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## **Element of Intentional Act in Assault and Battery in Tort Law: A Study**

### **Abstract**

*This article focuses on the deliberate aspect of assault and battery under Indian Tort Law. Tort law addresses civil wrongdoing and provides remedies and is examined as a backdrop. The primary focus is on assault and battery, two major intentional torts in which intent is critical in evaluating responsibility, damages and compensation. The study of intentional torts, specifically in assault and battery, highlights the importance of purposeful and willing conduct. Assault is defined as the defendant's deliberate actions that put the victim in imminent danger of injury. In contrast, battery refers to conduct with predictable dangers that the defendant is aware of. The study makes a distinction between assault based on intimidation and battery, which requires a real damaging or offensive touch. Legal ramifications, including compensatory and punitive damages, are considered. A comparative examination of assault and battery reveals significant variations and similarities. Assault and battery are essential in tort law by reconciling and balancing justice and protecting individual rights. A thorough comprehension of these deliberate torts is necessary for legal professionals and individuals navigating the complexity of civil law. Keywords: Assault, Battery, Tort, India, Compensation, Damages*

### **Introduction**

A tort is an unlawful conduct or a violation of a right that is a civil wrong, and the person who does a tortious act is legally responsible for the claimant's losses. A tort differs from a criminal wrong in that the criminal wrong is penalised by the state. The law of torts was introduced in India from the law of England and is defined as an infringement of duty that affects the person who complained in a way

that a remedy is accessible to the plaintiff. Torts and remedies are inextricably related since a remedy exists for every tortious conduct; if no remedy exists, the act might be anything other than tortious. Tort law, as an essential component of the law of civil disputes, strives to right wrongs done to people by creating a legal structure through which they may obtain recompense for the damage done to them. Assault and battery are two famous instances of tort law wherein the purpose component plays a critical role in evaluating culpability and assigning damages. Torts are categorised according to the wrongdoer's psychological state. An intentional tort occurs when a person intends to undertake a specific action towards an injured party.

The study of the "Element of Intentional Act in Assault and Battery in Tort Law in India" dives into this complex and vital aspect of tort law, especially within the setting of India's legal scene.

### **Understanding Intentional tort**

Intentional torts are legal wrongs committed by individuals on purpose against others. They are distinct from negligence caused by carelessness or a failure to take reasonable care. Intentional torts are purposeful activities or conduct that directly cause injury, even if the party responsible doesn't intend to do harm. An Intentional tort happens when a person 1—intended the physical consequences of his or her action, and 2. Knew, or should have known that the consequences were substantially inevitable to occur due to that action. For example, Mr A gets into a fight with Mr B, who is a mechanic mechanic, and in a moment of rage, B punches Mr A and gets a bloody nose, which is an intentional tort. The answer is Yes because he meant to punch him. Assault, battery, false imprisonment, trespass, defamation, intentional infliction of emotional distress, conversion, fraud, and battery constitute frequent types; for an act to be classified as intended it needs to be both deliberate and voluntary and to find the difference in between intentional and voluntary action and involuntary or accidental action is a crucial task. This implies that the defendant has to intentionally decide to make a physical move that results in interpersonal contact.

However, actions performed in a state of automatism, like sleepwalking, are not regarded as voluntary and are not subject to battery laws. Battery intentionally extends beyond the simple desire to harm. Liability may arise from engaging in an activity with predictable risks of injury, even in cases when the defendant has no precise aim in mind. In one case, an eight-year-old girl who was in the way standing in front of the television unintentionally a thirteen-year-old boy shoved her off a high-rise building and served as an example of this principle in action. Even though the youngster had no

intention of hurting according to the court, a thirteen-year-old boy he was well aware about the possible risk of his action.

Likewise, the battery law's definition of intentionally goes beyond merely doing bodily injury. Intentional contact without the express purpose to cause harm is also included. For instance, someone can still be found guilty of intentional battery even if they intentionally hit someone else while attempting to hit a different target or if they act based on false information and shoot at something they thought was a threat but it turned out not be. If we see in this law it focuses more on the accused state of mind during the occurrence than on their actual purpose to do injury emphasizing awareness and intention although delibriety and intentional acts clearly qualify as intentional battery the law also recognises situations in which harm is the predictable holding intention of hurting others by taking human behavior and mental stability of that individual.

Intentional torts can lead to civil proceedings in which the aggrieved party seeks restitution for the injury or losses caused by the other party's intentional acts. Financial damages, injunctions, and other types of remedies may be available as penalties.

### **Assault under Intentional Tort**

Assault is defined as an unlawful effort to cause bodily harm to another, together with the capacity and purpose to do so at the time. Under Section 351, IPC That mere words do not amount to an assault. But the words which a person uses may give his gesture or preparation a meaning that could elevate those actions to the level of assault. The essentials of assault include Intent, Apparently the ability to carry out the purpose, and apprehension, Knowledge of the threat. The accusations in the attack should include hostile lead, giving someone else a sense of dread for their security. Indeed, even if one person did not actually harm another, but their actions were intended to cause harm, they are accountable. In the event of *R. v. S. George*, pointing a stacked weapon towards another is constituted an assault. It is an assault regardless of whether the weapon is stacked or not. In another case D points a gun at P. D knows that gun is not loaded and has no intention of harming P, However, P believes the gun is loaded and believes that d is about to shoot him. D has committed an assault because he put P in reasonable apprehension of harmful contact even though D has no intention. Assault demands the defendant's purposeful action, which causes the person being assaulted to fear immediate injury. This may not necessarily imply delivering physical injury but rather instilling dread or fear. The victim

must be truly and objectively afraid of bodily danger. There must be an immediate and impending threat of detrimental contact, with no ambiguous, remote, or contingent threats. Imminence means that the touch is likely to happen soon.

Despite the shift away from severe penalties associated with trespass writs and the reduction in the use of antiquated legal procedure the definitions of assault and battery are intimately linked in contemporary legal practice the underlying ideas of criminal assault are similar to those assault with the main focus being on the fear of unwelcome physical contact or immediate injury even in the circumstance when there is no real physical contact courts continue to evaluate assault cases based on the threat or fear of violence despite the fact that the conventional line separating assault from battery may be blurring.

It is clear from the state of the law today that the definition of assault has broadened to include not only physical acts but also verbal acts or threats or intimidating conduct that causes the victim to feel afraid. Even while using foul language isn't usually seen as an attack, it is important to remember that threats have the ability to injure others and inspire fear. Regardless of the victim's response, the primary element in determining assault is the reasonable fear of harm and offensive behaviour. This sophisticated point of view acknowledges that the purview of legal analysis should encompass any behaviour that incites a legitimate fear of possible damage or offence rather than being restricted to physical activities alone. and the comprehensive approach ensures that any potential legal consequences are not restricted to physical actions alone but also cover any behaviour that raises a legitimate fear of imminent danger or offensive interaction regardless of their response, defensive or retreating to prevent harm.

Assault and battery are both examples of deliberate torts. The attack is often an attempt to do injury to another person, and it may also include threats against other persons. Assault is thus a premeditated attempt to cause bodily injury to another person. While the battery is deliberate, harming another individual without their consent. In a battery, an individual's freedom of movement is jeopardised in order to cause physical injury to the individual.

### **Battery under Intentional Tort**

Battery is a legal term that refers to deliberate and illegal contact or bodily contact with someone else without their consent that causes hurt or offence. It covers a larger range of offences within intentional torts, such as assault with a weapon. Several components must be present in order to prove a case of battery in a court of law: purpose, physical contact, lack of permission, and injury or offence.

Examples of battery in the real world include pub brawls, unwelcome physical contact, medical operations, injuries from sports, and child punishment. Unwanted physical contact occurs in packed subways, but bar brawls entail the purposeful punching of another person. A battery claim may be filed if a doctor conducts an operation without getting informed permission and causes damage. Within the legal domain physical contact with another person encompasses a broad spectrum of circumstances from innocuous interactions to harmful and hurtful actions it is important to understand that classifying such contact as battery depends not only on physical harm but also on a reasonable assessment of offensive or disregard for another individual regardless of whether it results in significant harm a mere touch that offends someone with normal sensibilities may be classified as battery in these situations the insult or offense caused by the touch rather than any actual physical harm is what matters the most. Although society acknowledges that some degree of physical contact occurs on a regular basis any behaviour that surpasses basic civility and decency may be classified as battery when someone pushes their hat back on their head against their will in order to identify themselves similar to this forcing someone to wake up in their bedroom without their consent even to send a bill is regarded as battery since it violates their right to privacy and independence.

Conversely, friendly or compassionate physical touch like softly tapping a firefighter is typically not seen as a battery, In the case of *Coward v Badley*(1859) A building was on fire, A bystander touched the hand of the fireman to attract the attention to another part of the building where the fire was raging the plaintiff filed the suit of Battery the court held this is under the category of trifle where a person of normal temper would not complain about this hence the defendant is not liable for trivial act. In a similar vein, lighthearted or friendly roughhousing between two consenting parties would not be considered unwanted touching, especially if it occurs in a social context where such behaviour is accepted. Whether a touch qualifies as battery depends largely on the sensitivity and intensity of the person impacted. Even while a touch might not seem objectionable to a reasonable person it can nevertheless be considered battery if it intends for someone who is extremely sensitive, sometimes an apparently innocuous touch can later be considered inappropriate if the true intention is revealed one of the best examples is when someone is coerced or tricked into agreeing to a touch was inappropriate and was the result of deception. The law may consider it to be a battery in certain situations.

As a matter of fact the law aims to protect an individual right to be free from any physical contact that diminishes their value when it comes to cases of professional misconduct or abuse of power such as when a magnetic healer crosses boundaries with a patient this change in focus draws attention on the

violation of the right to privacy whether or not a touch is taken into account depends on a number of things these include the person sensitivity the context of the encounter the purpose of the contact and how offensive a reasonable person would find it to be. These factors represent the legal objective of preserving a person autonomy and dignity.

When a plaintiff successfully demonstrates a battery case, the court may impose various remedies, including compensatory and punitive damages and injunctions. Recognising the elements of battery and its statutory ramifications is critical for those seeking justice and persons attempting to navigate their relationships within the confines of the law. The idea of batteries continues to play an important role in sustaining these norms in a culture that values personal liberty and safety.

### **Comparison of Assault and Battery**

Assault is a deliberate tort, including the victim's sense of an impending threat that does not necessitate actual physical contact. In order to win an assault instance, the other party must have the intention to instil an appropriate fear of approaching harmful or objectionable contact, the complainant has to have an actual concern of experiencing detrimental or insulting contact, as well as there must be an obvious and immediate danger of compromise or offensive interaction.

The purposeful and unauthorised touching or contact with another individual without their agreement, resulting in damage or offence, is referred to as battery. The defendant's purpose to make intimate contact with the complainant, whether either direct or indirect, and the plaintiff's lack of permission are crucial parts of battery. Consent is an important consideration, and if the complainant freely agrees to the contract, the battery claim is often dismissed.

A fundamental contrast between assault and battery is the degree of injury necessary in the battery. Assault relies on the victim's fear of injury, whereas battery necessitates a real harmful or offensive touch. This difference is critical in selecting the best course of action. In assault and battery cases, the exact moment of the threat of impending harm can be significant in judicial proceedings.

The legal ramifications and punishments for assault and battery vary, with compensating and, in certain situations, punitive damages frequently depending on the level of damage in battery cases. Understanding the distinctions and similarities between both of these torts is critical for legal practitioners, academics, and anyone interested in the complexities of civil law. A thorough understanding of the legal concepts governing assault and battery is essential for maintaining justice and defending individual rights.

## Conclusion

Assault and battery are major instances of intentional torts in tort law. In civil conflicts, these torts play an important role in enforcing justice and protecting individual rights. Assault emphasises the victim's reasonable fear of immediate injury, emphasising the relevance of purpose in determining liability. The defendant's purpose of instilling a real fear of dangerous or objectionable touch is critical to proving responsibility.

Battery, on the other hand, goes beyond mere fear and into the realm of physical injury or unwanted touch. Battery is defined as the purposeful and unauthorised touching of someone else without their agreement by the fundamental aspects of intent, bodily contact, lack of permission, and injury or offence. This injury might range from minimal to severe, but it must always be unilateral.

The legal ramifications of assault and battery vary, with the degree of compensation paid frequently dependent on the level of injury committed. Depending on the facts of the case, punitive and compensatory damages may be granted, as well as injunctions. Recognising these contrasts and similarities is essential for lawyers and anybody interested in the complexity of civil law. A thorough understanding of the legal ideas behind battery and assault is critical for maintaining justice and protecting individual liberties in a society that upholds individual freedom and safety.

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