

JIGL

LAW OF TORT

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
<p>The term ‘tort’ is a French equivalent of English word ‘wrong’. The word tort is derived from Latin language from the word <i>Tortum</i>. Thus, simply stated ‘tort’ means wrong. But every wrong or wrongful act is not a tort. Tort is really a kind of civil wrong as opposed to criminal wrong.</p> <p>Wrongs, in law, are either public or private. <u>Public wrongs</u> are the violations of ‘public law and hence amount to be offences against the State, while <u>Private wrongs</u> are the breaches of private law, i.e., wrongs against individuals.</p>	<p>In <u><i>Jay Laxmi Salt Works (P) Ltd vs State Of Gujarat</i></u>, Supreme Court of India observed that" Truly speaking entire law of torts is founded and structured on morality that no one has a right to injure or harm others intentionally or even innocently.</p>

<u>Before Amendment (Earlier)</u>	<u>After Amendment (Now)</u>
<p><u>VICARIOUS LIABILITY OF THE STATE</u></p> <p>When a case of Government liability in tort comes before the courts, the question is whether the particular Government activity, which gave rise to the tort, was the sovereign function or non-sovereign function.</p> <p>It is a sovereign function it could claim immunity from the tortious liability, otherwise not. Generally, the activities of commercial nature or those which can be carried out by the private individual are termed as non-sovereign functions.</p>	<p><u>Distinction between Sovereign and Non-Sovereign Functions</u></p> <p>This distinction between sovereign and non-sovereign functions was considered at some length in <u><i>N. Nagendra Rao Vs. State of AP.</i></u></p> <p>The Court Said</p> <p>“In the modern sense, the distinction between sovereign or non-sovereign power thus does not exist. It all depends on the nature of the power and manner of its exercise.</p> <p>“One of the tests to determine if the legislative or executive function is sovereign in nature is, whether the State is answerable for such actions in courts of law. For instance, acts such as defence of the country, raising (the) armed forces and maintaining it, making peace or war, foreign affairs, power to acquire and retain territory, are functions which are indicative of external sovereignty and are political in nature. Therefore, they are not amenable to jurisdiction of ordinary civil court. The State is immune from being sued, as the jurisdiction of the courts in such matters is impliedly barred.”</p> <p>In <u><i>State of Rajasthan Vs. Vidyawati</i></u>, the driver of a Government jeep, which was being used by the Collector of Udaipur, knocked down a person walking on the footpath by the side of a public road. The injured person died three days later, in the hospital. The legal</p>

	<p>representatives of the deceased sued the State of Rajasthan and the driver for compensation / damages for the tortious act Committed by the driver.</p> <p>It was found by the court, as a fact, that the driver was rash and negligent in driving the jeep and that the accident was the result of such driving on his part.</p> <p>The suit was decreed by the trial court, and also by the High Court. The appeal against the High Court judgment was dismissed by the Supreme Court.</p>
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