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THE ROLE OF TORT LAW IN ADDRESSING EMOTIONAL DISTRESS CLAIMS

ABSTRACT

The overall structure of tort doctrine addressing intentional infliction of emotional distress, negligent infliction of emotional distress, and claims of emotional harm of more long-standing vintage is a patchwork of liability rules that would appear perplexing to an untrained, outside observer. This essay's main focus is on the topic of whether these rules fit together satisfactorily.

Instead of treating the rules as the main topic of debate, my presentation is structured around the more significant pragmatic and normative policy issues that run through the crosscurrents of doctrine. Along the way, I make references to the superstructure of rules and restrictions that rise above the surface. In the part that follows, I briefly address emotional pain brought on by prolonged loneliness or anxiety, in contrast to claims that are centred on instantaneous responses to unanticipated, catastrophic occurrences, to see if these situations provide a unique case for recovery. I'll end by offering one further observation on the idea of "deserving victims" in situations involving emotional suffering.

Keywords: *emotional distress, tort law*

INTRODUCTION

There is a common myth about the acceptance of emotional distress as a stand-alone tort. The torts only became respectable with the adoption of section 46 in the Restatement (Second) of Torts in 1948, which addressed intentionally inflicting emotional distress ("IIED"), and the breaking down of the physical-contact barrier in negligent-infliction cases starting around 1960. Although foundational elements can be detected in earlier, isolated cases of compensation for both intentional outrageous behaviour and negligent conduct of a particularly grievous sort, the torts gained respectability only with the adoption of section 46 in the

Restatement (Second) of Torts, which addressed intentionally inflicting emotional distress ("IIED")¹, and the breaking down of the physical contact barrier in negligent-infliction instances ("NIED") starting in the 1960s.

Now that I think about it, the origins of recovery from "pure" emotional suffering are far more nuanced and difficult to separate. Relational torts like alienation of affections and criminal conversation have a distinctly Victorian flavour, and defamation claims can be found in English ecclesiastical courts prior to the sixteenth century. Intentional torts like assault and false imprisonment can be traced back at least to mediaeval times. In every case, there was no need to demonstrate a corresponding bodily injury for these sources of culpability.

ORIGIN AND EVOLUTION

According to common law, the tort of emotional distress has its origins in the seminal case of *I de S et ux. v. W de S*, which involved the tort of assault under trespass to body. An unusual situation involves a woman whose husband ran a bar. When he discovered that the pub was closed, the defendant swung an axe at the woman but missed. The defendant was ordered to pay damages after being found guilty of assault.

The Restatement of Torts, which is still in use today, gives the tort of emotional distress a clear structure for the first time. The Restatement(first) stated that an individual was not liable for the emotional distress or bodily injury that resulted from conduct intended or likely to cause emotional disturbance but can be applied in some cases of exceptions.

The Restatement (Second) of torts widened its scope and formally recognized that the law should protect a person's emotional integrity just as broadly as his physical integrity. According to the Restatement, both physical and emotional integrity are capable of invasion and, when invaded, essentially similar loss is caused to the plaintiff, regardless of the means employed to affect the invasion.

Elements Of the Act Constituting Emotional Distress:

1. The action must be careless or deliberate.
2. The deed must be egregious and terrible.
3. The injury must result from the act.
4. Defendant must experience a serious mental injury

In Relation To Tort Law, Emotional Distress Can Be Inflicted In Four Ways :-

1. ASSAULT

In the case of *Cullison v. Medley*, the defendant's daughter was invited for soda, but she declined. After a while, the defendant and members of his family forced their way

onto the plaintiff's property and confronted him with a revolver. Because the act of pointing the pistol gave the plaintiff a legitimate fear of impending harm, the plaintiff was given damages.

2. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS:

Wilkinson v. Downtown, the defendant intentionally told the plaintiff that both of her husband's legs were hurt and were being treated at the hospital. She experienced a nervous shock and developed a major disease as a result of hearing this. As a result of the defendant's deliberate act that breached the plaintiff's right to safety and physically harmed her, she was given damages. However, if such an incidence had occurred, the defendant would not have been responsible because he would have had a good reason for it.

3. NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS

In Dulie v. White, while the plaintiff was working behind the bar, one of the defendant's employees carelessly operated a horse van and slammed it into the plaintiff's husband's property. The plaintiff, who was expecting at the time, miscarried as a result of fear and shock. She received compensation for the nervous shock she had as a result of the defendants breaching their duty of care to the plaintiff.

Limitations Of Remedy for Emotional Distress:

With the expansion of the tortious liability of emotional distress, the courts have blatantly failed to realise its pitfalls which undermine the country's judicial system and severely affect the rights of the defendant.

Some of the most conspicuous limitations of this remedy are discussed below

SPURIOUS CLAIM :

It is undetectable as a psychological harm and could give rise to numerous shaky claims. It is challenging to demonstrate the harm done, and there is no set method to measure it. The allegations provided could be false or overstated and difficult to verify, which would violate the defendant's rights.

POSSIBILITY OF OVERCOMPENSATION

The plaintiff must be made whole for the losses that his caution could have prevented. People with insurance likely to suffer more losses than those without insurance, thus they don't try to prevent damages that could even be preventable.

INCONSISTENCIES IN THE JUDICIAL DETERMINATION OF COMPENSATION

The term "extreme and outrageous behaviour" is imprecisely defined and difficult to quantify, so the Court must decide. There is no objective standard to determine what constitutes a significant emotional harm and the definition is subjective. There are no set standards for determining the damages that must be compensated, even once the real claims are distinguished from the false ones.

Some of the early cases from which this concept evolved are discussed below:

1. *Mrs. H.I. Halligua vs Mohanasundaram and Another*

Facts:

The plaintiff suffered mental anguish and agony with negligible physical injury due to the collision between the defendant's cab in which she was travelling and a tram.

Issue:

Whether damages should be awarded for psychiatric injury when not coupled with a physical injury.

Decision:

It was held that physical damages is not a benchmark for liability and psychiatric damages should be taken into account and can be ground for a separate cause of action so the defendant was held liable.

2. *Lucknow Development Authority v. Manek Gupta Facts:*

The plaintiff submitted a registration form for a flat built by the Lucknow Development Authority. The Consumer Protection Act of 1986 does not consider building work to be a service, so the State and National Commission issued orders for the delivery of services, which were refused. The petitioner and others who had invested money in the property endured many years of mental anguish and sorrow.

Issue:

Whether damages should be awarded only on the basis of physical injury or mental injury should also be included?

Decision:

The court held that the construction work would fall under the purview of services and the Authority should compensate not only for the deficient services but also for the harassment and mental agony caused to the plaintiff.

CONCLUSION

The defendant bears a great deal of culpability under the tort of mental distress. It is necessary to include emotional anguish in the scope of the mitigation theory in order to eliminate excessive liability on the defendant. Accordingly, despite suffering injuries, the plaintiff should not be compensated for damages that could have been prevented by exercising reasonable caution. The usual tendency of people to recline with their hands folded when they have a cushion of insurance is likewise something that this regulation aims to curtail.

This doctrine encourages the plaintiffs to act as though they are uninsured in order to lower the societal costs associated with their injuries. Additionally, standardised methods for assessing damages are required. The phrases "extreme" and "outrageous," for example, are quite ambiguous and subject to many different meanings. It is necessary to provide uniformity to the law in order to put the plaintiff and the defendant on an equal footing because the damages in a psychiatric tort cannot be seen or measured.