

General Defences in Torts Law Notes pdf With Case Laws

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Defences in Tort

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General Defences in Torts Law includes :

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General Defences in Torts Law includes :

1. VOLENTI NON FIT INJURIA (With All Famous Case Laws)

Consent Under Compulsion :

Limitations/Exceptions of Volenti Non Fit Injuria :

When the defendant by his negligence has created a danger to the safety of A and he can foresee that B will likely to rescue A out of that danger.Defendant is liable to both A and B.

2. Plaintiff The WRONGDOER (With All Famous Case Laws)

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3. Inevitable Accident (With All Famous Case Laws)
4. Act Of God (With All Famous Case Laws)
5. Private Defence (With All Famous Case Laws)
6. Mistake (With All Famous Case Laws)

Mistake (General Defences in Torts Law) Exception : Defendant Must Prove His Honesty.

7. Necessity (With All Famous Case Laws)

That's all for the General Defences in Torts Law.Still left with any doubts regarding the topic ?? Just contact us by commenting down or through our facebook page,and we will reply to you 😉

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4. Acts of God
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7. Necessity
8. Statutory Authority

1. VOLENTI NON FIT INJURIA (With All Famous Case Laws)



The very first defence that comes under the General Defences in Torts Law is Volenti Non Fit Injuria,which is also known as defence for consent.So here are the notes for volenti non fit injuria with all the leading cases.



This principle has been summarized in the latin maxim,***VOLENTI NON FIT INJURIA***,which is translated as ***Voluntarily Suffered.***

It is a well settled principle in law that no man can sue for a tort to which he had consented,either expressly or impliedly.

No man can enforce a right which he has voluntarily waived off or abandoned consent to suffer the harm may be express or implied.

For the defense of consent to be available,the act of causing the harm must go beyond the limit what has been consented.

CASE LAWS :

Hall V. Brooklans Auto Racing Club

Hall V. Brooklans Auto Racing Club,Volenti Non Fit Injruia (General Defences in Torts Law)


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Plaintiff(Spectator),during a car race got injured due to the collision of two cars.During the collision one car came into the stands,which caused injury to the plaintiff.Plaintiff sued the defendant for the damages(compensation),but the defendant was not held liable as the plaintiff himself took the risk of injury.
KeyPoint : *Same will be the case if a person goes to watch a cricket match and was injured by the ball hit by the batsman,here also plaintiff will not be compensated as he himself decided and agreed to the risk by watching the cricket match*

Padmavati V. Dugganaika

Padmavati V. Dugganaika case brief notes,Volenti Non Fit Injuria,General Defences in Torts Law

Plaintiff(Jeep Driver) along with two strangers in the jeep was travelling and the bolts of the tyre of the jeep opened up due to which car toppled.In the incident,one stranger was thrown out of the jeep(died) while the other stranger was severely injured.Since it's the sheer case of accident,defendant was not held liable.

Wooldbridge V. Sumner


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Wooldbridge V. Sumner case brief,volenti non fit injuria,General Defences in Torts Law

Plaintiff was a photographer in the horse race.While he was clicking photos during the event was being conducted he was severely injured by the defendant's horse.Defendant was not held liable as the plaintiff himself consented and voluntarily came there to click photos.

Illot V. Wilkes

Illot V. Wilkes case brief,Volenti non fit injuria,General Defences in torts law

Plaintiff stepped into the land of defendant knowingly that there were spring guns set-up.Knowing the same plaintiff entered and was hit by spring guns.Since the plaintiff was well versed with the presence of spring guns,he can't recover damages from the defendant.

- **If the consent of the plaintiff has been obtained by fraud or under compulsion or under some mistaken impression,such consent doesn't deserves a good defence.**
  CASE LAW : Lakshmi Rajan V. Malar Hospital Ltd.
  Plaintiff was a married woman of 40 years who got lumps in her breast.Malar Hospital has taken consent for any miss-happening during the surgery.During the surgery along with breast's lumps,her uterus was also removed without any justification.Since the hospital had taken the consent only for the lumps in the breast,Defendant was held liable.
- **Ex turpi causa non oritur actio : From an immoral cause,no action arises.**
  Case Laws :
  R. V. Williams
  The defendant was a singer who use to teach students about singing.Defendant during the singing lesson convinced his 16 years old student to give her consent for sexual intercourse with him for the purpose of improving her voice that will make her a good singer.
  R. V. Clarence
  The defendant had sexual intercourse with his wife knowing that he is suffering from a sexually transmitted disease Gonorrhea,Wife sued the husband for doing so,where husband was nit liable for any kind of damages.

Consent Under Compulsion :

- Consent given under circumstances when a person does not have a freedom of choice,is not the proper consent.
- A person may have compelled by a situation under which he has knowingly undertaken worth which if he had free choice,he would have not taken.
- Such consents are generally arises out of the master-servant relationship.
- Thus,a man cannot be said to be truly willing unless he is in a position to chose freely and freedom of choice predicates,not only full knowledge of circumstances on which exercise of choice is conditional,so that he may be able to choose wisely,but the absence of any feeling of constraint so that nothing shall interfere with the freedom of his will.
- Therefore,there is no Volenti Non Fit Injuria,when a servant is compelled to do some work inspite his protest.

To prove that the consent was obtained under compusion,following two points needs to be proved :

1. **Plaintiff knows about the risk.**
2. **Plaintiff knowing the same,agreed to suffer harm.**

CASE LAWS :

Smith V. Baker

Plaintiff (workman) employed Baker to work on a drill for cutting rocks.Stones were being carried with the help of crane from one place to the other.The crane passed from the plaintiff's head while he was busy in his work.Suddenly stone felt on the plaintiff and he got injured.Plaintiff knew the risk and still agreed to work under those conditions.Defendant was held liable and the plaintiff was compensated.

Imperical Chemical Industry V. Shatwell

George & James were working in defendant's quarry,testing some detonators without requisite precaution & even after employee's warnings that resulted in the explosion and both George and James got injured.Defendant was not held liable.

Dann V. Hamilton

Plaintiff(Lady) knowingly that the driver was drunk asked the driver for lift.Due to the drunk driver's negligence,car crashed in which the driver died and plaintiff was injured.The plaintiff claimed for compensation,though contributory negligence was there.

- **When the plaintiff consents to take some risk,the presumption is that defendant will not be negligent.**

Case Law : Slater V. Clay Cross Co. Ltd.

Plaintiff was hit and injured by train driver(defendant's servant)while she was walking along a narrow tunnel on a railway track which was owned by defendant's company.Defendant's company knew that the tunnel is used by trespassers,driver must have slowed down the train and must have whistled .Accident happened due to driver's negligence.So,defendant was held liable.

Limitations/Exceptions of Volenti Non Fit Injuria :

1. **Rescue Cases :** When a plaintiff voluntarily encounters a risk to rescue somebody from an imminent danger created by the wrongful act of the defendant,he can't use the defence of Volenti Non Fit Injuria.

   Case Laws For Rescue Cases :-

   Haynes V. Harwood

   Defendant's servant left two horse can unattended in street.A boy thrown a stone towards the horse and horse bolted and started running here and there.This created danger to women and children in the street.A policeman saw all this and dived into the scene to prevent the danger.Though he succeeded but was severely injured in doing so.Defendant was held liable,even when defendant pleaded that he was just a policeman and was doing his duty.Wagner V. International Railways

   Railway passenger was thrown out of a running car by a sudden lurch.When the car stopped,rescuer got down to find his cousin's body.Due to darkness he also got injured.
2. **Unfair Contract Terms Act :** Limit the rights of a person to restrict or exclude his liability resulting from his negligence by a contract term or by notice.

> ***When the defendant by his negligence has created a danger to the safety of A and he can foresee that B will likely to rescue A out of that danger.Defendant is liable to both A and B.***

2. Plaintiff The WRONGDOER (With All Famous Case Laws)

Plaintiff the wrongdoer in General Defences in Torts Law

The second defence that comes under the General Defences in Torts Law is Plaintiff The Wrongdoer.So here are the notes for Plaintiff The Wrongdoer with all the leading cases.

Under contract,one of the principle is that no court will aid a person who found his cause of action upon an immoral or an illegal act.

Maxim Used : "Ex turpi causa non oritur actio"
Meaning : From an immoral cause,no action arises.

The mere fact that plaintiff was wrong doer doesn't entitle him from recovering damages from defendant for wrongful act.

Case Law : Bird V. Holbrook

Bird V. Holbrook,Plaintiff the wrongdoer,General defences in torts law

Bird (Defendant) set a spring gun trap in his garden to protect his property. The spring gun trap injured Holbrook (Plaintiff) innocent trespasser.Plaintiff sued the defendant and claimed for damages.Defendant was held liable.

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3. Inevitable Accident (With All Famous Case Laws)

Inevitable Accidents in General Defences in law of torts

The third defence that comes under the General Defences in Torts Law is Inevitable Accident.So here are the notes for Inevitable Accident with all the leading cases.

The doctrine of inevitable accident is a significant defence in the law of torts and especially in the area of road accidents.It concerns a situation where a person,exercising due care,diligence and ordinary prudence,could not have foreseen or avoided an accident.

Case Laws :

Stanley V. Powell

Plaintiff and defendants were the members of a shooting party.Defendant was focusing on a pheasant.One os his pallet from his gun hit the branch of the tree that changed it's direction and accidentally wounded the plaintiff.Since it was sheer case of accident,and was not foreseeable defendant was not held liable.

Shridhar Tiwari V. UP State Road Transport Corporation(SRTC)

Shridhar Tiwari V. UP State Road Transport Corporation(SRTC),Inevitable accidents,general defences in torts law

Bus of UP SRTC was passing through a village,suddenly a cyclist came on the road,to save him bus driver applied brakes.But due to wet roads,on applying brakes the bus slipped and collided with another bus coming from the opposite direction.Defendant was not held liable as it was sheer case of accident.

Brown V. Kendall

Brown V. Kendall,inevitable accidents,law of torts,General defences in torts law

Plaintiff's and Defendant's dogs were fighting.Defendant thrown a stone in attempt to separate them but that stone accidentally hit plaintiff standing near by.It's a case of accident and whole incident was not foreseen.Therefore defendant was not held liable.

Padmavati V. Dugganaika

Padmavati V. Dugganaika case brief notes,Inevitable Accidents,General Defences in Torts Law

Plaintiff(Jeep Driver) along with two strangers in the jeep was travelling and the bolts of the tyre of the jeep opened up due to which car toppled.In the incident,one stranger was thrown out of the jeep(died) while the other stranger was severely injured.Since it's the sheer case of accident,defendant was not held liable.

4. Act Of God (With All Famous Case Laws)

Act of God in General Defences in Torts Law Notes

The fourth defence that comes under the General Defences in Torts Law is Act Of God.So here are the notes for Act Of God with all the leading cases.

Extra ordinary occurrence of circumstances which could have not been foreseen and guarded against,or more accurately,due to natural cause directly or exclusively without human intervention.
Two Essentials of Act Of God :
1. There must be working of natural forces.
2. Occurrence must be extra ordinary and not one which could have been guarded against.

Case Laws :

Nichols V. Marsland

Defendant created an artificial lake on his land by damming some natural streams.Due to extraordinary rainfall,rush of water washed away plaintiff's bridge.Even it was said that the rainfall was heaviest at that time till that time.Since it was an act of god and defendant could not guard that,he was not held liable.

Kallulal V. Hemchand

Rainfall led to collapsing of defendant's wall.In this incident plaintiff lost his children.Defendant pleaded that this was mere act of god,but there wasn't anything extraordinary as there was normal rain at that time.Defendant was held liable.

5. Private Defence (With All Famous Case Laws)

Private Defences in General Defences in Torts Law notes with cases

The fifth defence that comes under the General Defences in Torts Law is Private Defence.So here are the notes for Private Defence with all the leading cases.

The law permits use of reasonable force to protect one's person or property.If defendant uses force which is necessary for self defence,he will not liable for the harm caused thereby.

The use of force should be justified only for the purpose of defence.There should be imminent threat to the personal safety or property.

The force should not be excessive.

Case Laws :

Bird V. HolBrook

Bird V. Holbrook,Private defence,general defences in torts law

Bird (Defendant) set a spring gun trap in his garden to protect his property. The spring gun trap injured Holbrook (Plaintiff) innocent trespasser.Plaintiff sued the defendant and claimed for damages.Defendant was held liable.

Ramanaju Mudali V. M Gangan

Defendant laid some live wires around his house.Plaintiff,trespasser received shock due to those live wires and was severely injured.Since there was no warning given,defendant was held liable.

Collins V. Renison

Plaintiff went up a ladder for nailing board to wall in defendant's garden.Defendant threw him off the ladder saying that plaintiff was in his property without permission.Plaintiff sued defendant for assault.Defendant was held liable.

Creswell V. Siri

Creswell V. Siri,private defence,general defences in torts law

Defendant shot plaintiff's dog which was chasing his herd of sheep.Keeping in mind that the dog was actually attacking the herd when it was shot down by defendant and also there was no other means to stop the dog at that time,Defendant was not held liable.

6. Mistake (With All Famous Case Laws)

Mistake with cases in law of torts (General Defences in Torts Law)

The sixth defence that comes under the General Defences in Torts Law is Mistake.So here are the notes for Mistake with all the leading cases.

Mistake either of fact or law,is generally no defence to n action for tort.When a person carefully interferes with the rights of another person,it is no defence to say that he had honestly believed that there was some justification for the same.

Case Laws :

Consolidated Co. V. Curtis & sons
Auctioneer was asked to auction certain goods by his customers.Auctioneer believing to customer auctioned them and paid the customer.But those goods belonged to someone else.

> ***Mistake (General Defences in Torts Law) Exception : Defendant Must Prove His Honesty.***

7. Necessity (With All Famous Case Laws)

Necessity in law of torts with cases (General Defences in Torts Law)

The next defence that comes under the General Defences in Torts Law is Necessity.So here are the notes for Necessity with all the leading cases.

An act causing damage,if done under the necessity to prevent a greater evil is not actionable even though the har was caused intentionally.

Maxim : Salus Populi is Supreme Law.
Meaning : Welfare of people is supreme law.

Case Laws :

Leigh V. Gladstone
Forcible feeding of hungry striking labour to save her life was held to be good defence.

Cope V. Sharpe
Defendant entered plaintiff's land to prevent the spread of fire,adjoining land over which defendant's master had shooting rights.Therefore Defendant was not held liable.

Carter V. Thomas
Defendant entered plaintiff's and to extinguish fire where the firemen were already working.Defendant held liable.

Kirk V. Gregory
After A's death ,A's sister in law removed the jewellery items and kept them in another room.Robbery happened.She was held liable as the interference was not necessary.

That's all for the General Defences in Torts Law.Still left with any doubts regarding the topic ?? Just contact us by commenting down or through our facebook page,and we will reply to you 🙂

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Divi - *October 23, 2017*

kindly provide statutory authority defence also...

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Nazrin - *October 29, 2017*

A person was intoxicated byvtaking liquor. Another person who knew him decided to take him back to his house and to return the car. But on the way an accident occured. Decide the liability... Pls send the answer...

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UPrepareLaw - *October 30, 2017*

Hey Nazrin ,
In the presented case two factors will be looked into. Firstly if the person is carrying the intoxicated person home out of bonafide intentions or in course of fulfilling his duty in course of his work.He cannot be sued in torts merely because there was not a proper consent from intoxicated person.
to substantiate this we wave provided a case law down below .
Secondly the person should be able claim the defence inevitable accident if practiced caution and was not negligent.

A case with relation to incapacity to give consent is that of Gillick v West Norfolk & Wisbeck Area Health Authority [i]. Mrs Gillick was a mother with five daughters under the age of 16. She sought a declaration that it would be unlawful for a doctor to prescribe contraceptives to girls under 16 without the knowledge or consent of the parent. The court refused to give such a declaration. Lord Fraser in his judgement said that:

It seems to me verging on the absurd to suggest that a girl or a boy aged 15 could not effectively consent, for example, to have a medical examination of some trivial injury to his body or even to have a broken arm set. Provided the patient, whether a boy or a girl, is capable of understanding what is proposed, and of expressing his or her own wishes, I see no good reason for holding that he or she lacks the capacity to express them validly and effectively and to authorise the medical man to make the examination or give the treatment which he advises. After all, a minor under the age of 16 can, within certain limits, enter into a contract. He or she can also sue and be sued, and can give evidence on oath. I am not disposed to hold now, for the first time, that a girl aged less than 16 lacks the power to give valid consent to contraceptive advice or treatment, merely on account of her age. Thus, we can see how the ability to give consent is determined in different cases with respect to the facts in the given situation.

Reply

Shafaq - *November 6, 2017*

I need these notes on Volenti non fit Injuria in PDF format please.

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Anuj dhanoliya - *November 14, 2017*

i want statutory authority notes

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kabir - *November 15, 2017*

i love your work and the way you presented all the details could you please send me notes on statutory authority and also other material related to law of torts

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