

B.A.LL.B.6Sem.

JURISPRUDENCE.
Concept of Liabilities.

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Salmond

- 'Liability or responsibility is the bond of necessity that exists between the wrongdoer and the remedy of the wrong.'
- The liability of person consists in those things which he must do or suffer. It is the ultimatum of the law and has its source in the supreme will of the State.
- A person has a choice in fulfilling his duty and his liability arises independently of his choice
- It can not be evaded at all
- Liability arises from a wrong or the breach of a duty.

- Austin-

Those certain forbearances, commissions or acts, together with such of their consequences, as it was the purpose of the duties to avert, are imputable to the persons who have forborne, omitted or acted.

Kinds of liability

- Civil liability
- Criminal liability
- Remedial liability
- Penal liability
- Vicarious liability
- Absolute or strict liability

Civil liability

- Civil liability is enforcement of the right of the plaintiff against the defendant in civil proceedings.
- Ex. 1. An action for recovery of a debt
 2. Restoration property
 3. Specific performance of Contract

Criminal liability

- Criminal liability is the liability to be punished in a criminal proceeding
- Ex. Assault ,defamation , theft and malicious injury

Remedial liability

- If an injury is caused by the violation of a right ,there can be remedial by compelling the person bound to comply with it.
- There is no idea of punishment in the theory of remedial liability.

Penal liability

- The theory of penal liability is concerned with the punishment of wrong.
- Kinds of punishment
 1. Deterrent punishment
 2. Preventive punishment
 3. Retributive punishment
 4. Reformatory punishment

Vicarious liability

- Ordinary only that person is liable for a wrong which he has committed himself. However, there are certain cases where one person is made liable for the wrongs committed by another.

Absolute or strict liability

- In such cases , a person is punished for committing wrongs even if he has no guilty mind.
- The law does not enquire whether the guilty person has committed the wrong intentionally ,negligently ,innocently.

General conditions of liability

- Act
- Juristic acts
- Wrongful acts
- Damnum sine injuria
- Injuria sine damnum
- Circumstances of the Act
- Means rea

Negligence

- According to Salmond-
Negligence is the state of mind of undue indifference towards one's conduct and its consequences .
- According to Austin-
Negligence is the breach by omission of a positive duty.

Definitions

- Negligence is the omitting to do something which a reasonable man would do or the doing something which a reasonable man would not do.
- Negligence is nothing short of carelessness
- Carelessness excludes wrongful intention .
- The things attributed can not be attributed to carelessness.

Kinds of Negligence

- Advertent negligence
- Inadvertent negligence

Advertent negligence

- Willful negligence
- Recklessness
- The harm done is foreseen as probable but it is not willed.

Inadvertent negligence

- Simple negligence
- The harm done is neither foreseen or willed.