

Q1. "Damage without injury is not actionable in the law of torts, but injury without damage is." Explain this statement briefly by identifying the core legal maxims and how they apply to civil liability.

Introduction

The law of torts operates on the foundational principle of *ubi jus ibi remedium*. Civil liability does not arise from mere loss, but from violation of a legally protected right — a distinction captured by two opposing maxims.

Damnum Sine Injuria

Where actual material loss (*damnum*) occurs without infringement of any legal right (*injuria*), no remedy lies. In *Gloucester Grammar School (1410)*, “lawful competition caused financial loss” to the plaintiff; the court held no action lay, as no legal right was violated.

Injuria Sine Damnum

Where a legally protected right is violated without any tangible loss, the wrong is actionable *per se*. In *Ashby v. White (1703)*, “wrongful denial of voting rights” — despite zero material loss — was held actionable, as Holt CJ ruled that infringement of a right itself imports damage.

Conclusion

Parameter	<i>Damnum Sine Injuria</i>	<i>Injuria Sine Damnum</i>
Core Element	Material loss, no rights-violation	Rights-violation, no material loss
Actionability	No remedy	Actionable <i>per se</i>
Authority	<i>Gloucester Grammar School</i>	<i>Ashby v. White</i>

Thus, “tort law protects legal rights, not financial interests”— making *injuria*, not *damnum*, the trigger of civil liability. As “jus” coexists with “remedium” but “damnum” does not coexist with “remedium” therefore remedy follows *injuria sine damnum* but not follows *damnum sine injuria*.

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Q2. "The State may regulate speech, but it may not silence it."

In light of Article 19(1)(a) and Article 19(2), what is the fundamental difference between a valid restriction and a prohibited prohibition?

Introduction

The Constitution guarantees freedom of speech and expression under Article 19(1)(a) as a fundamental right — extensive in scope, yet subject to the State's regulatory power under Article 19(2). However, the power to regulate does not confer the power to silence.

The Fundamental Distinction

A *valid restriction* operates proportionately — it limits speech to serve a legitimate constitutional aim without destroying the right's essential core. A *prohibited prohibition*, conversely, is a restriction so sweeping it extinguishes rather than limits — consuming the right itself.

The Governing Standard

The constitutional boundary between the two is drawn by the “doctrine of **reasonableness**” — a restriction must be proportionate to its legitimate aim. In *Shreya Singhal v. Union of India (2015)*, the Supreme Court struck down Section 66A of the Information Technology Act, 2000 (Punishment for sending offensive messages through communication service) precisely because it prohibited rather than regulated speech — its sweep so broad (used more than ten adjectives to describe offensive messages, annoyance to ill-will) it silenced legitimate expression entirely.

One of the purposes of the Act, as mentioned in its statement of objects is “to impose penalties upon cybercrimes in order to create a secure cyber landscape”. S.66A in its choice of adjectives was so sweeping and vague that instead of promoting this purpose it would end up having a chilling effect (prohibited prohibition) on the freedom. The same judgment upheld S. 69A (blocking information for public access) as valid because its language was not sweeping and vague and it was proportionate to the stated purpose of the Act.

Conclusion

Thus, the State may limit the *exercise* of speech; it may never negate the *existence* of the right.

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Note: The four-pronged test has not been included deliberately to keep the content meaningful for freshers.

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Q.3 "A person who causes harm while sleepwalking has committed an act. Has he committed a crime?"

Answer with reference to the essential physical element of criminal liability.

Introduction

The foundational maxim *Actus non facit reum nisi mens sit rea* governs criminal liability. Actus reus is the *physical element* of crime. Actus reus is not the same as the act defined under S.33 IPC. (S.2(1), (25) BNS) *Actus reus* is the result of human conduct which the law seeks to prevent — "human conduct" itself implying conscious, **directed** behaviour, not reflex or automatism. (Professor Kenny)

or

"Actus reus is the result of human conduct which the law seeks to prevent — comprising a **voluntary** act, the surrounding circumstances, and the prohibited consequence."

— Professor Cecil Turner, adapting Kenny's Outlines of Criminal Law.

Sleep walker situation

Yes — a physical movement indisputably occurred. However, *actus reus* is not merely a physical movement. It demands a **voluntary** act — one consciously willed by the mind.

The Voluntariness Threshold

The Primary Academic Authority — John Austin

"An act is a muscular contraction caused by a desire." A sleepwalker's movement is not caused by desire in Austin's sense — it is therefore not an "act" in the legal sense at all.

A sleepwalker's movements are involuntary — legally categorised as automatism. Automatism negates the voluntariness component of actus reus entirely, independently of any question of mens rea .

IPC Anchoring

Under Section 33, IPC, a criminal "act" carries an embedded voluntariness requirement. Since actus reus fails at its first component, criminal liability cannot be established.

Conclusion

Parameter	Physical Act	Actus Reus
Scope	Bare bodily movement	Conduct + Circumstances + Consequence
Voluntariness	Not required	Essential
Criminal Relevance	Legally neutral	Triggers liability

Thus, the sleepwalker has committed an act— but not a crime.

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