

**LEXKHOJ RESEARCH JOURNAL
OF LAW & SOCIO-ECONOMIC
ISSUES**

ISSN: 2456-4524



VOLUME II ISSUE I

Website: www.lexkhoj.com

E-mail: lexkhoj@gmail.com

LEXKHOJ PUBLICATIONS

EDITORIAL NOTE

Lexkhoj Publication is committed to bring the highest quality research to the widest possible audience through an unparalleled commitment to quality and reliability. It is established with the objective of promoting academic research and fostering debate on contemporary legal issues all across the world. Lexkhoj Publications collectively bring together leading scholars in the field to cover a broad range of perspectives on all the key issues in national and international law.

Lexkhoj is delighted to announce the Issue of the Lexkhoj Research Journal of Law and Socio-Economic Issues which is an international journal, publishing critical approaches to socio-legal study and multi-disciplinary analysis of issues related to law and socio-economic. The journal will strive to combine academic excellence with professional relevance and a practical focus by publishing wide varieties of research papers, insightful reviews, essays and articles by students, established scholars and professionals as well as by both domestic and international authors. Authors should confirm that the manuscript has not been, and will not be, submitted elsewhere at the same time.

The Journal provides a forum for in-depth analysis of problems of legal, social, economic, cultural and environmental transformation taking place in the country and world-wide. It welcomes articles with rigorous reasoning, supported by proper documentation. The Journal would particularly encourage inter-disciplinary articles that are accessible to a wider group of Social activist, economist, Researcher, policy makers, Professionals and students.

This quarterly issue of the journal would like to encourage and welcome more and more writers to get their work published. The papers will be selected by our editorial board that would rely upon the vibrant skills and knowledge immersed in the paper.

Needless to say, any papers that you wish to submit, either individually or collaboratively, are much appreciated and will make a substantial contribution to the early development and success of the journal. Best wishes and thank you in advance for your contribution to the Lexkhoj Research Journal of Law and Socio-Economic Issues.

EDITORIAL BOARD

Editor-in-Chief

Mr. Parikshet Sirohi

ASST. PROF. CAMPUS LAW CENTER
DELHI UNIVERSITY

Founder Editors

Mr. Vishnu Tandi

(Founder)

Ms. Sukriti Ghai

(Co-Founder)

Ms. Yogita Lohia

(Managing Partner)

Book Review: ‘The Law of Torts’ authored by Prof. Dr. A. Lakshminatha and Prof. Dr. M. Sridhar, Ramaswamy Iyer

Dr. Pijush Sarkar, Ph.D, LL.M, MBL, LLB, PGDIHL, PGDNL, CCL

Prof. Dr. A.Lakshminatha and Prof. Dr. M. Sridhar, Ramaswamy Iyer’s ‘The Law of Torts’ tenth edition, second reprint, 2010, pp – cxxiii + 1061, published by LexisNexis, Butterworths Wadhwa, Nagpur (A Division of Reed Elsevier India Pvt Ltd) 2007, 14th floor, Building No. 10, Tower-B, DLF Cyber City, Phase-II, Gurgaon – 122002, Haryana, India

Being acquainted with the substantive Law of Torts and putting those into practice in a court of law are two assorted things. The method by which this branch of law is taught in most of the Indian Universities and Law Schools simply makes the undergraduate study the abstract outline of the law of torts. The learning is left to be learnt in proficient practice in courts of law. Noticeably the outcome is not a very vigorous appreciation of the understanding with regards to tortious liability, consequently inept young professionals working with a messy approach. Countless budding legal professionals undergo painful course of learning proper exercise of law of tort in attainment of variety of responsibilities towards their clients in a tremendously cut-throat environment.

The law of tort is an area under discussion which is, by and large speaking, well-served by text books. Ramaswamy Iyer enjoys a time-honored standing amidst law students and scholars for his meticulous explanations on the subject as it is a single-minded attempt in restructuring of the various concepts in the field of law of torts in contemporary India.

Prof. Dr. A. Lakshminath is an academician of eminent standing for decades. He has authored 9 books and 100 articles, and edited several journals. He was associated with Faculty of Law at Andhra University, Nagpur University, NALSAR University of Law, Hyderabad and presently serving as Vice-Chancellor at Chanakya National Law University, Patna.

Prof. Dr. M.Sridhar, a Professor in NALSAR University of Law, Hyderabad is a well-known and reputed academician and columnist, credited with 7 books and numerous articles in reputed journals.

This book is an indication to the authors learning and scholarship and makes the authors intensely qualified to write the book. And has proved to be helpful in bringing the book for a clear understanding of the subject by the students. The book basically aims at the beginners in the field of law. It should enable law teachers to teach the subject in a very simple language and effectively.

Late Sir William Searle Holdsworth, Kr, D Ck, Vinrain Professor of Law, Oxford University had precisely opinionated about the first edition (1932) of this book on the Law of Torts as a valuable addition to the then existing text-books on the subject, not only because of well-arranged summary of the principles of this branch of law, but also for the reason that it contained in sequence as to the relevance of those doctrines in the Indian courts.

With time, several developments were made in field of law of tort. Consequently, in the eighth edition (1986) of the book a number of fresh chapters were integrated devoid of altering the original work. The chapters that have been supplementary include: Economic Torts-Intellectual Property, Cyber Torts, Tort of Sexual Harassment, Cyber Stalking, Pre-Natal Injuries – New Developments, Modern Victimology, Domestic Relations, Absolute Liability for Nuisances, Government Tort, Constitutional Tort, Consumer Protection and Competition Law. The ninth edition of book came in 2003.

The book's tenth edition (2007) second reprint (2010) contains 27 chapters. The scheme of the book is as follows:

Chapter 1: Introduction.

Chapter 2: Cyber Crimes and Torts.

Chapter 3: Injuries to Person.

Chapter 4: Domestic Violence: A Crime and Tort.

Chapter 5: Injuries to Domestic Relations.

Chapter 6: Assessment of Damages: Judicial Approach.

Chapter 7: Wrongs to Immovable Property.

Chapter 8: Wrongs to Movable Property.

Chapter 9: Nuisance.

Chapter 10: Environmental Tort and Law in India.

Chapter 11: Defamation.

Chapter 12: Malicious Prosecution and Maintenance.

Chapter 13: Deceit.

Chapter 14: Injurious Falsehood.

Chapter 15: Interference with Contractual and Business Relation.

Chapter 16: Conspiracy.

Chapter 17: Negligence.

Chapter 18: Injuries to Miscellaneous Rights.

Chapter 19: Intentional Wrongdoing and Negligence.

Chapter 20: Causation.

Chapter 21: Absolute Liability.

Chapter 22: Vicarious Liability.

Chapter 23: The Obligation of State to Give Information (The Right to Information Act, 2005).

Chapter 24: Statutory Duty and Liability.

Chapter 25: Defences.

Chapter 26: Remedies and Parties: Miscellaneous Matters.

Chapter 27: Consumer Protection Act, 1986.

The introductory Chapter deals with the definition and nature of Tort with its elementary ingredients and divulging the essential aspects. The book clearly teaches the basis of tortious liability, the application of mental element in determining tortious liability and advancement of law of tort with its development in the light of emerging challenges. A discussion here by the authors on the capacity of a party to sue and be sued in tort is very helpful for the students. Developments in Common law, during British rule in India and post British rule in India helped the readers to understand the history of the development in the field.

The authors in a clear and simple language throws light on the liability incurred by a person for wrongs committed by other persons without proof of fault and discusses Unity Theory and Pigeon-hole Theory and liability based on fault with regards to 'no fault liability, absolute liability, strict liability, vicarious liability and liability of state'.

The authors have tried to help students understand the concept of negligence as a tort and its various dimensions viz. professional negligence, economic loss, damages, proximate cause, intervening cause, concurrent negligence, contributory negligence, Res Ipsa Loquitur and Last Opportunity Rule. Legal maxims for determination of liability: (a) Ubi jus ibi remedium, (b) Injuria Sine Damnum, (c) Damnum Sine Injuria.

In a very simple language the concepts of Volenti non fit injuria, Vis Major (Act of God), Inevitable Accident, Necessity, Statutory Authority, Judicial and Quasi Judicial, Parental and Quasi-Parental Authorities, Act of Third Parties, Plaintiff's Default, Mistake, Remedies (a) extra-judicial, and (b) judicial are scripted here. The conception of Damages - 'unliquidated damages' as a primary relief in an action for tort and its different categories can be understood very easily through the words of the authors. While damages are matter of right, injunction is only a discretionary remedy and civil action for remedy and injunction are well taught in this book.

Statutory liabilities and emerging areas of tortious liability viz intellectual property, cyber tort, economic torts, environmental laws, obligation of state to give information etc, in India are dealt meticulously in different chapters by the authors. Chapters on domestic violence, assessment of damages – judicial approach, defamation, deceit, injurious falsehood, malicious prosecution and maintenance, conspiracy, interference with contractual and business relations, causation, Consumer Protection Act, 1986, medical and professional negligence etc were added with great care and understandings.

A discussion on comparative tort laws, changes and new trends in tort law with large number of judicial pronouncements, both Indian and foreign makes this book a necessity for every student of law for his logical understanding.

The work is comprehensive regarding the law of tort and is decked with latest case studies and judicial pronouncements. The quality of the book is, it is very in depth on each and every subject matter and it is an excellent interpretation of the law of torts. The explanations on the topics are utmost clear. The stuffing is educative and informative. The authors' sensible insights coupled with their clear and concise style of discussion of various topics makes this book helpful not only for students but also for teachers and legal practitioners.