

Chapter 18

Torts: A Civil Wrong

The Idea of Liability

- Under criminal law, wrongs committed are called crimes.
- Under civil law, wrongs committed are called torts.
- In criminal cases, the injured party (the people, in the person of a government prosecutor) tries the person believed to be responsible for the crime (the defendant).
- In civil cases, the injured party (the plaintiff) can sue the person believed to be legally responsible for the harm (the defendant).

Assumption of care

- Tort law establishes an expectation that people should act with reasonable care toward other people and their property.

Damages

- A defendant found responsible for injuring the plaintiff will usually be ordered to pay the plaintiff money, called damages.
- Damages are meant to compensate the plaintiff for any financial, physical, or emotional costs associated with the injury.

Settlements

- The plaintiff does not always need to sue in order to receive damages.
- Often the two parties can meet and make an agreement—or settlement—on compensation for the injury.

The Idea of Torts: Yesterday, Today, and Tomorrow

- Tort law has changed over time to reflect changes in society and its values.
- State courts handle most tort cases.
- Tort law is generally based on common law, which is created through court decisions written by judges.
- Tort law can also be based on written laws, known as statutes, which are passed by state legislatures.

Types of Torts

- There are three major types of tort liability
 - intentional wrongs,
 - acts of negligence,
 - and strict liability.

Intentional Torts

- An intentional wrong occurs when a person purposefully harms another person or his or her property.

Negligence

- Negligence—the most common unintentional tort—occurs when one person unintentionally inflicts injury upon another person.
- Even though the injury was not intentional, the person who caused injury can still be held liable for acting carelessly and causing harm.

Strict liability

- Strict liability requires people engaged in certain dangerous activities to assume extra responsibility for the consequences of their actions.
- Liability regardless of fault. Doesn't matter if one took reasonable care or not; still liable
 - Abnormally dangerous activities, etc. Ex: working with dynamite; manufacturing dangerous chemicals, etc.

Taking Your Case to Court

- Tort law deals with disputes between individuals or groups of individuals.
- Unlike criminal law, the government is not responsible for bringing the case to court, and defendants never go to prison.

Burden and Standard of Proof

- Both criminal law and tort law require the party bringing the action to prove their claim
- While both criminal law and tort law require substantial evidence to prove the defendant is responsible, criminal cases require more convincing evidence.
 - Criminal cases require proof beyond a reasonable doubt
 - Civil cases require proof by a preponderance (majority) of the evidence

Crimes and Torts

- Although a tort and a crime are different legal actions, the same harmful activity can sometimes be both a crime and a tort.
- Almost anyone can be sued.
 - Employers may be responsible for many of the torts committed by their employees,
 - and in some states parents can be sued for torts committed by their children.
 - Children who commit torts may be sued if it can be proven that the child acted unreasonably for a person of that age.

Class Action

- A class action suit occurs when more than one plaintiff – usually many people – sues a defendant as a group.

Insurance

- Liability insurance is an agreement in which the insured person makes regular payments to an insurance company.
- In return, the insurance company agrees to pay for certain damages the insured person might cause.

Liability Protection

- Liability insurance protects doctors, lawyers, manufacturers, homeowners, and drivers.
- Although many types of insurance exist, very few insurance policies cover a person who has committed an intentional harm.