**HURT & GRIEVOUS HURT**

**Simple Hurt**

Hurt may be described as the bodily pain that is resulting from real contact with the frame by an aggravated assault. There’s no radical difference between assault and harm. Section 319 of the Indian Penal Code, 1860 (hereinafter “IPC”) defines hurt as: “whoever reasons bodily pain, disorder or disease to any man or woman is said to have caused harm.” The section does not outline the offence of inflicting harm. It defines best the time period hurt and does not describe the situations underneath which it can be brought on.

To constitute any one or more of essentials of simple hurt must be present:

* Bodily Pain
* Infirmity to another
* Disease

*Bodily Pain*

According to Section 319 of the Indian Penal Code, whoever causes bodily ache, disorder or disease to any individual is said to cause hurt. The expression ‘physical pain’ means that the pain must be physical instead of any mental pain. So mentally or emotionally hurting anyone will no longer be ‘harm’ inside the meaning of Section 319. However, to be covered under this section, it isn’t always important that any visible injury should be precipitated at the sufferer. All that the section contemplates is the inflicting of bodily pain. The diploma or severity of the ache or pain isn’t a fabric element to decide whether Section 319 will apply or not. The duration of ache or pain is immaterial. Pulling a girl with her hair would amount to hurt.

*Infirmity to another*

Infirmity denotes the bad state of frame of mind and a state of transient intellectual impairment or hysteria or terror would constitute disease inside the meaning of this expression inside the section. It is an incapability of an organ to carry out its everyday function, whether temporarily or completely. It may be delivered through the administration of a toxic or poisonous substance or by means of taking alcohol administered by way of any other person.

**Jashanmal Jhamatmal vs Brahmanand Swarupanand [AIR 1944 Sind 19]:** In this situation, the respondent has been evicted with the aid of the owner. He attempts to get revenge via vacating others from that constructing too. Respondent later confronted with A’s spouse with a pistol in his hand.

*Disease*

A communication of ailment or disease from one individual to another through the way of touch would constitute hurt. But, the idea is unclear with respect to the transmission of sexual sicknesses from one individual to every other. For instance, a prostitute who had intercourse with a person and thereby communicated syphilis changed into held in charge under Section 269 of the IPC for spreading infection and not for inflicting hurt due to the fact that the interval between the act and sickness turned into too far away to attract *Section 319* of the IPC.

In **[Raka vs. Emperor](https://www.legalbites.in/law-notes-ipc-hurt-and-grievous-hurt/" \t "_blank) [1887 ILR 11 Bom 59]**, the accused was a prostitute and she inflicted syphilis to her customers. It was held that accused; the prostitute was liable under Section 269 of IPC- negligent act likely to spread infection of any disease dangerous to the life of another person.

**Intention or Knowledge**

Intention or knowledge is an important aspect of causing hurt to an individual. A person who intentionally sets out to purpose shock to somebody with a weak coronary heart and succeeds in doing so, he is said to have caused hurt. Any bodily ache due to management of capsules can be protected under ‘harm’. Whilst the harm isn’t always severe and there is no purpose to cause death, or grievous hurt, the accused could be guilty of inflicting harm most effective, despite the fact that death is caused.

In **Marana Goundan v. R [AIR 1941 Mad. 560]** the accused demanded money from the deceased which the latter owed him. The deceased promised to pay later. Thereafter the accused kicked him at the abdomen and the deceased collapsed and died. The accused changed into held guilty of causing hurt as it couldn’t be stated that he meant or knew that kicking at the abdomen become in all likelihood to hazard existence.

Section 321 of the IPC defines voluntarily causing harm as whoever does any act with the intention of thereby causing harm to any person, or with the expertise that he’s likely thereby to reason hurt to any individual, and does thereby motive harm to any person, is stated: “voluntarily to motive hurt”. What constitutes a selected offence relies upon the character of the act achieved (actus Reus) but additionally upon the character of aim or know-how (mens rea) with which it’s far carried out. Section 319 defined the nature of the actus Reus, which might constitute the offence of voluntarily causing harm, punishable under Section 323, and Section 321 describes the mens rea necessary to represent that offence. Goal and information need to be proved. The person in reality hurt wants now not always be the person who becomes intended to be hurt. Section 321 describes the situations that dress the act with factors of criminal activity, making it an offence.

The instances are:

1. doing of an act,
2. to any person,
3. with the goal or know-how of causing harm.

*Grievous Hurt*

The draftsman of IPC found it tough to draw a line among those physical hurts, which can be severe, and people who are moderate. However, they special certain types of hurts as grievous hurt.

The following kinds of hurt only are termed as “grievous”:

1. Emasculation,
2. Permanent injury to eyesight or either of the eye,
3. Permanent deafness or injury to either of the eye,
4. Privation of any member or joint (loss of limb),
5. Impairing of Limb,
6. Permanent disfiguration of the head or face,
7. Fracture or dislocation of a bone or tooth,
8. Any hurt which risks life or which causes the victim to be during the time of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

**(a) Emasculation:** The first type of grievous hurt is depriving a person of his virility. This clause is confined to men and was inserted to counteract the practice commonplace in India for women to squeeze men’s testicles at the slightest provocation. Emasculation can be resulting from causing such harm to the scrotum of a person as has the effect of rendering him impotent. The impotency prompted ought to be permanent, and no longer simply temporary and curable.

**(b) Injuring eyesight:** Some other injury of identical gravity is the permanent deprivation of the sight of either eye or of both the eyesight. Such harm has to have the effect of permanently depriving the injured of the usage of one or both of his eyes. The test of gravity is the permanency of the harm because it deprives a person of the usage of his sight and additionally disfigures him.

**(c) Inflicting deafness:** The everlasting deprivation of hearing of both ears is less serious than the above-mentioned harm as it does no longer disfigure a person, however handiest deprives him of using his ear. But, it’s serious damage depriving someone of his sense of listening to. The deafness has to be permanent to attract this provision. Such harm may be resulting from blow given on head, ear or the one’s elements of the head which speak with and injure the auditory nerves or with the aid of thrusting a stick into the ear or placing into ear a substance which reasons deafness.

**(d) Loss of limb:** Everlasting deprivation of any member or joint is some other grievous hurt, whereby a person is rendered much less able to guard himself or to harass his adversary. ‘Joint’ refers to an area where two or more bones or muscle mass be a part of. Their permanent deprivation needs to involve such damage to them as makes them permanently stiff, so that they are not able to perform the everyday function assigned to the human body structure.

**(e) Impairing of a limb:** The deprivation of a person to the use of member or joint includes lifelong crippling and makes a person defenceless and depressing. The provision speaks of destruction or permanent impairing of their powers, which might encompass no longer only overall however additionally a particular use of the limb or joint. Any permanent decrease of their utility would constitute grievous hurt.

**(f) Everlasting disfiguration of the pinnacle or face:** ‘Disfigure’ means to do a person a few outside hurts which detract from his private look, but does not weaken him. Branding a ladies cheek with red warm iron, it leaves permanent scars, amounts to disfiguration. a cut at the bridge of the nostrils of a woman due to a sharp weapon has been held to be everlasting disfigurement despite the fact that the inner wall become intact.

**(g) Fracture or dislocation of a bone or teeth:** It’s far every other species of grievous harm, which may additionally or may not be attended with everlasting disability. A fractured or dislocated bone may be set or re-join, but on account of the extreme suffering to which it gives upward thrust, the harm is named as grievous. The number one means of the word fracture is ‘breaking’, though it isn’t always essential in case of fracture of the cranium bone that it should be divided into separate parts due to the fact it may consist simply of a crack; but if it is a crack, it must be a crack which extends from the outer floor of the skull to the inner surface. If there may be spoiling with the aid of cutting or splintering of the bone or there is a break or gap in it, would add up to a crack inside the importance of clause 7 of Section 320. What must be seen is whether the cuts during the bones saw in the damage report are just shallow or do they impact a break in them. ‘Dislocation’ implies dislodging, being applied to a bone expelled from its typical associations with a neighbouring bone. A bone moved out of its attachment or put out of its joint is a disjoint bone.

**(h) Any hurt which risks life** or which causes the victim to be during the time of days in severe bodily pain, or unable to follow his ordinary pursuits.

* **Dangerous hurt**: Three distinct classes of hurt are assigned as risky or dangerous hurt. These classes are autonomous of one another and hurt of any of the three classes would be grievous hurt. Injury is said to endanger life in the event that it might put the life of the harmed in danger. Basic injury can’t be called offensive or grievous since it happens to be caused on an indispensable piece of the body except if the nature and measurements of the damage, or its belongings, are with the end goal that in the assessment of the specialist, it really endangers the life of the victim. There is an exceptionally meagre line of distinction between ‘hurt which endangers life’ and ‘injury as is probably going to cause death’. In **Mohammad Rafi v. Emperor AIR 1943 All 369**, the accused caused damage on the neck of the perished from behind, the Lahore High Court held the accused at risk for under Section 322 (intentionally causing grievous hurt) for causing demise by grievous hurt as against guilty of culpable homicide not adding up to the murder. The articulation ‘endangers life’ is a lot more grounded than the articulation ‘risky or dangerous to life’. With a perspective on the reality of the damage bringing about the weakening of the person in question for a base time of twenty days, the Indian Penal Code has assigned certain hurts as grievous however they probably won’t be fundamentally risky or dangerous to life. A hurt may cause extreme substantial and severe bodily pain, but not be dangerous to life. Such a hurt is grievous hurt. In any case, it must be indicated that such hurt was adequate to cause serious bodily pain for twenty days. Else, it might happen that such agony or pain was caused yet there might be nothing to show that it was caused in outcomes of that damage. In conclusion, the trial of terribleness is the sufferer’s failure to take care of his standard interests for a time of twenty days. On the off chance that, where the impact of damage doesn’t last for twenty days, such a hurt can’t be assigned as grievous.

**Voluntarily Causing Grievous Hurt**

Section 322 of the IPC characterizes ‘deliberately causing grievous hurt’ as pursues: Whoever deliberately causes hurt, if the hurt which he expects to cause or realizes that himself will generally be prone to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “willfully to cause grievous hurt.” Explanation-An individual isn’t said willfully to cause grievous hurt with the exception of when he, the two causes grievous hurt and means or realizes that he generally will probably cause grievous hurt. Be that as it may, he is said intentionally to cause offensive hurt, if proposing or realizing that himself generally will probably cause grievous hurt of one kind, he actually causes grievous hurt of another sort. The clarification is undeniable and self-evident.

In any case, there must be proof that what the accused had planned or known to be likely wasn’t only hurt, yet grievous hurt. So as to attract this provision, Court needs to see that the accused expected to cause hurt, or that he realized that grievous hurt is probably going to be caused and that such grievous hurt is really caused. Regardless of whether the individual knows himself prone to cause grievous hurt, he is said to be intentionally causing terrible hurt. All together that an individual might be held liable for an offence of causing grievous hurt, it must be demonstrated that he either expected to cause or realized that himself will generally be liable to cause grievous hurt and not otherwise. The prerequisite in the clarification will be fulfilled if the guilty party had the information that by his demonstration he was probably going to cause grievous hurt. Clarification clarifies that either the element of aim or on the other hand that of information must be available so as to establish the offence of grievous hurt. So as to decide if the hurt is intolerable one, the degree of the hurt and the expectation of the guilty party must be considered.

Section 325 of the IPC recommends the discipline for intentionally causing hurt as pursues: Whoever, aside from for the situation accommodated by Section 335, willfully causes grievous hurt, will be rebuffed with the detainment of either portrayal for a term which may stretch out to seven years, and will likewise be obligated to fine. An individual is said to willfully cause grievous hurt when the hurt brought about by him, is of the idea of any sort of hurts listed in Section 320 of the IPC, and he expects or realizes that himself will generally be likely to cause grievous hurt. In **Kalika Singh v. Province of Uttar Pradesh 1981 CriLJ 639** a few wounds caused to complainant by blamed by clench hands and lathi incorporated a break caused to one side thumb by his fall on the ground during his beating by the accused. The Allahabad High Court held that the accused was liable under Section 325, even though the fracture was caused by the fall and not by the lathi. Sections 326, 329 331, 333, 335 and 338 prescribe punishment for causing grievous hurt under various other circumstances.