

**Vidhigya Challenger Series**  
**Daily Practice Sheet 28**  
**Legal Reasoning**

The word nuisance has been derived from the French word 'nuire' which means, to hurt or to annoy. Ordinarily, nuisance means disturbances. According to Winfield, nuisance is incapable of exact definition. But for the purpose of the law of tort, it may be described as unlawful interference with a person's use or enjoyment of land or of some right over, or in connection with it.

Nuisance can be broadly categorized into two: i. Public or common nuisance; and ii. Private nuisance

Public nuisance is an unreasonable, unwarranted, or unlawful interference with a right common to the general public. Simply speaking, a public nuisance is an act affecting the public at large or some considerable portion of it; and it must interfere with rights which members of the community might otherwise enjoy. Public nuisance is a crime whereas private nuisance is a civil wrong.

The essentials of public nuisance can be enumerated as follows: i. A person must have done an act or an illegal omission; and ii. Such an act or omission must cause any common injury, danger or annoyance to the public or to the people in general who dwell or occupy the property in the vicinity.

The reason why public nuisance is categorized as a crime and private nuisance as a civil wrong is because a single act of public nuisance can inconvenience hundreds of people and therefore there might be multiplicity of suits. However, in certain situations, public nuisance can be a civil wrong as well as a crime. When any person suffers some special or particular damage which is different from what is inflicted upon the public as a whole, a civil right of action is available to the person injured. The expression 'special damage' in this context means damage caused to a party in contradiction to the public at large.

Nuisance which interferes with the right of a specific person or entity, it is considered a private nuisance. Unlike public nuisance, a private nuisance is an act affecting some particular individual or individuals as distinguished from the public at large. The essentials for this tort can be stated as follows: i. There must be an unreasonable interference; ii. The interference must be with the use or enjoyment of land; and iii. There must be some damage.

A person who brings forth a claim for private nuisance must establish that they are the owner of the land the enjoyment of which was interfered with.

**Source: Written by Content Team of Vidhigya relying upon the commentaries of Law of Torts.**

1. Vidhaan, a dentist, runs a clinic from his residence. In the third house from his residence, Frank the owner of a motor repair shop opened his workshop. Both these houses are situated in a densely populated locality. Vidhaan often complained that the continuous noise from the workshop which works for 12- 16 hours a day disturbed his patients who would come for treatment. He seeks to bring a claim for nuisance against Frank. Which of the following statements is true?

- (a) Vidhaan can bring a civil claim of nuisance against Frank as there is a special damage to him and his patients.
- (b) Vidhaan can bring a civil claim of nuisance against Frank as he runs a clinic from his house, he incurs special damages in case of any nuisance.
- (c) Vidhaan can only claim a criminal nature of nuisance as the noise from the workshop would affect everyone in the neighbourhood.
- (d) Vidhaan can only claim both the criminal and the civil nature of nuisance.

2. Consider that in the last question, Vidhaan was the next-door neighbour. He claimed that the fumes from the workshop entered the premises of his clinic directly, as the vent was directed towards his house. This caused the incoming patients a great deal of inconvenience and discomfort, with some of them having complained of respiratory problems. Can Vidhaan sue Frank for nuisance as a civil wrong?

- (a) No, as the fumes from the factory would affect everyone in the locality.
- (b) Yes, as Vidhaan's patients were directly affected by the fumes from Frank's workshop.
- (c) No, as if this were allowed there would be multiple suits from multiple patients.
- (d) Yes, as for any wrongdoing in the workshop, Frank can be held responsible.

3. Every morning, Vidhi walks from her home to the bus stop to reach the office on time. To reach the bus stop, she has to walk for approximately 700 metres. On her way to the bus stop, Vidhi has to walk a certain stretch on the pavement which for the past few days has been blocked by a vendor. Vidhi seeks to bring a claim of private nuisance as due to the blockage, she has to take another route which causes her to incur more expenses and be late to office. Which of the following statements is true?

- (a) Vidhi can bring a claim for private nuisance as she suffers a special damage in incurring extra expenses by taking another route.
- (b) Vidhi cannot bring a claim for private nuisance as everyone who walks would have to take another route.
- (c) Vidhi can bring a claim for private nuisance as she is directly impacted due to the blockage of the pavement by the vendor.
- (d) Vidhi cannot bring a claim for private nuisance as she suffers no damage at all.

4. Vidhaan, a member of a religious cult sought to restrain an organization from screening a documentary on the ground that the screening of the film is a nuisance as it hurt his religious sentiments as well as that of the community. Is Vidhaan's claim justified?

- (a) Yes, as the screening of the film causes Vidhaan a special damage, as opposed to the public at large.
- (b) No, as an injury to religious feelings is not capable of being constituted as nuisance.
- (c) Yes, as the screening of the film causes Vidhaan to not enjoy his daily life.
- (d) No, as nuisance can never be claimed against the acts related to the screening of a film.

5. Vidhaan, a music teacher, takes guitar lessons at his home. His neighbour, Dharam is disturbed by the guitar-sounds and the chitter-chatter of the students. He complained about the same to Vidhaan, but the sounds never reduced. Dharam, in turn, started hammering against the wall, beating trays, whistling and shrieking. Vidhaan seeks to file for private nuisance. Can he?

- (a) No, as Vidhaan had started the nuisance himself.
- (b) No, as it was Dharam who was inconvenienced by Vidhaan's guitar lessons in the first place.
- (c) Yes, as Dharam never intended to make Vidhaan aware that he was disturbed initially.
- (d) Yes, as Dharam intentionally wanted to cause nuisance to Vidhaan alone, and not anyone else.

### **Answers & Explanations**

#### **1. Ans. c**

Sol. The workshop is situated in a densely populated locality. Hence, any noise caused from it would disturb all the occupants of that locality, not just Vidhaan, despite his profession as a dentist. Therefore, (c) is right. Option (a), (b) and (d) are legally incorrect in the light of the information in the passage

#### **2. Ans. (b)**

Sol. In the given factual scenario, the vent for the fumes opens into Vidhaan's premises so he is the direct recipient of the same. Due to such an activity, the patients to Vidhaan's clinic are directly impacted, as compared to the other people in the locality. Hence, this constitutes 'special damage' as described in the passage. Therefore, (b).

#### **3. Ans. (b)**

Sol. The blocking of the pavement has the potential to inconvenience anyone who walks that pavement. Unless Vidhi could show that it caused her some special damage, she cannot claim it was private nuisance.

#### **4. Ans. (b)**

Sol. To claim nuisance, it is necessary that the interference claimed must be unreasonable and interferes with the enjoyment of a property. In the given factual scenario, neither of these conditions are met. Moreover, Vidhaan always had the option of not watching the film.

#### **5. Ans. (d)**

Sol. It is quite clear from the facts of the case that Dharam intentionally made all those noises to cause nuisance to Vidhaan, and not anyone else. It does not matter that Dharam was annoyed by the guitar lessons that Vidhaan took at his place – that does not give Dharam the right to cause more nuisance.