

Case Analysis and Case Comment on Constantine v. Imperial London Hotels Ltd.’

Twinkle Bhandari

Scholar, 2nd Year, IV-Sem, Symbiosis Law School, Hyderabad, India

Abstract: *The research in the paper has talked about Injuria Sine Damnum in detail and has discussed and analysed multiple case laws with regard to the same, one of the case which the researcher has analysed is Constantine v. Imperial London Hotels Ltd. The research has discussed and analysed various other cases as well in order to provide a clear understanding to its readers and for purpose of conducting a valuable research.*

Keywords: Damage, damages, Injuria Sine Damnum, legal right, plaintiff, violation

1. Introduction

The law of torts in India never possessed great importance until the advent of British rule as it was British who administered the concept of compensation for a person victimized by a wrong of another¹. Law of torts is based on the Latin maxim *Ubi jus ibi remedium* – which means where there is a right there, is a remedy which suggests that where law has established a right there should be a corresponding remedy available for its infringement². Jus signifies the legal authority to demand a remedy and remedium means right of action or the means provided by law for reclaiming or maintaining a right. If a person has a right he should have a means to vindicate and maintain it and indeed a remedy which he can avail if he is injured or his right is violated while exercising the right³. Tort is a French word for “wrong”. The root is ‘Tortum’ in Latin which means ‘twist’. It implies a conduct which is ‘tortious’ or ‘twisted’. As a technical term of English law, tort has acquired a special meaning as a species of civil injuries or wrong. It is introduced in English law by the Norman jurists. “Tort means a civil wrong which is not exclusively a breach of contract or breach of trust”⁴. In case of a civil wrong the injured party (Plaintiff) can file a civil proceeding against the wrongdoer (Defendant) and the main remedy is damages or compensation. For any action to become a tort its essentials are required. The essentials of tort are as follows-

1. Act or omission on part of defendant 2. Such act or omission leading to injury i. e. violation of legal right of plaintiff 3. Some legal remedy is there for causing such injury⁵.

In this research we will study about the principle of ‘*Injuria Sine Damnum*’ and the concept of ‘Damages’ with regard to the case law Constantine v. Imperial London hotels ltd. and as interpreted by tort law in India. In this research we will

also study the term damages as applied in case of breach of contract.

Injuria Sine Damnum-Meaning-Injury without any damage being caused. This maxim means the legal injury being caused to the plaintiff without any actual damage or loss.

Injury here refers to the infringement of legal right or violation of legal right of a person. Plaintiff can file a case against another party in the court because the law of torts protects the person from injuria (i.e. legal injury or infringement of some legal right of a person).

Damage-damage is the loss which indeed gives rise to the legal injury or due to which the legal right of plaintiff is violated.

Damages-Damages is the monetary compensation given to the plaintiff for violation of his legal right. Damages in simple terms refers to a form of compensation due to a breach, loss or injury. As explained by Fuller and Perdue,⁶ damages may seek protection of “expectation interest”, “reliance interest” or “restitution interest”. Damages are generally awarded under tort law or in case of breach of contract.

Under tort law various types of damages are awarded depending on the severity of tort committed, some of it are listed as follows-**1. General and Special damages 2. Nominal damages 3. Substantial damages 4. Aggravated and Exemplary damages 5. Liquidated and Unliquidated damages.** The case law Constantine v. Imperial London hotels ltd. Deals with the nominal damages being offered to the plaintiff for the infringement of his legal / private right. The researcher in the current research will be undertaking a detailed understanding of the concept of injuria sine damnum and would be discussing and analyzing various case laws and would also understand the application of the principle of Injuria sine damnum in different case laws.

2. Research Questions

In the current research the researcher will be addressing the following questions-

¹Perna Deep, The Door Left Ajar : Evolution of Law of Torts in India, 1(2) INTL. J. OF L. MGMT. & HUMAN.,(2018).

²11 R Rajesh Babu, Remedies under the WTO Legal system 1-2 (Martinus Nijhoff Publishers, 2012)

³28 AKSHAY SAPRE, RATANLAL & DHIRAJLAL: LAW OF TORTS 22 (2 JULY 2019)

⁴Section 2(m) of the Limitation Act 1963

⁵Essentials under tort Law in India

⁶L.L. Fuller and William R. Perdue Jr., ‘The Reliance Interest in Contract Damages’ (1936) 46 Yale Law Journal 52

- 1) How the principle of Injuria sine Damnum has developed over time?
- 2) How the principle of Injuria Sine Damnum applied in different case laws?
- 3) Can the principle of Injuria sine Damnum be extended to all cases relating to property?

3. Literature Review

Literature review is one of the main aspects involved in the research paper. There are various sources of information available such as articles, research paper and case laws relating to the current topic of research. The present research relates to Injuria sine Damnum, for an effective research and to obtain a clear and detailed picture of the same the researcher has referred to many books and one of them is *Law of Torts* by B M Gandhi⁷ which a comprehensive and an excellent book of torts. In the present research emphasis is placed on some of the prominent case laws and published articles. Some of the cases which the researchers has referred while undertaking the current research are *Winsmore v. Greenbank*, and *Chunilal v. Kripashankar*. In the case of *Winsmore v. Greenbank*⁸ it was seen that an even if a person has unintentionally done a tortious act or has caused an injury the cause of action arises. Thus this case gave a clear understanding that if the act is tortious then action will lie there. In the case of *Chunilal v. Kripashankar*⁹ it was observed that expressing malice by words or gestures is not important. If a denial is not done with a good cause, the person who is refuting from registering the vote is held responsible by law for causing a violation of legal right of the plaintiff. To add authenticity and efficiency in the current research researcher has also referred to the article on *Injuria Sine Damno*¹⁰ in which the author has talked about the cases and has stated the meaning of the legal maxim. Another article which adds value in the present research paper is *Legal Maxim; Injuria Sine Damnum*¹¹ in which the author tells the meaning of term damage and injury and briefly explains the meaning of the maxim and also discusses some important case laws also while conducting the entire research the researcher also refers to another article which also explains the meaning of the maxim with reference to some case laws. All these articles are of utmost importance since all of these enhance the quality of the research are an useful source of information.

Detailed Understanding of the Maxim 'Injuria Sine Damnum'

Injuria sine damnum refers to the situation where there is a violation of an absolute private right of a person without causing any actual loss/damage. Here Injuria refers to injury or a tortious act. In this case the defendant might have accidentally committed a tortious act, but if the act done by the defendant is tortious in nature in any case the action will

lie. Damnum means damage and damage here refers to damage/ loss suffered in terms of money, loss of comfort, health or service etc. Injuria sine damnum is actionable per se i.e. even without the proof of any damage. Every individual has an absolute right on his property, to the immunity of his person and his liberty and if these rights of a person are violated the person has a right to bring the matter to the court even without any proof of actual damage being caused, that means in case of absolute right the injury i. e. the tortious act is completed the movement the right of any person is infringed irrespective of the fact that it is accompanied by actual damage or not. The Privy Council in India stated that where a private right of a person is interfered with, injuria sine damnum may be adequate to find an action. The movement the legal right of a person is violated the cause of action arises. Trespass to person such as battery, assault or false imprisonment and trespass to property; land, goods and libel are all the examples of tort which are actionable per se and the court is bound to give at least nominal damages to the plaintiff even if no actual or special damage is attested.¹² In the situation of trespass to property the legal private right of the person owning a property is violated and thus the person is entitled to damages by the court. In the case of *Sain Dass v. Ujagar Singh*¹³ it was held that nominal damages are generally given and the principle of Injuria Sine is applicable to immovable property only if someone has wrongfully or illegally owned the property that belong to someone else. It was also held that the principle cannot be expanded to all the cases relating to attachment of property it is only applied to cases where there is an unjust enrichment or trespass to property. The person can avail the remedy only if his someone has wrongfully possessed his property or if someone has caused trespass to the property which indeed has resulted in violation of his legal right. Even if in under any circumstances a person feels there is a threat of infringement of his legal right although irrespective of the fact the injury has not been completed the person can bring a suit under the provisions of Specific Relief Act for declaration and injunction. The principle of Injuria sine damnum was applicable to many case laws and one of the leading case law was the case of *Ashby v. White*¹⁴. Wherein the plaintiff Mr. Ashby a qualified voter but was wrongfully restricted to cast his vote by the defendant William White who was one of the returning officer and the plaintiff thus filed a suit in the court of law. The court gave the judgment in favour of plaintiff acknowledging the fact that his legal right was violated. Another case was the case of *Bhim Singh v. The State of Jammu and Kashmir*¹⁵ in which the plaintiff Mr Bhim Singh was deliberately prevented from attending the session of legislative assembly and thus his personal liberty was harmed which caused injury to the plaintiff since his absolute private right was violated. In the current case of *Constantine v. Imperial London hotel Ltd*¹⁶ also it was observed that the plaintiff who was a West Indies cricketer has filed a case and claimed that the hotel was in a breach of

⁷B.M. GANDHI, LAW OF TORTS (4 ed. 2019)

⁸WINSMORE V. GREENBANK (1745) WILLES 577 (581)

⁹CHUNILAL V. KRIPASHANKAR, (1906) 8 Bom LR 838: ILR 31 Bom 37

¹⁰SAI MANOJ REDDY, INJURIA SINE DAMNO, THE LEX – WARRIOR ARTICLE ARCHIEVE (2015)

¹¹AMOGIK, LEGAL MAXIM: INJURIA SINE DAMNUM, OUR LEGAL WORLD(2020)

¹²RATANLAL & DHIRAJLAL, LAW OF TORTS 15-16 (28TH ED. 2019)

¹³SAIN DASS V. UJAGAR SINGH (1940) ILR 21 LAH 191

¹⁴ASHBY V. WHITE (1703) 2 LD. RAYM.938:

¹⁵BHIM SINGH V. STATE OF JAMMU AND KASHMIR AIR 1986 SCC 494:

¹⁶CONSTANTINE V. IMPERIAL LONDON HOTEL LTD. 1944 KB 693

contract and hence in this case the plaintiff was awarded nominal damages though no monetary loss or physical damage was caused but there was an infringement of legal right of the plaintiff. The researcher after conducting an in depth research of whole concept found out that if in any case there is a violation of a legal right of any person or if any person has done any tortious act the plaintiff has a right to bring an action in the court and avail the remedy for that. To avail the remedy or to claim damages plaintiff should have suffered a legal injury i. e. violation of legal right and for that there should be a legal remedy available.

Analysing the Case Laws in the Research paper

- ‘*Constantine v. Imperial London hotel ltd.*’

Brief Facts: This case was an English tort law and Contract case. The facts as briefly stated are, Constantine was famous black West Indies cricketer who had gone to London to play a cricket match for Dominions against England at Lord’s. He decided to stay at Imperial hotel, London with his family and had already booked the rooms there and the hotel has guaranteed that they are welcomed there and would be treated with all due esteem. However, what happened was that on their due arrival the hotel denied their stay there and said that they could stay for only one night there acknowledging the fact the white American military servicemen staying there had complaints and objections witnessing their presence in the hotel. The receptionist in the hotel mentioned in insulting ways that since Americans were staying in the hotel so the hotel can’t have niggers. Those people were considered as outcasts and Constantine was outraged, humiliated and insulted. Constantine filed a case in the court of law and asserted that the hotel was in a breach of contract and has committed a tort keeping in view the common law principle that the innkeepers should not deny the accommodation to the guests without a just cause.

Judgment: In this case Justice Birkett has delivered the judgment and said that it is assumed that it is the intimate duty of the innkeeper to give reasonable accommodation to the guests and denied the arguments raised by the defendant that the hotel has duly accomplished their duty by putting forward an offer to the plaintiff to lodge them to some other place. It was held that plaintiff’s right was being infringed although no monetary damage was being caused to him but the infringement of his legal right was itself enough to avail the remedy. Thus in this case the plaintiff was entitled to nominal damage, a small sum of five guineas was awarded by court.

In the above case the principle of *injuria sine damnum* was applicable since the actions of hotel authorities were tortious and indeed the plaintiff has suffered a legal injury for which remedy is provided by law. If legal right of any person is harmed or violated the person can bring an action and claim damages

- *Marzetti v. William*¹⁷

Brief Facts: In the present case plaintiff (Marzetti) had a bank account in the defendant’s bank and plaintiff had ample money in his account. He wanted to take some money out from his account and thus tried to withdraw the amount via cheque but ultimately his cheque was dishonoured thus preventing him from withdrawing the money. The bank officials did not have any bona fide reason for their action. Plaintiff thus filed a case in the court of law stating the wrongful dishonor of the cheque by the bank authorities.

Judgment: The judgment in this case was delivered by the Supreme Court. While delivering the judgment it was held that the defendant has done a tortious act by unlawfully prohibiting the plaintiff from withdrawing the money from his account and hence the defendant was held liable by the court. The judgment was given in favour of the plaintiff stating the fact that although he did not suffer any monetary loss but his legal private right has been infringed and hence he was awarded nominal damages by the court.

In the above case is accurately applied since the plaintiff has suffered a legal injury and therein an action lies in the court of law. If a legal private right of any person has been violated or interfered with for that a legal remedy is available.

- *Ashrafial v Municipal Corporation of Agra*¹⁸

Brief Facts: In the case the name of the plaintiff (Ashrafial’s) was unjustly excluded from the electoral roll (from the list of voting candidates) by the election commission officials and the plaintiff was denied from voting in the election due to which he was unable to exercise and enjoy his right to vote which the fundamental right given to the citizens. The plaintiff thus filed a case in the court of law against the municipal corporation claiming the authorities to be accountable for violating his basic fundamental right which is enshrined under article 21A.

Judgment: While delivering the judgment the court held the defendant (the authorities of Municipal Corporation) has caused a legal injury to plaintiff as it was held that his legal private right to vote was infringed and was deprived of his fundamental right of voting. Hence on this basis the plaintiff was awarded damages i. e. monetary compensation by the court.

In the present case the principle of *injuria sine damnum* is effectively applied since the fundamental right to vote has been violated been which has caused legal injury to the plaintiff and if the legal a person suffers any violation of his legal private right in that case an action lies in the court, thus the court is bound to provide the legal remedy to the person who suffered a loss.

¹⁷MARZETTI V. WILLIAM (1830) 1 B & AD 415

¹⁸ASHRAFI LAL V. MUNICIPAL CORPORATION OF AGRA (1922) ILR 44 ALL 202

- *Bhim Singh v. State of Jammu and Kashmir*¹⁹

Brief Facts: The plaintiff Mr Bhim Singh was deliberately prevented from attending the session of legislative assembly and was stopped by the police when he was on his way and was imprisoned and was kept at a hidden place and indeed his personal liberty was harmed which caused injury to the plaintiff since his absolute private right was violated. In

Judgment: In this case Supreme Court gave a land mark judgment and this influenced tort law in India. The plaintiff was entitled to damages i.e. monetary compensation of rupees fifty thousand for false imprisonment and illegal detention. In this case the principle of injuria sine damnum is effectively implied since the plaintiff was imprisoned with any reasonable cause and thus his absolute private right was infringed and thus was subjected to damages by court.

- *Nixon v. Herndon*²⁰

Brief Facts: The plaintiff (Nixon) was a native of United States and Texas. He was an African American. He was a registered voter and was eligible to vote in the democratic election. He wanted to cast the vote in the election but was not allowed to vote. The plaintiff filed a case against the election judged on the grounds that their right is infringed by the law passed by Texas. As per this law which was passed the blacks were prohibited from casting vote in the election of the Democratic Party.

Judgment: The Supreme Court said that the case private damage which was caused to plaintiff for which the remedy is provided by law. The court also held that the law existing in Texas is a violation of the fourteenth amendment.

The principle of Injuria Sine Damnum is fairly applicable as the legal right of the plaintiff has been infringed thus plaintiff suffered an injury for which a cause of action lies.

- *Ashby v. White*

Brief Facts: The plaintiff Mr. Ashby was a qualified voter but was wrongfully restricted from voting in the British Parliamentary election by the defendant William White who was one of the returning officer on the basis that the plaintiff was not a settled resident of the country and that the plaintiff never helped the poor nor gave any offering in the church ever and the plaintiff thus filed a suit in the court of law.

Judgment: In this case it was said that plaintiff's legal right was infringed as by the defendant as he was not allowed to vote and thus he was subjected to damages. It was also held that every injury brings with it damage and although the plaintiff might not have suffered any monetary damage but his interfering in someone's legal private right constitutes a legal injury for which remedy is provided by law.

In the above case principle of injuria sine damnum is applicable since a person has been denied his right of vote which gave rise to a legal injury for which a remedy is

available. Since the legal right of a person is violated thus the cause of action lies.

In all the cases mentioned above it is seen that the principle of Injuria Sine Damnum is appropriately applied because in some way or the other the legal right of the plaintiff has been violated and thus an action lies in all the cases and as discussed if any legal injury has been caused the person can bring an action in court since in all such situation remedy is already stated by law. In all the cases discussed above the plaintiff is thus entitled to damages

4. Conclusion

The researcher in the current research after taking all precedents into cognizance and after reading and analyzing various case laws have understood all the possible areas in which the principle of Injuria sine Damnum can be applied and circumstances under which the plaintiff can file a case in the court and avail the legal remedy or can claim damages. The researcher after undertaking an in depth research formed the conclusion that law of torts is based on the common law system and is derived from the judicial precedents and judgments delivered by the court is of great value. The precedents and the already decided case laws would give a better understanding of the maxim to the lawyers, law students and would also assist the judges and will form a basis for deciding various other cases. Thus all this adds to the healthy evolution of in India

References

Books

- [1] Ratanlal & Dhirajlal, Law of Torts 15-16 (28thed.2019)
- [2] B. M. Gandhi, Law of Torts (4 ed.2019)

Statues

- [3] Section 2 (m) of the Limitation Act 1963
- [4] Essentials under tort Law in India

Articles

- [5] L. L. Fuller and Willian R. Perdue Jr., 'The Reliance Interest in Contract Damages' (1936) 46 Yale Law Journal 52
- [6] Prerna Deep, The Door Left Ajar: Evolution of Law of Torts in India, 1 (2) INTL. J. OF L. MGMT. & HUMAN., (2018)
- [7] SAI MANOJ REDDY, INJURIA SINE DAMNNO, THE LEX – WARRIOR ARTICLE ARCHIEVE (2015)
- [8] AMOGIK, LEGAL MAXIM: INJURIA SINE DAMNUM, OUR LEGAL WORLD (2020)
- [9] Diksha Priya, Injuria Sine Damnum, Lawsist (2020)

Case Laws

- [10] Sain Dass V. Ujagar Singh (1940) ILR 21 LAH 191
- [11] Ashby V. White (1703) 2 Ld. Raym.938:
- [12] ASHRAFILAL V. MUNICIPAL CORPORATION OF AGRA (1922) ILR 44 ALL 202
- [13] Marzetti v. William (1830) 1 B & Ad 415
- [14] Bhim Singh V. State of Jammu and Kashmir AIR 1986 SCC 494:
- [15] Constantine V. Imperial London Hotel Ltd.1944 KB 693
- [16] Winsmore v. Greenbank (1745) willes 577 (581)

¹⁹BHIM SINGH V. STATE OF JAMMU AND KASHMIR AIR 1986 SC 494

²⁰NIXON V. HERNDON, 273 US 536

- [17] Chunilal v. Kripashankar, (1906) 8 Bom LR 838: ILR 31
Bom 37es 577 (581)
- [18] Nixon v. Herndon, 273 US 536

Websites

- [19] 11 R Rajesh Babu, Remedies under the WTO Legal
system 1-2 (Martinus Nijhoff Publishers, 2012)