
ADDRESSING ELDER ABUSE IN INDIA: A TORT LIABILITY ANALYSIS WITH CASE STUDIES

Swathi Shree YK, PES University

ABSTRACT

Elder abuse is a complex public health issue. Abuse and neglect of elderly people is a common social problem all over India because many people think of them as a curse or burden. Elder abuse includes act of omission or commission which can be intentional or unintentional. It includes physical, emotional, financial and neglect based harm presenting a serious challenge in legal system. Elder abuse results in injury, pain, violation of human rights for the elders who are actually to be treated with respect. ¹Elder abuse takes place in many forms and within familial or institutional settings. One in six people who are 60 years or older face this problem of elder abuse. Over the decades, elder abuse has gained attention and there is significant developments however, there is still a need to bring better clarity in defining elder abuse. Elder abuse consequences are very extreme and affects the communities, individuals and families.² This paper highlights the Tort Law liability under intentional torts, negligence, fiduciary breaches, and wrongful death. The main objective of this paper is to examine the types of elder abuse prevalent in India and the strategies or remedies available to the victims of elder abuse. ³Using doctrinal approach, the paper evaluates case studies of instances of elder abuse and talks about the limitations of tort law in holding the person accountable for elder abuse. The research also investigates the preventive mechanisms and safeguards that are existing to protect the elderly citizens. Even though there are few statutes to safeguard victims of elder abuse, tort law addresses this issue through compensation and deterrence.

Keywords: Elder abuse, tort liability, victims, compensation, wrongful death, human rights, negligence.

¹ Rishabh Gandhi & Advocates, *Laws Relating to Elder Abuse in India* (14 June 2020), RGAA, available at <https://www.rgaa.co.in/laws-relating-to-elder-abuse-in-india/>

² India Law Offices LLP (2025) *Elder Abuse – What Is considered Elder Abuse, Laws to Protect Senior Citizens, Consequences & Punishments*. Available at: <https://www.indialawoffices.com/legal-articles/elder-abuse-what-is-laws-to-protect-senior-citizens-consequences-punishments>

³ Maurya, P., Chattopadhyay, A., Rao, S. and Sharma, P. (2022) *Understanding Elder Abuse in India: Contributing Factors and Policy Suggestions*. *Journal of Population Ageing*. Available at: https://www.iipsindia.ac.in/sites/default/files/other_files/57_Understanding_Elder_Abusein_India_Contributing_Factors_JOPA.pdf

INTRODUCTION

India has a very large population and is considered as one of the world's oldest cultural civilization. Senior citizens are the unique type of treasure for our society who deserve respect and dignity in their life. Elderly people are like a bridge between past, present and future as they are the custodians of culture, wisdom and moral values. However, every individual has the right to live without fear of abuse or neglect in their homes or care homes with emotional and physical safety. Elder citizens should get timely healthcare treatments and they have the right to manage their own finances to safeguard them against exploitation.⁴

The condition of elder people is deteriorating day by day and they are considered as a burden to the society by many. They are the most vulnerable members of the society. Due to this transition, there is concern against the elders safety. Abuse is common social problem for elders and there is a need to establish a mechanism which can reduce the abuse against the elders.⁵ Elder abuse is physical, emotional, sexual, financial or neglect against elderly which causes violation of human rights. Elder abuse is when elderly are entrusted with care and the person's act or omission inflicts harm, exploitation causing trauma, deprivation, depression, neglect etc. This raises questions of liability, accountability and social responsibility.

There should be measures to prevent elder abuse. The awareness, existing laws, redressal mechanisms are ineffective in reducing elder abuse. Most victims of elder abuse is mostly women and it is few in men. The elderly citizens who don't have a family or friends, have disability, memory loss or dementia are more vulnerable to abuse and the mistreatment is most by family, strangers, care takers, friends etc. However, elderly people who depend on others for everyday life are more vulnerable to elder abuse. Therefore, to safeguard the rights of senior citizens it is necessary to formulate tort-based responses and also statutory responses.⁶

RESEARCH PROBLEM

Elder abuse is an act of harming elderly or an older person that undermines their well-being,

⁴ Advocate Pooja, *Elder Care Laws in India: A Shield Against Abuse and Neglect*, (2025), available at <https://advocatepooja.com/elder-care-laws-in-india-a-shield-against-abuse-and-neglect/>

⁵ Rishabh Gandhi & Advocates, *Laws Relating to Elder Abuse in India* (June 14, 2020), available at <https://www.rgaa.co.in/laws-relating-to-elder-abuse-in-india/>

⁶ National Institute on Aging, *Elder Abuse* (NIA, 2025), available at <https://www.nia.nih.gov/health/elder-abuse/elder-abuse>

rights and dignity.. The nature of abuse may be physical, emotional, sexual or financial.⁷ Many senior citizens face this issue within familial and institutional settings, highlighting a gap in effective legal redress.

Tort law provides legal remedy like compensation or accountability for victims. The landmark Indian cases highlight the tortious liability in elder abuse cases and limited awareness among victims regarding their rights. The existing preventive measures often fail to prevent elder abuse.

Therefore, this research examines the prevalence of elder abuse in India and effectiveness of tort liability as a legal remedy, evaluate relevant case studies, and identify measures to strengthen preventive frameworks and legal protections.

RESEARCH OBJECTIVES

1. **To examine the various forms of elder abuse in India**, including neglect, exploitation, and abuse.
2. **To analyze the scope of tort liability in India** as a legal remedy for victims of elder abuse.
3. **To evaluate landmark and relevant case studies** that illustrate how tort law has been applied to elder abuse cases in India.
4. **To highlight preventive measures and legal safeguards** that can reduce instances of elder abuse.

RESEARCH QUESTION

1. What forms of elder abuse are most prevalent in India?
2. How effective is tort liability as a legal remedy for victims of elder abuse in India?
3. What judicial insights can be drawn from landmark case law regarding the application

⁷ India Law Offices LLP, *Elder Abuse – What Is Considered Elder Abuse, Laws to Protect Senior Citizens, Consequences & Punishments* (2025), available at <https://www.indialawoffices.com/legal-articles/elder-abuse-what-is-laws-to-protect-senior-citizens-consequences-punishments>

of tort principles in elder abuse cases?

4. How can existing preventive mechanisms and legal safeguards be enhanced to effectively mitigate incidents of elder harm in India?

RESEARCH HYPOTHESIS

This research hypothesizes that tort law in India, though traditionally general in scope, holds substantial potential to address various forms of elder harm such as neglect, exploitation, and abuse through the principles of negligence, duty of care, and compensation. It presumes that judicial interpretation and case law demonstrate a gradual but significant acknowledgment of civil liability in instances of elder abuse, reflecting the adaptability of tort jurisprudence to emerging social issues. The study further assumes that the legal remedies in tort and preventive measures can help elderly citizens get justice for the pain they have gone through. Ultimately, the hypothesis suggests that strengthening the application of tort principles to elder abuse cases can provide an effective civil remedy for the victims of elder abuse.

RESEARCH METHODOLOGY

This research paper utilizes doctrinal and analytical research methodology to analyze the prevalence of types of elder abuse and the effective remedies that are available to the victims of elder abuse. It also uses secondary sources like legal articles, books and online sources (manupatra) to effectively understand the framework that is governing tort liability for elder abuse and safeguards that can reduce elder abuse. The significant component of methodology is the case study analysis of Indian landmark cases which gives real world scenarios as to how there is judicial interpretation of duty of care, negligence and other remedies. By using this method, the research aims to examine the tort liability as a redressal mechanism and also highlight preventive measures for elder harm in India.

Method of Analysis and Scope

- **Doctrinal Analysis:** Examines the current legal framework, definitions of elder abuse in India.
- **Critical Evaluation:** Analyses landmark cases which has provided remedy for elder abuse and how the court has interpreted the concept of elder abuse and preventive measures that could

have been taken.

LITERATURE REVIEW

The *Maintenance and Welfare of Parents and Senior Citizens Act, 2007* talks about financial abuse against senior citizens but it offers limited protection as it doesn't talk about non-financial abuse. Therefore, reliance on this solves only financial abuse and this creates a gap in addressing other abuses against elderly victims.⁸

According to NGO reports and surveys elder abuse takes place commonly by family members or caretakers. It also highlights that the social stigma, dependency, lack of awareness lead to under reporting of elder abuse cases.⁹

The study "*Understanding Elder Abuse in India: Contributing Factors and Policy Suggestions*" by Maurya et al. (2022)- It examines the elder harm in India and the related variables like economic, social, demographic which contributes to the elder abuse. However, even though this paper talks about the forms of abuse, there is significant gap in talking about the legal implications. Therefore, this study helps in understanding elder abuse and also highlights the need for policy awareness, remedial mechanisms in India's legal system.¹⁰

The article "*Laws Relating to Elder Abuse in India*" by Rishabh Gandhi & Advocates – It examines the elder mistreatment in India. It highlights the vulnerability of older persons due to dependency etc. It also studies legislative frameworks along with article 21 and 41. It has mentioned cases like *Sunny Paul v. State (NCT of Delhi)* which highlights how courts have considered duty of care within familial contexts. However, it doesn't examine much about the tort liability in these cases.¹¹

DISCUSSION AND ANALYSIS

Elder abuse is single or repeated act or neglect against elder citizens which can be physical,

⁸ The Maintenance and Welfare of Parents and Senior Citizens Act, No. 56 of 2007, India Code (2007).

⁹ HelpAge India (2022) *Elder Abuse in India: A National Study*. New Delhi: HelpAge India.

¹⁰ Priya Maurya, Aparajita Chattopadhyay, Smitha Rao & Palak Sharma, *Understanding Elder Abuse in India: Contributing Factors and Policy Suggestions* (2022), *J. Population Ageing* (Vol.17, No.1) https://www.iipsindia.ac.in/sites/default/files/other_files/57_Understanding_Elder_Abusein_India_Contributing_Factors_JOPA.pdf

¹¹ Rishabh Gandhi & Advocates, *Laws Relating to Elder Abuse in India* (14 June 2020), available at <https://www.rgaa.co.in/laws-relating-to-elder-abuse-in-india/>

emotional, sexual etc. It damages the dignity and well-being of senior citizens.

Categories of abuse:

1. Physical Abuse – It is an act which is done intentionally to cause pain or injury to the elder person with an intent to hurt him or her.
2. Psychological or Emotional Abuse – It is more insidious like mental torture, threat or humiliation, scapegoating, habitual blaming, isolating elders which erodes a person's self-worth over time.
3. Sexual Abuse – It means touching an elderly person without their consent. Such aspects can involve physical sexual acts along with activities such as showing an elderly person pornographic material, forcing the person to watch sexual acts, or forcing the elders to undress.
4. Financial Abuse – It involves improper use of finance of elders by manipulating them. It includes misuse of elder person's bank details and monetary resources, stealing of cash, checks on the incomes, forging the signature of elders and engaging in identity theft.
5. Neglect – It is the failure to provide necessary care like food, shelter, or medical attention intentionally or unintentionally which affects the mental health of elder citizens negatively.

In India, tort liability address elder abuse conceptually but is ineffective as legal remedy compared to the statutory mechanisms such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act). There is absence of codified tort law, complexity in procedures, lack of legal awareness among senior citizens which effects the practical effectiveness as courts occasionally recognize the claims against elder abuse. While a victim can theoretically seek compensation through a civil tort suit, the process is often too cumbersome, complex, and lengthy for elderly victims. Tort liability is not yet an effective civil remedy for elder abuse in India. It highlights the need for judicial expansion, legislative clarity, and greater accessibility for the elderly seeking justice.

Landmark Case Studies in India –

Raja Ram (S) v. Jai Prakash Singh and Others (2019) –

In this case, there was transfer of money of elderly man's property by relatives fraudulently. This case underscores how tort principles such as fraud, undue influence, and emotional distress may be applied to safeguard elder rights. It emphasizes that there is a need to protect elders from exploitation and abuse by their families.¹²

Sunny Paul & Anr. v. State (NCT of Delhi) & Ors. (2017) –

In this case the son and daughter-in-law of elderly parents resided in the parent's self-acquired property against their will. The elderly parents were subject to harassment, emotional abuse, and intimidation by them due to which the elderly parents sought action through the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007*. The Court upheld their plea, ruling that senior citizens have an absolute right to reside peacefully in their self-acquired property and can seek eviction of abusive children or relatives under Section 23 of the Act.¹³

Collectively, the judgements above highlight the necessity for a more coherent statutory framework to protect senior citizens from neglect, exploitation, and abuse as there is fragmented judicial effort that apply to tort law to cases of elder harm.

Many strategies have been tried to prevent and respond to abuse of older people. Integrating the tort principles like duty of care, negligence, vicarious liability with statutory frameworks provides elderly victims with civil remedies beyond maintenance or criminal prosecution.¹⁴

Globally, too little is known about elder abuse and how to prevent it, particularly in developing countries. Public health care institutions and old-age homes must be held liable for neglect or abuse. To enhance efficacy, training programs for law enforcement, increased community outreach initiatives, awareness campaigns, community-based legal aid, would also help foster

¹² *Raja Ram v. Jai Prakash Singh: Clarifying the Burden of Proof in Cases of Alleged Undue Influence Over Elderly Decedents*, CaseMine commentary (Sep. 12, 2019), available at <https://www.casemine.com/commentary/in/raja-ram-v.-jai-prakash-singh:-clarifying-the-burden-of-proof-in-cases-of-alleged-undue-influence-over-elderly-decedents/view> (last visited Oct. 10, 2025).

¹³ *Parents Can Evict Children Under the Provisions of MWPSA Act, 2007 Upon Being Harassed: Bombay HC*, SCC Times (July 18, 2018), available at <https://www.scconline.com/blog/post/2018/07/18/parents-can-evict-children-under-the-provisions-of-mwpsc-act-2007-upon-being-harassed-bombay-hc/> (last visited Oct. 11, 2025).

¹⁴ World Health Organization, *Abuse of Older People* (15 June 2024), available at <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people> (last visited Oct. 10, 2025).

a culture that respects and protects our elders, ensuring they feel safe seeking help when needed.

CONCLUSION

Elder citizens are the experienced people who are given higher status in the society and we need to serve them with respect and help them lead their life with dignity. The legal system plays an important role in combating elder abuse as it gives a vital framework in protecting the dignity of elder people.¹⁵

India has legal mechanisms for the prevalence of elder abuse like Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and other provisions under the Criminal Procedure Code (CrPC), other personal laws. India also has many institutions, NGOs which works for the benefit of elder citizens and spreads awareness. Government of India is planning to implement various monetary policies which help senior citizens to lead independent life rather than depending on someone. However, it is the basic crucial duty for all citizens to protect and prevent elder abuse and help them in leading a respectful life.

Despite all these efforts, there is a gap in reality in addressing elder abuse as many elder citizens continue to face this abuse, neglect due to lack of awareness, justice being delayed, financial problem in funding old age homes and inefficient mechanisms. Thus, Indian legal system must address these challenges effectively as there is still a significant gap between the laws on paper and their implementation in practice.

India can refer the best practices from other countries to improve the status of elder citizens as other nations offer more comprehensive legal frameworks and social services that could serve as a model for further reform in India.¹⁶

¹⁵ Advocate Pooja, *Elder Care Laws in India: A Shield Against Abuse and Neglect*, (2025), available at <https://advocatepooja.com/elder-care-laws-in-india-a-shield-against-abuse-and-neglect/>

¹⁶ India Law Offices LLP, *Elder Abuse – What Is Considered Elder Abuse, Laws to Protect Senior Citizens, Consequences & Punishments* (2025), available at <https://www.indialawoffices.com/legal-articles/elder-abuse-what-is-laws-to-protect-senior-citizens-consequences-punishments>

BIBLIOGRAPHY

1. Advocate Pooja, *Elder Care Laws in India: A Shield Against Abuse and Neglect*, (2025), available at <https://advocatepooja.com/elder-care-laws-in-india-a-shield-against-abuse-and-neglect/>
2. The Maintenance and Welfare of Parents and Senior Citizens Act, No. 56 of 2007, India Code (2007).
3. HelpAge India (2022) *Elder Abuse in India: A National Study*. New Delhi: HelpAge India.
4. Priya Maurya, Aparajita Chattopadhyay, Smitha Rao & Palak Sharma, *Understanding Elder Abuse in India: Contributing Factors and Policy Suggestions* (2022), *J. Population Ageing* (Vol.17, No.1)
https://www.iipsindia.ac.in/sites/default/files/other_files/57_Understanding_Elder_Abus_ein_India_Contributing_Factors_JOPA.pdf
5. Rishabh Gandhi & Advocates, *Laws Relating to Elder Abuse in India* (14 June 2020), available at <https://www.rgaa.co.in/laws-relating-to-elder-abuse-in-india/>
6. India Law Offices LLP, *Elder Abuse – What Is Considered Elder Abuse, Laws to Protect Senior Citizens, Consequences & Punishments* (2025), available at <https://www.indialawoffices.com/legal-articles/elder-abuse-what-is-laws-to-protect-senior-citizens-consequences-punishments>
7. Akshay Ahluwalia & Dr. Lakshmi Priya Vinjamuri, [Title of Article], *Int'l J. Res. Publ'n & Rev.* Vol. 6, Issue 6 (2025), available at <https://ijrpr.com/uploads/V6ISSUE6/IJRPR48433.pdf> (last visited Oct. 10, 2025).
8. World Health Organization, *Abuse of Older People* (15 June 2024), available at <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people> (last visited Oct. 10, 2025).
9. *Raja Ram v. Jai Prakash Singh: Clarifying the Burden of Proof in Cases of Alleged Undue Influence Over Elderly Decedents*, CaseMine commentary (Sep. 12, 2019), available at <https://www.casemine.com/commentary/in/raja-ram-v.-jai-prakash-singh:-clarifying->

the-burden-of-proof-in-cases-of-alleged-undue-influence-over-elderly-decedents/view(last visited Oct. 10, 2025).

10. *Parents Can Evict Children Under the Provisions of MWPSC Act, 2007 Upon Being Harassed: Bombay HC*, SCC Times (July 18, 2018), available at <https://www.scconline.com/blog/post/2018/07/18/parents-can-evict-children-under-the-provisions-of-mwpsc-act-2007-upon-being-harassed-bombay-hc/> (last visited Oct. 11, 2025).