

**Subject Name: Law of Torts**  
**Topic Name: Statutory Authority**

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### **Understanding Statutory Authority**

When an act is performed under the authority or direction of legislation, the resulting damage is not subject to legal action, even if it would otherwise constitute a tort. This principle establishes a complete defence, leaving the injured party with no recourse except to claim compensation as stipulated by the statute. Notably, immunity under statutory authority extends not only to obvious harm but also to harm incidental to the exercise of such authority.

### **Scope of Immunity**

For example, when a railway line is constructed pursuant to statutory powers, interference with private land or incidental harm such as noise, vibration, or emissions is protected from legal action.

In **Vaughan v. Taff Valde Rail Co.**, sparks from a railway engine authorised by statute caused a fire on adjacent land. The court held the railway company not liable as they had taken proper care as per the statute's authorization.

### **Judicial Observations**

Chief Justice Cockburn's observation highlights this principle, stating that when the legislature sanctions the use of a particular thing for its intended purpose, the party using it is not responsible for resulting damage.

Similarly, in **Hammer Smith Rail Co. v. Brand**, where property depreciated due to authorised train operations, no action was permitted due to the incidental nature of the damage.

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### **Negligence Exception**

However, it's crucial to note that negligence in carrying out authorised acts can still render a party liable. In **Smith v. London and South Western Railway Co.**, negligence in maintaining railway surroundings led to a fire that damaged a nearby cottage. Here, the railway company was held liable due to their negligent actions. Thus, while statutory authority offers protection, negligence can nullify this immunity, leading to liability.

### **Absolute vs. Conditional Authority**

Statutory authority can manifest as either absolute or conditional. In cases of absolute authority, despite any resulting nuisance or harm, no liability attaches to the authorised action. Conversely, conditional authority stipulates that the authorised act can proceed only if it can be carried out without causing nuisance or harm, either explicitly or implicitly.

### **Metropolitan Asylum District v. Hill**

In **Metropolitan Asylum District v. Hill**, a hospital authority was granted the power to establish a smallpox hospital. However, when they erected such a hospital in a residential area, it posed a danger of infection to the residents, leading to a nuisance. Consequently, the court issued an injunction mandating the removal of the hospital. Here, the statutory authority was deemed conditional, requiring the hospital to be set up without causing a nuisance to the community.