Torts Affecting Reputation

Libel & Slander (Defamation)

03

Torts Affecting Freedom

Malicious Prosecution, Abuse of Process

04

Domestic & Other Rights

Marital, Parental, Service, Intimidation, Conspiracy

05

Torts Against Property

Trespass, Conversion, Detinue & related wrongs

Assault & Battery

Assault

An act of the defendant which causes the plaintiff reasonable apprehension of the infliction of a battery on him.

Essentials:

- Intentional act
- Reasonable apprehension of immediate battery
- No physical contact required

Examples: Pointing a loaded gun, raising a fist in a threatening manner.

Mere words generally do not amount to assault (unless accompanied by gestures).

Battery

The intentional application of force to the person of another without lawful justification.

Essentials:

- Direct application of force
- Intentional (or negligent in some views)
- Without consent or lawful excuse

Force includes even a slight touching.

Defences: Consent, Self-defence, Lawful authority (e.g., arrest).

Further Bodily Torts

Mayhem (Maim)

An old common law tort involving the intentional infliction of an injury that deprives the victim of the use of a part of the body so as to make him less able to defend himself or fight.

Modern relevance is limited; most such injuries are now covered under battery and criminal law.

It is rarely pleaded as a separate tort today.

False Imprisonment

Total restraint of the liberty of a person without lawful justification.

Essentials:

- Complete deprivation of liberty
- Without lawful cause
- Knowledge of the plaintiff is not always necessary

Examples: Locking a person in a room, unlawful arrest.

Partial obstruction of movement is not enough.

Libel & Slander (Defamation)

Defamation is the publication of a false statement that lowers the reputation of a person in the estimation of right-thinking members of society. It is of two kinds: **Libel** (permanent form) and **Slander** (transient form).

Libel

Defamation in permanent form (writing, printing, picture, statue, film). Actionable per se – no need to prove special damage.

Slander

Defamation in transient form (spoken words, gestures). Generally requires proof of special damage (with exceptions).

Essentials

1. Statement is defamatory
2. Refers to the plaintiff
3. Is published (communicated to at least one third person)

Key Defences

Truth (Justification), Fair Comment, Privilege (Absolute & Qualified), Consent.

Malicious Prosecution

Malicious Prosecution is a tort arising from the institution of unsuccessful criminal (or certain civil) proceedings against the plaintiff maliciously and without reasonable and probable cause.

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|---|---------------------------------|--|
| 1 | Prosecution by Defendant | Defendant must have been actively instrumental in setting the law in motion. |
| 2 | Without Reasonable Cause | Absence of reasonable and probable cause for the prosecution. |
| 3 | Malice | Defendant acted with malice (improper motive). |
| 4 | Termination in Favour | Proceedings must have terminated in favour of the plaintiff. |
| 5 | Damage | Plaintiff must have suffered damage (to reputation, person or property). |

Malicious Civil Action & Abuse of Process

Malicious Civil Action

Institution of civil proceedings maliciously and without reasonable cause.

In India and England, mere civil action (even if malicious) generally does not give rise to this tort unless there is special damage such as arrest of person, seizure of property, or insolvency proceedings.

The scope is narrower than malicious prosecution.

Abuse of Legal Process

Using a legal process for a purpose other than that for which it was designed.

Unlike malicious prosecution, it is not necessary that the proceedings have terminated in favour of the plaintiff.

The focus is on the improper purpose for which the process is used (e.g., using arrest to coerce settlement of a civil debt).

Marital, Parental & Service Rights

Marital Rights

Action for loss of consortium (now largely abolished or restricted in many jurisdictions). Enticement and harbouring of spouse were old torts.

Parental Rights

Action for enticement or harbouring of a child, or for seduction of a daughter (based on loss of services).

Rights to Service

Master could sue for loss of services of a servant caused by the defendant's tort (e.g., injury to servant).

Modern Position

Many of these old domestic torts have been abolished or severely limited by statute in England and have limited practical relevance in modern Indian law.

Economic & Collective Torts

Intimidation

A threat by the defendant to do an unlawful act, which coerces a person to act to the plaintiff's detriment.

Classic case: *Rookes v. Barnard*.

Elements:

- Threat of an unlawful act
- Intention to injure the plaintiff
- Causation of damage

The threat must be of an illegal act (crime, tort or breach of contract).

Conspiracy

Agreement between two or more persons to do an unlawful act, or a lawful act by unlawful means, causing damage to the plaintiff.

Two forms:

- Conspiracy to injure (predominant purpose to injure)
- Unlawful means conspiracy

Justification (e.g., legitimate trade competition) can be a defence.

Interference with Property Rights

Trespass to Land

Unjustified interference with the possession of land. Direct and intentional (or negligent). Actionable per se.

Trespass to Goods

Direct and wrongful interference with goods in the possession of the plaintiff (e.g., taking, damaging).

Conversion

Dealing with goods in a manner inconsistent with the rights of the person entitled to them (e.g., selling stolen goods).

Detinue

Wrongful detention of goods after demand for their return has been made. (Largely absorbed into conversion in modern law.)

Nuisance (Property)

Indirect interference with the use or enjoyment of land (already covered under Nuisance).

Remedies

Damages, Injunction, Recovery of possession / specific restitution of goods.

KEY DISTINCTIONS

Quick Comparison Points

Assault vs Battery

Assault = apprehension of force. Battery = actual application of force. Both can exist together or separately.

Libel vs Slander

Libel is permanent and actionable per se. Slander is transient and generally requires special damage.

False Imprisonment vs Malicious Prosecution

False imprisonment focuses on restraint of liberty. Malicious prosecution focuses on wrongful initiation of legal proceedings.

Conversion vs Trespass to Goods

Conversion involves dealing with goods inconsistently with owner's rights (often permanent). Trespass is direct interference with possession.

IMPORTANT CASE LAWS

Landmark Decisions

Rookes v. Barnard (1964)

Established the modern tort of intimidation.

Bird v. Jones (1845)

Partial obstruction of movement is not false imprisonment.

Meering v. Grahame-White Aviation

Plaintiff need not know of the restraint for false imprisonment to exist.

Cassell & Co. v. Broome

Principles relating to damages in defamation.

Mohinder Singh v. State

Indian illustrations on malicious prosecution requirements.

Rylands / Conversion cases

Classic authorities on property torts continue to guide Indian courts.

KEY TAKEAWAYS

Summary of Unit-IV

- 01 Bodily Torts**
Assault (apprehension), Battery (force), False Imprisonment (total restraint).
- 02 Defamation**
Libel (permanent, per se) vs Slander (transient, usually needs special damage).
- 03 Freedom Torts**
Malicious Prosecution requires malice + absence of reasonable cause + favourable termination.
- 04 Economic Torts**
Intimidation and Conspiracy protect against unlawful pressure and collective injury.
- 05 Property Torts**
Trespass, Conversion and related actions protect possession and ownership of land and goods.

Thank You

“Every person’s body, reputation and property are protected by the law of torts.”

UNIT-IV | Law of Torts