

LL.M. IV SEMESTER
SUBJECT: SPECIFIC TORT
PAPER CODE: L-4006

TOPIC : DECEIT OR FRAUD

The making of a representation which a party knows to be untrue and which is intended or calculated to induce another to act on the faith of it so that he may incur damage is fraud in law.

Defined in Polhill v. Walter

In case of Derry v. Peek, Lord Herschell laid down rules to recognize deceit:

First In order to sustain an action of deceit, there must be proof of fraud

Second Fraud is proved when it is shown that a false representation has been made

- (1) Knowingly
- (2) Without belief in its truth
- (3) Recklessly, careless whether it is true or false.

Third If fraud is proved the motive of the person guilty of it is immaterial.

To create right of action for deceit there must be a fraudulent representation and representation in order to be fraudulent must be:

- (1) Which is untrue in fact
- (2) Which defendant knows to be untrue
- (3) Which was intended or calculated to induce plaintiff as third person
- (4) Which the plaintiff or the third person acts on and suffers damages.

Fraud by Agent-

The fraud of an agent acting within scope of his employment is the fraud of the principal.

- (1) The principal knows that representation to be false.
 - (a) He authorize the making of it.
 - (b) The representation was made in the general course of his employment without specific authorization then principal will be held liable.
- (2) The Principal thinks the representation to be true.
 - (a) Mean thought it to be made, when
 - (i) The agent knows at the time, or finds out after words that it is false the principal is liable.
 - (ii) The agent thinks it to be true here principal is not liable.

- (b) The agents make the authorization in general course but without special authorization.
- (i) The agent knows it is false, the principal is liable.
 - (ii) The agent thinks it to be true.

Topic: Malicious Falsehood

The tort of Malicious falsehood consist in false statement concerning the plaintiff made to other persons which causes loss to the plaintiff by the actions of those other persons.

To prove tort plaintiff need to prove

- (1) Statement is false
- (2) Made Maliciously
- (3) Plaintiff suffered special damages

Motive should be dishonest or otherwise improper motive.

Type of Malicious falsehood slander of goods, slander of little fraud

Differ from defamation

The false statement does not hit the reputation but it otherwise injures the plaintiff.

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