

## SOLVED PROBLEMS

### 1. DAMNUM SINE INJURIA

#### PROBLEM NO. 1

***The Plaintiff was running a School. Just opposite to this school, the Defendant started a new School. The students of the Plaintiff's School joined the Defendant's School. The Plaintiff suffered loss and hence sued for damages.***

#### ANSWER:

In the given case, the plaintiff cannot succeed in his suit for damages. According to the maxim "Damnum Sine Injuria", if any loss or damage is caused without violating the legal right of a person, it is not an actionable wrong.

In the case given above, the defendant has not violated his legal right in starting a new school adjacent to that of the plaintiff's.

His act might be harmful to the plaintiff but it is not wrongful, and therefore, it does not give rise to a right of action in favour of the injured party, namely, the plaintiff. (Fair and bonafide competition is always allowed).

The defendant cannot be sued in a Court and the plaintiff cannot claim damages because his loss was caused without violating the legal right of any person.

The facts of the given problem resemble that of the leading case '**Gloucester Grammar School Case**', wherein it was held that the plaintiff is not entitled for damages for the loss suffered by him due to the defendant starting a School opposite to his School.



#### PROBLEM NO. 2

***The plaintiff was a trader engaged in exporting carpets from India to England. The defendant who were five traders, engaged in the same business joined together into one associated body and entered into competition with the plaintiff by offering very low and attractive rates to customers who would deal with them. As a result of this, many of the plaintiff's customers left him and went over to the defendants. Some of his agents also left the plaintiff. In consequence, the plaintiff unable to withstand the competition, had to close down his business. He claims damages from the defendants for conspiring to injure him. Decide, give reasons whether he can succeed.***

**ANSWER:**

The facts of the case are similar to a leading case **'Mogul Steamship Co., Vs. M.C. Gregor Gow and Co.'**, wherein it was held that a bonafide competition by offering very low and attractive rates to customers would invoke the maxim **'Damnum Sine Injuria'** and as such, the plaintiff cannot successfully sue against the defendants.

The argument by the plaintiff that the act of the defendants by joining together into an associate body would constitute tortuous conspiracy would not withstand unless the willful intention and unlawful justification were clearly established.

An association for bonafide competition and for trade interest do not come under the purview of conspiracy. Hence, the suit by the plaintiff for damages from the defendants under the tort of conspiracy would fail.

**PROBLEM No. 3**

**'A' a barber was running a Saloon, 'B' a wealthy person was one of his customers. 'A' and 'B' quarreled for some reason. 'B' with a malicious intention, to cause loss to 'A' employed some barbers and opened a saloon just opposite to 'A's saloon and charges far less. Consequently, 'A' lost his customers and suffered heavy loss. Can 'A' recover damages from 'B'?**

**ANSWER:**

A cannot recover any damages from B as it is covered under the principle of Damnum Sine Injuria - In the given case, the plaintiff cannot succeed in his suit for damages. According to the maxim "Damnum Sine Injuria", if any loss or damage is caused without violating the legal right of a person, it is not an actionable wrong.

In the case given above, B has not violated his legal right in starting a new saloon opposite to that of A.

His act might be harmful to A but it is not wrongful, and therefore, it does not give rise to a right of action in favour of the injured party, namely, A. (Fair and bonafide competition is always allowed).

B cannot be sued in a Court and A cannot claim damages because his loss was caused without violating the legal right of any person.

The facts of the given problem resemble that of the leading case **'Gloucester Grammar School Case'**, wherein it was held that the plaintiff is not entitled for damages for the loss suffered by him due to the defendant starting a School opposite to his School.

