

SECTION A

(2x5) =10

Q1-Geeta went to a surgeon for operation to remove kidney stones. The surgeon performed the operation but left a gauze piece in the abdominal cavity during the operation .This led to a second surgery being performed on her. She sues the surgeon for negligence, who takes the plea of Volenti non fit injuria. Can surgeon take the plea?

Q2- Write short note on 'Act of God' as a defence of tort.

Q3- A pretends to lock the plaintiff in a room by purporting to turn the key of the door from outside and taking it away. The fact is that the door, though shut, is not locked. The plaintiff remains in the room for two hours under the belief that he has been locked inside. Is this a case of false imprisonment?

Q4- Write short note on libel and slander.

Q5- A takes B by the collar and pushes him down the hill. What wrong A has committed.

SECTION B

(2x10) =20

Q6- A music teacher ,gives music lessons at his residence B,the neighbor ,residing in the adjoining house ,maliciously causes discomfort to A,by hammering against the party wall beating the trays, whistling and shrieking .A prays for an injunction against B,should be succeed? Which concept of tort has arisen in above scenario? Explain.

Q7- X was a driver of the collector of Rajasthan. The jeep was sent for repairs to workshop .After the repairs. He was bringing the jeep back from workshop. He drove it negligently and knocked down Y, a pedestrian on the road. The widow of Y files an action for damages against the state of Rajasthan .In this context discuss the concept of sovereign and non-sovereign functions of state with reference to vicarious liability of state.

SECTION-C

(2X10)

=20

Q8- Even if the master cannot actually control the way in which the servant does his work, because the servant is skilled professional who knows his job and will carry it out in his own way, the master nevertheless remains liable for the negligence of the servant. Comment.

Q9- A clock tower belonging to the municipal corporation collapsed. Three persons died due to collapse of the tower .The clock tower was 80 years old though its normal life span was only 40 to 45 years. During the course of inspection, it was found that the mortar had lost its cementing power. The legal Representative of the deceased brought an action against the municipal corporation. Decide

SECTION D

(2x25) =50

Q10- X, a manufacturer of ginger beer supplies it to retailer who sold it to A.A gave it to his friend Miss D.She consumed the contents of the beer. The contents contained the decomposed remains of a snail, which were not, and could not be, detected until the greater part of the contents of the bottle had been consumed. As a result, she became seriously ill. She sues the manufacturer.

- 1) What tort has been in committed in the given case? (5)
- 2) Define the essentials of the tort given by you in previous question. (10)
- 3) Give few other relevant cases in respect of the given tort. (10)

Q11- A newspaper published from Varanasi in its issue dated 18.12.1991 published a news item under the dateline: Nepal December 17, that a person from Varanasi who was exporting scented “aggarbattis” had smuggled opium into Nepal in the form of “aggarbattis”.On information the U.P Police went to Nepal and with the help of Nepal Police examined three out of five packets and found to contain opium concealed therein.

The plaintiff who is owner of a firm, known as B and sons, manufacturing scented ‘Aggarbatis’ and exporting the same to Nepal claimed damages pleading publication constituted defamation since the news item was understood to refer to him. The newspaper in defence pleaded that it did not know at all the plaintiff and never intended to defame it, and the news item was also not published of and concerning the plaintiff. Decide giving reasons.

- 1) Is this a case of Defamation? (10)
- 2) Discuss the essential elements of tort of defamation. (15)

Roll No: -----



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Programme: B.Tech ET LL.B IPR, B.Tech CS LLB CL
Course Name: Law of Torts
Course Code: LLBL241
No. of page/s:2

Semester – IV
Max. Marks : 100
Duration : 3 Hrs.

SECTION A

(5X2)=10

Q1- Discuss the maxim volenti non fit injuria with the help of cases.

Q2- As a part of grow more food campaign, a dam was constructed for irrigation across a river. Provision was made for release of excess water through sluice. Due to exceptionally heavy rainfall ,sluice proved inadequate and extra opening was made resulting in flooding the agricultural land of X.X suffered a severe loss of agricultural production. Can X recover damages for the loss?

Q3- Write a short note on ‘Judicial authority’ as a defence to tortious liability.

Q4- “State has to answer for every wrong committed by its erring servant”. Comment

Q5- Write short note on libel and slander.

SECTION B

(2X10)=20

Q5- SFI, an industry was manufacturing caustic soda, chlorine, etc. The oleum gas stored by the industry leaked .Plaintiff A, who was then 2 miles away from the industry suffered physical injuries and was hospitalized. The plaintiff claimed Rs 1,00,000 as compensation. The industry in defence pleaded no negligence on its part in keeping and maintaining storage tanks, and that the doctrine of strict liability has no applicaton.Argue the case for the plaintiff. Decide, Giving Reasons.

Q6- Even if the master cannot actually control the way in which the servant does his work, because the servant is skilled professional who knows his job and will carry it out in his own way, the master nevertheless remains liable for the negligence of the servant. Comment.

SECTION C

(2x10)=20

Q7- We must take reasonable care to avoid acts or omissions, which we can reasonably foresee, would be likely to injure our neighbor? Who then in law is my neighbor? How did Lord Atkin in *Donoghue V Stevenson* answer this question? Discuss fully the product liability of a manufacturer on the basis of the principle laid down in the above case.

Q8- In a cyclone, hit area the army called out to assist the civil authorities. During such operation, the driver of a army vehicle carrying equipment of great strategic value to a defence research Centre, negligently knocked down X, a pedestrian, who died instantaneously. Will the government be vicariously liable in this case?

SECTION D

(2X25)

=50

Q9- A clock tower belonging to the municipal corporation collapsed. Three persons died due to collapse of the tower .The clock tower was 80 years old though its normal life span was only 40 to 45 years. During the course of inspection, it was found that the mortar had lost its cementing power. The legal Representative of the deceased brought an action against the municipal corporation. Decide

Q10-“If a person brings or accumulates on his land anything which if it should escape may cause damages to his neighbours, he does so at his peril”. Discuss the above statement by referring the judicial pronouncements along with exceptions thereto