



**FACULTY OF JURIDICAL SCIENCES**

**COURSE: B.A.LL.B. I st Semester**

**SUBJECT: LAW OF TORTS**

**SUBJECT CODE: BAL 106**

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## LECTURE 15

# TOPIC: CLASSIFICATION OF TORTS- TRESPASS, NUISANCE, DEFAMATION, LIABILITY FOR MIS- STATEMENTS, NEGLIGENCE.

### Defamation as a tort

**Meaning-** Defamation is injury to the reputation of a person. If a person injures the reputation of another he does so at his own risk, as in the case of an interference with the property. A man's reputation is his property, and if possible, more valuable, than other property.

Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person, is called defamation.

Scrutton LJ defined a defamatory statement as "a false statement about a man to his discredit."

Every man has a right to reputation. Defamation is an injury to reputation of a person and defamation is a tort which injures the reputation and is therefore actionable. Defamation refers to false statements about a person, communicated as fact to one or more other persons by an individual or entity which causes damage and does harm to the target's reputation or standing in the community. As stated in ***Dixon v. Holden*** (1869) 7Eq. 488, "a man's reputation is his property, and if, possible, more valuable, than other property."

## Essential Elements of Defamation

The essential elements of defamations are as follows:

- a. the statement must be false and defamatory;
- b. the said statement must refer to the plaintiff;
- c. malice may be present in such cases;
- d. injures the reputation of that person; and
- e. the statement must be published.

## Kinds of Defamation

Defamation is a generic term and the species are libel and slander. The tort of defamation includes:

1. libel (it is a representation made in some permanent form, e.g., writing, printing, picture, effigy or statue, etc.)
2. and slander (it is the publication of a defamatory statement in a transient form, e.g., spoken words or gesture, etc.)

In the case of ***Yousoupoff v. M.G.M. Pictures Ltd.***, under the said production house a film “Rasputin-The Mad Monk” was being made. A character in the film name ‘Natasha’ was played by a British actress Irina. The character of Natasha had a close resemblance with the life of Princes “Russie”, Yousoupoff. Thus, the Princes claim for damages for the damage on the ground of defamation. The court awarded the damages.

In the case of ***Parvati v. Mannar***, Where it was said that Parvati has rejected from several houses, i.e. defendant want to say that she had several husband. Held it is actionable per se and damages were awarded.

## Defenses of Defamation

The defenses to an action for defamation are:

- a. Justification or truth;
- b. Fair comment;

- c. Privilege, which may be either absolute or qualified;
- d. Innocent Dissemination;
- e. Consent; and
- f. retraction of the allegedly defamatory statement.

**Exercise:**

1. In case of damage caused by escape of ferocious animals the person having control will be liable for any damage caused
  - a) Only on proof of negligence
  - b) Even without proof of negligence
  - c) Only on proof of malice
  - d) On proof of animal's nature
2. The last opportunity rule is related to the
  - a) Hanging of the convicts
  - b) Right of the accused to prove innocence before the court
  - c) Principle of natural justice
  - d) Vehicle accidents
3. X, a fruit dealer, gives his agent Y a van for the supply of fruits to the customers, Y goes for a free drive with his friend Z, and commits an accident resulting in an injury to A. Which one of the following is correct?
  - a) X is liable
  - b) Y is liable
  - c) Z is liable
  - d) X, Y and Z are all liable
4. In which one of the following case did the Supreme Court of India give a ruling that sovereign immunity of the State is subject to the Fundamental rights
  - a) State of Rajasthan v. Vidyawati
  - b) Shyam Sunder v. State of Rajasthan
  - c) Kasturi Lal Ralia Ram Jain v. State of U.P.
  - d) Peoples Union for Democratic Rights v. State of Bihar

5. Where does vicarious liability generally arise from
- a) A contract of service
  - b) A contract for service
  - c) A contract of service as well as a contract for service
  - d) A wrongful act of the master