



**TU 122 LAW IN EVERYDAY LIFE**

# **Basic Principles of Tort**

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# Basic Principles of Tort

## OUTLINE

- I. Tort liability arising from one's own act (Primary Liability)
- II. Tort liability arising from someone else's act (Vicarious Liability)
- III. Liability for damage arising from things
- IV. Scope of damages



# I. Primary Liability

## (1) General Tort

**Section 420 TCCC** “A person who, wilfully or negligently, unlawfully injures the life, body, health, liberty, property or any right of another person, is said to commit a wrongful act and is bound to make compensation therefore.”



# I. Primary Liability

## General Tort

### **Elements of General Tort:**

- (1) A person wilfully or negligently acts or fails to act;
- (2) The act is unlawful;
- (3) Damage occurs; and
- (4) Damage is caused by an unlawful act.



# Exercise

A has a baby, named B. One day, A had a very important appointment, so C, A's neighbour, offered to look after B. C brought baby B to his home. C got bored and played games, and forgot to keep an eye on baby B.

1. Baby B pooped on C's expensive Persian carpet.
2. Then baby B crawled to C's guitar, and the guitar fell down and injured baby B.



# Exercise

A hates B. So, A spreaded faked news in her facebook that B, a woman, liked to collect points with guys (เก็บแต้ม). B was a very sensitive person, and A does not know this before. B was very very anxious about how others would see her and got depressed. So, B went to see a therapist by riding a motorbike. During the journey, C drove a car recklessly and hit B. B was dead. Is A liable for B's death?



# I. Primary Liability

## (1) General Tort

**Section 421 TCCC** “The exercise of a right which can only have the purpose of causing injury to another person is unlawful.”

Elements:

- (1) The person has the right;
- (2) Such person exercises such right;
- (3) With the intention to cause injury to another person.



# Example

A owns a piece of land next to B's land. A hates B, so A intentionally builds a wall on his land so high, that it stops the wind to flow and prevents the sunlight to shine onto B's home.



# I. Primary Liability

## (2) Defamation

**Section 423** “A person who, contrary to the truth, asserts or circulates as a fact that which injurious to the reputation or the credit of another or his earnings or prosperity in any other manner, shall compensate the other for any damage arising therefrom, even if he does not know of its untruth, provided he ought to know it.

A person who makes a communication the untruth of which is unknown to him, does not thereby render himself liable to make compensation, if he or the receiver of the communication has a rightful interest in it.”



# I. Primary Liability

## Defamation

### Elements of Defamation:

- (1) A person asserts or circulates;
- (2) Statement that is contrary to the truth;
- (3) Injuring the reputation or the credit of another or his earnings or prosperity in any other manner;
- (4) Even if he does not know of its untruth, provided he ought to know it; and
- (5) Exceptions



# Exercise

A knows that B slept with their boss to gain work benefits. A feels unfair, so she and her colleagues recorded a video when B and the boss had a sexual intercourse in the office.

1. A kept the record in her computer. One day her computer is hacked. The hacker publishes the video online.

2. A publishes the video herself.

3. A sends the video to the boss' wife.

Can B demand compensation from A based on Section 423 in each scenario?



# I. Primary Liability

## Defamation

(5) Exceptions:

- Section 423(2) TCCC (with rightful interest)
- Section 124 Constitution (Members of the Parliament during the sessions)
- Sections 329 & 331 Criminal Code



# Criminal Code

**Section 329** Whoever, in good faith, expresses any opinion or statement:

1. By way of self justification or defense, or for the protection of a legitimate interest;
2. In the status of being an official in the exercise of his functions;
3. By way of fair comment on any person or thing subjected to public criticism; or
4. By way of fair report of the open proceeding of any Court or meeting, shall not be guilty of defamation.

**Section 331** The party in a case or party's lawyer expressing opinion or statement in the proceeding of the Court in favor of his case shall not be offence of defamation.



# Exercise

A is B's father. C asks A if A wants to invest money in his business. B has heard that C is an untrustworthy guy, so the son B warned his dad A about it and not to invest with C. Is B liable according to Section 423 TCCC?



# Prescription for Tort (อายุความ)

**Section 448 TCCC** The claim for damages arising from wrongful act is barred by prescription after one year from the day when the wrongful act and the person bound to make compensation became known to the injured person, or ten years from the day when the wrongful act was committed.

However, if the damages are claimed on account of an act punishable under the criminal law for which a longer prescription is provided such longer prescription shall apply.