

# **RMM LAW COLLEGE SAHARSA**

## **LAW OF TORTS**

**IIIrd Part**

**Paper -V**

### **TOPIC- REVISION**

**Lecture Notes by- INDRA BHUSHAN SINGH**

**Date:- 19/10/2020**

### **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.