AILET

Legal Aptitude for CLAT: Law of Torts: Defamation

Aditya Anand · 15 Oct 2019

Defamation

It is the damage done to the reputation or the goodwill of a person by expressing an opinion or passing of derogatory information.

Essentials of Defamation

- The statement made must be defamatory in nature.
- It must refer to the plaintiff,
- It must be published, which means that it must be communicated to a person other than the plaintiff.

A defamatory statement must be made to harm or damage the reputation of the plaintiff in the mind of a third person.

Slander

If defamation is done orally, by the spoken word, it will be said to fall under slander.

Eg: Ram told Shyam that Laxman got suspended from college on account of cheating in an exam. The statement made is slanderous in nature.

Libel

If the defamation is done in a permanent form like writing, it is said to fall under libel.

Eg: Aaj ki awaaz publishes a false story about the private life of Geeta who is an actress. This publication qualifies for libel.

In the event of the statement prima facie not being defamatory, the plaintiff must prove that there is a secondary meaning to the statement and that it leads to defamation by innuendo.

Defences Against Defamation

- Justification: If the statement made is true, the defendant is not held liable for defamation. Eg: If Ram told Shyam that Laxman who is a civil engineer was caught taking a bribe and the statement is a true fact, then Ram would not be held liable for defamation.
- Fair Comment: If a statement is a fair comment made on matters dealing with the public interest, then such a statement will not be defamatory. Eg: If a Minister makes a statement about the state of ministry, then it will be counted as fair comment.
- Privilege: In some cases, a person is given privilege in the form of protection and his/her statements are not considered defamatory. Also, some people are granted qualified privilege wherein he/she is protected only if he/she acted with honesty and without any malice. Eg: Statements made while filing a report in a police station or during judicial or parliamentary proceedings are privileged statements.

Defamation as a Crime

Section 499 of the Indian Penal Code says Defamation is a crime. Defamation accounting for both Libel and Slander is punishable under IPC.