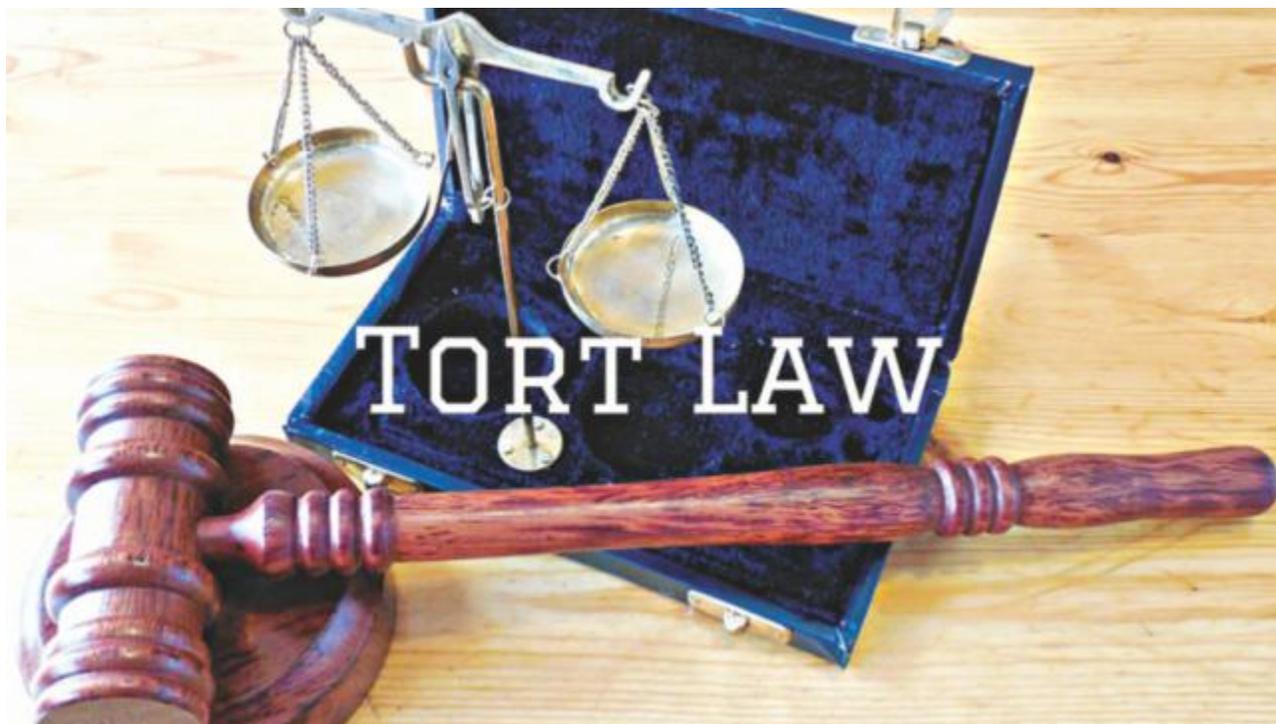


PLATFORM FOR TORT LAW

A crying need indeed!



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Threatening and causing of physical injury, incidents of medical negligence, malpractice by lawyers, defamation by libel or slander, and above these all the road accidents, are some of the news that we are so used to reading in the newspapers in the morning with a cup of tea that the only function we perform after is the utterance of some mourning tsK resonances for the poor souls along with some heated phrases for the perpetrators.

These are just fragments of legal matters in our country where efficacious remedies are presumed to be non-existent. Yes, the remedies for the same events do exist, but in the form of alternate pathways which are too intricate for the common people to understand. For majority, the only types of legal claims they know are of civil and criminal in nature. Thus very much expectedly, the matter of law of tort is a far cry. Although, every other civilized country has equipped themselves with proper sets of laws to deal with cases coming through such events, we are still far from an alternative.

The most obvious distinction between tort and criminal laws is the type of remedy they both provide for. While criminal laws mostly focus on punishment of the guilty, tort laws rather focus on pecuniary compensation and some other equitable remedies. Criminal suit for a wrongful act almost always takes time to punish the guilty, where such punishment might not even benefit the injured, other than giving him the temporary satisfaction of a meagre justice. Jail time or some limited amount of fine on the guilty is unlikely to help the child get a better living where the only earning member of the family got severely injured or killed. Nonetheless, an adequate amount of compensation for that same wrongful act might set the pathway for that same child to have a safe and secured future.

Sadly though, the law of tort has not yet had an established platform in the legal practice in our country due to the lack of a central statute and unavailability of proper judicial precedents. Whatever limited number of tort based judgments we have had so far, they all were filed under various heads of alternate legislations. Take for example, the landmark *Tareq Masud case* was filed as a simple money suit in an ordinary Civil Court under the Fatal Accidents Act, while the more recent *Jihad's compensation case* was filed under Article 102 of the Constitution as an alternate pathway under constitutional tort. As a result, the need of a central statute on tort law is a crying need for our legal sector, along with a separate judicial platform for trial of such cases.

In addition to the prior mentioned events, even playing loud music is considered a wrongful act of nuisance under tort that goes unnoticed where the victims suffer unbearable consequences. Remedies in these regards should be easily accessible for the common people, and it would, had there been a separate judicial platform for the people to go to, with a central piece of legislation. If the common law court system of the UK is observed, they have the Queen's Bench Division of the High Court of Justice to try the cases under tort laws so that matters could be settled efficaciously. Similarly, in India there is a Claims Tribunal that exclusively tries cases concerning motor accidents. Likewise, if a proper platform is established in our country with the assurance of effective implementation of the tortious remedies, then people would think twice before committing haphazard acts and the victims would rest easy knowing that they at least have a forum for a quick relief.

It is undoubtedly praiseworthy to mention that cases under tort laws are now being tried in our Courts of law, nevertheless, the alternate pathways are being stretched too thin and the dire need for a central statute has never been necessitated more before. For that reason, enactment of such legislation is only to be expected from the legislature and the establishment of a specialised judicial platform for trial of such claims is to be expected from the government, for so long the situation remains unchanged, swift and operative remedies for the common people will remain a paucity.

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