

Damnum Sine Injuria (Damage Without Injury)

- "Damnum Sine Injuria" refers to a situation where a party suffers actual damage or loss but has no legal injury or violation of their rights. In such cases, no tort action can be maintained because there is no infringement of a legal right.
- Damage, though suffered, does not give rise to a tort unless it results from the violation of a legal right. Refers to a situation where a person suffers monetary or physical loss without an infringement of their legal rights. No remedy is available in such cases.
- This maxim is used to emphasize that not every loss or damage to an individual's property or interests constitutes a legal wrong. If the act that caused the damage was not wrongful or illegal, no remedy is available in tort law.
- Example: If a person experiences a financial loss because of a competitor's legitimate business practices, such as setting up a business nearby, this is damage (damnum) but not an injury (injuria) because no legal right has been violated.
- *No legal injury, no tort* rule: This case exemplifies that without an infringement of a legal right (injuria), there can be no tort, even if actual damage is caused.

Gloucester Grammar School Case (1410)

Facts: A schoolmaster opened a rival school, leading to the plaintiff reducing their fees to retain students, causing financial loss.

Decision: The court held that no legal right of the plaintiff was violated; thus, no action could lie.

Mayor of Bradford v. Pickles (1895)

Facts: Defendant dug a well on his land, cutting off the underground water supply to the plaintiff's land.

Decision: The court ruled the defendant had not infringed any legal right of the plaintiff, as he acted within his property rights.



Injuria Sine Damnum (Injury Without Damage)

- "Injuria Sine Damnum" refers to a situation where a person's legal right is violated, even though they do not suffer any actual damage or loss. In such cases, the person can still maintain a tort action because their legal right has been infringed, regardless of the absence of damage.
- Refers to the violation of a legal right without causing any physical, monetary, or actual harm. The plaintiff can still seek remedy because a legal right has been infringed.
- Example: If someone assaults another but does not cause any physical injury, the assaulted person still has a right to sue for the legal wrong (injury), even without visible damage.

Ashby v. White (1703)

Facts: Plaintiff, a qualified voter, was denied the right to vote by the defendant, a returning officer. The candidate he intended to vote for won the election, so no actual harm occurred.

Decision: The court held the defendant liable, stating that the denial of a legal right (right to vote) was sufficient for an actionable claim.

Bhim Singh v. State of Jammu & Kashmir (1985)

Facts: Plaintiff, an MLA, was wrongfully detained, preventing him from attending an assembly session.

Decision: The court awarded compensation, recognizing the infringement of his legal right to personal liberty and participation in legislative functions.



Volenti Non-Fit Injuria (Consent as a Defense)

A person who voluntarily consents to a risk cannot later claim damages for any injury resulting from it. The principle translates to "to a willing person, no harm is done."

- Essentials of the Defense:
 - **Voluntary Consent:** The plaintiff must have agreed to the risk.
 - **Knowledge of Risk:** The plaintiff must have been fully aware of the nature and extent of the risk.

Case Law: Hall v. Brooklands Auto Racing Club (1933)

Facts: A spectator at a car race was injured when a car skidded into the crowd.

Decision: The court held the defendant not liable as the spectator had voluntarily accepted the risk by attending the event.

Case Law: Padmavati v. Dugganaika (1975)

Facts: Strangers took a lift in a jeep and were injured when it toppled due to mechanical failure.

Decision: The court held the defendant not liable, as the strangers voluntarily accepted the risk by taking the lift.

Case Law: Smith v. Baker (1891)

The defendant was engaged in a dangerous operation with the plaintiff being fully aware of the risks. The court held that since the plaintiff had consented to the risk involved in the activity, they could not claim damages.



Exceptions to Volenti Non-Fit Injuria:

- **Consent Obtained by Fraud:** Consent is invalid if obtained through deception (Case Law: *Lakshmi Rajan v. Malar Hospital*).
- **Negligence of Defendant:** The defense is not available if the defendant was negligent (Case Law: *Slater v. Clay Cross Co. Ltd.*).
- **Rescue Cases:** A rescuer injured while saving someone in danger can claim damages (Case law: *Haynes v. Harwood*).
- **Consent Under Compulsion:** Consent given under coercion is not valid (Case Law: *Bowater v. Rowley Regis Corporation*).

Ubi Jus Ibi Remedium (Where There is a Right, There is a Remedy)

- This Latin maxim asserts that if a legal right is violated, the aggrieved party is entitled to a remedy.
- Principle: Courts ensure remedies for every legal injury, emphasizing the importance of protecting legal rights.

Case Law: *Ashby v. White* (1703)

The denial of the plaintiff's right to vote resulted in a remedy even though there was no tangible loss.

Cotton v. Wood (1860)

Facts: A pedestrian was injured by a negligently driven carriage.

Decision: The court emphasized that where there is a violation of a legal duty, there must be a remedy.



Limitations of Ubi Jus Ibi Remedium:

1. No remedy for moral or political wrongs.
2. No remedy if no legal right is violated (*Damnum Sine Injuria* cases).
3. Remedies are restricted in cases of public nuisance unless special damage is proven.

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