



FACULTY OF JURIDICAL SCIENCES

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SUBJECT NAME- LAW OF CRIMES

COURSE NAME- LLB, Ist Sem

SUBJECT CODE-LLB-103

LECTURE-20

I. Accident under Section 80

Includes an Accident committed while doing a lawful act. Nothing is an offence which is done by accident or misfortune, without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

- Example: Suppose M is trying to shoot a bird with a gun but unfortunately the bullet reflected from the oak tree causing harm to N, then, M will not be liable.

Case law for Section 80

In [*King Emperor v. Timmappa*](#), a division bench held that shooting with an unlicensed gun does not debar an accused from claiming defence under Section 81 of IPC. The appeal of acquittal was dismissed and the order of trial magistrate was upheld. The court was of the opinion that there is no reason why sentence awarded under Section 19(e) of the Indian Arms Act should be enhanced. The respondent was liable under the provision but no more. He just borrowed a gun for few minutes to kill as he thought a wild animal might attack him and his partners. The application was dismissed regarding enhancement of sentence.

II. Infancy – Section 82 and 83

Section 82: It includes an act of a child below seven years of age. Nothing is an offence which is done by a child under seven years of age.

- Suppose a child below seven years of age, pressed the trigger of the gun and caused the death of his father, then, the child will not be liable.

Section 83: It includes an act of a child above seven and below twelve of immature understanding. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not yet attained sufficient maturity of understanding to judge the nature and repercussions of his conduct during that occasion.

- Example: Suppose a child of 10 years killed his father with a gun in the shadow of immaturity, he will not be liable if he has not attained maturity.

Case law for Section 83

In *Krishna Bhagwan v. State of Bihar*, Patna High Court upheld that if a child who is accused of an offence during the trial, has attained the age of seven years or at the time of decision the child has attained the age of seven years can be convicted if he has the understanding and knowledge of the offence committed by him.

III. Insanity – Section 84

Act of a person of unsound mind. Nothing is an offence which is done by a person who at that time of performing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

- Example: A, who is insane or unsound, killed B with a knife, thinking it to be a fun game, will not be liable for B's death as he was not aware of the nature of act and law. he was incapable of thinking judiciously.

Case law for Section 84

In *Ashiruddin Ahmed vs. State*, the accused Ashiruddin was commanded by someone in paradise to sacrifice his own son, aged 4 years. Next morning he took his son to a Mosque and killed him and then went straight to his uncle, but finding a chowkidar, took the uncle nearby a tank and told him the story.

The Supreme Court opined that the accused can claim the defence as even though he knew the nature of the act, he did not know what was wrong.

IV. Intoxication – Section 85 and 86

Section 85: Act of a person incapable of judgment by reason of intoxication caused against his will. Nothing is an offence which is done by a person who at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law, provided that the thing which intoxicated him was administered involuntarily without his will or knowledge.

- Example: A drank alcohol given by a friend thinking it to be a cold drink. He became intoxicated and hit a person on driving his car back home. He will not be liable as alcohol was administered to him without his will and knowledge.

Section 86: Offence requiring a particular intent or knowledge committed by one who is intoxicated. This applies to cases where an act done is not an offence unless done with a particular knowledge or intent, a

person who does the act in state of intoxication, shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

- Example: A person intoxicated, stabs another person under influence of alcohol which was administered to him in the party against his knowledge or will, will not be liable. But if that person had stabbed that person under voluntary intoxication, then he will be liable.

Case law for Section 86

In *Babu Sadashiv Jadhav case*, the accused was drunk and fought with the wife. He poured kerosene and set her on fire and started extinguishing the fire. The court held that he intended to cause bodily injury which was likely to cause death under section 299(20) and sentenced him under section 304, Part I of code).

MCQs-

i. Insanity as a defence means that a person at the time of doing an act, by reason of unsoundness of mind is incapable of knowing:

- A. the nature of the act
- B. that what he is doing is wrong
- C. that what he is doing is contrary to law
- D. either (a) or (b) or (c).

ii. Which of the following is correct:

- A. the burden of proof that the accused was not insane at the time of commission of offence is on the prosecution
- B. the burden of proving that the accused was insane at the time of commission of offence is on the accused.
- C. there is a rebuttable presumption of fact that accused was insane at the time of commission of the offence
- D. it is a matter of inference to be drawn by the court on the facts proved by the prosecution.

iii. For unsoundness of mind, the impairment of the cognitive faculty of mind to escape criminal liability:

- A. must be total
- B. must be partial
- C. both (a) & (b)

D. none of the above.

iv. **Intoxication as defence is contained in:**

A. section 85 of IPC

B. section 86 of IPC

C. section 87 of IPC

D. both (a) & (b).