



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **FUNDAMENTALS OF TORT AND** **DISCUSSION ON INJURIA SINE DAMNO** **& DAMNUM SINE INJURIA**

Authored By - Navna Singh & Khushnoor Kaur<sup>1</sup>

## **INTRODUCTION**

The word Tort has originated from the French word *tortum* whose literal meaning is something that is 'twisted' or 'crooked'. It is an elusive concept and has defied attempts to formulate a useful definition, but a common element in all torts is that someone has suffered loss or harm as a result of some act or failure to act by another.

Salmon defines it as "A civil wrong for which the remedy of law is an action for unliquidated damages and which is not exclusively the breach of contract or the breach of trust or other near equitable obligation". Winfield defines tort as "Tortious liability arises from the breach of a duty primarily fixed by law; this duty is towards persons generally and its breach is redressable by an action for unliquidated damages." Limitation act, 1983, section 2(m) defines tort as a civil wrong independent of contract.

The law of Tort remains an uncodified one and is largely unaffected by statutes. Tort is termed as a civil wrong. Any person who commits a wrong is termed as Tort Feasor. It is the body of law which allows an injured person to obtain compensation from the person committing the tort (Injury here means infringement of a legal right).

It is a civil wrong other than a breach of trust or contract which the law will redress by an action for unliquidated damages. Exception to this can be intentional Negligence. Consider a surgeon who intentionally operates someone wrongly leading to that person's death; this will be a crime and a tort.

The two maxims injuria sine damnum and damno sine injuria are the essential Latin maxims that help to better understand the application of tort law. By a close observation of both one can deduct

---

<sup>1</sup> Author- Navna Singh, Assistant Professor, School of Law, Mody University of Science and Technology Lakshmangarh, Rajasthan, navnasingh.clg@modyuniversity.ac.in ,9530196706.

Co- Author- Khushnoor Kaur, B.A.LL.B. (Hons.) Fourth Year, Amity University, Jaipur, [Khushnoorrandhawa@gmail.com](mailto:Khushnoorrandhawa@gmail.com), 9462955410

the balance between the damage or injury suffered and the compensation it amounts to relating both to the actual infringement of a legal right. This article caters to delve deeper into these two maxims understanding their application through case laws and legal interpretations.

## ELEMENTS OF TORT

There are basically three major elements that constitute a tort.

This includes the tortfeasor or essentially the defendant whose action causes certain harm or injury. Secondly, the plaintiff who is harmed by the defendant or more correctly whose legal right has been infringed. Thirdly the defendant seeks a remedy for the harm done to him.

Invoking *Ubi jus ebi remedium* which is a Latin maxim that translates to where there is a right there is a remedy. We are primarily focused on the rights that are infringed by the tortfeasor.

The action of the tortfeasor causing the harm or injury can be an act that invades any of the three rights.

- Defamation
- Property ( Trespass- nominal or actual)
- Body rights (Assault, battery etc.)

To constitute a tort it is not necessary that a person suffers monetary damages, the necessary condition is the infringement of a legal right i.e. a legal injury is caused. This injury can be in terms of loss of money, health, comfort or alike.

## TORT LIABILITY

Now to what extent can someone be held accountable in tort law is dependent on various factors that can be majorly divided into four heads namely Fault, types of injury, types of damage and excuses by defendant.

Now liability of a person can be strict which implies that a person would be deemed responsible to compensate the injured even when they are not at fault or there is the concept of absolute liability which arises in case of hazardous activities like keeping explosives. Tort can be committed with the intention to commit it or due to gross negligence, both would have different consequences.

Liability strictly befalls on the type of injury caused. It can be an injury to the person in the sense

of causing wrongful death or as an assault, it can also be causing mental distress to the person. It can be for causing false imprisonment as well. It can be for causing harm to the property of the person in terms of nuisance caused, trespassing and fraud.

Liability depends on the type of damage caused to the plaintiff. It is generally pecuniary as in loss of earnings, nursing expenses and loss of matrimonial aspect. But a lot of times it can be non – pecuniary as well such as pain and suffering, loss of life expectation, loss of physiological function.

Now to be relieved from the liability, a tortfeasor uses a range of excuses, these include *volenti non fit injuria* which translates to that a person who knowingly jumps into danger cannot then later recover damages. Other would be Act of God necessarily used when the plaintiff is harmed due to a natural calamity not at the fault of the defendant. Defendant might also use private defense stating that the action was taken as a way to save himself and not to injure the plaintiff.

## **INJURIA SINE DAMNO**

There are two types of cases in tort, as already discussed the most important element of tort is the infringement of a legal right whether it causes damage or not. So it is divided into two parts the first one where there is infringement of a legal right but no damages are caused, and that where infringement is caused along with the damages. The first category falls under the maxim *injuria sine damno*. There are certain cases in torts which fall under this category where the court believes it is not necessary for the plaintiff to have suffered damages and that the infringement of the right is enough reason for compensation.

The same principle has been followed in India. It was observed by the Privy Council that “there may be, where a right is interfered with, *injuria sine damno* sufficient to find an action: but no action can be maintained where there is neither *Damnum* nor *injuria*”. An example for this is carrying a procession through a certain public street on a particular occasion or receiving offerings by setting up a new temple in the same vicinity of the same deity.

### ***Refusal to register vote***

- Ashby v. White<sup>2</sup>

Facts - In this leading case Mr. Ashby was prevented from voting at an election by the returning

---

<sup>2</sup> Ashby v. White, (1703) 2 Ld. Raym. 938.

officer Mr. White on the apparent pretext that he was not a settled inhabitant, which is wrongfully refusing to register his tendered vote at the parliamentary election. The person Mr. Ashby had voted for won the election anyways and therefore no loss was suffered by the rejection of his vote. Mr. Ashby filed a case against him for infringement of his right to vote

Issue - Whether an injury could be established in the absence of financial loss

Held an important judgment was laid down by the court. It was observed that by rejecting that persons vote Mr. White has violated the legal right of the plaintiff. The returning officer has acted maliciously and though there was no financial loss to the plaintiff, the legal injury inflicted was enough a cause for the action.

See also – The Municipal board of Agra v. Asharfi lal<sup>3</sup>

If a person entitled to be included in the electoral roll is wrongfully emitted from such role so as to be deprived of his right to vote he suffers a legal wrong for which an action lies.

### ***Banker refusing cheque***

▪ Marzetti v. Williams<sup>4</sup>

Facts - In this case the plaintiff Marzetti was holding an account in the Bank of the defendant. There was sufficient amount of money in the plaintiffs account but when he tried to withdraw some money through a self-check he was not allowed to do so by the bank officials without giving any particular reason for their act. The plaintiff has filed a suit against the banker who had refused to honour his check

Issue- Whether the suit is maintainable though the plaintiff suffered no loss.

Held- It was observed by the respective code that though there was number loss caused to the plaintiff through the defendants actions but the defendant is still liable for infringing the plaintiff's right to withdraw money from his own account.

---

<sup>3</sup> The Municipal board of Agra v. Asharfi lal, (1992) 44 All 202.

<sup>4</sup> Marzetti v. Williams, (1830) 1 B & Ad 415.

## **DAMNUM SINE INJURIA**

This maxim indicates that if there is no legal loss or no legal right has been infringed, no remedy can be given for the same. A mere monetary loss does not in itself constitute a tort. There are various situations in which terrible harm is inflicted by one man on another but they are not wrongful in terms of law and hence give no right of action. The essential element of tort is the infringement of a legal right, a right that is recognized by the law. If the person has suffered damages due to another party but his legal right is not infringed it is no cause of action in tort law. This maxim can be better understood by the case laws given below.

## **FOREIGN CASE LAWS**

### ***Cases relating to percolation of water***

- **Acton versus Blundell<sup>5</sup>**

**Facts-** One of the land owners was invested in mining. The owner adjacent to him had a well in which water flowed in its natural course from the first owner's land. One day during the regular course of mining operations on his own land in the usual manner he drained away the water from the land of the other owner through which water flowed in a subterranean course to his well. The other immediately filed a case, as he enjoyed the well for a lot of years and due to his neighbour's action he has faced damages.

**Issue** – Whether depriving the neighbour of the well he enjoyed can constitute a tort.

**Held-** In the immediate case it was held that the latter had no right to maintain an action. Though the act of the neighbour has caused him damages in depriving him from enjoying the benefits of a well which has existed in his property for a long time, but the following has not deprived him of any legal right. Hence, no action for Tort will arise.

- **Stephens v. Anglian Water Authority<sup>6</sup>**

**Facts-** A Lady owned a cottage. A landowner whose land was adjacent to her cottage kept on extracting underground water despite the warning that it was likely to result in the collapse of the neighbouring land. The lady filed an action against the landowner for damaging her property.

---

<sup>5</sup> Acton v. Blundell, (1843) 12 M & W 324.

<sup>6</sup> Stephens v. Anglian Water Authority, (1987) 3 All ER 379(CA).

Issue – Whether the landowner can be made liable as the collapse of the house was foreseeable.

Held - Landowner is entitled to exercise his right to obstruct subterranean water flowing in undefined channels under his land regardless of consequences, whether pecuniary or physical, to his neighbours and regardless of his motive or intention or whether he anticipated damage. Holding onto this view it was held that the landowner was not liable to his neighbour, whose actions ended up damaging her house.

Personal View- Though the decision in the case provides no compensation, but there is a need for a judicial decision or legislation to change the view. As it gives an unrestricted right to the person for extraction of underground water, this may result in bringing down the water level in the neighbouring area to such an extent to dry up all the wells, seriously affecting the life and vegetation of the neighbourhood. A new decision as to restricting the point of liability arising after a certain point is needed.

### ***Cases Relating to Working of Mine***

- Wilson v. Waddell<sup>7</sup>

Facts - A landowner while working his mines makes the coal impervious to water so that the greater part of the rainfall floats away over the surface and due to gravitation and percolation into the defendant's workings. The other party had to bear additional expenses to pump out the water from their lower coal mine; hence they filed a case for damages.

Issue – Whether the defendants could be made liable for the damages caused to the plaintiff.

Held - It was held that the owner of the later could not sustain any action because their right to work a mine was a right of property, and any person exercising their right had no responsibility to pay for the damages caused when they had not infringed any right of the other.

### ***Rival School Set Up***

- Gloucester Grammar School case<sup>8</sup>

---

<sup>7</sup> Wilson v. Waddell, (1876) 2 App Cas 95.

<sup>8</sup> Gloucester grammar school case, 91410) YB 11 Hen 14, fo 47, pl 21, 23

Facts—The defendant used to be a teacher at the plaintiff school. Due to some internal dispute, he left the job and set up his own school next to that of the plaintiff. As the teacher was famous among the students, the students left the plaintiff school and join the defendant school. The plaintiff sued the defendant for the monetary loss caused to him due to setting up of the rival school.

Issue –Whether damages caused due to competition constitute a tort.

Held - The defendant had legally set up his school and he did not violate any legal right of the plaintiff in doing so. Mere competition can be no ground for action whatever damage may result from it. The boys moved to the defendant's school through their free will, hence not infringing any legal right of the plaintiff, no action could arise.

### ***Driving Rival Out of Market***

- Mogul Steamship Co v. Mc Gregor, Gow & Co.<sup>9</sup>

Facts—The plaintiff was an independent ship owner who used to send his ships to the cargo port stopped in cargo. The defendants were also a group of people who owned the business of cargo ships. They sent a lot of ships to the port and reduced their flights to the value that the plaintiff was not able to make profit and also threatened any agent who helped in loading the plaintiff ship. The plaintiff filed a suit against the defendants for the damages caused to him

Issue - Whether the defendant's actions were unlawful and could be alleged as a conspiracy.

Held - The defendants had acted in a manner to protect their own profits which is a lawful objective. There was no malicious intention to injure the rival trader, it was only intended by them for the plaintiff to withdraw from the trade, and the actions were taken in furtherance of their own business interests. No legal right of the plaintiff was infringed. It was decided that a damage done by competition in trade is not actionable

### ***Using Same names for House***

- Day v. Browning<sup>10</sup>

Facts - The plaintiff resided in a big house named Ashford lodge and his neighbour's house was

---

<sup>9</sup> Mogul Steamship Co v. Mc Gregor, Gow & Co, (1892) AC 25

<sup>10</sup> Day v. Browning, (1878) 10 Ch D 294

named Ashford villa. The plaintiff's house has been named for 60 years and the defendants for 40 years. The defendant changed the name of his house to Ashford lodge. The plaintiff filed the suit against the defendant alleging that the act has brought him great annoyance and inconvenience, it also lead to diminish the value of his property.

Issue - Whether keeping same names of adjacent properties be called unlawful

Held - It was observed by the judges that the court can only interfere in matters where there was an infringement of legal right. In the pertaining case the defendant by naming his house same as that of the plaintiff did not infringe any legal right of the plaintiff, hence any action could not arise.

### ***Obstruction in viewing shop***

- Butt v. Imperial Gas Co.<sup>11</sup>

Facts - The plaintiff was a shop owner, he had a board outside his shop indicating the materials that he deals with. The defendant by virtue of a statutory authority, erected a gasometer outside the plaintiff shop, it was put up in such a way that it obstructed the view of the plaintiff's premises. The plaintiff in this situation files the case to restrain the erection of gasometer.

Issue - Whether the plaintiff has suffered a legal damage and is entitled to injunction

Held - The court observed that though the erection of the gasometer has obstructed the view of the plaintiff shop, it has still not infringed any legal rights of the plaintiff. It was ruled that the injunction cannot be granted for the injury complaint thereof.

### ***Wrong delivery of telegram***

- Dickson v. Reuter's Telegraph Company<sup>12</sup>

Facts- A sends the telegram to B for certain shipment. The telegram company mistakes the address of B for C and henceforth delivers the telegram to C instead of B. C acting upon the given telegram sends the goods to A. A then rejects the goods delivered by C stating that it had ordered the goods from B are not from C. C then files a suit against the telegram company for the losses that he bears due to the mistake of the telegraph company.

---

<sup>11</sup> Butt v. Imperial Gas Co, (1866) LR 2 Ch App 158.

<sup>12</sup> Dickson v. Reuter's Telegraph Company, (1877) 3 CPD 1.

Issue - Whether the defendants can be made liable on the grounds of negligence covered under torts

Held - It was observed in the apparent case that the company did not owe any duty of care to the plaintiff, it did not infringe any legal right of the plaintiff hence it cannot be made responsible for the damages that the plaintiff suffered due to the misdelivery of the telegram.

### ***Water Supply Cut off***

- Electro chrome Ltd. v. Welsh plastics Ltd<sup>13</sup>

Facts - Defendant servant was driving a lorry and due to his mistake a fire hydrant near the plaintiff's factory was damaged. As a result of this the main water supply was cut off and this caused the loss of one day's work in the plaintiff's factory. The plaintiff filed the case against the defendant for the loss it has suffered due to the shutdown of one day.

Issue - Whether the plaintiff has suffered any legal injury.

Held - The court observed that neither the hydrant nor the main were owned by the plaintiff. There was no injuria to the plaintiff. The loss of the one day's work was caused due to the circumstances which arose due to the negligence of the plaintiff but it did not fall under the category of legal injury.

## **INDIAN CASES**

### **Loss of academic year**

- Vishnu dutt Sharma v. board of high school and intermediate examination<sup>14</sup>

Facts - The plaintiff was a student in Anglo Sanskrit College, mawana. He was detained on the grounds of short attendance. The college authority has not maintained their attendance register in accordance with the regulations of the board; it was required to maintain attendance in every period whereas it was only done twice a day in the college. Due to the misconstruction of the relevant regulations the student suffered the loss of one year. He therefore filed the suit against the

---

<sup>13</sup> Electro chrome Ltd. v. Welsh plastics Ltd., (1968) 2 All ER 205.

<sup>14</sup> Vishnu dutt Sharma v. board of high school and intermediate examination, AIR 1981 All 46.

College and the principle claiming compensation for his loss.

Issue - Whether the claim of the plaintiff falls under any of the heads of torts recognised in common law.

Held - This suit was dismissed by the court on the ground that it was not maintainable. Every breach of legal provision does not give rise to an action in the tort. The provision in the regulations regarding the form of maintenance of attendance register did not; for the purpose of law of torts entail a duty on the part of the principal towards the students, a breach of which would be actionable.

### ***Refusal of employment***

- Rogers v. rajendro dutt<sup>15</sup>

Facts - The plaintiff was the owner of a tug which was employed by the government pilots in the Hooghly region for towing their ships. A troop ship arrived in Hooghly. The plaintiff demanded a very high price for towing the ship, resulting in which the superintendent of marine issued the order to the officers of the government pilot service not to employ this particular tug in the future. The plaintiff was then left unemployed by the government and suffered damages. He therefore brought a suit against the Superintendent for compensation.

Issue - Whether it could be counted as a Tortious act by the superintendent.

Held - It was observed by the court that the employment of services is a free act. The plaintiff therefore had no legal right to have their tug employed by the government. Therefore not employing them does not give rise to any Tortious liability and the action was dismissed.

### ***Damage to wall***

- Anand Singh v. Ramchandra<sup>16</sup>

Facts - The defendant had built two pucker walls on the North and South of his house. As a result

---

<sup>15</sup> Rogers v. rajendro dutt, (1860) 8, MIA 103.

<sup>16</sup> Anand Singh v. Ramchandra, AIR 1963 MP 28.

of which water between the plaintiff's house flows through lane which belongs to the defendant but it damages the walls of the plaintiff. The plaintiff brought a suit against the defendant from constructing any wall and demolishing the ones present.

Issue - Whether the allegations of the plaintiff can be upheld and the defendant is made liable for it.

Held - If the water from the walls of the defendant flows on towards the wall of plaintiff, then since the plaintiff has not acquired any easementary rights, he cannot ask for relief he has sought. The defendant by building walls on his own land has not in any way violated plaintiff's right and does not then amount to a Tort. This then is a case of Damnum sine injuria and therefore no right of action accrues to the plaintiff.

### ***Not Offering Food to Idol***

- Dhadphale v. Gurav<sup>17</sup>

Facts - The plaintiffs were the servants working in a temple. They had a right over the food that was offered to the idol. The defendant, who is the person responsible for offering the food, had omitted to do so several times. The plaintiffs brought a suit against the defendant for not offering the food and therefore the damages that they suffered due to it.

Issue - Whether offering food to an idol can be termed as a duty in law.

Held - It was observed by the respective court that though it is the right of the servants over the food that is offered to the idol, the person offering the food has no legal obligation to do so. Not offering food to an idol does not constitute a tort in the eyes of law.

---

<sup>17</sup> Dhadphale v. Gurav, (1881) 6 Bom 122.

## **CONCLUSION**

It is a fair observation that it is important to be familiar with the fundamentals of the tort law in order to navigate through the fields of civil wrongs or personal injury claims. While discussing the important aspects of tort law, we have majorly focused on two broad principles of the tort law which are: *injuria sine damno* and *damnum sine injuria*.

*Injuria sine damno* refers to the case where legal injury is involved but it does not lead to any actual damages to the person. It lays down the principle that certain actions which may not cause any real harm to the person but result in legal injury would be liable to be compensated through claim. This brings into attention the significance of legal injury, that an individual can be compensated when there is legal injury irrespective of the fact whether it results into actual losses or not.

On the other hand, *Damnum sine injuria* refers to cases where the individual does suffer losses, but no actual injury is involved. It formulates the principle that not all the damages suffered, or harm caused can be translated into actionable claims, there has been to an infringement on a legal right in order to seek compensation.

Thus, both the principles reinforce the fact that law does not deal with the ordinary problems of everyday life, it does not concern with those situations but rather only comes into action when a legal right is infringed. It is the duty of the law to protect the individuals against harm caused to them but not unnecessarily every harm which is not legally wrong.

It is further noted that these principles are more flexible rather than being rigid. Whether compensation would be granted or not primarily depends on the factual context of the case, the severity of the injury caused and taking into consideration various other factors as are deemed necessary for the case.

It is again submitted that both these principles establish the significance of social policy in tort law as they cater to lower the burden of excessive litigation. These principles are adamant to inculcate the broader principles of a fair society by distinguishing between mere harm and actual legal injury that must be compensated.

## **BIBLIOGRAPHY**

### Cases Referred

1. Ashby v. White, (1703) 2 Ld. Raym. 938.
2. The Municipal board of Agra v. Asharfi lal, (1992) 44 All 202.
3. Marzetti v. Williams, (1830) 1 B & Ad 415.
4. Acton v. Blundell, (1843) 12 M & W 324.
5. Stephens v. Anglian Water Authority, (1987) 3 All ER 379(CA).
6. Wilson v. Waddell, (1876) 2 App Cas 95.
7. Gloucester grammar school case, 91410) YB 11 Hen 14, fo 47, pl 21, 23
8. Mogul Steamship Co v. Mc Gregor, Gow & Co, (1892) AC 25
9. Day v. Browning, (1878) 10 Ch D 294
10. Butt v. Imperial Gas Co, (1866) LR 2 Ch App 158.
11. Dickson v. Reuter's Telegraph Company, (1877) 3 CPD 1.
12. Electro chrome Ltd. v. Welsh plastics Ltd., (1968) 2 All ER 205.
13. Vishnu dutt Sharma v. board of high school and intermediate examination, AIR 1981 All 46.
14. Rogers v. rajendro dutt, (1860) 8, MIA 103.
15. Anand Singh v. Ramchandra, AIR 1963 MP 28.
16. Dhadphale v. Gurav, (1881) 6 Bom 122.

**Books Referred**

- 1 The Law of Torts, 26th Ed., by Ratanlal and Dhirajlal
2. The Law of Torts, 24<sup>th</sup> Ed., by R. K. Bangia