



SAFALTA CLASS<sup>TM</sup>

An Initiative by **अमरउजाला**

Murder (v/s)

↓  
Sec. → 302  
Intention (+)  
Knowledge =

Culpable (v/s)

Homicide  
↓  
Sec. ⇒ 299 } def.  
excep. 300  
Intention (+) ✓  
Knowledge (X)

death caused by Negli.

→ Sec. 304 A  
Rash (+) Negli.  
Intention (X)  
Knowledge (+) (X)

## LAW OF TORTS:

IT IS A BRANCH OF LAW WHICH HAS EVOLVED THROUGH JUDICIAL PRONOUNCEMENTS. ] ✓

IPC →

# Origin of the word 'tort' and its meaning, definition and essentials:

The term 'tort' has been derived from the latin term 'tortum', which means to twist. ↩

It basically refers to a conduct which is not upright or lawful.

In French, the term (tort) refers to a (wrong).

## Definition of tort:

Tort is a **civil wrong** which is redressable by an action for **unliquidated damages** and which is other than a mere breach of contract or breach of trust.

# How to determine that a particular wrong is a TORT or NOT?

Thus, when a wrongful act is done, first we have to examine, whether it is civil or criminal wrong.

If the wrong is a civil one, we have to find out if it is a breach of contract or breach of trust.

If it does not belong to either of the category, it can be concluded that it is a tort.

## Essential elements of tort:

Wrongful act + legal damage

(And)

→ Civil wrong  
→ unliq. damages  
=

## 1. Wrongful Act:

ग़लत क़ार्र

An act or an omission. When a person is made liable for a tort, he must have either done an act, which he ought not to have done.







**For example:**

**The municipal corporation omits to close a sewerage tank on the road and/or failed to display a warning to be beware.**

## 2. Legal Damage:

Legal damage means violation of a legal right.  
To succeed in an action for a tort, the plaintiff  
has to prove that his legal right has been  
violated.

(क़ानूनी अधिकार)

## Two Types of Violations: <sup>Legal Rk Violation.</sup>

### 1. Injuria (Sine Damnum: <sup>without</sup>) <sup>→ Damages</sup>

This maxim means violation of a legal right without causing any damage or loss to the plaintiff.

This is a situation, where the defendant has done a wrongful act or omission, as the consequence of which, the plaintiff has not suffered any loss or damage, except that his legal right has been violated. This is a fit case for an action under tort and the defendant is held liable.

## 2. (Damnum) (Sine Injuria:)

Leading Case ⇒  
जुलैहदल जजहल ← अरल

The literal meaning of this maxim is that damage has been caused without violation of plaintiff's legal right.

This is a situation where a defendant has done an act.

As a consequence, the plaintiff suffers a loss, but the act in question does not violate the plaintiff's legal right.

## The general defences available against torts committed:

When the plaintiff brings an action against the defendant for a tort, the defendant on his part can avoid his liability, by taking the plea of any one of the following defences.

# 1. Volenti Non Fit Injuria:

↑  
एदरेई

Legal Rt. (X)  
=

It literally means, if a person voluntarily subjects himself to some risk, he cannot later complain, as his consent serves as a good defence against him.

## For Example:

**Santhosh is playing volley ball with his friends in a play ground. He is hit by a ball on his eye and bleeds profusely. In this case, Santhosh cannot sue anyone in the playground, as he voluntarily exposed himself to take any risk that the game would expose him.**



## Exceptions:

### (a) Rescue Cases:

When the plaintiff voluntarily undertakes a risk to rescue somebody from an imminent danger, created by the wrongful act of the defendant, the defendant cannot set up the defence of Volenti non fit injuria against the plaintiff.



## **(b) Workmen's Compensation Act:**

**An employer cannot escape from his liability arising out of his negligence in ensuring the employees' safety.**

**He cannot set up the defence of volenti non fit injuria.**

## 2. Inevitable Accident:

If the plaintiff has an unexpected injury owing to an unforeseen and inevitable event, in spite of reasonable care on the part of the defendant, it is called inevitable accident.

The defendant has to prove that he neither intended to injure the plaintiff nor had the means to avoid the injury by taking reasonable care.

### 3. Act of God:

Act of God refers to some natural calamity such as heavy rainfall, storms, earthquakes and volcanoes.

Two conditions are essential for this defence:

- (a) There must be working of natural forces.
- (b) The occurrence must be extraordinary and not the one which could have been anticipated.

## 4. Private Defence: ✓✓

**One can protect one's person or property by using reasonable force.**

**However, the use of force is justified only for the purpose of defence, and in the process of self-defence, if any harm is caused, the defendant is not liable.**

**Two important features are as follows:**

**1. There should be imminent threat to personal safety or property.**

**2. The force used should be reasonable.**

# Question No: 1

## Principle:

**Death caused by rash or negligent act of a person is an offence.**

## Facts:

**X was driving his SUV car in a lonely road leading to a forest at 160 km per hour. Suddenly, someone appears from the forest on the road and in the resultant accident, the car hits the commuter causing his death**

# Question No:

- (a) X is not guilty of an offence as the accident has occurred on a lonely road
- (b) X is not guilty because there was no intention to kill the deceased
- (c) X is guilty of an offence of death by rash or negligent act
- (d) X is not guilty because he was also injured in the accident