

Law of torts

Difference between :

- Tort and Crime
- Tort and Breach of contract
- Tort and breach of trust

Distinction between 'Tort' and 'Crime'

- *First on the basis of nature of wrong-*

Tort is a private wrong. Private wrong is the infringement of civil right of an individual. It is comparatively less serious and labeled as civil wrong. Whereas crime is a public wrong. Public wrong is a violation or breach of rights and duties which affect the community, as a whole. It is a more serious wrong.

- *Second on the basis of nature of remedy-*

The remedy in law of tort is damages where as the remedy in crime is punishment.

- *Third on the basis of parties to suits-*

In case of tort the suit is filed by injured or aggrieved party where as In case of crime the complaint is filed in the name of State.

- **Fourth on the basis of withdrawal of suits-**

In case of tort the suit can be withdrawn at any time and compromise can be done with wrongdoer where as In case of crime the complaint cannot be withdrawn except in certain circumstances.

- **Fifth on the basis of codification-**

There is no codification in Law of Torts where as The Criminal law is codified.

- **Sixth on the basis of bar of limitation-**

There is bar of limitation of prosecution in Law of torts where as There is no bar of limitation of prosecution in crime.

- **Seventh on the basis of survival of action-**

In case of death of tort-feaser his legal representative can be sued except when the tort is defamation, personal injury not causing a death where as In case of death of offender, the suit is put to an end.

- **Eighth on the basis of application of law-**

There is no separate statute deals with tort. Tort is based on judicial decisions where as the crimes are dealt in Indian Penal Code, 1860.

- **Ninth on the basis of intention-**

In tort, Intention is important but not in all cases, for example, in cases of negligence where as in crime, Intention is the crux of the offence Despite of these differences, the injunction may be granted in tort as well as in crime. There are various wrongs which fall under law of torts as

well as under criminal law, for example, Assault, Defamation, Negligence, Nuisance and Conspiracy.

Distinction between Tort and Breach of Contract

- **First on the basis of fixation of duty-**

In tort, the duty is fixed by the law itself where as In contract, the duty is fixed by the party themselves.

- **Second on the basis of attribution of duty-**

In tort, the duty is towards every person of the community or society where as In contract, the duty is towards specific person or persons.

- **Third on the basis of violation of rights-**

A tort is a violation of a right in rem (that is, a right vested in some determinate person and available against the world at large) where as A breach of contract is an infringement of a right in personam (that is, of a right available only against some determinate person or party.

- **Fourth on the basis of need of privity-**

In an action for tort, no Privity is needed or is required to be proved where as In a breach of contract, Privity between the parties must be proved.

- **Fifth on the basis of motive -**

In tort, motive is often taken into account where as In breach of contract motive is not relevant.

- **Sixth on the basis of damages -**

In tort, measure of damages is different in different circumstances which may be nominal or exemplary where as In Breach of contract, damages are awarded in the form of compensation for pecuniary loss suffered.

- **Seventh on the basis of suit by third party -**

A third party can sue for tort even though there was no contract between the person causing injury and the person injured where as A third party to a contract cannot sue for breach of contract except in some exceptional cases.

- **Eighth on the basis of intention -**

Intention is sometimes taken into consideration where as Intention, in case of breach of contract, is of no relevance.

- **Ninth on the basis of concern -**

Law of tort is concerned with losses where as Contract law is concerned with promises.

- **Tenth on the basis of period of limitations -**

Limitation begins to run from the date when damages occurs where as Limitation commences when the breach of obligation takes place.

Distinction between Tort and Breach of Trust

- *First on the basis of damages -*

Damages in a tort are unliquidated where as Damages in breach of trust are liquidated.

- *Second on the basis of origin -*

Law of torts has its origin as part of common law where as Breach of trust could be redressed in the court of Chancery.

- *Third on the basis of law of property -*

Law of tort is not regarded as a division of the law of property where as Law of trust can be and is regarded as a division of the law of property.

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