

Nervous Shock under the Law of Torts

The law relating to nervous shock has a long history of recognition. The question of recovery for nervous shock (or psychiatric injury) negligently caused by another has been one which has perplexed various courts in various common law jurisdictions throughout the world since it was first established in the case of

Byrne v Southern and Western Railway Co. In no area of tort, is the task of providing liability more difficult or more contentious than in the case of nervous shock where the victim claims is based on psychiatric damage. Where the damage is the result of the effects that are suffered by another due to carelessness of the tortfeasor.

Defining Nervous Shock

Medically speaking nervous shock would mean the following: circulatory failure marked by a sudden fall of blood pressure and resulting in pallor, sweating, fast (but weak) pulse, and sometimes complete collapse. Its causes include disease, injury, and psychological trauma. In shock, the blood pressure falls below that necessary to supply the tissues of the body, especially the brain. Under the English law of tort, the same is defined as follows: nervous shock or injury inflicted upon a person by intentional or negligent actions or omissions of another. It is most often applied to psychiatric disorders triggered by witnessing an accident, for example an injury caused to one's parents or spouse. Although the term "nervous shock" has been described as "inaccurate" and "misleading" (Lord Keith and Lord Oliver, respectively, both in *Alcock v Chief Constable of South Yorkshire*) it continues to be applied as a useful abbreviation for a complex concept.

Is Nervous Shock Worth protecting through the Tort System?

We definitely need to address this question when we are dealing with a topic which took a bit long to get recognised. Do we compensate plaintiffs who suffer this type of loss, and if so why? The answer seems almost self-evident i.e., yes. Tort law protects the interests of the individual and adjudicates private wrongs. It is a judicial proceeding developed through case law in which the rules of evidence apply. Fault or negligence is an important issue in tort law and tort law is fault oriented. Tort law deals with civil wrongs for which the law provides compensation. It protects equity between individuals by providing compensation for damages, so that the status quo that existed prior to the harm can be reestablished between the parties. The rationale behind the law of nervous shock is that the body is controlled by its nervous system (an essential part of the body) and if by reason of an acute shock to the nervous system the activities of the body are impaired and as a consequence is prevented from functioning normally, there is a clear "bodily injury". It is important to note that the cause of nervous shock itself is not enough to make it an actionable tort, some injury or illness must take place as a result of emotional disturbance, fear, or sorrow. In order for a claimant to receive damages from nervous shock due to the negligence of the defendant, they must prove all the elements of the tort of negligence: 1) a duty of care exists; 2) there is a breach in that duty; 3) the causal link between the breach and shock; 4) shock was not too remote a consequence.

The Tort of Nuisance

Introduction

A person in possession of a property is entitled to its undisturbed enjoyment as per law. However, if someone else's improper use or enjoyment in his property ends up resulting into an unlawful interference with his enjoyment or use of that property or of some of the rights over it, or in connection with it, we can say that the tort of nuisance has occurred.

The word "nuisance" has been derived from the Old French word "nuire" which means "to cause harm, or to hurt, or to annoy". The Latin word for nuisance is "nocere" which means "to cause harm".

Nuisance is an injury to the right of a person's possession of his property to undisturbed enjoyment of it and results from an improper usage by another individual.

Definitions by Various thinkers

According to **Stephen**, nuisance is anything done to the hurt or annoyance of the tenements of another, or of the lands, one which doesn't amount to trespass.

According to **Salmond**, nuisance consists in causing or allowing to cause without lawful justification, the escape of any deleterious thing from one's land or from anywhere into land in possession of the plaintiff, such as water, smoke, gas, heat, electricity, etc.

Essential elements of Nuisance

Wrongful act

Any act which is done with the intention to cause the infringement of the legal rights of another is considered to be a wrongful act.

Damage or loss or annoyance caused to another individual.

Damage or loss or annoyance must be such which the law should consider as a substantial material for the claim.

Kinds of Nuisance

1. Public Nuisance

The Indian Penal code defines nuisance as an act which causes any common injury, danger or annoyance, to the people in general who dwell or occupy the property, in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to the people who may have occasion to use any public right.

Public nuisance affects the society and the people living in it at large, or some considerable portion of the society and it affects the rights which the members of the society might enjoy over the property. The acts which seriously affects or interferes with the health, safety or comfort of the general public is a public nuisance.

Instances where an individual may have a private right of action in respect to a public nuisance:

- He must show the existence of any personal injury which is of a higher degree than the rest of the public.
- Such an injury has to be direct and not just a consequential injury.
- The injury must be shown to have a huge effect.

2. Private Nuisance

Private Nuisance is that kind of nuisance in which a person's use or enjoyment of his property is ruined by another. It may also injuriously affect the owner of the property by physically injuring his property or by affecting the enjoyment of the property. Unlike public nuisance, in private nuisance, an individual's usage or enjoyment of property is ruined as distinguished from the public or society at large. The remedy for private nuisance is a civil action for damages or an injunction or both.

Elements which constitute a private nuisance

- The interference must be unreasonable or unlawful. It is meant that the act should not be justifiable in the eyes of the law and should be by an act which no reasonable man would do.
- Such interference has to be with the use or enjoyment of land, or of some rights over the property, or it should be in connection with the property or physical discomfort.
- There should be seeable damage to the property or with the enjoyment of the property in order to constitute a private nuisance.

Case Law: Rose v. Miles(1815) 4M &S. 101

The defendant had wrongfully obstructed a public navigable creek which obstructed the defendant from transporting his goods through the creek due to which he had to transport his good through land because of which he suffered extra costs in the transportation. It was held that the act of the defendant had

caused a public nuisance as the plaintiff successfully proved that he had incurred loss over other members of the society and this he had a right of action against the defendant.

A nuisance may be in respect of either **property** or **physical discomfort**

1. Property

In the case of a nuisance with respect to the property, any sensible injury to the property will be enough to support an action for the damages.

2. Physical discomfort

In a suit of nuisance arising out of physical discomfort, there are two essential conditions required.

- **In excess of the natural and ordinary course of enjoyment of the property.**

The usage by the third party should be of out of the natural course of enjoyment from one party.

- **Interfering with the ordinary conduct of human existence.**

The discomfort should be of such a degree that it would affect an individual in the locality and people would not be able to put up or tolerate with the enjoyment.

Case Law: [Radhey Shyam v. Gur Prasad](#) AIR 1978 All 86

Mr Gur Prasad Saxena and another filed a suit against Mr Radhey Shyam and five other individuals for permanent injunction restraining the defendant from

installing and running a flour mill in the premises occupied by the defendant. Gur Prasad Saxena filed another suit against Radhey Shyam and five other individuals for a permanent injunction from running and continuing to run an oil expeller plant. The plaintiff has alleged that the mill was causing a lot of noise which in turn was affecting the health of the plaintiff. It was held that by running a flour mill in a residential area, the defendant was causing a nuisance to the plaintiff and affecting his health severely.

What are the defences available to Nuisance?

There are many valid defences available to an action for tort, these are:

1. Prescription

- A prescription is a title acquired by use and time and which is allowed by the law, a person claims any property because his ancestors have had the possession of the property by law.
- Prescription is a special kind of defence, as, if a nuisance has been peacefully and openly been going on without any kind of interruption then the defence of prescription is available to the party. On the expiration of this term of **twenty years**, the nuisance becomes legalised as if it had been authorised in its commencement by a grant from the owner of the land.
- The essence of prescription is explained in [Section 26 of the limitations act](#) and [Section 15 of the Easements Act](#).

There are three essentials to establish a person's right by prescription, these are

1. **Use or enjoyment of the property:** The use or enjoyment of the property must be acquired by the individual by law and the use or enjoyment must be done openly and peacefully.
2. **Identity of the thing/property enjoyed:** The individual should be aware of the identity of thing or property which he or she is peacefully or publically enjoying.
3. **It should be unfavourable to the rights of another individual:** The use or enjoyment of the thing or property should be of such a nature that it should be affecting the rights of another individual thus causing a nuisance and even after knowing of such a nuisance being caused there must've been no action taken against the person causing it for at least twenty years.

2. Statutory authority

- When a statute authorises the doing of a particular act or the use of land in a way, all the remedies whether by action or indictment or charge, are taken away. Provided that every necessary reasonable precaution has been taken.
- The statutory authority may be either absolute or conditional.
- When there is an absolute authority, the statute allows the act and it is not necessary that the act must cause a nuisance or any other form of injury.
- Whereas in the case where there is a conditional authority, the state allows the act to be done only if it can be done without any causation of nuisance or any other form of injury.

What are the remedies for nuisance?

There are three kinds of remedies available in the case of a nuisance, these are:

1. Injunction

An injunction is a judicial order restraining a person from doing or continuing an act which might be threatening or invading the legal rights of another. It may be in the form of a temporary injunction which is granted on for a limited period of time which may get reversed or confirmed. If it is confirmed, then it takes the form of a permanent injunction.

2. Damages

The damages may be offered in terms of compensation to the aggrieved party, these could be nominal damages. The damages to be paid to the aggrieved party is decided by the statue and the purpose of the damages is not just compensating the individual who has suffered but also making the defendant realise his mistakes and deter him from repeating the same wrong done by him.

3. Abatement

Abatement of nuisance means the removal of a nuisance by the party who has suffered, without any legal proceedings. This kind of remedy is not favoured by the law. But is available under certain circumstances.

This privilege must be exercised within a reasonable time and usually requires notice to the defendant and his failure to act. Reasonable for may be used to employ the abatement, and the plaintiff will be liable if his actions go beyond reasonable measures.

Example: Ace and Beck are neighbours, Beck has a poisonous tree on his land which overtime outgrows and reaches the land of Ace. Now Ace has every right to cut that part of the tree which is affect his enjoyment of his land with prior

notice to Beck. But if Ace goes to Beck, land without his permission, and chops off the entire tree which then falls on the land of Beck, then Ace shall be in the wrong here as his action taken would be beyond reasonableness.

Nuisance and Trespass – Distinguished

1. Trespass, on one hand, is the direct physical interference with the plaintiff's possession of the property through some material or tangible object whereas, in the case of a nuisance, it is an injury to some right of the possession of the property but not the possession itself.
2. Trespass is actionable per se (actions which do not require allegations or proof), whereas, in the case of a nuisance, only the proof of actual damage to the property is required.

Example: Simply entering on another individual's property without the owner's consent and without causing him any injury would be trespass whereas if there is an injury to the property of another or any interference with his enjoyment of the property, then it will amount to a nuisance.

3. If the interference with the use of the property is direct, then the wrong is trespass. Whereas if the interference with the use or enjoyment of the property is consequential then it will amount to a nuisance.

Example: Planting a tree on someone else's land would amount to trespass whereas if a person plants a tree on their own land which then outgrows to the land of another would amount to a nuisance.

Case Law: [Ushaben Navinchandra Trivedi v. Bhagyalaxmi Chitra Mandal AIR 1978 Guj 13, \(1977\) GLR 424.](#)

In this case, the plaintiff had sued the defendant for a permanent injunction to restrain the defendant from showing a movie named "Jai Santoshi Maa". It was said by the plaintiff that the contents of the movie significantly hurt the religious sentiments of the people belonging to the Hindu community as well as the religious sentiments of the plaintiff as the movie showed Hindu Goddess' Laxmi, Parvati, and Saraswati, to be jealous of one another and were ridiculed in the film. It was held that hurt to religious sentiments was not an actionable wrong.

Conclusion

The concept of nuisance arises commonly in everyone's daily life, in fact, the Indian courts have borrowed quite a lot from the English principles as well as from the decisions of the common law along with creating their own precedents. This has helped the concept of nuisance in the field of law develop quite extensively and assures the fairness and well being of all the parties which may be involved such as in the case of Private nuisance, the party which is being affected, as well as, in the case of public nuisance, where the society at large is being affected.

Law of Defamation in India

Introduction

A man's reputation is considered valuable property and every man has a right to protect his reputation. This right is acknowledged as an inherent personal right and is a jus in rem i.e., a right good against all persons in the world. Defamation refers to any oral or written statement made by a person which damages the reputation of another person. As per Black's Law Dictionary, defamation means "The offence of injuring a person's character, fame, or

reputation by false and malicious statements". If the statement made is written and is published, then it is "libel". If the defamatory statement is spoken, then it is a "slander".

Libel	Slander
It is addressed to the eyes.	It is addressed to the ears.
The defamatory statement is made in some permanent and visible form, such as writing, printing, pictures and effigies.	The defamatory statement is made by spoken words or some other transitory form, whether visible or audible, such as gestures, hissing or such other things.
It is an actionable tort as well as a criminal offence.	It is a civil injury only and not a criminal offence except in certain cases.
It is actionable <i>per se</i> (in itself) i.e., without proof of actual damage.	It is actionable only on proof of actual damage.

Elements of Defamation

- **The Statement should be made-** A statement can be made by words either spoken or intended to be read, or by signs or by visible representations. For example, A is asked who stole B's diamond ring. A points to C, intending to cause everybody to believe that C stole the diamond ring. This is defamation.
- **The Statement must refer to the plaintiff-** The defamatory statement must refer to the person, class of persons or the trustees of a company. The reference may be express or implied. It is not necessary that the plaintiff has to be mentioned by name, if he can still be recognized. The person referred to in the defamatory statement can be living or dead, however, defamation suit on behalf of a dead person can be filed only if the person filing the suit has an interest.
- **The Statement must be defamatory-** Defamation starts with someone making a statement, and any person who makes a defamatory statement can be held liable for defamation. A defamatory

statement tends to diminish the good opinion that others hold about the person and it has the tendency to make others look at him with a feeling of hatred, ridicule, fear or dislike. Abusive language may also be defamatory, for example, to call a man hypocrite or a habitual drunkard. A few illustrations to understand what is defamatory and what is not. To say a motorist drives negligently is defamatory. To criticize goods is not defamation. To say that a baker's bread is always unwholesome is defamatory. To state that a person has not that degree of skill which he holds himself as possessing is defamatory.

- **The intention of the wrongdoer-** The person making the defamatory statement knows that there are high chances of other people believing the statement to be true and it will result in causing injury to the reputation of the person defamed.
- **The Statement should be false-** A defamatory statement should be false because the truth is a defence to defamation. If the statement made is true then there is no defamation as the falsity of the statement is an essential ingredient of defamation. The law does not punish anyone for speaking the truth, even if it is ugly.
- **The Statement should not be privileged-** In some cases, the statements may be privileged i.e. the person who has made the statement is protected from such liability.
- **The Statement must be published-** For defamation to occur, the statement should be published. The statement should be communicated to a third party. Any statement written in a personal diary or sent as a personal message does not amount to defamation, but if the sender knows that it is likely that a third person may read it, then it amounts to defamation. In *Mahendra Ram v. Harnandan Prasad*, the defendant was held liable because he had sent a defamatory letter written in Urdu despite knowing the fact that the plaintiff could not read Urdu and ultimately the letter will be read by someone else.

- **The third party believes the defamatory matter to be true-** The other people of the society believe that the defamatory matter said about the plaintiff is true.
- **The Statement must cause injury-** The statement made should harm or injure the plaintiff in some way. For example, the plaintiff lost his job because of the statement made.

Publications by two or more persons

When two or more persons agree together to write or utter defamatory words of another, and one of them writes or utters the words in the presence of others, who have so agreed, all of them may be sued as a joint tortfeasor provided the defamatory matter has been published to persons other than those who were acting together or the plaintiff.

Repetition of defamatory words

Generally, the person who first makes a defamatory statement is not liable if the statement is republished by another person even though he expressly states that he is reproducing what he has heard from some source. However, no person has the right to repeat a slanderous statement without any justification. If a person who is aware that a defamatory statement is false and still repeats or communicates it further, then he can also be held liable for defamation.

Defamation by omission

There may be publication by omission. Failure by a defendant authorized and able to remove defamatory matter which is the work of another is publication by him. For example, if someone puts up a defamatory letter on the notice board of a club and the person in charge has not removed it within a reasonable time, then he will be accountable.

Measures of Damages In Defamatory Publication

The Court must take the following things into consideration while deciding the question of compensation in a defamatory publication:

1. The conduct of the plaintiff.
2. His position and standing in society.
3. The nature of libel.
4. The absence or refusal of any retraction or apology of libel.
5. The whole conduct of the defendant from the date of publication of libel to the date of the decree.

In [Gorantla Venkateshwarlu v. B. Demudu](#), the respondent was a bank officer and was sent on deputation to work as the Managing Director of Co-operative society. The appellant, the President of Society sent a complaint to the Bank alleging that the respondent had illicit connections with ladies which affected the image of the society during his tenure as the Managing Director. The respondent sent a reply denying the allegations made against him. The branch manager of the bank conducted an inquiry and found out that the allegations were false and were made only with a view to see that the respondent is not deputed to inspect the affairs of the society. The respondent filed a suit of defamation claiming damages of Rs. 20,000. The court held that the allegations were *per se* defamatory and the appellant was liable to pay damages. However, the court considered the fact that the allegations were made known only to staff and the Bank and there was no wide publicity, so the appellant was liable to pay Rs. 5000 as damages.

Defamation VS. Freedom of Speech

The question that arises is whether liability arising out of defamation is a violation of the right to freedom of speech and expression. As we know that there is no specific fundamental right to privacy, the judicial interpretation includes it as a dimension of the right to life and liberty guaranteed under Article 21 of the Constitution. So the right to reputation also comes in the ambit of Article 21.

In the case of [*Subramanian Swamy v. Union of India*](#), a petition regarding the decriminalization of defamation was filed. The petition challenged the constitutional validity of Section 499 and 500 of the Indian Penal Code, 1860 as an unreasonable restriction on the freedom of speech and expression. The apex court held that criminal defamation under Section 499 and 500 did not violate Art. 19(1)(a) as it is a reasonable restriction under Art. 19(2). The term 'defamation' in Art. 19(2) includes both civil and criminal defamation. Section 499 and 500 IPC was held to be non-discriminatory and non-arbitrary and not violative of the right to equality guaranteed under Art. 14 of the Constitution. While in a democracy an individual has a right to criticize and dissent, but his right under Art. 19(1)(a) is not absolute and he cannot defame another person as that would offend the victim's fundamental right to reputation which is an integral part of Art. 21 of the Constitution.

In [*Shreya Singhal v. Union of India*](#), the petitioners challenged the validity of Section 66A of the Information Technology Act (ITA) contending that it was not a reasonable restriction on the freedom of speech and expression guaranteed under Art. 19(1)(a) of the Constitution. They argued that the impugned section was unconstitutional because it provided protection against annoyance, inconvenience, insult, injury, or criminal intimidation which is not covered in Art. 19(2). The court found section 66A of (ITA) to be vague and invalidated it on the ground of being violative of the right to freedom of speech and expression.

Defences available against Defamation

- **Justification by truth**

Truth is an absolute defence. If the statement made is authentic then it does not constitute defamation. The burden of proof is on the defendant who is claiming the defence. For instance, X makes a statement in an interview about Y indulging in gambling and Y files a suit against him. If X is able to justify or prove it, then Y's claim will be dismissed. In *Radheshyam Tiwari v. Eknath*, the defendant was unable to prove the facts published by him and therefore was held liable for defamation.

- **Fair and bonafide comment**

Nothing is defamatory which is a fair comment in the matter of public interest. The defendant can avail this defence when he has merely made a fair comment in a matter of public interest. This defence is based on public policy which gives every person the right to comment and criticize without any malicious intention the work or activities of public offices, actors, authors and athletes as well as those whose career is based on public attention. Any fair and honest opinion on a matter of public interest is also protected even though it is not true. There is no definition of a matter of public interest. Generally, a matter of public interest can be a subject which invites public attention or is open to public discussion or criticism.

The main principles relating to the defence of fair comment have been stated by Duncan and Neill as follows:

a) the comment should be on a matter of public interest;

- b) The comment must be based on facts;
- c) The comment, though it can include inferences of fact, must be recognizable as a comment;
- d) The comment must satisfy the following objective test; could any man honestly express that opinion on the proved facts;
- e) Even though the comment satisfies the objective test the defence can be defeated if the plaintiff proves that the defendant was actuated by express malice.

The same approach is followed in India. Any matter or subject which attracts public attention and is a matter of public interest. For example, A puts allegations on B of being corrupt in a newspaper. If A is not able to prove that the allegations were true, then his comment will not be considered fair comment.

• Fair comment and justification distinguished

The plea of fair comment is available only in respect of both facts and opinion, it is not necessary to prove the truth of the comment. When justification is pleaded in respect of matters of opinion, the defendant must prove not only that he honestly held the views expressed but also that they were accurate.

• Absolute Privilege

It gives the person an absolute right to make the statement even if it is defamatory, the person is immune from liability arising out of defamation lawsuit. Generally, absolute privilege exempts defamatory statements made:

1. during judicial proceedings,
2. by government officials,
3. by legislators during debates in the parliament,
4. during political speeches in the parliamentary proceedings and,
5. communication between spouses.

For example, X is a member of Parliament and he gives a speech in the parliamentary proceedings which defames Y. Here X is protected by absolute privilege. In the case of [T.J. Ponnem v. M..C. Verghese](#), the court held that a letter sent by a husband to his wife which contains defamatory about the father-in-law does is not a case of defamation. It is a privileged communication between the spouses as per Section 122 of the Indian Evidence Act, 1872. In *Chatterton v. Secretary of State for India*, it was held that the letters from the Secretary of State of India to his Parliamentary Under-Secretary providing the materials for the answer to a parliamentary question was absolutely privileged.

Parliamentary privilege in the Indian Constitution

Article 105 and 194 of the Indian constitution gives certain rights, immunity to the members of the Houses of Parliament. The members of the Parliament have been vested with the freedom of speech. This freedom is different from the freedom of speech and expression guaranteed under Art. 19(1)(a), as the freedom in Art. 105 and 194 are specifically for the members of the Parliament and is subject to rules and orders which regulate the parliamentary proceedings. Art. 19(1)(a) does not protect an individual absolutely for what he says and is subject to reasonable restrictions under Art. 19(2). The term freedom of speech in Art. 105 states that a member of Parliament shall not be liable to any proceedings, civil and criminal, in any court for the statements made in debates in the Parliament. The second clause of Art. 105 confers immunity, inter alia, in respect of anything said in Parliament the word anything is of the widest import and is equivalent to everything. The only limitation is

that the words must be spoken during the sitting of the Parliament. This freedom is given even to non-members like the Attorney General of India so that every member can participate freely in the debates and discussions without any fear. ***In P.V. Narsimha Rao v. State (JMM Bribery Case)***, the apex court held that the privilege in Art. 105(2) which gives immunity from court proceedings extends even to taking of bribes by the members of Parliament for the purpose of voting in a particular manner in Parliament.

• Qualified Privilege

When a person making the statement has a legal, social or moral duty to make it and the listener has an interest in it, then the defence of qualified privilege is allowed. Following are the instances where this defence can be availed of:

1. Reference for a job applicant,
2. Answering the police inquiries,
3. A fair criticism of a published book or film in a review,
4. communication between parents and teachers,
5. communication between employers and employees,
6. communication between traders and credit agencies are all relationships that are protected by qualified privilege.

These privileged communications must relate to the business at hand, even if what was said was untrue. However, this does not give a licence to say false statements, the person making the statement must believe it to be true. This defence can fail if it is proved that the defamatory statement was made with a malicious intention. Discussions on government and political matters which are subjects for public debates are covered under this defence. For example, a teacher tells the parents about the child's habit of stealing and warns them. In this case, the teacher can take the defence of qualified privilege as he made the statement in good faith and in the interest of the child.

Absolute Privilege	Qualified Privilege
The defendant can avail this defence even when he has made the false and defamatory statement deliberately and maliciously.	The defendant can avail this defence when he made the false and defamatory statement deliberately, but without malice.
It can be used as a defence in the Parliamentary, judicial, naval, military or State proceedings.	It can be used as a defence in the communications made in the course of legal, social or moral duty, for self- protection, for protection of common interest, for the public good.

• Statement of Opinion

If the statement made is an opinion and not a statement of fact, then it cannot be defamatory. For example, if a person says that he finds an actor ugly, the statement is just an opinion. However, if he says that the actor is a drug addict or has had multiple affairs, then it will be a defamatory statement. If this statement results into the actor losing work or his job and the statement made are false, then there will be a case for defamation.

• Consent

If the plaintiff consents to the statement made, then there is no defamation. The consent of the plaintiff gives absolute privilege to the publisher, it is immaterial whether the plaintiff knew that the information approved for publication was defamatory or not. Consent may be given by words or actions, including inaction. If the consent is obtained fraudulently or from a person of unsound mind then it will be invalid.

- Censure passed in good faith by the person having lawful authority

It is not defamation of a person having over another authority either conferred by law or arising out of the lawful contract made with another to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates. For instance, a judge censuring the conduct of a witness or a banker censuring the cashier of his bank or, an engineer submits a report to the municipality that the contractor had taken away the stock of metal. If the engineer has made the report in good faith, then he will not be liable for defamation.

- The accusation made in good faith to the authorized person

An accusation made in good faith against a person who has lawful authority over that person is not defamation. It is not necessary for the person making allegations to prove that his allegations were true but he must prove that there were reasonable grounds for him to believe in the allegation. If a person signs a petition to the chairman of Lucknow Development Authority against defective construction of houses, along with several other residents of the locality, he can say to have acted in good faith.

Difference Between Civil Defamation And Criminal Defamation

Sr. No.	Defamation as a Tort	Defamation as a crime
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1.	It is a civil wrong.	It is a criminal offence, which is bailable, non-cognizable and compoundable.
2.	It is based on tort law- an area of law which has no statutes to define wrongs and relies completely on case laws to define wrongs.	It has been defined as an offence under Section 499 and the punishment for the same is given in Section 500 of the Indian Penal Code, 1860.
3.	It provides redressal to the plaintiff by awarding damages in the form of monetary compensation from the accused.	It seeks to punish the offender and send a message to the society not to commit such an offence.
4.	Damages are awarded on the basis of probabilities.	The offence of defamation has to be established beyond a reasonable doubt.
5.	It is generally a slow process to seek relief in India.	The plaintiff can move to criminal court and ask the offender to take cognizance of his complaint.
6.	A person found guilty can be penalized only by making him pay damages.	A person found guilty can be punished with imprisonment up to two years or fine or with both.

Conclusion

The defamation law serves the purpose of protecting people from having their reputation injured resulting from false statements made against them. However, it is still in accordance with the right to freedom of speech and expression, as people can make true statements and give their opinions. This area of law seeks to protect a person's reputation from being hurt by preventing

unfair speech. The apex court has stated in various cases that the ambit of freedom of speech and expression is "sacrosanct" but is not "absolute". It also said that the right to life under Art. 21 includes the right to reputation of a person and it cannot be violated at the cost of the freedom of speech of another.