BLOGS

Notes on Tort Law: Types of Torts

Ruchika Mohapatra · 07 Feb 2023

TABLE OF CONTENTS

Types of Torts
Intentional Tort
Assault and Battery
Trespass
Conversion
False Imprisonment
Nuisance

In the first article, we covered the basics of Tort Law, namely definitions, essential elements, and differences between the Law of Torts and other laws. In this article, we'll understand the different types of torts in detail, and focus on intentional torts, what actions constitute them and what are the remedies available.

Types of Tort

A tort is a civil wrong that entitles the person wronged, known as the plaintiff, to compensation paid by the person at fault, known as the tortfeasor(s). A tort comprises of a wrongful act that causes legal damage and has a legal remedy. Tort law has evolved with history, private property ownership, and industrialization giving rise to new categories of Tort.

There are three major types of Torts:

1. Intentional Torts
2. Negligence
3. Strict Liability Torts

Intentional Torts

These torts comprise of acts that are done intentionally and cause damage to a person. Assault, battery, nuisance, trespass and conversion are some intentional torts that we will earn about in further detail.

Assault and Battery

These two torts and closely related and hence studied together. Battery refers to intentional application of force against a person. Assault refers to an action that causes apprehension of battery. If a A raises their hand to slap B, the raising of the hand, which causes a fear of getting slapped, is assault. When A's hand actually hits B, it becomes battery.

Reasonable apprehension is important for assault. This was held in ***R v St. George***, when the Court said that only pointing an unloaded gun will not amount to assault, but if it is held too close, there is a reasonable apprehension to be hit by the gun, thus amounting to assault. In ***Cullison v Medley***, the Court said that no physical touch is required for assault, there should only be a fear of battery in the mind of the plaintiff due to actions of the tortfeasor.

Battery under tort law is a civil wrong. If a person inflicts force on another that causes some damage, it amounts to battery. Whether the force was intentional or not is of no consequence in this particular scenario.

In ***Cole v Turner***, the Court held that violence against another person is battery and battery does not include gently touching another. In ***Garrat v Dailey***, the Court held that a minor was liable for battery, for pulling the chair of the plaintiff who broke their hip. In ***Talmage v Smith*** the position of intention in battery was clarified by the court. Even if a tortfeasor intended to inflict injury on a specific person and more people get injured, the tortfeasor will be liable for damage caused to all parties involved. This proves that intention is not important for tort law.

In cases of assault or battery, the plaintiff is entitled to recovery of damages and compensation, which can include medical expenses and compensation for mental trauma etc.

Trespass

Trespass generally refers to entering someone's property without permission of the owner or in-charge of the property. This is specifically referred to as 'trespass to land' because assault and battery is also called 'trespass to body'. This is because the word trespass has a wider connotation which refers to at least two types of torts.

There are two elements to commission of the tort of trespass to land:

1. Entering into someone's land or property
2. Without the owner's permission

Trespass follows from the right of the owner of a property to enjoy their property quietly and peacefully. Trespass violates this legal right. If a person withdraws their permission to be on the land, the unlawful presence of a person becomes trespass. This is termed as trespass ab initio, which means that trespass would be considered to have taken place from the very beginning of the trespasser's presence on the land.

Remedies against the tort of trespass include a suit for recovery of the land, compensation and suit for mesne profit. Mesne profits are compensation for loss of the profit that the owner of the property receives from it.

Conversion

When a person wrongfully gains possession of another person's good and derives unfair advantage from the same, this is termed to be the tort of conversion. The three essential components of this tort are:

1. Wrongfully gaining possession
2. Abusing possession of goods
3. Denying the title of goods to the actual owner

If A intends to wrongfully gain possession of B's gold ring and eventually does that, the act amounts to conversion. Even if the possession is not gained wrongfully, if a person having rightful possession abuses the same, it will amount to conversion. For example, if A gives their gold ring to B to keep safe because they are going abroad and B sells the ring, this will amount to conversion because even though B had rightful possession of the property entrusted to them by A, they abused the possession for their unlawful gain.

In ***Richardson v. Atkinson*** the plaintiff's wine cask had some wine that the defendant removed. After taking some, the defendant filled the barrel with water. It was ruled in court that the defendant was responsible for the tort of conversion since he intended to take the plaintiff's wine.

False Imprisonment

Restraining a person's movement and liberty without lawful sanction is known as false imprisonment. If movement is blocked from all sides but one, it will not amount to false imprisonment as the person is free to move. However, if the person is not aware that one side is not restrained, then it shall amount to false imprisonment. If the person has consented to being restrained, it will not amount to false imprisonment. Police and other public authorities restraining an individual according to the law will not be liable for false imprisonment. However, if the police officer is not authorized to arrest and is aware of the fact, they shall be liable for false imprisonment.

The essential elements for wrongful restraint are:

1. Total restrainment of the liberty and movement of an individual.
2. No lawful excuse for doing the same.

Nuisance

Nuisance is causing annoyance or hurt to any person or interfering with their use or enjoyment of some right or property. It is further bifurcated into public and private nuisance.

Public nuisance is caused when someone through their actions, affects the peace and tranquillity of the society at large. For example, making incessant noise in a neighbourhood amounts to public nuisance.

Private nuisance refers to causing disturbance and obstruction in the usage of an individual's property. So if your plumbing system is faulty and the water is seeping to your neighbor's apartment and damages their things, it will amount to nuisance. Compensation for damage caused and agony suffered by the plaintiff is awarded for nuisance.

Check out more notes on Tort Law here and here!