AILET

Legal Aptitude For CLAT: Law of Torts- Vicarious Liability

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Generally, a person who commits a wrong is liable for it himself, however, under this concept of ***vicarious liability,*** a person is liable for the wrongful actions of other people.

According to black's law dictionary, the vicarious liability is defined as ***the imposition of liability on one person for the actionable conduct of another, based solely on a relationship between the two persons.***

There are two types of relationships at play here:

1. Principal-Agent Relationship
2. Master and Servant

Principal-Agent Relationship

This relationship is best defined by the maxim '***Qui facit per alium facit per se***'. This translates to '***the acts of the agent are in fact the acts of his principal***'.

For every wrongful action or tort committed by an agent, the principal who has authority over him will be liable for his actions.

Eg: A went to B, a law firm to consult on the lease deed of his house. B made A sign a document which was a sale deed instead of a lease deed. Since A was acting under the authority of B, B as the principal will be liable for the acts of A.

Master and Servant

Under vicarious liability, a master is responsible and therefore is liable for all the wrongful acts committed by his servant. There are two conditions that should be met for a master to be vicariously liable

1. The servant must have committed the act.

2. The act must have been committed during the course of employment.

Course of Employment

As per the second condition of a master-servant relationship, the acts of the servant for which the master is to be held responsible, need to be **in the course of employment**. This means that just because two people are in a master-servant relationship, it does not mean that every unlawful act or wrong committed by the servant will be the liability of the master.

There is a clear distinction between the acts done in the course of employment and those out of it. Only the acts which are authorized by the master are under the purview of course of employment.

Eg: The master asks his servant to pick a friend from the airport, while driving to the airport, the servant hits a little girl on her bicycle. This was done within the course of employment and therefore the master will be liable.

Difference between Servant and Independent Contractor

A servant is under the direct control of the master. He follows each and every direction of the master and acts under direct supervision.

On the other hand, an independent contractor is not controlled by the directions or supervisions of anyone. He makes his own decisions and roadmap to complete the work.

Therefore an employer is not responsible for the wrongful acts of the independent contractor employed by him.

Eg: A asks his servant to pick a friend from the airport, the servant hits a girl on the road. A is liable but if A takes a taxi to pick his friend and the taxi hits the girl, A is NOT liable.

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