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Assignment law of tort

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Tort Is Law?

Tort law is the area of the law that covers most civil suits.

Generally, every claim that arises in civil court, with the exception of contractual disputes, falls under tort law.

The concept of this area of law is to redress a wrong done to a person and provide relief from the wrongful acts of others, usually by awarding monetary damages as compensation. The original intent of tort is to provide full compensation for proved harms.

Lawsuits involving contracts fall under contract law.

- Tort law is that branch of the law that deals with civil law, including law suits but excluding issues involving contracts.
- Tort law is considered to be a form of restorative justice since it seeks to remedy losses or injury with monetary compensation.
- In general tort law falls into three categories: those complaints dealing with negligence; intentional harm; and unintentional but non-negligent acts known as strict liability.

Understanding Tort Law

Tort law requires those who are found to be at fault for harming others to compensate the victims. Typical harms include the loss of past or future income, payment of medical expenses, payment for pain and suffering, and may also include additional Punitive damages that are meant to punish the plaintiff in excess of full compensation.

Tort law can be split into three categories: negligent torts, Negligent torts Encompa

ss harm done to people generally through the failure of another to exercise a certain level of care, usually defined as a reasonable standard of care. Accidents are a standard example of negligent torts..

Intentional torts, on the other hand, refer to harms done to people intentionally by the willful misconduct of another, such as assault, fraud, and theft.

Strict liability torts, unlike negligence and intentional torts, are not concerned with the culpability of the person doing the harm.

Instead, strict liability focuses on the act itself.

If someone or some entity commits a certain act for example, producing a defective product- then that person or company is responsible for the damages from that act, regardless of the level of care exercised or their intentions.

Legal injuries are not limited to physical injuries and may include emotional, economic,[note 3] or reputational injuries as well as violations of privacy, property, or constitutional rights. Torts comprise such varied topics as automobile accidents, false imprisonment, defamation, product liability, copyright infringement, and environmental pollution (toxic torts).

Compared to criminal cases, tort lawsuits have a lower burden of proof, namely "preponderance of evidence",[note 4] rather than beyond a reasonable doubt. Sometimes a claimant may prevail in a tort case even if the defendant who allegedly caused harm were acquitted in an earlier criminal trial. For example, O. J. Simpson was acquitted in criminal court of murder but later found liable for the tort of wrongful death.

defamation

Both tort law and criminal law may impose liability where there is

Defamation is tarnishing the reputation of someone; it has two varieties, slander and libel. Slander is spoken defamation and libel is printed or broadcast defamation. The two otherwise share the same features: making a factual assertion for which evidence does not exist. Defamation does not affect or hinder the voicing of opinions, but does occupy the same fields as rights to free speech in the First Amendment to the Constitution of the United States, or Article 10 of the European Convention of Human Rights. Related to defamation in the U.S. are the actions for misappropriation of publicity, invasion of privacy, and disclosure. Abuse of process and malicious prosecution are often classified as dignitary torts as well. Tort law is a body of law that addresses, and provides remedies for, civil wrongs not arising out of contractual obligations (White, 2003,p3) . A person who suffers legal damages may be able to use tort law to receive compensation from someone who is legally responsible, or liable, for those injuries. Generally speaking, tort law defines what constitutes a legal injury and establishes the circumstances under which one person may be held liable for another's injury. Torts cover intentional acts and negligent acts, which is often said by accidents. While in criminal law, the offense is against the State and the State is the plaintiff; in tort law, on the contrast, the offense is against a person and that person is the plaintiff (Arthur and Barnes, 2003).

In much of the western world including Australia, the touchstone of tort liability is negligence. If the injured party cannot prove that the person believed to have caused the injury acted with negligence, at the very least, tort law will not compensate them (Arthur and Barnes, 2003). Tort law also recognizes intentional torts and strict liability, which apply to defendants who engage in certain actions (Calnan, 2003). Since negligence is the most important areas of the law of tort, there are three widely accepted essentials in negligence, which are called the "tortious triumvirate." The first one is that the defendant owed the plaintiff a "duty of care". Secondly, the defendant failed to conform to the required "standard of care"; and thirdly, there was a "sufficient connection in law" between the defendant's conduct and the damage, whether loss or injury, suffered by the plaintiff.

In contemporary time, some might argue that among the three elements that establish the action in negligence, which are the duty of care, the standard of care and the sufficient connection in law, the first one is the least difficult one, and should not be given the same importance. However, it is not always the case in the real world situations. In this essay, the three important and essential elements would be analyzed and discussed in detail. Further, the importance of the principle of duty of care would also be evaluated and with comparison to the other two elements.

Background

As widely known, the law of torts is a body of rights, obligations, and remedies that is applied by courts in civil proceedings to provide relief for persons who have suffered harm from the wrongful acts of others (Shapo, 2003). The person who sustains injury or suffers pecuniary damage as the result of tortious conduct is known as the plaintiff, and the person who is responsible for inflicting the injury and incurs liability for the damage is known as the defendant (Arthur and Barnes, 2003).

The law of torts is derived from a combination of common-law principles and legislative enactments. Unlike actions for breach of contract, tort actions are not dependent upon an agreement between the parties to a lawsuit (Arthur and Barnes, 2003). Unlike criminal prosecutions, which are brought by the government, tort actions are brought by private citizens. Remedies for tortious acts include money damages and injunctions and the defendants are subject to neither fine nor incarceration in civil court (Arthur and Barnes, 2003).

The law of torts serves four objectives. First, it seeks to compensate victims for injuries suffered by the culpable action or inaction of others. Second, it seeks to shift the cost of such injuries to the person or persons who are legally responsible for inflicting them. Third, it seeks to discourage injurious, careless, and risky behavior in the future. Fourth, it seeks to vindicate legal rights and interests that have been compromised, diminished, or emasculated. In theory these objectives are served when tort liability is imposed on defendants for intentional wrongdoing, Negligence, and hazardous activities (Shapo, 2003).

As one of the most important areas of the law of tort, negligence is relevant with people in community and business in a lot of areas. Since established in the case *Donoghue v. Stevenson* [1932] in Australia, there was not a standardized definition of the action in negligence, sometimes the appliance of negligence in one case can vary greatly from one to another (Gibson et al 2008). It is under that circumstance that the three essential elements have developed to determine if negligence exists or not. The three elements must be established in every tort action. First, the plaintiff must establish that the defendant was under a legal duty to act in a particular fashion. Second, the plaintiff must demonstrate that the defendant breached this duty by failing to conform his or her behavior accordingly. Third, the plaintiff must prove that he suffered injury or loss as a direct result of the defendant's breach (Gibson et al 2008).

At any rate, the three elements, that is duty of care, breach of care and damage, are most essential and important elements in any case of negligence. The understanding, interpretation and application of these elements are most important in establishing actions in negligence. The following part of this essay is going to examine them in detail.

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