

# Law of Torts

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*KSLU LL.B. — Complete Exam-Ready Study Bundle (All Five Units)*

KSLU LL.B. Study Bundle

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Notes Version: **v1.1**

June 2026

**Read this first page, then go to your unit.** This bundle holds the whole subject: how to use the notes, the rules that win marks, and all five units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real KSLU question papers (2011–2026, both 80- and 100-mark sittings).

## How to Use These Notes

**What this is.** A complete, exam-focused bundle covering all five units of KSLU Law of Torts. Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.

**Who it is for.** The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

**What is inside every topic** — the same blocks, in the same order:

Block	Its job	The mark it earns
<b>Previous Year Questions</b>	Real questions + years asked	What to prepare and how often it repeats
<b>The Hook</b>	A true story / landmark-case opener	Memorable; a strong opening line
<b>Jurist / Statutory Quotes</b>	Exact definitions & sections	Examiners reward precise authority
<b>In Simple Terms</b>	Plain-English translation	Ensures you <i>understand</i>
<b>The Visual (chart)</b>	Maps the topic structure	Recall and structure at a glance
<b>Case Laws</b>	Landmark judgments + ratio	Case names with years are pure marks
<b>☰ Tracker + ⚠ Risk Alert</b>	Answer plan + applied IRAC	Converts knowledge into a scoring answer

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

**The 4-step study plan.** (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the Tracker and one Risk Alert.

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## The 10 Rules That Win Marks

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1. **Lead with a definition + roadmap.**
2. **Follow the Blueprint Tracker** stage by stage.
3. **Name the case AND the year** every time.
4. **Quote the exact section / jurist** where given.
5. **Translate every Latin maxim in [brackets].**
6. **Use the four IRAC headings** for problems; spot the decoy fact.
7. **Always give a definite verdict.**
8. **Use the chart's structure** to organise the body.
9. **Close with a short, confident conclusion.**
10. **Manage time** so no high-mark question is left unwritten.

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# UNIT 1 – Introduction, Nature & Scope of Tort

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## Table of Contents

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1. Meaning, Definition & Essentials of Tort
  2. Tort Distinguished from Crime & Contract
  3. Damnum Sine Injuria & Injuria Sine Damno
  4. Ubi Jus Ibi Remedium
  5. Mental Elements — Intention, Motive, Malice
  6. Quick Revision & Case Law Table
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## 1. Meaning, Definition & Essentials of Tort

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### Previous Year Questions

- **[16M]** Define tort and discuss its essential elements. (2012, 2014, 2017, 2019, 2021Oct, 2022, 2024) ★★★
- **[16M]** “All torts are civil wrongs, but all civil wrongs are not torts.” Justify. (2012Dec, 2019, 2020, 2022Jun, 2025Feb) ★★
- **[16M]** Critically evaluate the various definitions of tort. (2026) ★
- **[Short Note]** Evolution / development of law of torts. (2011, 2012Jan, 2023) ★★

### The Hook

In 1932 a woman drank ginger-beer in a Paisley café and found the decomposed remains of a snail at the bottom of the opaque bottle. She had no contract with the manufacturer, yet the House of Lords in *Donoghue v Stevenson* let her sue. That single bottle shows what tort is — a duty the law itself imposes, owed to people you never made a promise to.

## What is a Tort?

The word “tort” comes from the Latin *tortum* [twisted or crooked conduct]. A tort is a **civil wrong** — other than a breach of contract or breach of trust — for which the remedy is an action for **unliquidated damages** (damages not fixed in advance, but assessed by the court).

The law of torts protects rights that exist *in rem* [against the whole world], such as your right to bodily safety, reputation, property and liberty. When someone violates such a right, the law gives the injured person a remedy, whether or not the two ever dealt with each other.

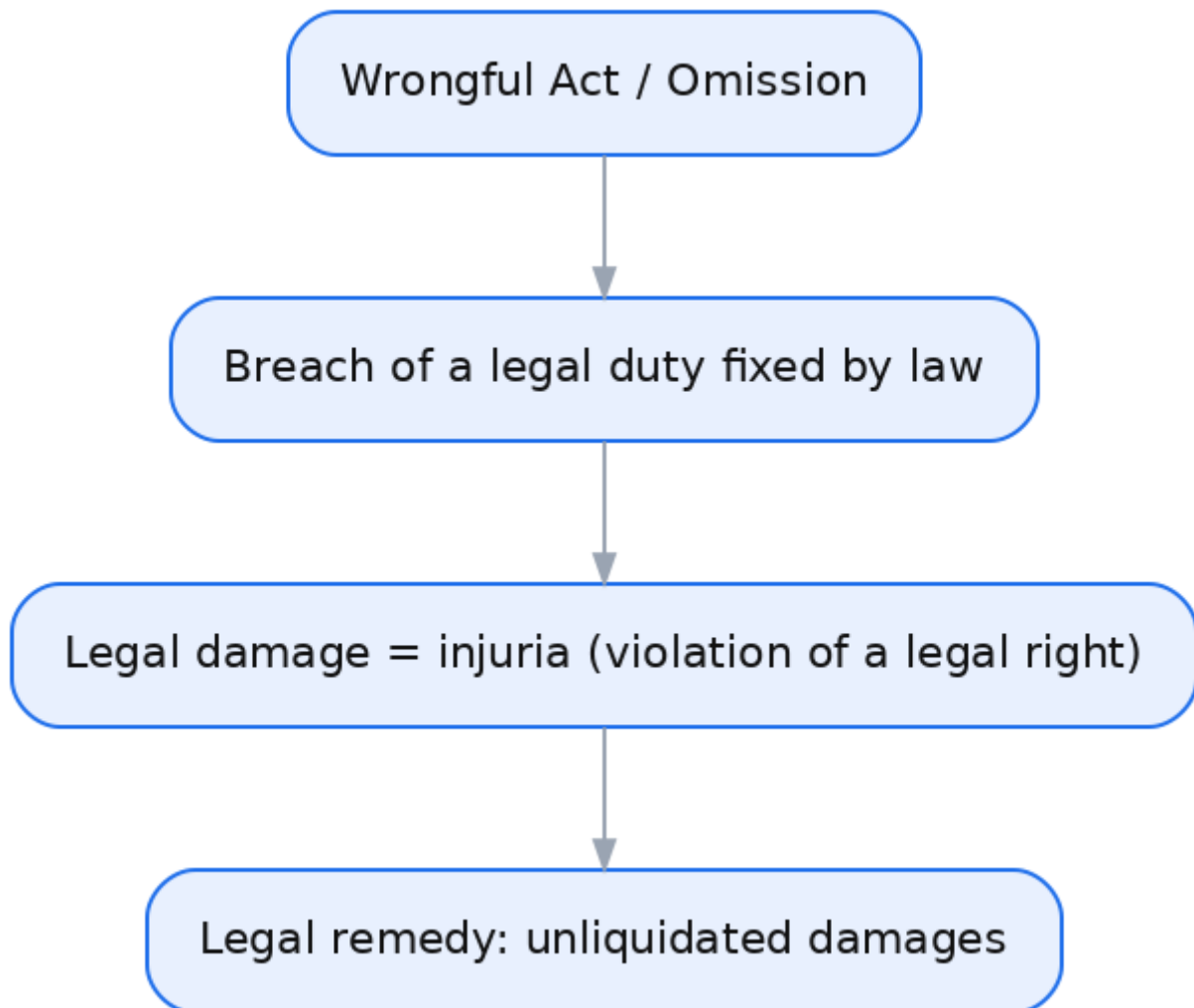
**Sir John Salmond (jurist):** *“A tort is a civil wrong for which the remedy is a common-law action for unliquidated damages, and which is not exclusively the breach of a contract or the breach of a trust or other merely equitable obligation.”*

**Prof. P.H. Winfield (jurist):** *“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.”*

**In Simple Terms:** A tort is a wrong against a person or property that the *law* (not a contract) says you must not commit. If you break that legal duty, the victim can sue you and the court decides how much money you must pay.

**The four essential elements** of every tort are: (1) a **wrongful act or omission** by the defendant; (2) breach of a **legal duty** fixed by law (not a moral duty); (3) **legal damage** — violation of a legal right (*injuria*); and (4) a **legal remedy**, chiefly unliquidated damages. The famous proposition *“all torts are civil wrongs but all civil wrongs are not torts”* simply means tort is one *species* of the larger genus of civil wrongs — breach of contract and breach of trust are civil wrongs too, but they are not torts.

## The Visual



## Case Laws

- ***Donoghue v Stevenson (1932)*** — duty of care is owed by law to one’s “neighbour”; foundation of modern tort.
- ***Ashby v White (1703)*** — violation of a legal right is itself an actionable tort even without loss.
- ***Rookes v Barnard (1964)*** — recognised categories where exemplary (punitive) damages may be awarded.

## ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** Open with the snail in *Donoghue v Stevenson*; state that a tort is a civil wrong redressed by unliquidated damages, and that you will cover its meaning, definitions and essentials.
- **STAGE 2** → **Definitions:** Give Salmond's and Winfield's definitions verbatim; note the origin *tortum* [twisted conduct].
- **STAGE 3** → **Four essentials:** Wrongful act/omission → legal duty → legal damage (*injuria*) → legal remedy (unliquidated damages).
- **STAGE 4** → **"All torts are civil wrongs...":** Explain tort as a species of civil wrong, distinct from contract and trust; cite *Ashby v White*.
- **STAGE 5** → **Verdict:** Conclude that tort law is a law of judicially-imposed duties protecting rights in rem, illustrated by *Donoghue v Stevenson*.

## ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A banker, holding sufficient funds of his customer, wrongfully refuses to honour the customer's cheque. The customer suffers **no actual monetary loss** but still sues. (Decoy: "no loss suffered".)

- **I — ISSUE:** Can the customer sue when he has lost no money?
- **R — RULE:** A tort needs *injuria* (violation of a legal right), not *damnum* (loss). *Injuria sine damno* is actionable — *Ashby v White* (1703); *Marzetti v Williams* (1830).
- **A — ANALYSIS:** The banker breached the legal duty owed to his customer; the customer's legal right was violated. The "no loss" fact is a decoy — damage to a legal right is enough.
- **C — CONCLUSION:** The action succeeds; the customer is entitled to damages even without proof of pecuniary loss.

## 2. Tort Distinguished from Crime & Contract

### Previous Year Questions

- **[16M]** Define tort and distinguish it from crime and contract. (2011, 2012, 2013, 2014, 2015, 2016, 2025Feb; 80-mark: 2021, 2022, 2023, 2024, 2019, 2026) ★★★
- **[16M]** Distinguish tortious liability from contractual and criminal liability. (2016Dec, 2024Aug) ★★
- **[Short Note]** Tort and breach of contract / Tort and crime. (2013, 2023) ★★

### The Hook

One careless driver can be hauled into *two* different courtrooms for the *same* crash — a criminal court (the State prosecutes him for rash driving) and a civil court (the victim sues him in tort for compensation). The same act, two wrongs, two purposes: punishment and compensation.

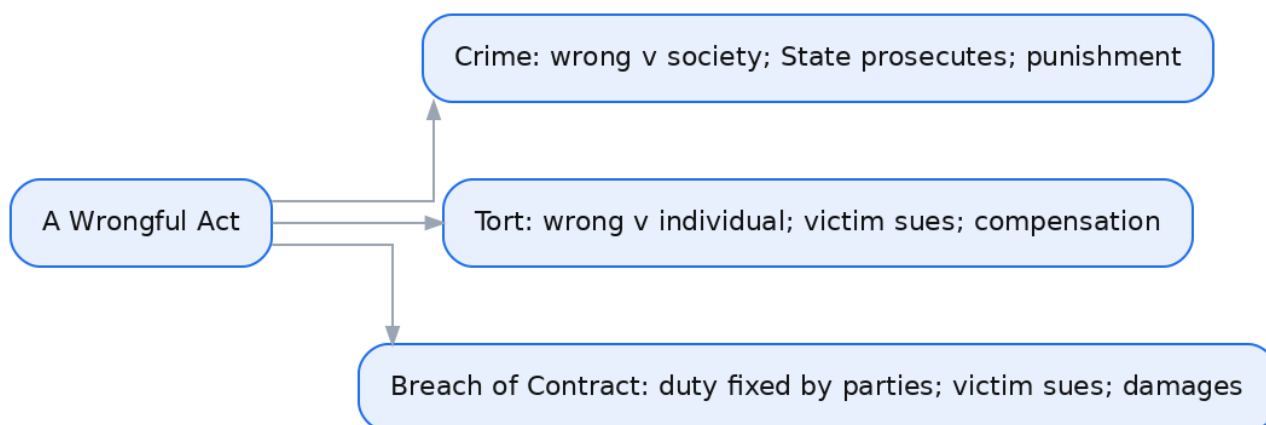
### How Tort Differs from Crime and Contract

A **crime** is a wrong against the *State and society*; it is prosecuted by the State and the object is **punishment**. A **tort** is a wrong against a *private individual*; the victim himself sues and the object is **compensation**. A **breach of contract** arises from a duty the parties *themselves agreed*; a tort arises from a duty *fixed by law* independently of any agreement.

**Distinction at a glance:** *In contract the duty is towards a definite person and is fixed by the parties; in tort the duty is towards persons generally and is fixed by law. In crime the action is brought by the State; in tort by the injured party.*

**In Simple Terms:** Contract = a duty you *promised*. Crime = a wrong the *State* punishes. Tort = a duty the *law* imposes on everyone, enforced by the victim for compensation. A single act (e.g., assault) can be a crime *and* a tort at once.

## The Visual



## Case Laws

- **Donoghue v Stevenson (1932)** — duty in tort exists without privity of contract.
- **Bhim Singh v State of J&K (1985)** — same act (wrongful detention) can be both a constitutional wrong and a tort.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** *The careless driver in two courts; define tort, then distinguish it from crime and contract.*
- **STAGE 2** → **Tort v Crime:** *Private wrong vs public wrong; compensation vs punishment; victim sues vs State prosecutes.*
- **STAGE 3** → **Tort v Contract:** *Duty fixed by law and owed to all vs duty agreed and owed to a definite person; unliquidated vs liquidated damages.*
- **STAGE 4** → **Overlap:** *One act may be all three; Donoghue (no privity needed), assault as crime + tort.*
- **STAGE 5** → **Verdict:** *The line is drawn by the source of the duty and the object of the action.*

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A manufacturer sells a sub-standard ice-cream to a retailer; the retailer sells it to a customer, and the customer's **friend** (not the buyer) falls ill after eating it. (Decoy: the victim had no contract with anyone.)

- **I — ISSUE:** Can the friend sue the manufacturer despite having no contract?
- **R — RULE:** Tortious duty is fixed by law and needs no privity — *Donoghue v Stevenson* (1932).
- **A — ANALYSIS:** Lack of contract is the decoy; the manufacturer owes a duty of care to the ultimate consumer, which includes the friend.
- **C — CONCLUSION:** The friend can recover in the tort of negligence; absence of contract is no bar.

## 3. Damnum Sine Injuria & Injuria Sine Damno

### Previous Year Questions

- **[16M]** Distinguish *Damnum sine injuria* and *Injuria sine damno* with leading cases. (2011, 2012, 2017, 2018, 2026) ★★★
- **[10M]** Explain the two maxims with decided cases. (2018, 2019, 2019Dec, 2021Oct, 2023) ★★★

### The Hook

When a new school opened next door and lured away every pupil, the old schoolmaster lost his entire income — yet the court gave him nothing (*Gloucester Grammar School*, 1410). When a returning officer wrongly refused one qualified man's vote — though his candidate still won and he lost nothing — the court gave him damages (*Ashby v White*, 1703). Loss without legal wrong gets no remedy; legal wrong without loss does.

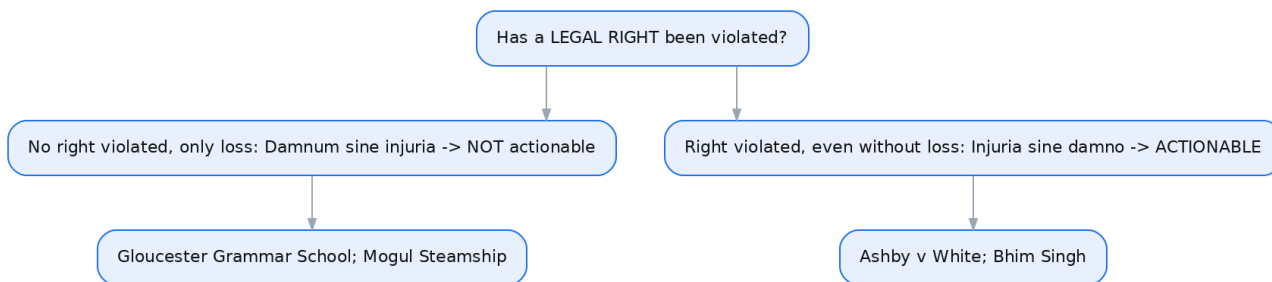
### The Two Maxims

**Damnum sine injuria** [damage without legal injury] means actual loss suffered **without** the violation of any legal right. It is **not actionable** — the law does not compensate every harm, only harms that breach a legal right. Lawful competition, lawful use of one's land, and lawful trade combinations may ruin a person yet give him no claim.

**Injuria sine damno** [legal injury without damage] means the violation of a legal right **without** any actual loss. It is **actionable** — the law presumes damage whenever a legal right is infringed. Torts actionable *per se* (like trespass and libel) rest on this maxim.

**In Simple Terms:** *Damnum sine injuria* = “you were hurt but no legal right of yours was broken” → no remedy. *Injuria sine damno* = “your legal right was broken even though you lost nothing” → remedy.

## The Visual



## Case Laws

- **Gloucester Grammar School Case (1410)** — lawful competition causing loss is *damnum sine injuria*; no remedy.
- **Mogul Steamship Co. v McGregor (1892)** — a lawful trade combination ruining a rival is not actionable.
- **Ashby v White (1703)** — wrongful refusal of a vote is *injuria sine damno*; actionable though no loss.
- **Bhim Singh v State of J&K (1985)** — unlawful detention of an MLA violated his legal right; damages awarded.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** The schoolmaster who lost everything vs the voter who lost nothing; state that you will contrast the two maxims.
- **STAGE 2** → **Damnum sine injuria:** Define; explain “loss but no legal wrong”; Gloucester Grammar School, Mogul Steamship.
- **STAGE 3** → **Injuria sine damno:** Define; “legal wrong but no loss”; torts actionable *per se*; Ashby v White, Bhim Singh.
- **STAGE 4** → **The pivot:** It is the violation of a legal right, not the size of the loss, that decides liability.
- **STAGE 5** → **Verdict:** Tort protects legal rights, not every interest; hence *injuria*, not *damnum*, is the test.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A coal-mine owner sues a miners' union for inducing workmen to take holidays so as to keep coal prices high; he suffers heavy loss. (Decoy: deliberate intention to cause him loss.)

- **I — ISSUE:** Is a lawful trade combination causing loss actionable?
- **R — RULE:** Loss caused by a lawful act, even if intentional, is *damnum sine injuria* — *Mogul Steamship Co. v McGregor* (1892); *Allen v Flood* (1898).
- **A — ANALYSIS:** The “intention to harm” is the decoy; motive does not make a lawful act unlawful. No legal right of the owner was violated.
- **C — CONCLUSION:** The action fails; the loss is *damnum sine injuria*.

## 4. Ubi Jus Ibi Remedium

### Previous Year Questions

- **[10M]** Trace the development of the maxim *Ubi jus ibi remedium*. (2022) ★★
- **[Short Note]** *Ubi jus ibi remedium*. (2011, 2012Dec, 2013, 2021, 2022, 2024, 2021Oct, 2019) ★★★

### The Hook

When Ashby was turned away from the ballot box in 1703, the judges split, but Chief Justice Holt thundered that “it is a vain thing to imagine a right without a remedy.” That line became the engine of the whole law of torts.

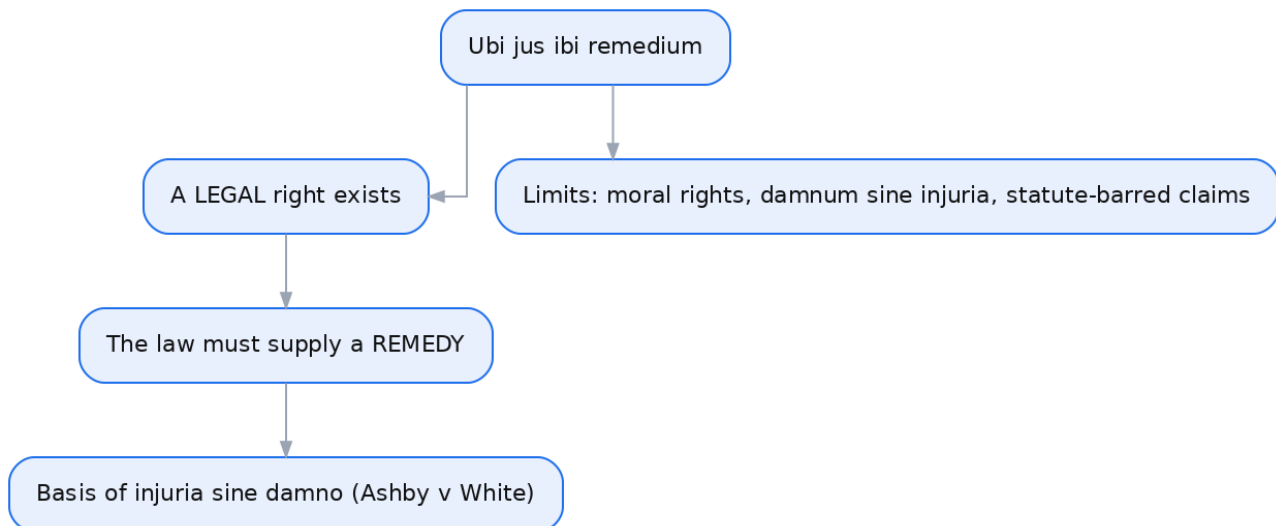
### Meaning and Development

***Ubi jus ibi remedium*** means “**where there is a right, there is a remedy.**” *Jus* signifies the legal authority to do or demand something; *remedium* is the means by which a right is enforced or its violation redressed. The maxim teaches that wherever the law confers a right, it also gives a means to vindicate it when violated.

The maxim is **not absolute**. It applies only to **legal** rights (not moral or political ones), and only where the law actually recognises the wrong. It does not help where the damage is *damnum sine injuria*, or where the only remedy is barred by statute. Its true force is *expansive*: it allowed courts to recognise new torts (e.g., the duty of care in *Donoghue v Stevenson*) because a recognised right demanded a remedy.

**In Simple Terms:** If the law gives you a right, it must also give you a way to enforce it. But the right must be a legal right, and the wrong one the law recognises — the maxim does not invent remedies for purely moral grievances.

## The Visual



## Case Laws

- **Ashby v White (1703)** — classic application; a legal right (to vote) violated must have a remedy.
- **Bhim Singh v State of J&K (1985)** — Supreme Court awarded exemplary damages, applying the maxim.
- **Sardar Amarjit Singh Kalra v Pramod Gupta (2003)** — Supreme Court called the maxim a basic principle of justice.

### 📋 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** Holt CJ's "a right without a remedy is a vain thing"; you will trace the meaning, scope and limits of the maxim.
- **STAGE 2** → **Meaning:** Translate jus and remedium; explain that a right implies a remedy.
- **STAGE 3** → **Development:** Ashby v White → modern expansion in Donoghue and Bhim Singh.
- **STAGE 4** → **Limits:** Only legal rights; not damnum sine injuria; not statute-barred claims.
- **STAGE 5** → **Verdict:** The maxim is the moral spine of tort — it keeps the law growing to protect recognised rights.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** An MLA is wrongfully detained by the police and deliberately not produced before a magistrate within the required time, missing an Assembly session. (Decoy: no financial loss to him.)

- **I — ISSUE:** Is the violation of his legal right actionable though he lost no money?
- **R — RULE:** *Ubi jus ibi remedium with injuria sine damno* — *Bhim Singh v State of J&K* (1985).
- **A — ANALYSIS:** His legal right to liberty and to attend the House was violated; “no monetary loss” is the decoy.
- **C — CONCLUSION:** He is entitled to a remedy, including exemplary damages.

## 5. Mental Elements — Intention, Motive, Malice

### Previous Year Questions

- **[16M]** Explain the importance of mental elements in tort. (2011, 2013Dec, 2018, 2023, 2025Feb; 80-mark variants) ★★★
- **[16M]** Distinguish intention, motive and malice. (2012Jan, 2013Jun) ★★
- **[Short Note]** Malice in law & malice in fact / Motive / Mental elements. (2012Dec, 2017, 2019, 2022, 2024, 2026) ★★★

### The Hook

A man dug a deep channel on his own land purely out of spite, to cut off the water flowing to his neighbour’s well. The court (*Mayor of Bradford v Pickles*, 1895) held he was not liable — a lawful act does not become unlawful merely because the motive behind it is evil. In tort, the *act* usually matters more than the *mind*.

### Intention, Motive and Malice

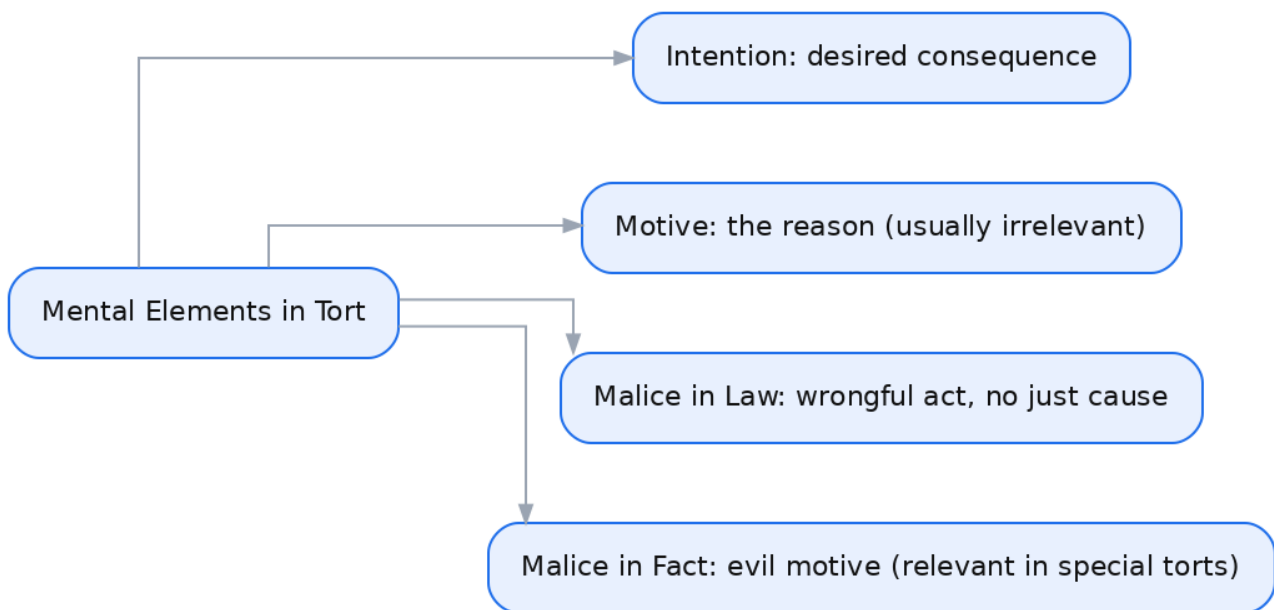
**Intention** is the *desire* to bring about a particular consequence. **Motive** is the *reason* or ulterior object behind an act — the “why” behind the “what”. As a general rule, motive is **irrelevant** in tort: a lawful act does not become a tort because of a bad motive, and an unlawful act does not become lawful because of a good motive.

**Malice** has two distinct legal senses. **Malice in law** (also “implied malice”) means a wrongful act done *intentionally, without just cause or excuse* — it does not require ill-will. **Malice in fact** (also “express malice” or “actual malice”) means an act done with an *evil*

*malice* or spite. Motive (malice in fact) becomes relevant only in **exceptional torts** — malicious prosecution, malicious conspiracy, deceit, injurious falsehood, and defamation where qualified privilege is pleaded.

**In Simple Terms:** *Intention = what you meant to do. Motive = why you did it. Malice in law = doing a wrongful act on purpose without excuse. Malice in fact = doing something out of spite. Usually a bad motive does not create liability — but in a few special torts it does.*

## The Visual



## Case Laws

- **Mayor of Bradford v Pickles (1895)** — a lawful act done with a bad motive is not actionable.
- **Allen v Flood (1898)** — motive does not convert a lawful act into a tort.
- **Town Area Committee v Prabhu Dayal (1975)** — bad motive does not make a lawful demolition wrongful.

## ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Hook + Roadmap:** *The spiteful neighbour in Pickles; you will explain intention, motive and the two malices and their relevance.*
- **STAGE 2** → **Definitions:** *Intention vs motive; malice in law vs malice in fact [translate].*
- **STAGE 3** → **General rule:** *Motive is irrelevant — Bradford v Pickles, Allen v Flood.*
- **STAGE 4** → **Exceptions:** *Where motive does matter — malicious prosecution, conspiracy, deceit, defamation (qualified privilege).*
- **STAGE 5** → **Verdict:** *Tort generally judges the act, not the mind; motive is decisive only in a closed list of torts.*

## ⚠️ FACT-PATTERN RISK ALERT

**Scenario:** *Out of pure spite, X digs a well on his own land, drawing away the underground water that fed his neighbour Y's well, which dries up. (Decoy: the act was done with an evil motive.)*

- **I — ISSUE:** *Does X's malicious motive make his lawful act a tort?*
- **R — RULE:** *A lawful act with a bad motive is not actionable; there is no natural right to underground water — Mayor of Bradford v Pickles (1895); Chasemore v Richards (1859).*
- **A — ANALYSIS:** *The spite is the decoy; Y had no legal right to the percolating water, so no injuria occurred.*
- **C — CONCLUSION:** *X is not liable; the loss is damnum sine injuria.*

## Quick Revision & Case Law Table

### One-line memory hooks

- **Definition & essentials:** *civil wrong + legal duty + injuria + unliquidated damages (Salmond/Winfield).*
- **Tort v crime v contract:** *source of duty (law/agreement) + object (compensation/punishment).*
- **Two maxims:** *damnum sine injuria = loss, no right → no remedy; injuria sine damno = right, no loss → remedy.*

- **Ubi jus ibi remedium:** a legal right always carries a remedy (Holt CJ in *Ashby v White*).
- **Mental elements:** motive usually irrelevant (*Pickles*); malice in fact matters only in special torts.

## Master Case List for Unit 1

Case	Topic	One-line ratio
<i>Donoghue v Stevenson</i> (1932)	Definition / no privity	Duty of care fixed by law, owed to one's neighbour
<i>Ashby v White</i> (1703)	Injuria sine damno	Violation of a legal right is actionable without loss
<i>Gloucester Grammar School</i> (1410)	Damnum sine injuria	Lawful competition causing loss is not actionable
<i>Mogul Steamship v McGregor</i> (1892)	Damnum sine injuria	Lawful trade combination ruining a rival not actionable
<i>Bhim Singh v State of J&amp;K</i> (1985)	Ubi jus ibi remedium	Wrongful detention; exemplary damages for legal-right violation
<i>Mayor of Bradford v Pickles</i> (1895)	Motive/malice	Lawful act with bad motive is not a tort
<i>Allen v Flood</i> (1898)	Motive	Motive does not make a lawful act tortious
<i>Marzetti v Williams</i> (1830)	Injuria sine damno	Banker's wrongful refusal of cheque actionable without loss

*End of Unit 1.*



# Law of Torts

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*KSLU LL.B. — Question Bank · Model Answers (Essays & Problems)*

KSLU LL.B. Question Bank

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Notes Version: **v1.1**

June 2026

**Read this first, then go to your unit.** This companion to the study notes gives you a full, exam-ready **model answer** to every 16M essay, every 10M short / explanatory note, and every fact-pattern problem asked in past KSLU Law of Torts papers (2011–2026, both 80- and 100-mark sittings) — grouped by unit and topic in the same order as the notes. Sub-10-mark short notes (5M / 6M / 8M) are answered in the notes bundle, not here.

## How to Use This Question Bank

**What this is.** A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards.

**The 3-step drill.** (1) Read the question and try a 2-minute plan from memory. (2) Read the model answer; note the structure, the cases, the verdict. (3) For problems, re-do the IRAC in your own words under time.

**Priorities.** The ★ rating shows how often a question repeats — ★★★ (5+ times) is a near-certainty; do these first. The Priority Index below lists them ranked.

**House rules that win marks.** Lead with a definition + roadmap; name the case **and** the year; quote the exact section; for problems use the four IRAC headings and always give a definite verdict. The underlined fragments in each answer are the must-write core — read alone, they form a passing skeleton.

## Exam Pattern & Mark Weights

**Two paper formats appear.** 100-mark paper (current): answer **Q.9 + any five** of Q. 1–Q.8; Q.9 = 20 marks (two problems × 10); Q.1–Q.8 = 16 marks each. Attempt Q.9 (the problems) first. 80-mark paper: five units, **one essay (10M) + one short note/problem (6M) compulsory from each unit.**

<b>Mark slot</b>	<b>What it is</b>	<b>Where it's drilled</b>
<b>16M</b>	Long essay (100-mark paper)	Section A of each unit
<b>10M</b>	Essay on the 80-mark paper / explanatory note	Section B of each unit
<b>Problems (10M / 6M)</b>	Fact-pattern, answered in IRAC	Section C of each unit

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## Priority Index — Questions by Frequency

Rank	Question (short)	Type	Frequency	Unit
1	Liability of master for servant's wrongs (vicarious liability)	16M	★★★ (20+)	2
2	Define tort; distinguish from crime & contract	16M	★★★ (18+)	1
3	Rule in <i>Rylands v Fletcher</i> / strict vs absolute liability	16M	★★★ (15+)	3
4	Remoteness of damage — <i>Re Polemis &amp; Wagon Mound</i>	16M	★★★ (13+)	3
5	Defamation — libel vs slander; defences	16M	★★★ (13+)	4
6	General defences to an action in tort	16M	★★★ (11+)	2
7	<i>Volenti non fit injuria</i> with exceptions	16M	★★★ (11+)	2
8	<i>Damnum sine injuria &amp; injuria sine damno</i>	16M	★★★ (11+)	1
9	Malicious prosecution — essentials	16M	★★★ (11+)	4
10	Nuisance — kinds, public vs private	16M	★★★ (11+)	3
11	State Commission — composition & jurisdiction	16M	★★★ (10+)	5
12	Negligence — essentials	16M	★★★ (10+)	3
13	Assault & battery — distinguish	16M	★★★ (10+)	4
14	False imprisonment — essentials & defences	16M	★★★ (9+)	4
15	District/National Commission; complaint	16M	★★ (9+)	5
16	MV Act 1988 — salient features / no-fault	10M	★★★ (9+)	5
17	Dogs-fighting / bystander struck (inevitable accident)	Prob	★★★ (6)	2

## Year Index — Questions by Paper

Year (paper)	Essays asked (topic)	Problems asked
2026 Jan (100)	Maxims; volenti; nuisance; remoteness; defamation; State Commission; assault	Railway wrong-train ejection; balloonist crowd; fire-room smoking
2025 Feb (100)	Nature of tort; remoteness; assault/battery; vicarious liability; National Commission	Taxi-to-cleaner; practical-joke shock; cricket-ball
2025 Feb (80)	“All torts civil wrongs”; volenti; negligence; consortium; CPA 2019	Car-dog splinter; hospital lost child; squib; cattle trespass; MP “smuggler”
2024 Aug (80)	Every injury/damage; defences; negligence; false imprisonment; consumer rights	Reversing-bus; <i>Bird v Jones</i>
2023 Oct (80)	Tort v crime; master’s liability; <i>Rylands vs absolute</i> ; malicious prosecution; CPA 2019	Sugar-pilfering boy struck; dog shot
2021 Apr (100)	Legal damage; volenti; trespass to land; defamation; strict liability; District Forum	Pregnant-lady nervous shock
2020 Dec (100)	Every injury/damage; nuisance; justifications; malicious prosecution; libel; strict liability	Rasputin film; dogs-fighting; fair-price queue
2018 Jun (100)	Maxims; vicarious liability; defamation; nervous shock; <i>Donoghue</i> ; conspiracy; State Commission	Virat Kohli spectator; omnibus racing; highway stand
2015 Jun (100)	Tort/crime/contract; volenti; assault/battery; malicious prosecution; strict vs absolute; CPA	Clock tower; twins innuendo; runaway horses



# UNIT 1 – Introduction, Nature & Scope of Tort · Question Bank

Law of Torts · KSLU LL.B. · Medha-Academy.in

**Scope of this unit's bank:** full model answers to every **16M essay** (§A), every **10M short / explanatory note** (§B), and every **fact-pattern problem** (§C) for Unit 1. Sub-10-mark notes (5M/6M/8M) are answered in the study-notes bundle.

## A. Essay Questions (16M) — Model Answers

**Q1.1 — [16M] Define tort and discuss its essential elements. (“All torts are civil wrongs but all civil wrongs are not torts.” / Critically evaluate the definitions of tort.)**

Asked: 2012(100), 2014(100), 2017(100), 2019(100), 2012Dec(100), 2019Jun(100), 2020(100), 2026(100); 80-mark: 2021, 2022, 2024, 2025 · ★★ ★ · Notes: Unit 1 → Definition & Essentials

**Introduction.** The word tort derives from the Latin *tortum* [twisted or crooked conduct]. A tort is a civil wrong, other than a breach of contract or trust, for which the remedy is an action for unliquidated damages. This answer states the leading definitions, the four essentials, and explains why every tort is a civil wrong but not every civil wrong is a tort.

### Definitions

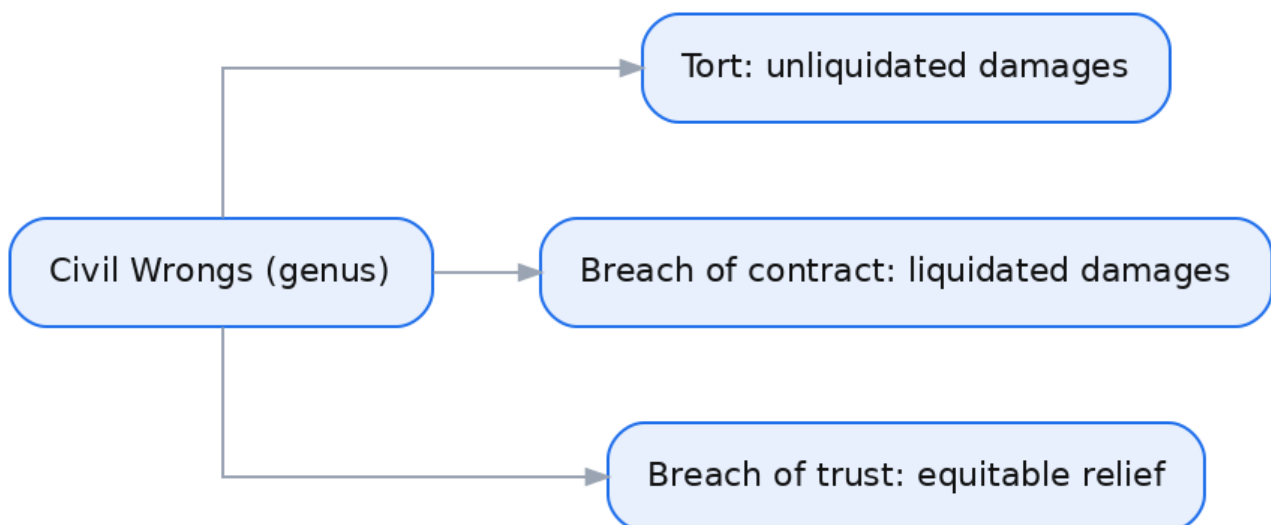
1. **Salmond's definition** — “a civil wrong for which the remedy is a common-law action for unliquidated damages and which is not exclusively the breach of a contract or trust.” It identifies a tort by its *remedy* — unliquidated damages assessed by the court — rather than by listing wrongs, and so accommodates new torts as they arise.
2. **Winfield's definition** — “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.” This stresses that the duty is *imposed by law*, not agreed by the parties, which is what distinguishes tort from contract.

## The four essential elements

1. A wrongful act or omission — the defendant must do an act the law forbids, or omit an act the law requires; a mere moral, social or religious wrong is not enough unless the law recognises a corresponding legal duty.
2. Breach of a legal duty fixed by law — the duty must be one imposed by law and owed to persons generally; this marks tort off from contract, where the duty is owed only to the other contracting party.
3. Legal damage (*injuria*) — there must be a violation of a legal right vested in the plaintiff. The maxim *injuria sine damno* shows that a violated right is actionable even without actual loss, while *damnum sine injuria* shows loss alone is not enough.
4. Legal remedy — chiefly unliquidated damages, assessed by the court, which is the hallmark distinguishing tort from breach of contract (liquidated damages) and breach of trust (equitable relief).

## “All torts are civil wrongs, but all civil wrongs are not torts”

This proposition means tort is only one species within the wider genus of civil wrongs. Breach of contract and breach of trust are also civil wrongs, but they are redressed by liquidated damages or equitable relief, not by an action for unliquidated damages, so they fall outside tort. A wrong is a tort only when it answers all four essentials above.



Sketch this in the exam — the 30-second version earns presentation marks.

## Leading cases

- **Donoghue v Stevenson (1932)** — duty of care is fixed by law and owed without any contract, founding modern tort.
- **Ashby v White (1703)** — violation of a legal right is itself an actionable tort, even without loss.

**Conclusion.** A tort is therefore a breach of a law-imposed duty, owed to persons generally, redressed by unliquidated damages. Its four essentials are cumulative, and it remains a distinct species within the larger family of civil wrongs.

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## Q1.2 — [16M] Define tort and distinguish it from crime and breach of contract.

Asked: 2011(100), 2013(100), 2015(100), 2016(100), 2025Feb(100); 80-mark: 2021, 2021Oct, 2023, 2024, 2019 · ★★★ · Notes: Unit 1 → Tort v Crime & Contract

**Introduction.** A tort is a civil wrong, other than a breach of contract or trust, redressed by unliquidated damages. To locate it precisely, one must mark it off from the two neighbouring wrongs with which it overlaps — crime and breach of contract. The line is drawn by the *source of the duty* broken and the *object of the proceeding*.

### Tort distinguished from Crime

1. Nature of the wrong — a crime is a wrong against the State and society at large, regarded as a public wrong, whereas a tort is a private wrong against an individual, affecting his private rights.
2. Who proceeds — a crime is prosecuted by the State in the name of the Crown/State, while a tort is sued upon by the injured party himself, who controls the litigation.
3. Object — criminal law aims at the punishment of the offender to deter and reform; tort aims at the compensation of the victim to make good his loss.
4. Overlap — one act (e.g., assault or defamation) may be both a crime and a tort, attracting punishment in the criminal court and damages in the civil court, the two proceedings being independent.

### Tort distinguished from Breach of Contract

1. Source of the duty — in contract the duty is fixed by the *parties themselves* through agreement; in tort it is fixed by law independently of consent.
2. To whom owed — a contractual duty is owed to a *definite person* (the other party); a tortious duty is owed to persons generally, i.e. the world at large.
3. Damages — contract gives liquidated damages, often agreed in advance and aimed at the expectation interest; tort gives unliquidated damages assessed by the court to restore the victim.
4. Privity — a contract binds only the parties to it, but tortious duty needs no privity, as *Donoghue v Stevenson* (1932) shows, where a consumer with no contract still recovered.

Basis	Crime	Tort	Contract
Wrong against	Society	Individual	A party
Action by	State	Victim	Party
Object	Punishment	Compensation	Compensation
Duty fixed by	Law	Law	Parties
Damages	Fine/punishment	Unliquidated	Liquidated

### Leading cases

- ***Donoghue v Stevenson (1932)*** — tortious duty exists without any contract; no privity is needed.
- ***Bhim Singh v State of J&K (1985)*** — one wrongful act can attract both constitutional and tortious consequences.

**Conclusion.** Thus the decisive tests are the source of the duty (law versus agreement) and the object of the action (compensation versus punishment); on these tests, tort stands distinct from both crime and breach of contract, though a single act may give rise to more than one of them.

### Q1.3 — [16M] Distinguish *Damnum sine injuria* and *Injuria sine damno* with leading cases. (“Every injury imports damage but every damage is not injury.”)

Asked: 2011(100), 2012(100), 2017(100), 2018(100), 2026(100), 2013Jun(100), 2020(100); 80-mark: 2018, 2019, 2023, 2024 · ★★★ · Notes: Unit 1 → The Two Maxims

**Introduction.** Liability in tort turns not on the size of the loss but on the violation of a legal right. Two maxims capture this principle and stand in contrast: *damnum sine injuria* [damage without legal injury] and *injuria sine damno* [legal injury without damage]. This answer explains and distinguishes them.

#### Damnum sine injuria

1. Meaning — actual loss or damage suffered *without* the violation of any legal right; it is not actionable, because the law does not compensate every harm but only harms that breach a recognised legal right.
2. Illustration — lawful competition, lawful trade combinations and lawful use of one’s own land may ruin another financially, yet give him no claim, since no legal right of his is infringed.

3. **Authority** — in *Gloucester Grammar School Case (1410)* a rival schoolmaster who drew away all the pupils caused heavy loss but was not liable; the loss was *damnum sine injuria*.

### **Injuria sine damno**

1. **Meaning** — violation of a legal right *without* any actual loss; it is actionable *per se*, because the law presumes damage on the mere breach of a legal right.
2. **Illustration** — torts such as trespass to land and libel are actionable without proof of any loss, protecting the right itself rather than against harm.
3. **Authority** — in *Ashby v White (1703)* a qualified voter wrongly refused his vote recovered damages although his candidate won and he lost nothing; Holt CJ held that “every injury imports a damage.”

### **Distinction summarised**

The essential difference is what the plaintiff must show: under *damnum sine injuria* he has loss but no violated right and so fails, while under *injuria sine damno* he has a violated right but no loss and so succeeds. The decisive factor in both is the presence or absence of *injuria* — the breach of a legal right.

### **Leading cases**

- ***Mogul Steamship Co. v McGregor (1892)*** — a lawful trade combination ruining a rival is *damnum sine injuria*; not actionable.
- ***Bhim Singh v State of J&K (1985)*** — unlawful detention violated a legal right; *injuria sine damno*; exemplary damages awarded.

It follows that the same factual loss may or may not be actionable depending entirely on whether a legal right was infringed; the courts therefore look first for the violated right and only then to the loss. This is why an intentional, spiteful act causing great loss may be lawful, while a harmless technical breach of a right is actionable.

**Conclusion.** The two maxims show that the true test of liability is *injuria, not damnum*: a violated legal right is always actionable however small the loss, while loss without breach of a right gives no remedy however large.

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## **Q1.4 — [16M] Explain the importance of mental elements in tort. (Distinguish intention, motive and malice.)**

Asked: 2011(100), 2013Dec(100), 2013Jun(100), 2018(100); 80-mark: 2018, 2023, 2025 · ★★★ · Notes: Unit 1 → Mental Elements

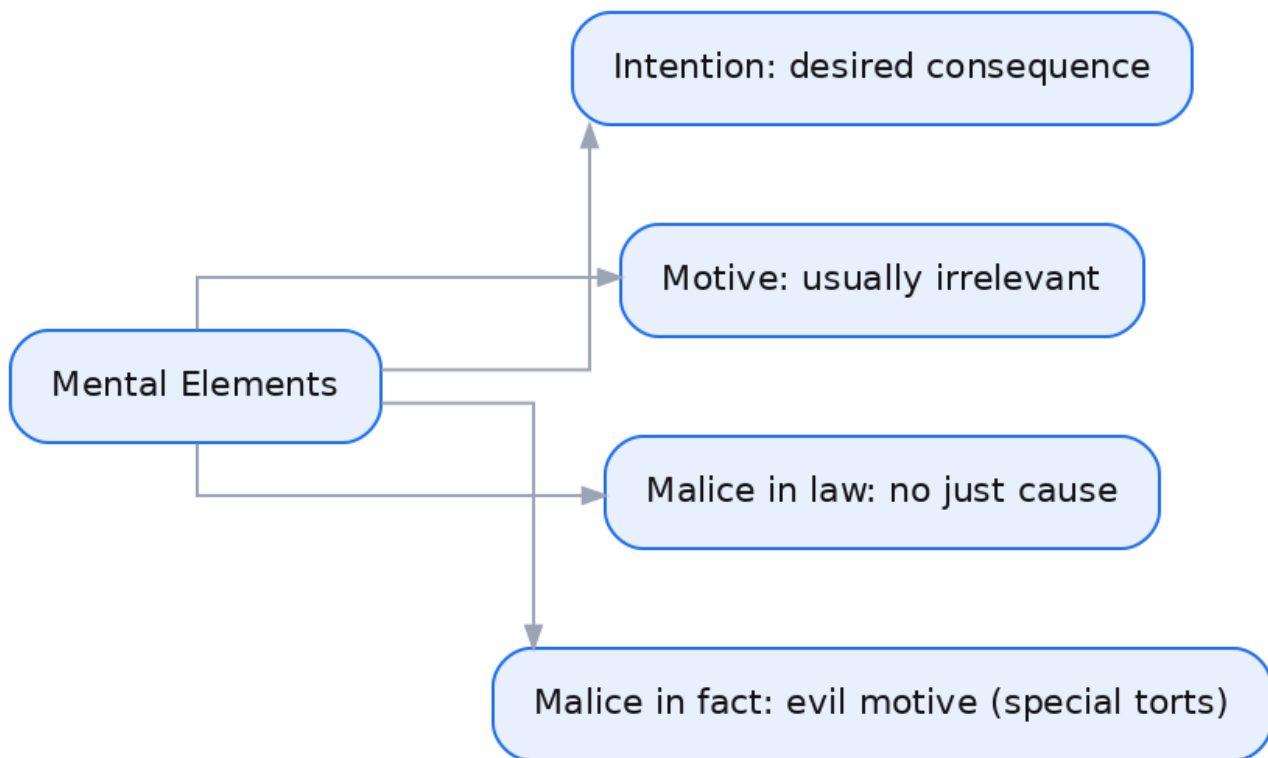
**Introduction.** Tort law generally judges the act, not the actor’s state of mind, but the mental elements of intention, motive and malice remain important in defined classes of torts. This answer explains each and identifies where it is relevant.

## The mental elements

1. Intention — the *desire* to bring about a particular consequence. It is an essential ingredient of the intentional torts such as assault, battery, false imprisonment and trespass, where the defendant must have meant to do the act complained of.
2. Motive — the *reason or ulterior object* behind an act, the “why” behind the “what”. The general rule is that motive is irrelevant: a lawful act does not become a tort because of a bad motive, nor does an unlawful act become lawful because of a good one.
3. Malice in law — a wrongful act done intentionally, without just cause or excuse; it is “implied malice” and does not require ill-will or spite, merely the absence of lawful justification.
4. Malice in fact — an act done with an evil or improper motive, i.e. actual spite or ill-will; it is “express malice” and is relevant only in certain special torts.

## Where motive (malice in fact) becomes relevant

These are the exceptional torts in which an improper motive is either an essential ingredient or destroys a defence: malicious prosecution, malicious conspiracy, deceit, injurious falsehood, and defamation where qualified privilege or fair comment is pleaded. In these, the defendant’s bad motive is decisive, whereas in the general run of torts it is immaterial. Thus in malicious prosecution the plaintiff must positively prove malice, and in a conspiracy to injure the predominant purpose to harm converts an otherwise lawful combination into a tort. The reason mental elements matter at all is that tort is concerned with culpable conduct: where the law fixes liability for intentional wrongs it must ask what the defendant meant, and where it offers a defence of privilege it withdraws that protection from one who abuses it out of spite. Outside these defined situations, however, a defendant’s good or bad state of mind neither creates nor escapes liability.



Sketch this in the exam — the 30-second version earns presentation marks.

### Leading cases

- ***Mayor of Bradford v Pickles (1895)*** — a lawful act (draining one’s own land) done from a bad motive is not actionable.
- ***Allen v Flood (1898)*** — motive does not convert an otherwise lawful act into a tort.

**Conclusion.** Therefore, in tort the act, not the motive, generally governs liability; malice in fact is decisive only in a closed list of torts, while malice in law merely denotes a wrongful, unexcused act done intentionally.

## Q1.5 — [16M] Explain legal damage as an essential element of tort.

Asked: 2021Apr(100); 80-mark: 2021, 2026 · ★★ · Notes: Unit 1 → Legal Damage

**Introduction.** Legal damage means the violation of a legal right (*injuria*), and it is the very pivot on which tortious liability turns — not the physical or pecuniary loss the plaintiff happens to suffer. This answer explains the concept and shows how it operates through the two maxims.

## Legal damage explained

1. Injuria, not damnum — what the law requires is the infringement of a legal right vested in the plaintiff, not merely factual harm. Hence “*damnum*” (loss) without “*injuria*” (violation of a right) gives no cause of action at all.
2. Damage presumed — once a legal right is violated, the law presumes damage; this is why torts actionable *per se*, such as trespass and libel, need no proof of any actual loss to succeed.
3. Loss without right — even grave loss is not compensated if no legal right is breached, as the cases of lawful competition demonstrate; the plaintiff who has only *damnum* fails.
4. Measure of recovery — where only a right is violated without real loss, the court may award nominal damages to vindicate the right, as in *Ashby v White*; where the manner of the violation is high-handed, exemplary damages may follow, as in *Bhim Singh*.
5. Foreseeable and direct — the damage must also be caused by the breach and must not be too remote, but these go to the *extent* of recovery, whereas legal damage goes to the *existence* of the cause of action itself.

The practical importance of legal damage is that it explains why some serious harms attract no remedy while some trivial-seeming wrongs do: the law is protecting *rights*, and the existence of a violated right, not the magnitude of the harm, is what opens the courthouse door.

## Operation through the maxims

- *Injuria sine damno* — a legal right is violated though no loss is suffered; the claim is actionable (*Ashby v White*, 1703).
- *Damnum sine injuria* — loss is suffered without breach of a right; the claim is not actionable (*Gloucester Grammar School*, 1410).

## Leading cases

- ***Ashby v White (1703)*** — refusal of a vote was legal damage, actionable without any loss.
- ***Marzetti v Williams (1830)*** — a banker’s wrongful dishonour of a cheque was legal damage though no monetary loss was proved.

**Conclusion.** Hence legal damage — the violation of a legal right — is an indispensable essential of every tort; without *injuria* there is no liability, however large the *damnum*, and with *injuria* there is liability, however small or absent the loss.

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## B. Short Notes (10M) — Model Answers

### S1.1 — [10M] Trace the development of the maxim *Ubi jus ibi remedium*.

Asked: 2022Jun(80); also as a short note in 2011, 2013, 2021, 2024 · ★★ ★ · Notes: Unit 1 → Ubi Jus Ibi Remedium

**Introduction.** *Ubi jus ibi remedium* means “where there is a right, there is a remedy.” Here *jus* signifies the legal authority to do or demand something, and *remedium* is the means by which the law enforces that right or redresses its violation.

#### Development and scope

1. The core principle — wherever the law confers a legal right, it also provides a means to vindicate it; as Holt CJ said in *Ashby v White*, a right without a remedy is “a vain thing.” The maxim assures that legal rights are not left unprotected.
2. Foundation of *injuria sine damno* — it underlies the rule that the violation of a legal right is actionable even without proof of loss, since the right itself demands a remedy.
3. Expansive force — it has enabled courts to recognise *new* torts where a recognised right required protection, as with the duty of care developed in *Donoghue v Stevenson* (1932) and the award of constitutional compensation in India.
4. Limits of the maxim — it protects only legal rights, not moral or political ones; it does not assist where the harm is *damnum sine injuria*, and it cannot override a remedy that a statute has expressly barred or taken away.

**Leading case. *Ashby v White (1703)*** — a legal right (to vote) once violated must carry a remedy, even without loss.

**Conclusion.** The maxim is thus the moral spine of the law of torts — it keeps the law growing so that every recognised legal right has an effective remedy, while remaining confined to genuine legal rights.

### S1.2 — [10M] Trace the evolution and development of the law of torts in England and India.

Asked: 2012Jan(100), 2023Apr(80); also short note 2011, 2023 · ★★ · Notes: Unit 1 → Evolution

**Introduction.** The law of torts is largely judge-made (common law), which evolved from the rigid English forms of action into a flexible body of principles that India received and has since adapted to its own conditions.

## Development

1. English origins — tort grew from the medieval writ system, principally the writ of trespass (for direct, forcible wrongs) and the writ of trespass on the case (for indirect or consequential wrongs); over time the technical writs gave way to broad substantive principles of liability.
2. From specific wrongs to general principles — landmark decisions such as *Rylands v Fletcher* (1868) for strict liability and *Donoghue v Stevenson* (1932) for negligence replaced piecemeal categories with general rules capable of meeting new situations.
3. Reception in India — Indian courts apply tort principles as rules of justice, equity and good conscience, adopting English common law so far as it is suited to Indian society and not displaced by statute.
4. Indian innovation — the Supreme Court has carried the law beyond England, evolving absolute liability in *M.C. Mehta v Union of India* (1987) and awarding constitutional compensation for the violation of fundamental rights.

**Leading case. *M.C. Mehta v Union of India (1987)*** — India fashioned its own rule of absolute liability, marking its independent and progressive development of tort law.

In India the law remains largely uncodified, so the courts continue to develop it case by case, mindful of Indian conditions and constitutional values.

**Conclusion.** Tort law has thus moved from rigid writs to flexible, principle-based liability, with India both receiving the English common law and creatively extending it to modern hazards.

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## C. Problems — Model Answers (IRAC)

**P1.1 — [Prob] A coal-mine owner sues a miners' union for inducing workmen to take holidays so as to keep up coal prices; he suffers heavy loss. (Decoy: deliberate intention to cause loss.)**

Asked: 2012Jan(100) · ★ · Notes: Unit 1 → *Damnum sine injuria*

**Issue.** Is a lawful trade combination that intentionally causes financial loss to a rival actionable in tort?

**Rule.** Loss caused by a lawful act, even if done intentionally or with a bad motive, is *damnum sine injuria* [damage without legal injury] and not actionable — *Mogul Steamship Co. v McGregor (1892)*; *Allen v Flood (1898)*. Motive does not make a lawful act unlawful (*Mayor of Bradford v Pickles, 1895*).

**Application.** The union's members did only what they were lawfully entitled to do — combine and abstain from work to advance their own economic interest in higher prices. The “intention to harm” the owner is the planted decoy; in tort, intention or motive is irrelevant where both the object and the means employed are lawful. No legal right of the owner was violated: he has no right to be free from lawful competition or lawful combination, so there is no *injuria*, only *damnum*. Had the union used unlawful means (such as violence or intimidation), the position would differ, but on these facts the means were lawful.

**Conclusion.** The action fails; the owner's loss is *damnum sine injuria* and the union is not liable.

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## **P1.2 — [Prob] A qualified voter's vote is wrongfully refused though his candidate still wins; OR an MLA is wrongfully detained and not produced before a magistrate. He suffers no monetary loss but sues. (Decoy: no actual loss.)**

Asked: 2012Jun(100), 2019Dec(80) · ★★ · Notes: Unit 1 → *Injuria sine damno*

**Issue.** Is the violation of a legal right actionable when the plaintiff has suffered no actual loss?

**Rule.** Under *injuria sine damno* [legal injury without damage], the violation of a legal right is actionable *per se*, the law presuming damage: *Ashby v White (1703)*; for unlawful detention of a legislator, *Bhim Singh v State of J&K (1985)*, where exemplary damages were awarded.

**Application.** The plaintiff's legal right — whether the right to vote or the right to personal liberty and to attend the House — was directly infringed by the wrongful act of the official. The “no loss” fact is the decoy: the size or absence of loss is irrelevant once a legal right has been violated, because the law treats the infringement itself as the damage. In *Bhim Singh* the Supreme Court not only recognised the wrong but awarded exemplary damages to vindicate the right. The wrong is complete the moment the official, without lawful authority, denies the plaintiff the exercise of his legal right, and no further proof of consequence is required.

**Conclusion.** The action succeeds; the plaintiff recovers damages (including, in a fit case, exemplary damages) although he suffered no pecuniary loss.

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### **P1.3 — [Prob] A schoolmaster, unlawfully removed, opens a rival school next door; all pupils leave the old school, which closes with heavy loss; the old school sues him. (Decoy: malicious/competitive motive.)**

Asked: 2012Jun(100) · ★ · Notes: Unit 1 → *Damnum sine injuria*

**Issue.** Is loss caused by lawful competition actionable, even when driven by rivalry or ill-will?

**Rule.** Lawful competition causing loss to another is *damnum sine injuria* and not actionable — *Gloucester Grammar School Case (1410)*; and a bad motive does not make a lawful act wrongful (*Mayor of Bradford v Pickles, 1895*).

**Application.** Opening a school and attracting pupils to it is a perfectly lawful activity that anyone is entitled to undertake. The old school undoubtedly lost income, but no *legal right* of it was violated — there is no right to be protected from a competitor or from the free choice of pupils to study elsewhere. The competitive or even spiteful motive is the decoy; since both the act and the means were lawful, the motive cannot create liability. The loss is therefore pure *damnum* without any accompanying *injuria*. The principle protects free competition, which the law regards as beneficial to society even when it ruins an individual trader; to hold otherwise would make every successful competitor a tortfeasor. The old school's only complaint is that it has been out-competed, and that is not a wrong the law of torts recognises.

**Conclusion.** The suit fails; the loss is *damnum sine injuria* and the rival schoolmaster is not liable.

### **P1.4 — [Prob] A banker, holding sufficient funds of his customer, wrongfully refuses to honour the customer's cheque; the customer suffers no actual monetary loss but sues. (Decoy: no loss suffered.)**

Asked: 2013Dec(100) · ★ · Notes: Unit 1 → *Injuria sine damno*

**Issue.** Can the customer sue the banker for the wrongful dishonour though he has lost no money?

**Rule.** The wrongful dishonour of a cheque despite sufficient funds is *injuria sine damno*, actionable without proof of loss — *Marzetti v Williams (1830)*; *Ashby v White (1703)*.

**Application.** The banker owed the customer a legal duty to honour his cheque so long as there were sufficient funds, and he breached that duty; the customer's legal right was thereby violated. The "no loss" fact is the decoy. The law presumes injury to a trader's

commercial credit from such a dishonour, and in any event the violation of the legal right is itself sufficient damage in the eye of the law, so proof of pecuniary loss is unnecessary. The customer need only establish the wrongful refusal. This is a classic instance of *injuria sine damno*, parallel to *Ashby v White*: the banker's breach of the duty owed under the banker-customer relationship is the *injuria*, and the law supplies the remedy without insisting on proof of *damnum*. Where the customer is a trader, the courts have in fact treated substantial damages as appropriate without specific proof of loss.

**Conclusion.** The customer succeeds and is entitled to damages even without proof of any pecuniary loss.

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### **P1.5 — [Prob] A walks across B's field/garden without permission, doing no damage. Has he committed any wrongful act? (Decoy: "no damage done".)**

Asked: 2018Dec(80), 2021Apr(80) · ★ · Notes: Unit 1 → *Injuria sine damno*

**Issue.** Is an unauthorised entry on another's land actionable though it causes no damage whatever?

**Rule.** Trespass to land is actionable *per se* — a direct, unauthorised entry violates the occupier's legal right to exclusive possession and needs no proof of damage; it rests on *injuria sine damno* (*Ashby v White*, 1703; *Entick v Carrington*, 1765).

**Application.** A's entry on B's land without B's permission directly infringed B's right to the exclusive possession of his land. The "no damage" fact is the decoy: trespass protects the *right of possession* itself, not merely against physical harm, so the absence of any injury to the land is immaterial. Every unauthorised entry, however harmless or brief, is a trespass; the law presumes damage from the violation of the possessory right. The reason trespass is actionable *per se* is partly evidentiary and partly protective: it spares the occupier from having to prove loss, and it allows him to assert and defend his title before the repeated entries ripen into an adverse claim. Walking across the field is exactly such an entry, and B's consent was never given.

**Conclusion.** A is liable for trespass; B may recover at least nominal damages and obtain an injunction to restrain any repetition.

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### **P1.6 — [Prob] X digs/constructs a well on his own land; the underground water feeding his neighbour Y's well is drawn away and Y's well dries up. Can Y sue X? (Decoy: real loss to Y.)**

Asked: 2018Dec(80), 2018Dec(100) · ★ · Notes: Unit 1 → *Damnum sine injuria*

**Issue.** Is the loss of underground percolating water actionable against a landowner who lawfully uses his own land?

**Rule.** There is no natural right to underground percolating water; its diversion by the lawful use of one's own land is *damnum sine injuria* — *Chesmore v Richards (1859)*; *Acton v Blundell (1843)*; and motive is irrelevant (*Mayor of Bradford v Pickles, 1895*).

**Application.** X used his own land lawfully by digging a well on it. Y suffered real and serious loss in that his well dried up, but he had no legal right to the percolating water that happened to flow beneath X's land, so no legal right of his was violated. Y's loss is the decoy; absent a violated right there is no liability, even if X acted from spite, because a bad motive cannot make a lawful act unlawful. The harm is pure *damnum* without *injuria*. The position would be different if X had drawn water from a defined surface stream or had committed some independent wrong, but mere abstraction of percolating water beneath his own soil is something he is entitled to do.

**Conclusion.** Y cannot sue; the loss is *damnum sine injuria* and X is not liable.

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## **P1.7 — [Prob] A builds 16 shops on an old foundation without municipal permission; the municipality demolishes the structure; he claims compensation. (Decoy: genuine financial loss.)**

Asked: 2019Dec(80) · ★ · Notes: Unit 1 → *Damnum sine injuria*

**Issue.** Can a person who suffers loss from the lawful demolition of his own illegal construction recover compensation?

**Rule.** Loss caused by the lawful exercise of statutory authority against an illegal act is *damnum sine injuria* — *Gloucester Grammar School (1410)*; and a bad motive does not make a lawful demolition wrongful (*Town Area Committee v Prabhu Dayal, 1975*).

**Application.** A built the shops without the permission that the law required, so the construction was illegal from the outset. The municipality acted within its statutory power in demolishing an unauthorised structure. A's genuine financial loss is the decoy; he had no legal right to retain a building put up in breach of the law, so the demolition violated no legal right of his. Even if the municipal officers were said to act with some ill-will, that would not convert their lawful statutory act into an actionable wrong, as *Town Area Committee v Prabhu Dayal* makes clear. A cannot found a claim on the consequences of his own illegality.

**Conclusion.** The claim fails; the loss is *damnum sine injuria* and the municipality is not liable to compensate A.

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*End of Unit 1 Question Bank.*

