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SUBJECT : LAW OF TORTS

TOPIC – 1 | NATURE AND DEFINITION

Previous Year Question paper analysis – Lawxpertsmv India

NOTE | Questions are solved in such a way that, how with few cases you can answer multiple questions.

2022	"Tortious liability arises from breach of duty primarily fixed by the law. This duty is towards persons generally and its breach is redressable by an action for unliquidated damages." Comment.

INTRODUCTION | The statement "Tortious liability arises from breach of duty primarily fixed by the law. This duty is towards persons generally and its breach is redressable by an action for unliquidated damages" represents the fundamental principles of tort law. Let's discuss each ingredient in detail along with relevant cases.

1. **Breach of duty primarily fixed by the law:** Tortious liability arises from a breach of a duty that is primarily fixed by the law. This means that the law imposes a duty on individuals to not cause harm to others, and if they breach this duty, they can be held liable for the harm caused. This duty may arise from statutes, regulations, or common law principles.

For example, in the case of Donoghue v Stevenson, the House of Lords held that a manufacturer owed a duty of care to the ultimate consumer of its products. The duty was primarily fixed by the law and arose from the manufacturer's relationship with the consumer.

2. **Duty towards persons generally:** The duty breached must be towards persons generally, meaning that it is owed to everyone and not just a specific individual or group. This means that the plaintiff need not be in a special relationship with the defendant to establish a duty of care.

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For example, in the case of M.C. Mehta v. Union of India, the Supreme Court held that it was the duty of the state to ensure that hazardous substances were not discharged into the environment. This duty was towards persons generally and not just a specific individual or group.

3. **Redressable by an action for unliquidated damages:** The breach of duty must be redressable by an action for unliquidated damages. This means that the plaintiff can seek compensation for damages that cannot be calculated precisely.

For example, in the case of Gobald Motor Service Ltd. v. Veluswamy, the Supreme Court held that the plaintiff was entitled to compensation for pain and suffering caused by a motor vehicle accident. The damages were unliquidated as they could not be calculated precisely.

CONCLUSION | Overall, the statement emphasizes the importance of the duty fixed by law and the ability of the legal system to provide redress for those who suffer harm due to a breach of that duty. The cases discussed illustrate how each ingredient of the definition applies in practice, emphasizing the fundamental principles of tort law.

2019	Pigeonhole theory in the law of torts hold no Justification now. Critically Examine.

INTRODUCTION | Pigeonhole theory in the law of torts refers to the principle that a defendant can only be held liable for a specific cause of action that falls within a particular legal category or "pigeonhole." The theory is based on the idea that each type of tort is distinct from the others and should be treated separately. In other words, the plaintiff must show that the defendant's actions fit within a specific legal category of torts in order to hold them liable.

- Thus, pigeonhole theory in the law of torts is a principle that restricts the liability of the defendant to a specific legal category or "pigeonhole."

- This principle has been criticized for its rigidity and its inability to capture the complexity of real-life tort cases.
- Critics of the pigeonhole theory argue that it can lead to arbitrary and unfair outcomes, as it restricts the plaintiff's ability to hold the defendant accountable for their actions.

  For example, if a plaintiff is injured due to a defendant's wrong action, but the defendant's conduct does not fit neatly within any particular pigeonhole, the plaintiff may be unable to recover damages.
- Moreover, the pigeonhole theory is not always reflective of the real-world complexities of tort cases, where different types of harm may be intertwined and difficult to categorize neatly.

One of the most significant Indian tort cases that challenges the pigeonhole theory is the case of **M.C. Mehta v. Union of India (1986).** In this case, the Supreme Court of India held that the principle of strict liability could be applied to hazardous activities that may cause harm to the public.

The court rejected the pigeonhole theory and held that a person engaging in a hazardous activity that causes harm to the public can be held liable under the principle of strict liability, even if the harm caused does not fit neatly into a specific legal category.

Legal scholars and commentators have also criticized the pigeonhole theory in Indian law. In his book "The Law of Torts in India" (2012), Prof. R.K. Bangia has argued that the pigeonhole theory is overly rigid and that courts should adopt a more flexible approach to tort liability. According to Prof. Bangia, the pigeonhole theory can lead to unfair outcomes and may not reflect the real-world complexity of tort cases.

In conclusion, while the principle may have provided a useful framework for organizing the law of torts in the past, its limitations have become increasingly apparent in light of evolving legal and societal norms. As a result, it is important for Indian courts and legal scholars to critically examine the pigeonhole theory and consider more flexible and nuanced approaches to tort liability.

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2018	"The paramount task of the law of torts is to pay an important regulatory role in the adjustment of losses and eventuate allocation of their cost and that until the emergence of the welfare state, the law of torts provided the only source for alternating the plight of the injured." In the light of the above statement discuss the nature and scope of law of torts and substantiate your answer with the leading case laws also discuss the position in India

INTRODUCTION | The law of torts is an essential component of the legal system that deals with civil wrongs, including personal injury, property damage, and other forms of harm caused by the wrongful acts of individuals, organizations, or the state.

- ***The primary goal of the law of torts is to provide a regulatory framework for adjusting losses and allocating their costs in a fair and equitable manner.***

The nature and scope of the law of torts: The law of torts is concerned with the prevention of harm and compensation for losses suffered by individuals as a result of the wrongful acts of others. It is based on the principle of fault, whereby liability is imposed on the wrongdoer for the harm caused by their actions.

THUS ! The law of torts provides a mechanism for holding individuals, organizations, or the state accountable for their actions, and it serves as an essential tool for protecting the rights and interests of individuals.

Areas to note | The law of torts encompasses a wide range of activities, including negligence, intentional torts, and strict liability. Negligence is the failure to exercise reasonable care, resulting in harm to another person or property.

- *Intentional torts are willful acts that cause harm to another person, such as assault, battery, or defamation.*
- *Strict liability is imposed when harm is caused without any intention or negligence, such as in cases involving dangerous products or activities.*

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Leading case laws | Donoghue v. Stevenson (1932). In this case, the House of Lords held that a manufacturer of a product owes a duty of care to the consumer of that product. This decision established the principle of negligence and set the foundation for modern tort law.

Another significant case law is **Rylands v. Fletcher (1868),** where the defendant was held strictly liable for damage caused by the escape of water from a reservoir. This decision established the principle of strict liability and has been influential in shaping the law of torts in cases involving hazardous activities or products.

Position in India: In India, the law of torts has evolved over time through various judicial decisions . One such case is the case of **M.C. Mehta v. Union of India (1986),** where the Supreme Court of India - This decision expanded the scope of tort law in India and established the principle of absolute liability, whereby a person engaging in hazardous activities can be held liable for harm caused, without exceptions.

Conclusion: The law of torts although not much active but plays a vital role in regulating behavior and holding individuals, organizations, or the state accountable for their actions. Through the development of various principles and doctrines, such as negligence, strict liability, and absolute liability, the law of torts has evolved to meet the changing needs of society.

2017	Law of torts is said to be a development of the maxim 'Ubi jus ibiremedium'. Discuss the statement.

INTRODUCTION | The maxim "**Ubi jus ibi remedium**" means "where there is a right, there is a remedy." This maxim reflects the fundamental principle of the law of torts, which provides a remedy to those who have suffered harm or injury due to the wrongful actions of others.

- *In other words, the law of torts is a development of this maxim because it provides a legal remedy to those whose rights have been violated. In this essay, we will discuss this statement and substantiate it with relevant case laws.*

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- *The principle of "Ubi jus ibi remedium" is deeply embedded in the law of torts. The law of torts provides remedies to individuals who have suffered harm or injury due to the wrongful actions of others.*
- *The remedies provided by the law of torts include compensation, injunctions, and specific performance. These remedies are intended to provide relief to the injured party and ensure that justice is served.*

CASE LAW | One of the most significant cases that illustrate the application of this maxim is **Ashby v. White (1703).** In this case, the plaintiff, Ashby, was prevented from exercising his right to vote by the defendant, White. Ashby brought an action against White, seeking damages for the loss of his right to vote.

The court held that even though there was no specific remedy for the violation of a right to vote, the plaintiff had a right to bring an action for damages because where there is a right, there must be a remedy.

Another important case is **Donoghue v. Stevenson (1932),** where the plaintiff, Donoghue, consumed a bottle of ginger beer that contained a decomposed snail. Donoghue suffered from shock and gastroenteritis as a result.

The court held that the manufacturer of the ginger beer owed a duty of care to the consumer and that the plaintiff had a right to bring an action for damages. This decision established the principle of negligence and set the foundation for modern tort law.

The maxim "Ubi jus ibi remedium" is also relevant in cases involving strict liability. In the case of **Rylands v. Fletcher (1868),** the defendant, Fletcher, had constructed a reservoir on his land. The reservoir was used to store water, but it leaked and flooded the plaintiff's coal mine.

The court held that the defendant was strictly liable for the damage caused, even though he had taken all reasonable precautions. This decision established the principle of strict liability, which provides a remedy to those who have suffered harm due to hazardous or dangerous activities.

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In conclusion, the law of torts is a development of the maxim ***"Ubi jus ibi remedium."*** The law of torts provides a legal remedy to those whose rights have been violated. The principles of negligence, strict liability, and other doctrines are based on this maxim, and they ensure that justice is served in cases where harm or injury has been caused due to the wrongful actions of others.

The cases discussed above illustrate the application of this maxim in the law of torts.

2014	"A tort is a species of civil wrong." Examine this definition and add other features to make it comprehensive. Comprehensive answer given – make it apt to suit word count

INTRODUCTION | A civil wrong: A tort is a civil wrong, which means it is a wrong against an individual or group rather than a wrong against the state. The injured party in a tort case can seek compensation or damages from the person or entity that caused the harm.

Definition by Salmond: "A tort is a civil wrong for which the remedy is a common law action for unliquidated damages, and which is not exclusively the breach of a contract or the breach of a trust or other merely equitable obligation." – Salmond

The above definition also favours the position of tort as civil wrong which manifest it as individual endeavour to fight and gain compensation as remedy and not a imprisonment.

THUS ! The statement "a tort is a species of civil wrong" is a widely accepted definition of torts. A tort is an act or omission that results in harm or injury to another person, and for which the injured party may seek compensation or damages through a civil lawsuit.

Which infers that for tort law

1. Suit must be initiated by the individual only as it is not wrong against state but a civil wrong against individual
2. Evidence rule will be based on preponderance of probabilities

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3. Final remedy will be damages and not imprisonment

Other features to be added to make it comprehensive.

One of the key features of a tort is that it is a non-contractual civil wrong. This means that a tort is a wrong that arises independently of any contract between the parties. The injured party can seek compensation through a tort claim even if there was no contractual relationship between them and the party that caused the harm.

Another important feature of a tort is that it is a compensable civil wrong. The injured party can seek compensation for the harm or injury suffered as a result of the tort. The compensation may take the form of monetary damages, injunctive relief, or specific performance. The purpose of compensating the injured party is to restore them to the position they were in before the tort was committed.

The remedy for tort would be unliquidated damages | Which means for tort violations compensation would be given which would not be prefixed as in case of contracts.

Donoghue v Stevenson (1932) In this landmark case, the plaintiff (Donoghue) consumed a bottle of ginger beer that contained a decomposed snail. She became ill and sued the manufacturer (Stevenson) for negligence. The court held that the manufacturer owed a duty of care to the consumer and that a breach of that duty constituted a tort and it must be compensated.

MORE OTHER FEATURES ARE |

1. **A breach of duty:** A tort involves a breach of duty, which means that the tortfeasor (person who caused the harm) has failed to fulfill a legal obligation to the injured party.

Definition by Winfield: "Tortious liability arises from the breach of a duty primarily fixed by law; this duty is towards persons generally and its breach is redressible by an action for unliquidated damages." - Winfield

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Case example: Blyth v Birmingham Waterworks Co. (1856) In this case, the defendant (Birmingham Waterworks Co.) was responsible for maintaining a water pipe. The pipe froze and burst, causing damage to the plaintiff's property. The court held that the defendant had not breached their duty of care because they had taken reasonable precautions to prevent the pipe from freezing.

2. **Causation:** A tort also requires causation, which means that the tortfeasor's actions must have caused the harm suffered by the injured party.

Definition by Prosser: *"The law of torts consists of the rules by which one person's conduct interferes with the interests of another person, in violation of a duty imposed by law, giving rise to an action for damages." - Prosser*

Case example: Barnett v Chelsea and Kensington Hospital Management Committee (1969) In this case, the plaintiff (Barnett) visited a hospital complaining of stomach pain. The hospital's triage nurse failed to recognize that he had ingested arsenic and sent him home, where he died. The court held that while the hospital had breached its duty of care to the plaintiff, their negligence had not caused the plaintiff's death because he would have died even if he had been treated properly.

4. **Harm or injury:** A tort involves harm or injury suffered by the injured party, whether it be physical, emotional, or financial.

Definition by Fleming: *"Tort law deals with situations in which one person has wrongfully injured another, either intentionally or negligently.*

Case example: Gideon v Wainwright (1963) In this case, the plaintiff (Gideon) was charged with breaking and entering, but was not provided with a lawyer for his trial. He was convicted and sentenced to five years in prison. The court held that the defendant (Wainwright) had violated the plaintiff's right to due process, which constituted a tort.

5. **Compensatory or punitive damages:** In a tort case, the injured party may seek compensatory damages to cover their losses or punitive damages to punish the tortfeasor for their wrongdoing.

Definition by Keeton: *"A tort is a civil wrong for which the court will provide a remedy in the form of an action for damages." - Keeton*

In conclusion, the statement that "a tort is a species of civil wrong" is an accurate and widely accepted definition of torts. However, to make it more comprehensive, we must also consider the other features of torts, such as the fact that they are non-contractual, compensable, involve a breach of duty, and require causation and remoteness.

2011	"Torts is concerned with the allocation on prevention of losses which are bound to occur in society" Discuss.

INTRODUCTION | The law of torts is primarily concerned with the allocation of losses and the prevention of harm that is bound to occur in society. In other words, it aims to provide compensation to the injured party and deter future wrongful conduct. This can be seen in various cases where the court has held the wrongdoer liable for the losses suffered by the victim.

- **One such case is Donoghue v. Stevenson,** where a woman found a decomposed snail in a bottle of ginger beer and suffered from shock and gastroenteritis. The court held that the manufacturer owed a duty of care to the ultimate consumer and was liable for the harm suffered by the plaintiff. This case established the principle of negligence and expanded the scope of duty of care owed by manufacturers to consumers.
- **Another example is Rylands v. Fletcher**, where the defendant's negligent storage of water on his land caused damage to the plaintiff's property. The court held that the defendant was strictly liable for the damage caused, as he had brought a dangerous thing onto his land and failed to prevent it from causing

harm. This case established the principle of strict liability and expanded the scope of liability for non-natural use of land.

- **Similarly, in M.C. Mehta v. Union of India,** the Supreme Court of India held that the polluter must pay for the harm caused by their actions, as it is their responsibility to prevent environmental damage. The court imposed strict liability on the polluting industries and held them responsible for compensating the victims of pollution.

Thus, it can be seen that the law of torts is concerned with the allocation and prevention of losses that are bound to occur in society. It aims to provide compensation to the injured party and deter future wrongful conduct, thereby promoting social welfare and justice.

2011	**"Before a person can recover for loss which he suffered from another person's act, it must be shown that his case falls within the class of actionable wrongs." Discuss**

INTRODUCTION | The statement highlights the fundamental requirement for a plaintiff to establish that the wrong committed by the defendant falls within the scope of actionable wrongs **recognized under the law of torts.** In other words, the plaintiff must show that the defendant has committed a tortious act for which the law recognizes a remedy. This is nothing but the **crux of pigeon hole theory.**

Pigeonhole theory in the law of torts refers to the principle that a defendant can only be held liable for a specific cause of action that falls within a particular legal category or "pigeonhole."

- The theory is based on the idea that each type of tort is distinct from the others and should be treated separately. In other words, the plaintiff must show that the defendant's actions fit within a specific legal category of torts in order to hold them liable.

An actionable wrong is a legal term that refers to a wrongful act or omission that gives rise to a cause of action for the plaintiff to seek a legal remedy.

The law of torts recognizes various actionable wrongs such as negligence, nuisance, defamation, trespass, and many others.

For instance, in the case of Donoghue v. Stevenson, the plaintiff was able to establish that the defendant had committed an actionable wrong by breaching his duty of care towards the plaintiff. This gave the plaintiff a cause of action to seek a remedy for the harm suffered.

Similarly, in the case of Ashby v. White, the plaintiff was able to establish that the defendant had committed an actionable wrong by wrongfully preventing the plaintiff from exercising his right to vote. This gave the plaintiff a cause of action to seek a remedy for the violation of his legal right.

CONCLUSION | Therefore, before a person can recover for loss suffered from another person's act, it is essential for the plaintiff to demonstrate that the act of the defendant falls within the class of actionable wrongs recognized under the law of torts. This is a crucial requirement for seeking a remedy in tort law and ensures that only those who have suffered harm due to a wrongful act are entitled to seek legal redress.

2010	"Damnum sine injuria and injuria sine damnun are two different principles of law." Comment briefly.

The legal principles of "damnum sine injuria" and "injuria sine damnum" are two different concepts in the law of torts.

"Damnum sine injuria" means "damage without injury" and refers to a situation where a person suffers damage, loss or harm, but there is no legal remedy available since there has been no violation of any legal right. In other words, the plaintiff has suffered a loss, but the loss is not actionable under the law of torts.

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For example, if a new business opens up near an established business and the established business suffers a loss in revenue, there is no legal remedy available since the new business has not committed any legal wrong.

Gloucester Grammar School Case (1410) - In this case, a new school was established in the vicinity of an already existing school, which caused a decline in the number of students attending the older school. The older school sued the new school for causing them financial loss, but the court held that the new school had not committed any legal wrong, and therefore, no remedy was available. This case is an example of "damnum sine injuria."

On the other hand, "injuria sine damnum" means "injury without damage" and refers to a situation where a person's legal right has been violated, but no actual loss or damage has been suffered. In such cases, the plaintiff is entitled to seek a legal remedy even if no actual harm has been suffered.

For example, if a person is defamed, but the defamation did not cause any financial loss, the plaintiff is still entitled to seek a remedy for the violation of their legal right to reputation.

Ashby v. White (1703) - In this case, the plaintiff was prevented from voting in an election by the defendant, who was the returning officer. The plaintiff did not suffer any financial loss, but he sued the defendant for violation of his legal right to vote. The court held that the plaintiff had a right to vote, and the defendant's actions had violated that right, even though the plaintiff had not suffered any actual harm. This case is an example of "injuria sine damnum."

In conclusion, "damnum sine injuria" and "injuria sine damnum" are two distinct principles of law in the law of torts, and they are crucial in determining whether a plaintiff has a cause of action to seek a legal remedy for a harm suffered.

2007	Distinguish between tortious liability and criminal liability.

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Tortious liability and criminal liability are two different types of legal liabilities in the Indian context. Here's a detailed comparison between the two:

1. **Nature of the Wrong:** Tortious liability arises from civil wrongs, which involve harm or injury caused to another person or property. Criminal liability, on the other hand, arises from offenses against the state, which are considered to be crimes against society as a whole.
2. **Parties Involved:** In tort law, the parties involved are the plaintiff (the person who suffered harm) and the defendant (the person who caused the harm). In criminal law, the parties involved are the state (or the prosecutor) and the accused (the person who committed the crime).
3. **Burden of Proof:** In a tort case, the plaintiff has the burden of proving that the defendant committed the tort and caused the harm. The standard of proof is lower than in a criminal case, as the plaintiff only needs to prove that the defendant is more likely than not responsible for the harm (i.e. on the balance of probabilities). In a criminal case, the burden of proof is on the prosecution, which must prove beyond a reasonable doubt that the accused committed the crime.
4. **Punishment and Remedies:** In tort law, the remedy is usually monetary compensation (damages) awarded to the plaintiff for the harm suffered. In criminal law, the punishment may include imprisonment, fines, or community service. Criminal law is also concerned with the protection of society as a whole, whereas tort law focuses on compensating the victim for their losses.

Here are some examples to illustrate the differences between tortious liability and criminal liability in the Indian context:

1. **Road Accident:** If a person is injured in a road accident, they can sue the driver of the other vehicle for compensation in a tort case. The driver may also face criminal charges for rash or negligent driving under the Indian Penal Code (IPC).

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2. **Defamation:** If a person is defamed by another person, they can sue for defamation in a civil case. However, if the defamation is also a criminal offense, the accused may face criminal charges under Section 499 and 500 of the IPC.
3. **Assault**: If a person is assaulted by another person, they can sue for damages in a civil case. The accused may also face criminal charges for assault or other related offenses under the IPC.

In conclusion, tortious liability and criminal liability are two different types of legal liabilities in the Indian context. While both involve harm or injury caused to another person, tort law focuses on compensating the victim for their losses, whereas criminal law is concerned with punishing the offender for the offense committed against society as a whole.

2006	"In tort the plaintiff wins his case only when he proves as to what particular tort the defendant has committed against him." Examine.

INTRODUCTION | The statement "In tort the plaintiff wins his case only when he proves as to what particular tort the defendant has committed against him" emphasizes the importance of identifying the specific tort committed by the defendant for the plaintiff to succeed in a lawsuit.

This is in line with the principle of Pigeonhole theory, which states that for the plaintiff to succeed, he must show that the defendant's act falls within a recognized tort. In this regard, the plaintiff must provide evidence to prove the elements of the specific tort claimed.

For instance, in the case of Donoghue v. Stevenson, the plaintiff claimed that the defendant, a manufacturer of ginger beer, was liable for her illness resulting from the consumption of a snail found in the bottle. The House of Lords held that the defendant was liable under the tort of negligence, as he owed a duty of care to the plaintiff, which he breached by selling contaminated products.

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- *Thus, the plaintiff's success in the case was hinged on the identification and proof of negligence as the specific tort committed by the defendant.*

Similarly, in the case of Ashby v. White, the plaintiff was prevented from voting by the defendant, a polling officer. The plaintiff sued the defendant for violating his right to vote. The Court held that the defendant was liable for the tort of deprivation of rights, as he intentionally interfered with the plaintiff's right to vote.

- *Thus, the plaintiff's success in the case was based on proving the specific tort of deprivation of rights.*

In conclusion, the statement "In tort the plaintiff wins his case only when he proves as to what particular tort the defendant has committed against him" is true as the plaintiff must identify and prove the specific tort committed by the defendant for a successful claim. This principle is in line with the Pigeonhole theory, which emphasizes the need for the plaintiff to show that the defendant's act falls within a recognized tort.

2005	Which one of the following two expressions is correct and why? 'Law of Torts' or 'Law of Tort'

INTRODUCTION | Both the expressions "Law of Torts" and "Law of Tort" are used interchangeably in legal literature, but the majority of legal scholars prefer to use "Law of Torts" as it reflects the pluralistic nature of the subject.

The Pigeonhole theory, which is a traditional classification of torts, suggests that torts can be neatly divided into various pigeonholes or categories based on their elements. This theory suggests that there is one single and fundamental principle underlying the entire law of torts, and therefore, the singular expression "Law of Tort" is more appropriate.

On the other hand, the Utilitarian theory, which is a modern approach to tort law, emphasizes the importance of balancing the interests of society as a whole against the interests of individual claimants. This theory recognizes that tort law is a pluralistic field that encompasses a wide range of different types of wrongs, each with its own set

of principles and rules. Therefore, the plural expression "Law of Torts" is more appropriate.

In the Indian context, the expression "Law of Torts" is used more commonly. For instance, in the landmark case of **Donoghue v. Stevenson,** the Supreme Court of India referred to the "Law of Torts" in its decision. Similarly, in the case **of M.C. Mehta v. Union** of India, the Supreme Court referred to the "Law of Torts" in its judgment.

Furthermore, the Indian legal system recognizes a wide range of torts, including negligence, nuisance, defamation, trespass, and strict liability, each with its own set of principles and rules. Therefore, the plural expression "Law of Torts" is more appropriate to reflect the diverse nature of tort law in India.

In conclusion, while both expressions "Law of Tort" and "Law of Torts" are used interchangeably, the plural expression is more appropriate in light of the diverse nature of tort law and the Utilitarian theory of torts.

2004	"All torts are civil injuries but all civil injuries are not torts." Explain the above statement.

INTRODUCTION | The statement "All torts are civil injuries but all civil injuries are not torts" refers to the legal concept that not all civil wrongs are considered torts. Tort law is a branch of civil law that deals with civil wrongs that result in harm or injury to another person. However, not all civil wrongs are considered torts, as some may not meet the criteria necessary to qualify as a tort.

According to John Salmond, a prominent legal scholar, a tort is ***"a civil wrong for which the remedy is an action for damages, and which is not exclusively the breach of a contract or the breach of a trust or other mere equitable obligation."*** This definition highlights that a tort must involve a civil wrong that results in harm or injury to another person, and that the remedy for the wrong is typically an action for damages.

To further illustrate this concept, here are some examples of civil injuries that are not torts:

1. **Breach of contract:** A breach of contract occurs when one party fails to fulfill their obligations under a contract. While a breach of contract can result in harm or injury to another person, it is not considered a tort because it is a breach of a contractual obligation.
2. **Breach of trust:** A breach of trust occurs when someone in a position of trust, such as a trustee or executor, fails to act in the best interests of the person they are representing. While a breach of trust can result in harm or injury to another person, it is not considered a tort because it is a breach of an equitable obligation.
3. **Property disputes:** Property disputes can arise over a variety of issues, including boundary disputes, easements, and landlord-tenant disputes. While property disputes can result in harm or injury to another person, they are not considered torts because they typically involve a breach of a property right rather than a breach of a legal duty.

On the other hand, all torts are civil injuries because they involve a breach of a legal duty that results in harm or injury to another person. For example, the tort of negligence occurs when someone fails to exercise reasonable care and causes harm or injury to another person, such as a doctor who fails to diagnose a patient's illness. The injured party can then sue the negligent party for damages to compensate for their injuries.

In summary, the statement "All torts are civil injuries but all civil injuries are not torts" highlights the legal concept that not all civil wrongs are considered torts. While all torts are civil injuries that result in harm or injury to another person, not all civil injuries meet the criteria necessary to qualify as a tort under the law.

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2004 **Distinguish between tortious liability and contractual liability.**

Tortious liability and contractual liability are two types of civil liabilities that can arise in different circumstances***. Here are the main differences between the two:***

1. **Nature of the duty**: Tortious liability arises from a legal duty imposed by law that requires people to act in a certain way towards others. The duty exists independently of any agreement between the parties involved. In contrast, contractual liability arises from a legal duty that arises from a contract, which is an agreement between two or more parties that creates legal obligations between them.
2. **Basis of liability**: In tortious liability, liability arises from the breach of a legal duty that causes harm or injury to another person. In contractual liability, liability arises from the breach of a contractual obligation that causes harm or loss to the other party.
3. **Privity of contract:** Contractual liability only arises between the parties to a contract, meaning that only those who are parties to the contract can sue or be sued for a breach of contract. In contrast, tortious liability can arise between any two parties who are not necessarily in a contractual relationship.

Here are some examples to illustrate the differences:

Tortious liability: Suppose a person is walking on the sidewalk and a careless driver hits them with their car, causing them injury. In this case, the driver has breached their duty of care to the pedestrian, and they are liable for the harm caused under the tort of negligence.

Contractual liability: Suppose a homeowner hires a contractor to renovate their kitchen, and the contractor agrees to complete the work by a certain date. If the contractor fails to complete the work on time, they have breached their contractual obligation to the homeowner. The homeowner can sue the contractor for breach of contract and seek damages for any losses they have suffered as a result.

In summary, while both tortious liability and contractual liability involve legal obligations that can result in civil liability, they arise from different types of duties and

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legal relationships. Tortious liability arises from legal duties imposed by law that require people to act in a certain way towards others, while contractual liability arises from legal duties that arise from a contract between two or more parties.

2003	"It is the task of the law of tort to determine when the law will and will not grant redress for damage suffered." Discuss.

INTRODUCTION | The law of torts is concerned with providing remedies for harm suffered as a result of someone else's actions. However, not all harm suffered will give rise to a cause of action in tort. The concept of damnum sine injuria is used to describe situations where harm has been suffered but no legal remedy is available because there has been no infringement of a legal right or duty.

NOTE | In other words, the law of torts will only provide redress for harm suffered if there has been a violation of a legal right or duty. This means that a cause of action in tort will only arise when there has been a breach of a legal duty owed to the claimant by the defendant.

For example, if a person slips and falls on a wet floor in a grocery store and suffers injuries, they may have a cause of action in tort against the store if it can be shown that the store breached its duty to provide a safe environment for customers.

- In this case, the legal duty owed by the store to its customers is to provide a safe environment, and the breach of that duty (by not cleaning up the wet floor or warning customers of the hazard) has caused harm to the claimant.

On the other hand, if a person suffers harm as a result of a competitor opening a new business nearby and causing a decrease in sales for an existing business, this would be considered damnum sine injuria, as the competitor has not violated any legal right or duty by opening a new business.

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- In this case, the harm suffered (decrease in sales) is not the result of a breach of a legal duty, and therefore no cause of action in tort would arise.

There are several definitions of torts, but one common definition is that a tort is a civil wrong that causes harm or injury to another person, for which the law provides a remedy. This harm can be physical, emotional, or financial. Some of the types of torts recognized under Indian law include negligence, defamation, nuisance, trespass, and assault.

Examples of Indian cases where the law of torts has been used to determine when redress for damage suffered will and will not be granted include:

M.C. Mehta v. Union of India (1987): In this case, the Supreme Court of India held that a person who suffers harm as a result of environmental pollution can bring a tort action against the polluter. The court recognized that the right to a clean environment is a fundamental right under the Indian Constitution, and that the law of torts can be used to protect this right.

In case, the law of torts was used to determine when redress for damage suffered would be granted. The court recognized that harm suffered as a result of environmental pollution could give rise to a cause of action in tort.

2001	"Whenever there is a breach of duty there is a cause of action in tort." Discuss.

INTRODUCTION | The Winfield definition of tort is that it is a civil wrong for which the remedy is a common law action for damages. The action is brought by an injured party against the party that caused the injury. The fundamental principle behind the law of torts is that where a person has suffered harm due to the fault of another, they should be compensated for that harm.

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According to the Winfield definition, a tort arises when there is a breach of duty owed by one person to another, which results in harm or injury to the other person.

- Thus, whenever there is a breach of duty, there is a cause of action in tort. However, it is important to note that not every breach of duty will give rise to a cause of action in tort. The breach must have caused harm or injury to the other person.

In Indian law, the concept of breach of duty and cause of action in tort is well recognized. There are many cases where a breach of duty has resulted in a cause of action in tort.

For example, in the case of **State of Rajasthan v. Vidhyawati (1962),** the Supreme Court of India held that the state government was liable for causing accident to man who walked down the road as state employed driver breached duty of care while driving.

Donoghue v. Stevenson was a landmark case in tort law that established the principle of duty of care. Mrs. Donoghue found a decomposed snail in a bottle of ginger beer and sued the manufacturer, Mr. Stevenson, for damages. The court held that Mr. Stevenson had breached his duty of care towards Mrs. Donoghue by allowing the snail to get into the bottle. The case established the principle that a person can be held liable for harm caused to another person if they breach their duty of care.

CONCLUSION | In both cases, the breach of duty caused harm or injury to the other person, which resulted in a cause of action in tort. Therefore, it can be said that whenever there is a breach of duty, there is a potential cause of action in tort, provided that the breach has caused harm or injury to the other person.

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