

RMM LAW COLLEGE SAHARSA

LAW OF TORTS

IIIrd Part

Paper -V

TOPIC- Injuria sine damnum & Damnum sine injuria

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The law of torts is a collection of all the circumstances in which court gives a remedy by way of damages, for legally unjustified harm or injury done by one to another person. There are three elements which need to be proved before constituting a tort:-

1. There must be an act or omission on the part of the defendant.
2. That act or omission should be in violation of a legal right vested in the plaintiff.
3. The wrongful act or omission thus done by the defendant is of such a nature to give rise to a legal remedy.

Both the maxims are divided into three parts as follows:-

- Damnum/Damno means substantial harm, loss or damage with respect to the money, health, etc.
- Injuria means an infringement of a right given by the law to the plaintiff.
- Sine means without.

These 2 maxims fall under the category of qualified rights, & in the cases of qualified rights there is no presumption of damages and the violation of such rights is actionable only on the proof of damages.

Damnum Sine Injuria

Damnum sine Injuria is a legal maxim which refers to as damages without injury or damages in which there is no infringement of any legal right which are vested with the plaintiff. Since no legal right has been infringed so no action lies in the cases of damnum sine injuria. The general principle on which this maxim is based upon is that if one exercises his common or ordinary rights, within reasonable limits, and without infringing other's legal right; such an exercise does not give rise to an action in tort in favour of that other person. Damages can be in any form either in the form of any substantial harm or loss suffered from respect to the money, comfort, health, etc.

It is an implied principle in law that there are no remedies for any moral wrongs, unless and until any legal right has been infringed. Even if the act or omission such done by the defendant was intentional, the Court will not grant any damages to the plaintiff. As was cited in the case of [Mayor & Co. of Bradford vs. Pickles \(1895\)](#) in which the corporation of Bradford filed a suit against the defendant alleging that the act of defendant by digging a well in the adjoining land owned by the defendant has cut the underground supply of water in the corporation's well hence causing them monetary losses since there was no adequate supply of water to discharge for the people living under the jurisdiction of the corporation. It was held that the defendant is not liable since they had not violated any legal right of the plaintiff.

In another case of [Gloucester Grammar School \(1410\)](#) in which a schoolmaster, set-up a rival school to that of the plaintiff and since because of the competition the plaintiff had to reduce their fees from 40 pence to 12 pence per quarter. Thus claimed for compensation from the defendants for the losses suffered. It was held that the plaintiff had no remedy for the losses suffered, since the act though morally wrong has not violated any legal right of the plaintiff.

The court presumes in cases where the legal right has been infringed that damages have to be awarded, but in cases where no legal right has been infringed, the maxim Damnum sine Injuria applies & no remedies are available

for the same. So, it can be rightly said that an act which is lawfully or legally done, without negligence, & in the exercise of a legal right, such damages as comes to another thereby is damage without injury.

$$\begin{array}{l} \text{Defendant's Act} + \text{Defendant's Malice} \\ + \text{Plaintiff's loss} - \text{Plaintiff's Legal injury} \end{array} = \text{Damnum Sine Injuria}$$

Injuria Sine Damno

Injuria sine damno is a violation of a legal right without causing any harm, loss or damage to the plaintiff and whenever any legal right is infringed, the person in whom the right is vested is entitled to bring an action. Every person has an absolute right to his property, to the immunity of his person, and to his liberty & infringement of this right is actionable per se. A person against whom the legal right has been infringed has a cause of action such that even a violation of any legal right knowingly brings the cause of action. The law even gives the liberty that if a person merely has a threat of infringement of a legal right even without the injury being completed, the person whose right has been threatened can bring a suit under the provisions of [Specific Relief Act](#) under Declaration and injunction.

For Example:- If a person is wrongfully detained against his will, he will have a claim for substantial damages for wrongful imprisonment even if no consequential loss was suffered upon the detention.

As was cited in the case of Ashby Vs. White (1703) wherein the plaintiff was a qualified voter at the parliamentary elections which were held at that point of time. The defendant, a returning officer wrongfully refused to take the plaintiff's vote. The plaintiff suffered no damage since the candidate which he wished to vote already won the elections but still, the defendants were held liable. It was concluded that damage is not merely pecuniary but injury imports a damage, so when a man is hindered of his rights he is entitled to remedies.

Injuria sine Damno is even applicable in the cases of trespass as was observed in the case of [Sain Das Vs. Ujagar Singh \(1940\)](#) that nominal damages are usually awarded and the principle of injuria sine damno is applicable to an immovable property when there has been an unjustifiable intrusion on the property in possession of another. It was also concluded that the rule cannot be extended to every case of attachment of property irrespective of the circumstances.

So in total, the maxim Injuria Sine Damno refers to the remedies which are provided in the form of damages or compensation in violation of any legal right such that if the legal right is violated then action lies even if there is no harm to another. In other words, it is an infringement of a right where no loss is suffered but it creates a cause of action.

Defendant's Act + Plaintiff's injury = Plaintiff's Loss = Injuria Sine Damnum

Difference between Damnum Sine Injuria & Injuria Sine Damnum

S.No	Damnum Sine Injuria	Injuria sine Damnum
1.	Damnum sine Injuria refers to the damages suffered by the plaintiff but no damage is being caused to the legal rights as there is no violation of it	Injuria Sine damnum is the legal injury caused to the plaintiff without any damage to the physical injury.
2.	It is the losses suffered without the infringement of any legal right hence creating no cause of action.	It is an infringement of a legal right where even if no loss has been suffered

		by the plaintiff still creates an actionable cause of action.
3.	No compensation in the form of damages is awarded by the court.	Compensation in the form of damages is awarded by the court.
4.	This maxim is for the moral wrongs which have no action in the eyes of the law.	This maxim is for the legal wrongs which are actionable if the person's legal right has been violated.
5.	The principle of this maxim is that a person exercises in such a manner within reasonable limits which does not ground action in tort merely because it causes damages to other people	The principle of this maxim is that whenever there is an invasion of a legal right there creates a cause of action and the person whose right is vested is entitled to bring an action.
6.	In this, the plaintiff suffers a loss but has suffered no legal injury.	In this, the plaintiff suffers legal injury doesn't matter they have suffered any loss on that account.
7.	Damages without injury are not actionable	This is actionable since there is a violation of a legal right.

Case Laws

The following case laws are provided for the better understanding of both the maxims:

Case law on Damnum Sine Injuria

Mogul steamship co. ltd vs. McGregor, Gow & co.

In the following case of [Mogul steamship co. ltd vs. McGregor, Gow & co.](#), the plaintiff was an independent ship-owner who used to send his cargo port to obtain cargo from China to England. An association of 4 ship-owners, also the defendants in the following case offered a special concession to customers to oust their rival, the plaintiff in this case. The plaintiff under these circumstances suffered loss and sued all four of them for compensation of the losses he suffered. Since, the general principle of Damnum Sine Injuria expresses that 'if one exercises his common or ordinary rights, within reasonable limits, and without infringing other's legal right; such an exercise does not give rise to an action in tort in favour of that other person.'

Thus, though morally wrong there are no legal obligations for the acts of the defendants. This case typically concerns the economic tort of conspiracy to injure the rights of the plaintiff. It was held that the combination of workmen and an agreement among them was a lawful act according to the common law and perhaps enforceable inter-se but not indictable.

The court of appeal and the House of Lords held that defendants had done nothing unlawful. The House of Lords observed that the defendants have done so to extend their trade to increase their profits, although with the intention of injuring plaintiff.

The court of appeal held by a majority that the action taken was all done within the terms of the law. It was held that the plaintiff in the case did not complain of any trespass, violence, force or any act which infringes the legal right of the plaintiff. Hence, the defendants have done nothing more against the plaintiff than to pursue the bitter end of competition waged in the interest of their own trade. Nor there is an element of illegality in the fact of combination among the defendants.

In this case, it was observed that the damages were done to the plaintiff morally but with legal perspective hence no legal injury was done to the plaintiff which follows the general principle of the maxim "damnum sine injuria" which states that no legal remedies are awarded for moral wrongs unless their legal rights are violated.

The plaintiff failed to prove that any legal injury was suffered by the acts of the defendants and hence in presence of no legal injury the defendants are not applicable for any damages suffered to the plaintiff since all the actions done by the defendants were morally wrong but all the acts were done in a lawful way.

Case law on Injuria sine Damnum

Bhim Singh Vs. State of Jammu & Kashmir

In the following case of [Bhim Singh vs. State of Jammu & Kashmir](#), Mr Bhim Singh, an MLA of Jammu & Kashmir was arrested & detained in police custody & was deliberately prevented from attending the sessions of the legislative assembly to be held. There was also a voting session which was going to be held and since he was not allowed to go. At the assembly session where his vote was very important. Though the person to whom he wanted to vote won but his right to vote was infringed.

He was arrested and was not even presented before the court for four days and was kept in a hidden place. The case is all about the violation of personal liberty where the police though obtaining remand of the arrested person, not producing him before the magistrate within the requisite period. There was a gross violation of rights under Article 21 & Article 22.

It was held that there was an arrest with the mischievous & malicious intent & the plaintiff was entitled to the compensation of Rs. 50,000 since there was an arrest of a member of the legislative assembly while he was on his way to the legislative assembly which resulted in the deprivation of the right to attend the impending assembly session. In the particular cases of Injuria Sine Damnum,

the court has the jurisdiction to compensate by awarding suitable monetary compensation.

It was concluded that the member of the legislative assembly was arrested while en route to the seat of assembly & in consequence of the member was deprived of his constitutional rights to attend the assembly session & responsibility for the arrest & hence is entitled to reasonable compensation.

Conclusion

The conclusion of the two maxims are such that one is a moral wrong for which the law gives no remedy even though they cause great loss or detriment to the plaintiff's but on the other hand other one is a legal wrong for which the law does give a legal remedy though there be violation of a private right, without actual loss or detriment in that particular case.

The main aim of the maxim *Damnum Sine Injuria* is that no ground of action or no cause of action lies for a person who is acting within reasonable limits even though the other person is suffering losses on that account while the main aim of the maxim *Injuria Sine damnum* is that if the legal right of a person is violated then a cause of action arises and the person whose legal right has been infringed is entitled to bring a suit against the person who has done it. In these cases, a qualified right has been violated which is different from absolute rights.