

## Remedies in Tort

Remedies are form of relief available to the person against whom a wrong has been committed. Tort remedies are typically of two types: judicial and extrajudicial. Judicial remedies are those which are obtained through courts of law, while extra judicial remedies are secured by means of self- help.

### JUDICIAL REMEDIES

There are mainly three types of judicial remedies:

1. Injunctions
2. Damages/ compensations
3. Restitution

#### Injunctions

An injunction is an order of a court directing the doing of an act or restraining the commission or continuance of some wrongful act, or the continuance of some wrongful omission. The court has the discretion to grant or refuse this remedy and when remedy by way of damages is a sufficient relief, injunction will not be granted. A suit of injunction can be filed against any individual, group or even the State.

The torts for which an injunction is usually sought are nuisance, continuing trespass, infringement of copyright, trademarks and patents and passing off one's goods as those of another. But the remedy of injunction is impossible in the torts of assault and battery, false imprisonment and restraint.

The injunctions are of various kinds.

Distinction based on its nature-

1. Mandatory injunction
2. Prohibitory injunction

Distinction based on its nature of duration-

1. Temporary injunction
2. Permanent injunction

#### Nature of duration

##### Temporary Injunction

Temporary injunctions are regulated by **order 39 rule 1 of the CPC**. A temporary or interlocutory injunction is generally granted before the case has been heard on merits and it is only provisional and, as such, continues until the case is heard on its merits or until further orders of the court. It does not mean determination in favour of the plaintiff but simply shows that there is a substantial question requiring consideration. Where it is, for example, intended that the property should continue to remain in its existing condition rather than being destroyed or wrongfully disposed of before the final decision, such an injunction will be issued. If the court, after fully going into the matter, finds that the plaintiff is entitled to the relief, the temporary injunction will be replaced by a perpetual/ permanent injunction. If, however, the plaintiff's case is found to be unjust, the injunction will be dissolved.

The Supreme Court in **Case Gola India v Gopal Bhatia Company** discussed the requirements to grant a temporary injunction or more specifically an **ex parte injunction**.

It includes:

1. There has to be a **prima facie case**.
2. A balance of convenience has to be maintained. (That is, which party is more at loss, etc.)
3. There has to be an irreparable damage. (The damage has to be such that cannot be compensated for, in money)

A temporary injunction may be granted in any of the following cases:

- An injunction can be granted in favour of a party and against the government if the government is barring the party from doing a lawful act or freely exercising his rights.
- Under **Section 80** of the CPC, an injunction can be granted against an act done by a government/public officer working in his official capacity.
- When the property in dispute is in danger of being damaged or wasted by either of the parties.
- In cases of tenancy. A plaintiff being unjustly removed as a tenant, that is, not through the due legal process, can seek an injunction against his/her landlords.
- In case of a continuing nuisance, where the defendant is asked to discontinue his act of nuisance so as to prevent further damage to the plaintiff while the case is being decided.
- In cases of trademark, copyright infringement, etc.

# Torts 3rd

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### Torts 3rd:

**Scholars of Tort Law** James Goudkamp, Donal Nolan, 2019-10-03 The publication of *Scholars of Tort Law* marks the beginning of a long overdue rebalancing of private law scholarship. Instead of concentrating on judicial decisions and academic commentary only for what that commentary says about judicial decisions, the book explores the contributions of scholars of tort law in their own right. The work of a selection of leading scholars of tort law from across the common law world, ranging from Thomas Cooley (1824-1898) to Patrick Atiyah (1931-2018), is addressed by eminent current scholars in the field. The focus of the contributions is on the nature of the work produced by each of the scholars in question, important influences on their work, and the influence which that work in turn had on thinking about tort law. The process of subjecting tort law scholarship to sustained analysis provides new insights into the intellectual development of tort law and reveals the important role played by scholars in that development. By focusing on the work of influential tort scholars, the book serves to emphasise the importance of legal scholarship to the development of the common law more generally.

**Modern American Law: Law of torts** Eugene Allen Gilmore, William Charles Wermuth, 1914    **A Compendium of the Law of Torts** Sir Hugh Fraser, 1908    Catalogs University of Illinois at Urbana-Champaign. College of Law, 1928    **The Law Examination Journal and Law Student's Magazine** Herbert Newman Mozley,    **The Solicitors' Journal and Weekly Reporter**, 1920    The Magistrates' Court Reports New Zealand. Magistrates' Court, 1918    The Magistrates' Court Reports, 1918

**Nuyen v. Sler, 372 MICH 654 (1964)**, 1964 50417    **Upper Burma Rulings** Burma, Upper. Ta rā" Ṭhāna khyup' Van' krī" mañ", 1930    Upper Burma Rulings Burma. Courts, 1903    The Australian Law Times, 1906    **General Index of Commonwealth Statutes, in Force on 1st January, 1920** Hugh Baron Bignold, 1920    California. Court of Appeal (1st Appellate District). Records and Briefs California (State).,    **California. Court of Appeal (2nd Appellate District). Records and Briefs** California (State).,    B.H. Blackwell B.H. Blackwell Ltd, 1928    **Lawyer and Banker and Southern Bench and Bar Review** Charles Ellewyn George, 1920    **Principles of the Common Law** John Indermaur, 1901

Records & Briefs New York State Appellate Division,    *The Lawyer & Banker and Southern Bench & Bar Review* Charles E. George, 1920

This book delves into Torts 3rd. Torts 3rd is a crucial topic that needs to be grasped by everyone, ranging from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Torts 3rd, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:

- Chapter 1: Introduction to Torts 3rd
- Chapter 2: Essential Elements of Torts 3rd
- Chapter 3: Torts 3rd in Everyday Life
- Chapter 4: Torts 3rd in Specific Contexts
- Chapter 5: Conclusion

2. In chapter 1, this book will provide an overview of Torts 3rd. The first chapter will explore what Torts 3rd is, why Torts 3rd is vital, and how to effectively learn about Torts 3rd.
3. In chapter 2, the author will delve into the foundational concepts of Torts 3rd. The second chapter will elucidate the essential principles that must be understood to grasp Torts 3rd in its entirety.
4. In chapter 3, the author will examine the practical applications of Torts 3rd in daily life. This chapter will showcase real-world examples of how Torts 3rd can be effectively utilized in everyday scenarios.
5. In chapter 4, the author will scrutinize the relevance of Torts 3rd in specific contexts. The fourth chapter will explore how Torts 3rd is applied in specialized fields, such as education, business, and technology.
6. In chapter 5, the author will draw a conclusion about Torts 3rd. This chapter will summarize the key points that have been discussed throughout the book.

The book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of Torts 3rd.

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### **Torts 3rd Introduction**

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