

# Hurt and Grievous Hurt: Concept and Explanation.

Section 319 to 338 of Indian Penal Code deals with hurt and Grievous Hurt in various forms. Section 319 defines simple hurt as causing bodily pain, disease, or infirmity, and section 321 makes voluntary causing of hurt an offence punishable under section 323, IPC.

## I. Hurt (Section 319):

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

**To constitute hurt (battery under English Law) any of the following essentials needs to be caused:-**

1. Bodily pain, or
2. Disease, or
3. Infirmity to another.

### 1. Bodily Pain

To cause hurt, there need not be any direct physical contact. Where the direct result of an act is causing of bodily pain it is hurt whatever be the means employed to cause it. Hurt is constituted by causing bodily pain, not mental pain.

In the absence of an intention to cause death, or grievous bodily hurt, where a person died as a result of two kicks on the abdomen, the accused was held guilty of causing hurt only. **[In re Marana Goundan<sup>[1]</sup>** Dragging a person by hair or fisting him falls under this section.

### 2. Disease

A person communicating a particular disease to another would be guilty of hurt. In **Raka v. Emperor<sup>[2]</sup>**, the Bombay High Court held a prostitute who had sexual connection with the complainant and thereby communicated syphilis, liable under section 269, IPC, for spreading of infection and not of causing hurt, because the interval between the act and disease was too remote to attract sections 319 and 321, IPC.

### 3. Infirmity

It means the inability of an organ to perform its normal function which may either be temporary or permanent. It denotes a temporary mental impairment, hysteria or terror.<sup>[3]</sup> **Hurt resulting in Death:** *Where there is no intention to cause death, or no knowledge that death is likely to be caused, and death is caused, the accused will be guilty of 'hurt' only if the injuries are not serious in nature.*<sup>[4]</sup>

## II. Grievous Hurt (Section 320)

The code on the basis of the gravity of the physical assault has classified hurt into simple and grievous so that the accused might be awarded punishment commensurate to his guilt.

The following kinds of hurt only are designated as "grievous":

- *First.*— Emasculation.
- *Secondly.*— Permanent privation of the sight of either eye.
- *Thirdly.*— Permanent privation of the hearing of either ear.
- *Fourthly.*— Privation of any member or joint.
- *Fifthly.*— Destruction or permanent impairing of the powers of any member or joint.
- *Sixthly.*— Permanent disfiguration of the head or face.
- *Seventhly.*— Fracture or dislocation of a bone or tooth.

- *Eighthly.*— Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Section 320 designates eight kinds of hurt as grievous and provides enhanced punishment in such cases. Thus, to make out the offense of causing grievous hurt, there must be some specific hurt, voluntarily inflicted, and should come within any of the eight kinds enumerated in this section.

### **1. Emasculation**

This clause is confined to males only. It means depriving a male of masculine vigour, i.e. to render a man impotent. This clause was inserted to counteract the practice common in this country for women to squeeze men's testicles on the slightest provocation.

### **2. Injury to Eyesight**

The test of gravity is the permanency of the injury caused to one eye or both eyes.

### **3. Deprivation of Hearing**

It may be with respect to one ear or both ears. To attract this clause the deafness caused must be permanent.

### **4. Loss of Limb or Joint**

The expression used in this section is deprivation of any member, section or joint, crippling a man with life-long misery. The term member is used to mean nothing more than an organ or a limb.

### **5. Impairing of Limb**

Disabling is distinguishable from disfiguring as discussed in the sixth clause. To disfigure means to cause some external injury which detracts from a person's personal appearance. It may not weaken him. On the other hand, to disable means to do something creating a permanent disability and not a mere temporary injury.

### **6. Permanent disfiguring of Head or Face**

In **Gangaram v. State of Rajasthan**<sup>[5]</sup>, where the bridge of the nose was cut, as the injury was inflicted by a sharp-edged weapon, it was held that the act amounted to permanent disfiguration within the meaning of this clause and hence the injury was grievous.

### **7. Fracture or dislocation of a bone or tooth**

A fracture, in order to attract this clause, must extend to the inner surface. If the act results only in abrasion and does not break the bone, it will not be a fracture.<sup>[6]</sup>

### **8. Dangerous Hurt**

The hurt which causes severe bodily pain for the period of twenty days means that a person must be unable to follow his ordinary pursuits.

### **Grievous Hurt resulting in Death**

In the case of grievous hurt, the hurt inflicted only endangers life but in case of culpable homicide not amounting to murder, the hurt is likely to cause death. The distinction between culpable homicide not amounting to murder and grievous hurt is very thin.<sup>[7]</sup>

Where the evidence shows that the intention of assailants was to cause death, the case should fall under section 302 and not under section 325.<sup>[8]</sup>

### **Voluntarily causing hurt: Section 321**

Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said: "voluntarily to cause hurt".

### **Voluntarily causing grievous hurt: Section 322**

Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said: “voluntarily to cause grievous hurt”.

**Explanation.**— A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

#### **Illustration**

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

**Punishment:** *Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.*

### **Voluntarily causing hurt by dangerous weapons or means: Section 324**

Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Punishment:** *Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

### **Voluntarily causing grievous hurt by dangerous weapons or means: Section 326**

Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**Sentence for causing grievous hurt.**— *Sentence for causing grievous hurt must be adequate. The brutality of the crime should also be considered.*[\[9\]](#)

### **Voluntarily causing grievous hurt by use of acid, etc.: Section 326-A**

Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim: Provided further that any fine imposed under this section shall be paid to the victim.

**Acid Attack.**— *Considering the seriousness of the crime, reduction of sentence by the High Court to the period already undergone which was only 30 days, not justified and resultantly, the sentence of one year as imposed by the trial Court directed to be restored.*

Further, as the attack resulted in disfiguration in some part of her body, the accused directed to pay a compensation of Rs. 50,000/- and the State directed to pay a compensation of Rs. 3 lakhs.<sup>[10]</sup>

### **Other Section Related to Hurt and Grievous Hurt**

- Section 326-B – Voluntarily throwing or attempting to throw acid.
- Section 327 – Voluntarily causing hurt to extort property, or to constrain to an illegal act.
- Section 328 of The Indian Penal Code – Causing hurt by means of poison, etc., with intent to commit an offence.
- Section 329 – Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
- Section 330 – Voluntarily causing hurt to extort confession, or to compel restoration of the property.
- Section 331 – Voluntarily causing grievous hurt to extort confession, or to compel restoration of the property.
- Section 332 – Voluntarily causing hurt to deter public servant from his duty.
- Section 333 – Voluntarily causing grievous hurt to deter public servant from his duty.
- Section 334 – Voluntarily causing hurt on provocation.
- Section 335 – Voluntarily causing grievous hurt on provocation.
- Section 336 – Act endangering life or personal safety of others.
- Section 337 – Causing hurt by act endangering life or personal safety of others.
- Section 338 – Causing grievous hurt by act endangering life or personal safety of others.

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### **References**

1. K.D. Gaur, Textbook on Indian Penal Code, Fifth Edition 2014
2. Ratanlal and Dhirajlal, Indian Penal Code, Thirty-Fifth Edition
3. SCC Online

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[1] AIR 1941 Mad 560

[2] 1887 ILR 11 Bom 59

[3] Jashanmal Jhamatmal v. Brahmanand Sarupananda [AIR 1944 Sind 19]

[4] In re Marana Goundan (AIR 1941 Mad 560)

[5] 1984 Cr LJ (NOC) 180 (Raj)]

[6] Horilal v. State of Uttar Pradesh, AIR 1970 SC 1969

[7] Government of Bombay vs Abdul Wahab, AIR 1946 Bom. 38

[8] Laxman v. State of Maharashtra, AIR 1974 SC 1803

[9] Sumer Singh v. Surajbhan Singh, (2014) 7 SCC 323

[10] Ravad Sasikala v. State of A.P., 2017 SCC OnLine SC 175.

