

CLASS - BALLB IInd SEM

SUBJECT - LAW OF TORTS

PAPER CODE - BL-2005

TOPIC – JOINT TORTFEASORS

A tort is a type of civil wrong for which a person adversely affected or injured thereby can claim damage. A person who commits a tort is known as a tortfeasor . if the court determines that the defendant's tort has caused the plaintiff to suffer loss or harm, then the defendant is deemed legally responsible or liable to compensate the plaintiff. More than one tortfeasor may be involved in contributing to a tort. Joint tortfeasors are responsible for the same wrongful act which result in a tort.

“Tortfeasors”

Independent Tortfeasor – who caused the same damage by independent wrongful acts.

Joint Tortfeasors – Those persons who cause the same damage in furtherance of a common design. Joint tortfeasors are those who have mentally combined together for the same purpose. To be considered joint tortfeasors, the parties must act together in committing the wrong or their acts, if independent of each other must unite in causing a single injury. All who actively participate in the commission of a civil wrong are joint tortfeasors. With regard to joint tortfeasors, the following three propositions can be taken into consideration---

1. Agency – Apply- Principle and Agent
2. Vicarious liability – Apply – Master and servant
3. Joint or common action – Apply – Sec 34 of IPC

In case of joint or common action if the tortfeasors act jointly in the tort or a same suit of action is allowed if one defendant has incited another to commit the tort (Read with section 34 of IPC)

Liability of joint tortfeasors

- liability of wrongdoers are joint and several the injured party may sue them jointly or separately.
- The tortfeasor who has been held liable to pay more than the share of damage can claim contribution from the other joint tortfeasors. But the amount of contribution recoverable from the joint tortfeasors will depend upon his responsibility for the damage.

Tortfeasors defence

- **Consent and Waiver** – This defence is referred to as the legal maxim volenti non fit injuria, which means “ no injury is done to a consenting person.”
- **Contributory negligence** -- Tortfeasors may try to defend themselves by claiming that the complaint contributed to his own damage by committing acts of recklessness or negligence.
- **Illegal act or omission** – Where at the time of the injury, the complainant committed an illegal act for which he was seeking compensation, the defendant liability may be reduced, or entirely eliminated.

For further queries you may reach us via..

E-mail : kumkumsingh021@gmail.com

Contact No. 9410617968

Dr. Kusuma Vati

ILS, CCSU campus, Meerut