



Comprehensive legislation for tortious liability: A need of the hour

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Abstract

Latin maxim, "ubi jus ibi remedium", is the very foundation of the law of tort which means "where there is a right, there is a remedy. But its application somewhere gets hindered due to lack of codified tort law which paves the way for legal maxim. ubi jus incertum, ibi jus nullum (where the law is uncertain, there is no law), with great force. In India legal concept or rules relating to tort have evolved with the passage of time, though initially we were dependent on English legal system and its judicial decisions for understanding. There is no denial that our own treasure of Indian cases on tort has enriched, but without the comprehensive legislation on the subject, there may be a possibility that complete justice could not be done to the aggrieved party due to lack of clarity, certainty and simplification of tort rules. Time and again the apex court and other high courts of India have emphasized on the need of enacting a specific legislation covering the various concepts of tort as there is a vast increase in number of cases pertaining to tortious liability. Through this article, the author has impressed upon the need for a specific codified tort law by discussing some important judicial decisions.

Keywords: Tort, codified law, tortious liability, judicial decisions

Introduction

The development of tort law reflects both continuity and transformation over time. The roots of modern tort law can be traced back to medieval England. As early as 1250 AD, English law recognized the right of individuals who suffered unlawful physical harm to seek compensation from their attackers. By the sixteenth century, legal remedies had expanded to encompass a variety of civil wrongs, including medical negligence and defamation. This evolution demonstrated the law's growing commitment to identifying wrongful conduct and providing victims with a legal mechanism to obtain redress through the courts. Although the term "tort" did not gain widespread usage until the mid-nineteenth century, the principles underlying tort law had been embedded in English legal tradition for centuries and were subsequently inherited by American law. Beginning in the late thirteenth century, the English Chancery introduced the writ of trespass vi et armis, which enabled individuals to pursue claims for injuries resulting from the direct and forcible actions of another person. Alongside this, the writ of trespass on the case emerged as a remedy for injuries caused indirectly or without the application of direct force. By the eighteenth century, a clear distinction existed between direct and indirect injuries, with different writs governing each category. However, this distinction gradually lost significance and eventually collapsed during the early nineteenth century. This development was followed by the abandonment of the rigid writ system itself, eliminating the requirement that plaintiffs fit their claims within the technical framework of specific trespass actions. Consequently, the legal use of the term "trespass" to describe a broad range of civil wrongs steadily declined by the turn of the twentieth century. These legal transformations laid the foundation for the modern concept of tort law. During the late nineteenth century, the term "tort," which had previously been used only sparingly, came to represent a distinct branch of law dealing with civil wrongs arising from breaches of duties imposed by law

rather than by contractual agreement. Thus, tort law evolved into a comprehensive system for addressing injuries and harms caused by one person to another, independent of contractual obligations^[1].

India's legal system primarily evolved through English rules and precedents and continued to be followed even after independence. This has created an inertia in the mind of legislature that existing tort rules are sufficient and does not require any comprehensive legal backing, whereas courts are of the view that codified law stabilizes the ambiguous situation and can put to rest the uncertainties relating to various tort concepts. This necessity of framing a specific legislation has been discussed with the help of Indian judicial decisions.

In every modern welfare state, the relationship between the government and its citizens is extensive, continuous, and deeply influential. The actions and decisions of public authorities affect numerous aspects of citizens' lives, creating frequent interactions that often give rise to legal disputes. Resolving such disputes requires the application of established legal principles, statutory provisions, and judicial doctrines. A significant proportion of these disputes fall within the domain of tort law. This is because tort law remains one of the principal avenues through which individuals seek civil remedies for wrongful acts that cause harm. Broadly defined, a tort is a civil wrong, independent of contractual obligations, trust relationships, or other specific legal wrongs, for which the law provides a remedy in the form of unliquidated damages. As such, tort law encompasses a wide range of wrongful conduct and serves as a dynamic and evolving source of legal principles aimed at protecting individual rights and ensuring accountability. Considering the growing role of the State in contemporary governance and the fundamental importance of tort law, one would expect the legal principles governing State liability in tort to be clear, coherent, and readily accessible. However, this expectation has not been fully realized in India. The law relating to the tortious liability of

the State continues to be marked by uncertainty and complexity, making it difficult to ascertain the precise scope of governmental accountability. In light of these challenges, it becomes essential to examine the existing legal framework critically and to explore reforms that can bring greater clarity, consistency, and justice to this important area of law ^[2].

Judicial Intention Supporting Comprehensive Legislation :

The law of torts in India has undergone considerable evolution, with the judiciary playing a pivotal role in its expansion and modernization. Indian courts have actively interpreted and developed tort principles, frequently drawing upon comparative jurisprudence and internationally recognized legal doctrines to address emerging legal challenges. Through a series of landmark decisions, the judiciary has not only clarified and strengthened existing tort principles but has also introduced innovative doctrines that have significantly influenced the trajectory of tort law in the country. Despite these advancements, the development of tort law in India has often been criticized for its gradual and uneven progression. Concerns have also been raised regarding the judiciary's increasingly expansive role in areas traditionally associated with legislative policymaking. Consequently, there remains a pressing need for greater doctrinal clarity, consistency, and coherence within tort law to promote legal certainty, enhance predictability, and ensure the effective administration of justice ^[3].

Due to lack of legislation, the Courts dealing with the cases of tortious claims against State and his officials are not following a uniform pattern while deciding those claims and this at times leads to undesirable consequences and arbitrary fixation of compensation amount. Government of India on the recommendations of the first Law Commission introduced two bills on the Government liability in torts in the years 1965-67 in the Lok Sabha but those bills lapsed. In some cases the Court has highlighted the need for a comprehensive legislation which was reiterated by the Court in various subsequent decisions as well.

Liability rule has thus seen a change and metamorphosed in India. Beginning from the Indian version of liability rule evolved in the case of *Oleum gas leak case* ^[4], rule of liability for torts has undergone changes, being impacted significantly by developments in other countries. One of the recent trends in India relating to liability in cases of medical negligence is worth noticing. The rule of "res ipsa loquitur" and the test laid down in *Bolam v Friern Hospital* ^[5] has been altering the notions of tortious liability for professionals and in particular, the medical practitioners. The *Bolam* rule came to replace the "man on a Clapham omnibus" regarding the determination of tortious liability in general. It has been recognized in a number of cases in India, and most significantly probably, in *Jacob Matthew's case* ^[6]. This has become significant in a number of cases relating to medical negligence ^[7].

a. Pre-Constitution Judicial Decisions

Several important judicial decisions dealing with the tortious liability were pronounced in India in the period before the Constitution. For tracing the development of tort law in post-colonial India, it is wise to look at its development through a conspectus of case laws.

In *Peninsular and Oriental Steam Navigation Company v. Secretary of State for India (P&O case)* ^[8] the plaintiff's servant was travelling in a horse-driven carriage through a government property. The horse got seriously injured due to the act of negligence of the defendant's servants. Suit was filed against the Secretary of State for India in Council for the damages caused due to the servants of the defendant. The court tried to draw a distinction between what are sovereign functions and what are non-sovereign functions, the former making the Government not liable and the latter incurring it with liability. As maintenance of the dockyard was considered to be a non-sovereign function, the *East India Company* was held liable. Sir Barnes Peacock C. J. (of the Supreme Court) observed that the doctrine that the "King can do no wrong", had no application to the *East India Company*. The company would have been liable in such cases and the Secretary of State was thereafter also made liable (He was interpreting section 65, Government of India Act, 1858, which equated the liability of the Secretary of State for India with that of the *East India Company*). On this holding, it was not necessary for Peacock C.J. to discuss the distinction between sovereign and non-sovereign functions. But he made a distinction between the two and observed, that if a tort were committed by a public servant in the discharge of sovereign functions, no action would lie against the Government.

The doctrine of immunity for acts done in the exercise of "sovereign functions", enunciated in the *Peninsular and Oriental Steam Navigation Company case*, was applied by the Calcutta High Court in *Nobin Chander Dey v. Secretary of State* ^[9]. In that case, the plaintiff contended that the Government had made a contract with him for the issue of a licence for the sale of ganja and had committed breach of the contract. The High Court held that on the evidence, no breach of contract had been proved. Even if there was a contract, the act was done in exercise of sovereign power and, therefore it was not actionable. The High Court expressly followed the P & O ruling.

In *Secretary of State v. Hari Bhanji* ^[10], the Madras High Court held that State immunity was confined to acts of State. Turner CJ, in coming to this conclusion, pointed out that in the P & O Case, Peacock CJ did not go beyond acts of State, while giving illustrations of situations where the immunity was available. It should, however, be mentioned that the court also adds, that the Government may not be liable for acts connected with public safety (even though they are not acts of State). The Madras High Court reiterated this view in *Ross v. Secretary of State* ^[11] also.

The Allahabad High Court took a similar view in *Kishanchand v. Secretary of State* ^[12]. However, in *Secretary of State v. Cockraft* ^[13], making or repairing a military road was held to be a sovereign function and the Government was held to be not liable, for the negligence of its servants in the stacking of gravel on a road resulting in a carriage accident injuring the plaintiff, (the more liberal approach of *Hari Bhanji* was thus slightly modified).

In the Bombay case ^[14] of 1949, Chagla C.J. and Tendolkar J., held that the Madras view (*Hari Bhanji case*) was correct. The Bombay case was not one of a claim to damages for tort, but related to a petition for certiorari to quash a Government order for the requisitioning of property, as proper notice had not been given. On appeal, the Supreme Court in *State of Bombay v. Khushaldas Advani* ^[15], reversed the High Court ruling, holding that

natural justice was not required to be observed, before requisitioning any property.

These are only some of the several rulings of the pre-Constitution era on the subject of liability of the State in tort.

b. Post-Constitution Judicial Decisions

During the post constitution period also the judicial mind has shown its acumen through its various judgments. So far as the Supreme Court is concerned, *State of Rajasthan v. Vidyawati* ^[16], is the first post-Constitution judgment on the subject under consideration. That was a case where the driver of a Government jeep, which was being used by the Collector of Udaipur, knocked down a person walking on the footpath by the side of a public road. The injured person died three days later in the hospital. The legal representatives of the deceased sued the State of Rajasthan and the driver for compensation / damages for the tortious act committed by the driver. It was found by the court, as a fact, that the driver was rash and negligent in driving the jeep and that the accident was the result of such driving on his part. The suit was decreed by the trial court, and also by the High Court. The appeal against the High Court judgment was dismissed by the Supreme Court.

In the case of *State of Bihar v. Abdul Majid* ^[17], the Supreme Court has recognised the right of a Government servant to sue the Government for recovery of arrears of salary and has deliberately departed from the Common Law rule that a civil servant cannot maintain a suit against the Crown. When the rule of immunity in favour of the Crown, based on Common Law in the United Kingdom, has disappeared from the land of its birth, there is no legal warrant for holding that it has any validity in this country, particularly after the Constitution. As the cause in this case arose after the coming into effect of the Constitution, in our opinion, it would be only recognising the old established rule, going back to more than 100 years at least, if we uphold the vicarious liability of the State.

However, a different note was struck by the Supreme Court itself in *Kasturi Lal v. State of UP* ^[18]. In that case, the plaintiff was arrested by the police officers on a suspicion of possessing stolen property. On a search of his person, a large quantity of gold was found and was seized under the provisions of the Code of Criminal Procedure. Ultimately, he was released, but the gold was not returned, as the Head Constable in charge of the malkhana (wherein the said gold was stored) had absconded with the gold. The plaintiff thereupon brought a suit against the State of UP for the return of the gold (or in the alternative) for damages for the loss caused to him. It was found by the courts below, that the concerned police officers had failed to take the requisite care of the gold seized from the plaintiff, as provided by the UP Police Regulations. The trial court decreed the suit, but the decree was reversed on appeal by the High Court. When the matter was taken to the Supreme Court, the court found, on an appreciation of the relevant evidence, that the police officers were negligent in dealing with the plaintiff's property and also, that they had also not complied with the provisions of the UP Police Regulations in that behalf. In spite of the said holding, the Supreme Court rejected the plaintiff's claim, on the ground that "the act of negligence was committed by the police officers while dealing with the property of Ralia Ram, which they had seized in exercise of their statutory powers. Having thus rejected the claim, the

Supreme Court made the following pertinent observations in *Kasturi Lal* case:

"Before we part with this appeal, however, we ought to add that it is time that the Legislatures in India seriously consider whether they should not pass legislative enactments to regulate and control their claim from immunity in cases like this, on the same lines as has been done in England by the Crown Proceedings Act, 1947. It will be recalled that this doctrine of immunity is based on the common law principle that the King commits no wrong and that he cannot be guilty of personal negligence or misconduct, and, as such, cannot be responsible for the negligence or misconduct of his servant. In dealing with the present appeal, we have ourselves been disturbed by the thought that a citizen whose property was seized by process of law, has to be told, when he seeks a remedy in a court of law on the ground that his property has not been returned to him, that he can make no claim against the State. That, we think, is not a very satisfactory position in law. The remedy to cure this position, however, lies in the hands of the Legislature."

However, in *N. Nagendra Rao v. State of A.P* ^[19], a three Judge Bench of the Supreme Court drew a distinction between the sovereign and non sovereign functions of the State and held as follows:

"No legal or political system today can place the State above "Law" as it is unjust and unfair for a citizen to be deprived of his property illegally when negligent act by the officers of the State without any remedy. From sincerity, efficiency and dignity of the State as a juristic person, propounded in the nineteenth century as sound sociological basis for State immunity, the circle has gone round and the emphasis is now more on liberty, equality and the rule of law. The modern social thinking of progressive societies and the judicial approach is to do away with archaic State protection and place the State or the Government on a par with any other juristic legal entity. Any watertight compartmentalization of the functions of the State as "sovereign and non sovereign" or "governmental and non-governmental" is not sound. It is contrary to modern jurisprudential thinking. The need of the State to have extraordinary powers cannot be doubted. But with the conceptual change of statutory power being statutory duty for the sake of the society and the people, the claim of a common man or ordinary citizen cannot be thrown out, merely because it was done by an Officer of the State even though it was against law and negligent. Needs of the State; duty of its officials and right of the citizens are required to be reconciled, so that the rule of law in a Welfare State is not shaken".

The Court further held: "The determination of vicarious liability of the State being linked with the negligence of his officers, if they can be sued personally for which there is no dearth of authority and law of misfeasance in discharge of public duty having marched ahead, there is no rationale for the proposition that even if the officer is liable, the State cannot be sued."

The Court further opined that the ratio of *Kasturi Lal* is available to those rare and limited cases where the statutory authority acts as a delegate of such functions for which it cannot be sued in a court of law. The court opined that the same principle would not be available in large number of other activities carried on by the State by enacting a law in its legislative competence.

Uphaar Tragedy Case ^[20]

The Supreme Court in appeal filed against the judgment dated 24.4.2003 of a division bench of the Delhi High Court in the Uphaar Cinema tragedy (where in a fire at Uphaar Cinema Theatre in Green Park, South Delhi on 13.6.1997, 59 people died and caused injury to 103 patron), talked about the need for a comprehensive legislation dealing with tortious liability of State and observed that its instrumentalities have been highlighted by the Court and the academic world on various occasions and it is high time that we develop a sophisticated jurisprudence of Public Law Liability.

The court further reiterated that;

“The European Court of Justice has developed a sophisticated jurisprudence concerning liability in damages regarding liability of public bodies for the loss caused by administrative Acts. We have highlighted all these facts only to indicate that rapid changes are taking place all over the world to uphold the rights of the citizens against the wrong committed by Statutory Authorities and local bodies. Despite the concern shown by this Court, it is unfortunate that no legislation has been enacted to deal with such situations. We hope and trust that utmost attention would be given by the legislature for bringing in appropriate legislation to deal with claims in Public Law for violation of fundamental rights, guaranteed to the citizens at the hands of the State and its officials”.

The general principle of law enunciated in *Rylands v. Fletcher* ^[21], *Donoghue v. Stevenson* ^[22], however, still guides us. In several situations, where officials are dealing with hazardous or explosive substance, the maxim *res ipsa loquitur* applies. Reference may be made to the decision in *Lloyde v. Westminster* ^[23], *Henderson v. Henry Jenkins & Sons* ^[24].

The court made observations regarding the foreign legal system also:

“Above decisions would indicate that in England also there is a lot of uncertainty when claims are raised against public bodies for negligence or violation of statutory duties. It is worth noticing that the Law Commission, U.K. in its consultation paper on “Administrative Redress” proposed that Judges should apply a ‘principle of modified corrective justice’ when deciding negligence claims against public bodies. (Law Commission Consultation Paper No.187 (2008). The Law Commission consequently proposed the introduction of a new touchstone of liability: ‘serious fault’. The Law Commission’s most far-reaching reform proposals relate to “court based redress” which suggests ‘the creation of a specific regime for public bodies’ based around a number of common elements such as Judges would apply a standard of ‘serious fault’ in both judicial review and negligence proceedings. Richard Mullender in an essay on Negligence, Public Bodies and Ruthlessness which appeared in “The Modern Law Review” (2009) 72 ^[6] MLR 961-98, argues for a reform of negligence law (as it applies to public bodies) that is different from that proposed by the Law Commission, such as application of the proportionality principle at the third stage of the duty of care test applied in *Caparo Industries case*. Development taking place in U.K. has been highlighted only to show the uncertainty that one faces while deciding claims against public bodies and its officials.”

This Court in *Union of India v. Prabhakaran* ^[25], extended the principle to cover public utilities like the railways,

electricity distribution companies, public corporations and local bodies which may be social utility undertakings not working for private profit. In this case a woman fell on a railway track and was fatally run over and her husband demanded compensation. Railways argued that she was negligent as she tried to board a moving train. Rejecting the plea of the Railways, this Court held that her “contributory negligence should not be considered in such untoward incidents – the railways has “strict liability”.

Vadodara Municipal Corporation Case ^[26]

The appeals were preferred against the Judgment of the National Consumer Disputes Redressal Commission by the Vadodara Municipal Corporation, the Oriental Insurance Company Ltd. and the proprietor of Ripple Aqua Sports against the award of compensation for the death of 22 persons by drowning in Sursagar Lake at Vadodara while riding the boat, on account of negligence in plying the boat. It was observed by the court that archaic principle of State immunity which was based on assumption of State being efficient, sincere and dignified was giving way to protection of liberty, equality and rule of law. Applying the test of proximity of relationship, reasonable foreseeability and justness of claim, liability of a public authority could be fixed. After noticing development of law world over, the court observed:-

“We have highlighted all these facts only to indicate that rapid changes are taking place all over the world to uphold the rights of the citizens against the wrong committed by statutory authorities and local bodies. Despite the concern shown by this Court, it is unfortunate that no legislation has been enacted to deal with such situations. We hope and trust that utmost attention would be given by the legislature for bringing in appropriate legislation to deal with claims in public law for violation of fundamental rights guaranteed to the citizens, at the hands of the State and its officials. We request the Law Commission to look into the matter and take such steps as may be found necessary”.

K. Pushpavanam Case ^[27]

The appeal was filed before the Supreme Court against the judgment and order dated 17th August 2021 passed by the High Court of Madras at Madurai Bench in a writ petition filed by the first respondent. A petition was filed by the first respondent seeking a writ of mandamus or any other Writ or direction or order in nature of writ, directing the respondents, to propose a comprehensive legislation in the field of 'Torts and State Liability' as per the directions of Hon'ble Supreme Court of India in "*MCD V. Uphaar Tragedy Victims Assn* (2011) 14 SCC 481" and "*Vadodara Municipal Corporation V. Purshotam v Murjani and Others* (2014) 16 SCC 14" in accordance with law.

The further observed:

“As far as the law of torts and liability thereunder of the State is concerned, the law regarding the liability of the State and individuals has been gradually evolved by Courts. Some aspects of it find place in statutes already in force. It is a debatable issue whether the law of torts and especially liabilities under the law of torts should be codified by a legislation. A writ court cannot direct the Government to consider introducing a particular bill before the House of Legislature within a time frame. Therefore, the first direction issued under the impugned judgment was unwarranted. The law regarding power of the writ court to

issue a mandate to the legislature to legislate is well settled. No Constitutional Court can issue a writ of mandamus to a legislature to enact a law on a particular subject in a particular manner. The Court may, at the highest, record its opinion or recommendation on the necessity of either amending the existing law or coming out with a new law. The law has been laid down in this behalf in several decisions including a decision of this Court in the case of *Supreme Court Employees' Welfare Association v. Union of India & Anr* ^[28] and *State of Jammu and Kashmir v. A.R. Zakki and others* ^[29]. The only exception is where the Court finds that unless a rule making power is exercised, the legislation cannot be effectively implemented. The Central Government will treat the said directions as recommendations made by the Court.”

The judgment is significant as it underscores the judiciary's proactive role in addressing gaps in the legal framework, particularly in cases where legislative action has been lacking. It highlights the importance of timely and effective legislative responses to judicial directives and expert recommendations, ensuring that the legal system remains responsive to society's evolving needs ^[30].

Judicial Innovation is a transformative and creative act of the judiciary in India adopted to fill the existing lacuna in any statute or to develop new principles in absence of the statute or to harmoniously interpreting the statute to fill the right – remedy gap and to protect rights of citizens for achieving the vision of welfare state. In the remarkable authority of *M.C. Mehta v. Union of India* ^[31], the court treated the letter addressed by Delhi legal aid as petition for protecting rights of victims and finds it appropriate for proceeding under article 32. The court relaxed the traditional rule of locus standi where interest of the larger section of society is involved ^[1].

Need for the Codified Comprehensive Legislation

The law of torts in India traces its origins to the English common law system, which was introduced during the colonial period. Consequently, like the position in the United Kingdom, the law of torts in India remains largely uncodified. One of the primary reasons for its non-codification is its inherently dynamic and evolving nature. Unlike statutory laws, tort law develops through judicial decisions and adapts to changing social, economic, and technological conditions. The flexibility of tort law enables it to address emerging legal issues that may not be covered by existing legislation. In this sense, it functions as an open and adaptable branch of law, providing remedies for civil wrongs and legal injuries where no specific statutory provision exists. Over time, this adaptability has facilitated the development of important legal doctrines and principles such as the rule of absolute liability, state liability in tort, and public liability compensation. The reluctance to codify tort law stems from the concern that a rigid legislative framework could restrict judicial creativity, limit the evolution of new principles, and reduce the flexibility that is essential for ensuring justice in novel situations. Such limitations could ultimately undermine the fundamental objective of tort law, which is to provide compensation for the violation of legal rights. However, the absence of a comprehensive codified law of torts has also created several challenges within the Indian legal system. There have been instances where victims of tortious acts were unable to obtain adequate compensation or effective remedies due to

the lack of clear statutory guidelines. The uncodified nature of tort law has resulted in procedural uncertainties, inconsistencies in the assessment and award of compensation, and delays in the resolution of disputes. Furthermore, there is no uniform framework prescribing minimum compensation standards or specific timelines for the disposal of tort claims. In light of these challenges, there is a growing argument in favour of codifying the law of torts in India. A well-drafted code could introduce greater certainty, consistency, and predictability in the adjudication of tort claims while preserving sufficient flexibility for judicial interpretation and development.

Advantages of Codification of Tort Law: ^[33]

- a. Codification would simplify the law and enhance its clarity and accessibility.
- b. It would promote greater certainty and uniformity in the legal system.
- c. A codified framework would provide clear, comprehensive, and unambiguous legal principles governing tortious liability.
- d. Codification could modernize the law and allow it to evolve through judicial interpretation in response to changing societal needs.
- e. It would help ensure fair and adequate compensation for victims of tortious conduct and facilitate the restoration of injured parties, as far as possible, to the position they occupied before the wrongful act occurred.
- f. A codified law could establish procedural guidelines, compensation standards, and timelines for adjudication, thereby improving efficiency and consistency in the administration of justice.
- g. It will help in stability. Stability is one of the most important parts of any law. Generally, codified law is more stable than other laws like case laws. For this, people get more confidence in the codified law and it make easy and smooth the legal transition.

Separation of power is maintained

The primary objective of tort law is to establish a legal framework that holds individuals accountable for causing harm or injury to others. It provides victims of civil wrongs with the right to seek compensation for losses suffered as a result of another person's wrongful conduct. Such compensation may cover pain and suffering, medical expenses, loss of earnings, diminished earning capacity, and other consequential damages. The existence of a codified tort law would provide greater clarity and specificity regarding the rights of victims and the liabilities of wrongdoers. A comprehensive statutory framework could clearly define the various categories of tortious conduct, the remedies available, and the procedures for obtaining compensation. This would enable victims to pursue their claims more effectively and with greater certainty. Furthermore, the codification of tort law could contribute significantly to the development of civic responsibility and a stronger culture of legal accountability within society. By clearly outlining the duties individuals owe to one another and the consequences of breaching those duties, a codified tort system would encourage citizens to exercise greater care and responsibility in their daily activities. Such a framework could promote social discipline and foster a more conscientious approach toward the rights and safety of

others. The introduction of a codified law of torts in India may also enhance public awareness of legal rights and obligations. Individuals would be better informed about the legal consequences of negligent or harmful conduct, thereby encouraging compliance with accepted standards of behaviour. This increased awareness could help reduce instances of irresponsible conduct that frequently result in injury or loss. Acts such as negligence, assault, battery, and rash or reckless driving often have both civil and criminal implications. While criminal law focuses primarily on punishing offenders, victims may not always receive adequate remedies for the harm they have suffered. A comprehensive codified tort regime would strengthen the civil remedies available to victims by providing clear avenues for compensation and redress. Many jurisdictions with codified tort laws offer robust protection to citizens against such everyday wrongs, ensuring that victims receive timely and effective remedies for injuries caused by the wrongful acts of others. Therefore, the codification of tort law has the potential to enhance legal certainty, improve access to justice, strengthen individual accountability, and provide more effective protection of citizens' rights in their daily interactions.

Conclusion

The law of torts in India is neither obsolete nor unnecessary; rather, it requires comprehensive legislative support to enhance its clarity, accessibility, and effectiveness. Addressing these challenges is essential to ensuring that victims can effectively avail themselves of the remedies that tort law is intended to provide. The removal of such barriers would not only strengthen public confidence in the legal system but also contribute to the growth and development of tort litigation in India. The fundamental purpose of tort law is to ensure that individuals who suffer harm as a result of another's wrongful conduct receive appropriate compensation. Victims may seek damages for various losses, including pain and suffering, medical expenses, loss of income, and diminished earning capacity. However, obtaining such remedies through existing legal mechanisms is often cumbersome and uncertain due to the absence of a comprehensive statutory framework governing tortious liability. The enactment of a codified law of torts would provide a structured and coherent mechanism for the enforcement of civil rights and liabilities. It would clearly define actionable wrongs, establish uniform principles for determining compensation, and prescribe procedural guidelines for the adjudication of claims. Such a framework would make the process of seeking compensation more efficient, predictable, and accessible for victims.

References:

1. Goldberg, John C. P., Zipursky, Benjamin Charles, *The Oxford Introductions to U.S. Law : Torts, A-brief-history-of-tort-law-9_18.pdf* (Last visited on 25th April,2022)
2. National Commission to Review the working of the Constitution, Advisory Panel on Strengthening of the institutions of Parliamentary Democracy, Consultation paper on Liability of the State in Tort, January8, 2001, published by Vigyan Bhawan Annexe, New Delhi
3. Development of the Law of Torts and the Role in Shaping Indian Judiciary, Development of the Law of

- Torts and the Role in Shaping Indian Judiciary – Lexpeeps
4. (1997) 2 SCC 267
 5. [1957] 1 W.L.R. 582, 586), R.K.Bangia, Law of Torts, Allahabad Law Agency, 2022
 6. Jacob Matthew v. State of Punjab AIR 2005 S.C. 3180
 7. Prof.(Dr) T.R Subramanya & Ms. Shreyasi Bhattacharya, “The Evolution of Tort Law and Related Developments in India after the Bhopal Gas Leak: An Assessment”, CMR University Journal for Contemporary Legal Affairs Vol. 2 | Issue 1 | August, 2020
 8. (1861) 5 Bom. H.C.R. App. I, p.1
 9. (1873) ILR 1 Cal. 1
 10. (1882) ILR 5 Mad. 273
 11. AIR 1915 Mad. 434.
 12. (1881), ILR 2 All 829
 13. AIR 1915 Mad 993
 14. Rao Vs. Advani, AIR 1949 Bom. 277
 15. AIR 1950 SC 222
 16. AIR 1962 SC 933
 17. AIR 1954 SC 245
 18. AIR 1965 SC 1039
 19. AIR 1994 SC 2663
 20. Sushil Ansal v. State through CBI (2014) 6 SCC 173 and Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy (2011) 14 SCC 481
 21. (1868) LR 3 HL 330
 22. (1932) AC 562
 23. (1972) All E.R. 1240
 24. (1969) 2 All E.R. 756
 25. (2008) (9) SCC 527
 26. Vadodara Municipal Corporation v. Purshottam V. Murjani And Others. (2014) 16 SCC 14
 27. Union of India v. K. Pushpavanam, (2023) ibclaw.in 88 SC
 28. (1989) 4 SCC 187
 29. (1992) Supp (1) SCC 548
 30. <https://indiankanoon.org/doc/20362458/> (Last visited on 25th April,2022)
 31. 1987 AIR 1086
 32. Neha Kumari, “Need for the Codification of Law of Torts in India”, International Journal of Legal Science and Innovation [Vol. 3 Issue 5; 442]