

Obligations

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Tort law which refers to the set of laws that provides individuals who have suffered any harm from intentional or accidental actions of other people with remedies has various branches that include the product liability, medical malpractice, worker compensation and automobile liability. This paper examines the advantages and disadvantages of the tort law principles based on different fields covered by the tort liability system.

Tort law ensures that the right to equal possession for each person is observed. However, the conclusion can only be based on a safe standard behavior; hence, it can lead to compensation by perpetrators who act below the set standards. For example, in most cases that do not show the presence of negligence, the claimants are compensated. The case of *Palsgraf v. Long Island Railroad Co.* shows negligence of the workers that led to the injuries at the train station.

The law also prevents the perpetration of acts knowingly from firms in the form of products, services, and medication. Tort law focuses mostly on the injured individuals; hence, leading to the improvement of services offered and quality of materials produced to prevent any harm (Statsky, 2012). For instance, in *Jordan House Ltd. v. Menow* case, the hotel administration was partially liable for Menow's injuries while the driver was also liable due to his negligence. The law improved the hotel's service as an example to other parties that may neglect some activities causing injuries to a third party.

Strict liability torts are advantageous to distribution chains where negligence can be charged based on various parties such as distributors and suppliers. The transfer of burden depends on the proof provided by the claimant on grounds of negligence. Additionally, the consumer also benefits from the strict liability tort due to covers on personal and property damages (Statsky, 2012). Other involved third parties may also benefit from the laws. The case

of *Caparo v Dickman* shows that the relationship between the claimant and defendant has to be gauged whether the damage was foreseeable.

However, the tort law principles have some disadvantages. For instance, most of them abide by equality whereby they may favor the tortfeasors. Only the rich defendants can pay most of the compensations while poor defendants are not capable to do that. It may affect the plaintiff, since in most cases employees work in unregistered and illegal firms. There are also injuries that may cause a firm to go bankrupt if compensated. As a result, tort laws are found to favor plaintiffs with rich defendants, which have caused the inappropriateness in justifying tort law on correct justice due to the differences. There have been lawyers that do not care about the problems of the victims and whose aim is to benefit from victim's compensation. They seize the larger share while the victims receive small amounts that cannot cater for the medical bills (Statsky, 2012). Presence of corruption in some countries also helps the lawyers settle cases at lower amounts than the required compensation.

The laws are disadvantageous for companies because strict liability holds the firms liable for defective products. Increased competition may also lead to firms perpetrating such torts to ensure a drop of sales in rival firms. For example, in the case of *Donoghue v. Stevenson*, the snail could have been put in the beer through negligence by the factory management. However, in another perspective it could have been an act of sabotage in order to help a rival firm increase its beer sales. Notably, the tort system may lack enough evidence to distinguish an act of negligence and act of sabotage with another motive.

In addition, the tort system is quite expensive and defendants at times find it difficult to follow the claims. Some cases take a lot of time due to limited defendant insurance and lack of evidence among others (Statsky, 2012). Consequently, defendants settle for fewer funds due to

the urgent need to cater for the medical bills. Time and expenses have to be catered for during the procedures to favor the victim.

To sum up, the benefits of tort law outweigh the restrictions. However, it is crucial to follow its principles within the legal framework and provide constant improvements in accordance with modern tendencies in the legal system.

Reference

Statsky, W. (2012). *Essentials of Torts* (3rd ed.). Clifton Park, NY: Delmar.