

Development of Tort in India

The term 'torts' is the French equivalent of the English word 'wrong' and roman term 'deficit'. In this generic, it was introduced into the terminology of the English law by the French-speaking lawyers and judges of the courts of Normandy and Angevin kings of England.

In India, the origin of torts is related to Charter of 1726. Under charter 1726 the English courts were established in three presidencies i.e. Bombay, Calcutta and Madras which were known as 'Mayor courts'. These courts were working under 'Common law' full stop in India also the common law was made applicable but the directions were made to quotes that the common law is made applicable. In the application of common law, in the application of common law, the principles of equity, justice and good conscious were being followed.

Law of torts was being considered an inseparable part of the common law. This was made applicable in India in this reference but due care was taken that it applied as per the conditions, customs and traditions of India.

In the case of Vaghela versus Mussedin [(1887) 11 Bombay 551], it was held that the meaning of the principle of equity, justice and good conscious be taken as per the rules of the common law of England but corresponding to conditions and Customs of India.

Later on, in the case of Naval Kishore V / s Rameshwar (A.I.R. 1995 Allahabad 594) it was stated that the rules of law of torts of England should be made applicable as per the Indian atmosphere, that is, corresponding to traditions and Customs of it.

In view of the above, the stability of the law of torts in India is due to English law. Since 1726, this law is made applicable in Indian courts, but the process of development of it is very slow.

The reasons for it are as follows:

1. The law is not codified
 2. Ignorance of law
 3. Poverty
 4. Lack of political will power
 5. Expensive and delaying judicial system
- **The law is not codified-** The main reason for the slow development of the law of torts in India is that is not codified. Due to this, there is always a problem of uncertainty in front of the court. It is very difficult to decide which action comes under tort and which are not

torts. The decisions of courts were based on precedents. It was held in the Eastern M.C.Ltd V/s. Premium Auto LTD (1962)65 Bombay (L 183) that in the India courts cases are still decided upon the principle of justice, equity and conscience.

But here it is to mention that now this law is in vogue in India gradually. Specially comma in many cases of medical negligence, the law of tort has been made applicable.

In the case of R.P. Sharma V/s. State of Rajasthan (A.I.R. 2002, Rajasthan 104), ShishirRanjan V/s. State of Jammu and Kashmir (A.I.R. 2002, Guwahati 102), Smt. Bholi Devi V/s. State of Jammu and Kashmir (A.I.R. 2002, Jammu and Kashmir 65) and in Madhya Pradesh Human Rights Commission V/s. State of Madhya Pradesh (A.I.R. 2003, M.P. 17), the order of compensation due to medical negligence are given under the law of torts.

Thus in Mangilal V/s. Manak Chand (A.I.R. 2002, N.O.C. 215 M.P.) the order of compensation is given for malicious prosecution under the law of torts, and in S.N.M. Abdi V/s. Praful Kumar Mahanta (A.I.R. 2002 Orissa 75), the order of compensation is given for different republication under the law of torts.

- **Ignorance of rights and laws-** the second cause is ignorance of the law. People are not aware of their legal rights. Most people are illiterate and another. This is the reason that they do not move to quotes for justice even on violation of their rights.
- **Poverty-** poverty is also distant the development of the law of torts. A number of people do not approach the Court due to poverty. They keep silence tolerating humiliating experience of extradition and tannery. But now the efforts are made so that a person may be deprived of justice due to the reasons of poverty. Arrangements for free legal assistance have been made in paragraph 39(A) of the constitution. Now the conception of public interest litigation is also contributed in forwarding the applicability of the law of torts.
- **Lack of political power-** the formation of adequate law and their implementation are not willfully desired by the political representatives, which is also restaurant the development of the law of torts. The government is not effective as it ought to be in reference to reference to law and Justice.

STUDY MATERIALS ON LAW OF TORTS

- **Expensive and delaying judicial system-** the process of Judiciary system is very expensive and takes a long time in making decision, therefore victims day to go to courts and is the cause of non-development of the law of torts.

Hence the codification of the law of making the people conversant with this law, availability of quick justice and reinforcing political will power is now necessary.