

**SCHOOL OF LAW
JAMIA HAMDARD
NEW DELHI**

SYLLABUS

Law of Torts-I

SEMESTER-I

BALLB-106

Course Description

Right and wrongs make law. Law has to protect the rights of persons in society. Law does it primarily in two ways: by compensating the wrong suffered, and by punishing the wrong-doer. The compensation function is the business of tort law (and partly of contract law). Punishment is administered by criminal law. Through the process of identifying wrongs and compensating them through the award of damages, tort law attempts to allocate losses or distributive risks which are inevitable in the modern society in a manner conducive to justice, equity and fairness. The more industrialized the society the more complicated the life. In such situation, this branch of law grows and assumes importance in ordering just social relations. It is said that the progress of a nation can be measured in terms of development of law of tort in that country. Thus, this course will introduce to the students the fundamentals of tort law theory and practice including defenses.

Precisely this one semester course examines the legal principles underlying civil liability for injuries to persons and property. Topics covered include the foundation of law of tort, selected topics in intentional torts, general defences, negligence, and torts related to human body and property. One module will be given to the discussion of emerging areas of law of tort viz. environmental, constitutional tort and cyber tort.

Object of the Course

The primary goal of this course is to familiarize the students with the basics of law of tort and to make them appreciate emerging areas of this branch such as Constitutional tort, Cyber tort, Economic tort and Family tort.

Objectives of the Course

At the conclusion of this course students will be able to approach a factual scenario, and analyze what torts exist therein. Students will also be able to discuss any defenses

available to all parties and the appropriate remedies. The main objectives of this course are:

- To learn the major principles fundamental to the operation of the tort system
- To become familiar with most of the important and commonly litigated torts
- To learn the leading case authorities in tort law
- The important legislations that impacts on it
- To develop skills of legal analysis and argument

In addition, this course will consider tort theory and its criticism, in order to identify the functions of tort law, what it is that tort law seeks to achieve in the context of society and its institutions, including the economic system, and to assess it against possible alternatives. Learning about the major torts, related principles and criticisms will enable you to understand the tort system and to learn about other torts on your own as you encounter them in your readings and research.

Evaluation Scheme

- **Internal Evaluation (25 Marks)**

- End Semester Examination (75Marks)

COURSE CONTENT

Unit One: - Introduction, Definition, and Nature of Law of Tort

1. Definition, Nature and Function of the Law of Tort
2. “Law of Tort” or “Law of Torts.”
3. Tort & Crime, Tort & Contract, Tort and Trust
4. Foundations of Law of Tort in India
5. Theoretical Foundations of Tortious Liability;
6. Basis of Liability under Law of Tort; Fundamental Legal Maxims
7. Ubi jus Ibi remedium, Injuria Sine Damno and Damnum Sine Injuria.

Referred Cases

- *Ashby v. White (1703)2 LR938*
- *Rudal Shah v. State of Bihar, AIR 1983 SC1086*
- *Saheli v. Commissioner of Police, Delhi AIR 1990 SC513*
- *Gloucester Grammar School case (14190 V.B. Hill11.*
- *Mayor of Bradford Corporation v. Pickles (1895) AC587*
- *Bhim Singh v. State of Jammu & Kashmir AIR 1986 SC494*
- *Usha Ben v. Bhagya Laxmi Chitra Mandir, AIR 1978Guj.*

Unit Two: - Torts Against Human Beings

1. Assault, Battery, False Imprisonment
2. Malicious Prosecution and Abuse of Legal Process
3. Nervous Shock(Intentional)
4. Defamation, Libel, Slander and Hybrid types of the Defamation
5. Defenses-Truth, Privilege, Fair Comment, Innocent Dissemination

Referred Cases

- *Leta Fay Ford V. Revlon, Inc. SC of Arizona (153 Ariz. 38, 734 P.2d 580)1987*
- *Newstead v London Express (1940) 1 KB377*
- *Hayward v. Thompson (1981)3All E R450*
- *Lewis v. Daily Telegraph Ltd (1963)2 AER151*
- *Morgan v OdhamsPress Ltd.(1971) 2 AER*
- *M.C. Verhese v. T.J. Poonam, AIR 1970SC1876*
- *T.S. Bhatt v. A. K. Bhatt AIR 1978 Ker111*
- *Berry v. B.T.C. (1962) 1 QB 306*
- *Abarathv. North Eastern Railway (1886) 11 App Cas247*
- *Wilkinson v. Downton (1897) 2 QB57-59*
- *Girija Prasad Sharma v. Uma Shankar Pathak AIR 1973 MP79*
- *Quinn v. Leathem,(1901)AC495*
- *Mogul Steamship Co. v McGregor, Gow&Co.(1892) AC25*
- *Clements v. Flight (1846) 16 M&W42*
- *Winsmorev. Greenbank (1745) Willes577*

Unit Three: - Torts Against Property

1. Trespass to Land & Remedies
2. Trespass to Goods and Conversion
3. Passing off Meaning and Utility
4. Interference with Contract and Business

Referred Cases

- *Wood v. Leadbitter (1845) 12 M& W838*
- *Hurst v. Picture Theatres Ltd. (1915)1 K.B.1*
- *Cresswellv. Sirl (1948) 1 K.B.241*
- *Moorgate Mercantile Co. Ltd. v. Finch (1962) 1 Q.B.701*
- *Allan v. Flood (1898) A.C.1*
- *Lumley v. Gye (1853)2 E & B. 216*
- *Reckitt & Colman Products Ltd v. Borden Inc.(1990) 1W.L.R.491*
- *Parker-knoll Ltd v. Parker-knoll International Ltd (1962) R.P.C.265*
- *J.Bollinger v Costa Brava Wine Ltd. (1962) Ch.262*
- *Irvine v. TalksportLtd. (2003) 1 W.L.R.2355*
- *Mirage Studios v. Counter-Feat Clothing (1991) F.S.R.145*

Unit Four: Tort of Nuisance & Some other Specific Torts

1. Nuisance, Public & Private Nuisance
2. Remedy for Nuisance
3. Indian Easement Act 1882
4. Conspiracy, Deceit or Fraud
5. Malicious Falsehood, Intimidation
6. Misfeasance in Public Office

Referred Cases

- *Christie v. Davey (1893) 1Ch316*
- *Bridlington Relay v. Yorkshire Electric Board (1965) 1 All ER264*
- *Hollywwod Silvester Fox Farm Ltd. v. Emmet (1936) 2 KB468*
- *Mayor of Bradford Corporation v. Pickles (1895) AC587*
- *Ratlam Municipality v. Vardhichand(1980) 4SCC162*
- *Tate &Lyle Industries Ltd v. GLC (1983) A.C.509*
- *St. Helen's Smelting Co. v. Tipping (1865) 11 H.L.C.642*
- *Heath v. Mayour of Brighton (1908) 98 L.T.718*
- *Robinson v. Kilvert (1889) 41 Ch. D.88*
- *Crofter Hand-Woven Harris Tweed Co Ltd. V. Veitch(1942) A.C. 435*
- *Lonrho Plc v. Fayed (1992) A.C.435*
- *Pasleyv. Freeman (1789) 3 T.R.51*
- *Ward v. Hobbs (1878)4 App. Cas.13*
- *Peek v. Gurney (1873) L.R.6.H.L. 377*
- *Edington v. Fitzmaurice(1885) 29 Ch. D.459*
- *West London Commercial Bank Ltd. v. Kiktson (1884)13 Q.B.D.360*
- *Derry v. Peek (1889) 14 App. Cas.337*
- *Langridge v. Levy (1837) 2 M & W519*
- *Central Ry of Venezuela v. Kisch (1867) L.R. H.L.99*
- *Ratcliffe v. Evans (1892) 2 Q.B.524*

Unit Five: - Tort of Negligence & Allied Matters

1. Negligence as a Tort and its Various Dimensions
2. Foresight of Harm as Test of the existence of Negligence
3. Proximate Cause and Intervening Cause

4. Contributory Negligence, Last Opportunity Rule
5. Concurring Negligence of the Third Person
6. Liability for Defective Products
7. Occupiers Liability for Land & Structures
8. Liability for Negligent Misstatement
9. Nervous Shock Negligently Caused
10. Expanding Horizons of Negligence as a Tort

Referred Cases

- *Jay Laxmi Salt Works (P) Ltd. V. State of Gujarat* 1994(4) SCC1
- *Bolam V. Friern Hospital Management Committee* (1957)2 All ER118
- *Donoghue v. Stevenson*, 1932, AC562
- *Davis v. Redcliffe*, (1990)2 AER536
- *E V. Dorret County Council* (1994)4 All ER 640(CA)
- *Home Office v. Dorset YatchCompany*(1970) AC1004(HL)
- *M.P. State Road Transport Corp. v. Basanti bai* (1971) MPLJ 706(DB)
- *Bourhill v. Young* (1943) AC92
- *Mc loughlinv. O' Brian* (1983) AC410
- *Indian Air Lines v. Madhuri Chaudhri* AIR 1964 Cal.252
- *Davies v. Mann* (1842) 10 M&W546
- *Glasgow Corporation v. Muir* (1943) AC448
- *Admiralty Commissioners v. S.S Volute* (1922) 1 AC129
- *British Columbia Electric Rly. v. Loach* (1916) AC719
- *Copocv. Wright* [1991]4 AER907
- *Municipal Corporation of Delhi v. Subhagwati* AIR 1966 SC1750
- *RadheyShyamv. Guru Prasad* AIR 1978 All86
- *Ball v. Ray* (1873) LR 8 Ch467

SUGGESTED READINGS

- 1) *Wienfield and Jolowicz, Tort, 17thEdi., Sweet & Maxwell*2006
- 2) *Salmond and Heuston on the Law ofTorts*
- 3) *Paula Giliker and Silas Beckwith. Tort, 3rdEdi. Sweet & Maxwell*2008
- 4) *Salmond, J W, Salmond's Law of Torts (8th edition, Sweet & Maxwell, London,*

- 1934)
- 5) *Fleming, J G, The Law of Torts (9th edition, LBC Information Services, Sydney, 1998)*
 - 6) *Ramaswamy Iyer's The Law of Torts, 10thEdi. Butterworths Wadhwa2007*
 - 7) *Ratan Lal and Dhiraj Lal on Law of Torts, 26thEdi. Butterworths Wadhwa2010*
 - 8) *David Baumer, JC Poindexter, Cyberlaw and E-Commerce, McGraw-Hill Irwin Newyork USA2002.*
 - 9) *Tabrez Ahmad "Cyberlaw, E-Commerce & M-Commerce". APH Pub.Corp. New Delhi 2003.*
 - 10) *Lee B. Burgunder, Legal Aspects of Managing Technology 2ndEdition West 2001.*
 - 11) *V.K.Eradi, ConsumerProtectionJurisprudence, LexisNexisNewDelhi2005.*
 - 12) *Mukherjee, Motor Vehicles Act 1988 with rules and exhaustive commentary on Motor accident compensation 2ndEdi. Premier Pub. Allahabad2006.*
 - 13) *DK Ganguly Commentary on The Motor Vehicles Act 1988 with rules along with allied laws, Kamal Pub. New Delhi2007*

Wish you all thebest!
