

Name:

Enrolment No:



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, December 2018

Program:

Semester – I

- BA., LL.B. (HONS.) Energy Laws 2018 /
- BA., LL.B. (HONS.) CL/LL/CL 2018 /
- BBA, LL.B. (Hons.) Corporate Laws 2018 /
- BBA, LL.B. (Hons.) BIF / IT Law 2018 /
- B.COM.,LLB. (Hons.) TL / M&EL 2018,
- B.Sc., LL.B. (Hons.) IPR/Food, Health & Environmental Law / Medical & Forensic Law 2018

Subject (Course): Law of Tort and Consumer Protection Laws

Max. Marks : 100

Course Code : CLCC 1003

Duration : 3 Hrs

Instructions: Separate instructions are given for all the sections in the Question Paper. Please attempt accordingly

SECTION A (10 Marks)

S. No.		Marks	CO
1	Correct the Statements (a) Law of defamation lies in the publication of a true or a false and defamatory statement about another person without lawful justification. (b) Trespass is a wrong against ownership; hence one who possesses the property cannot sue for trespass only the owner can sue for trespass.	2	1
2	What do you understand by the term 'innuendo', give an example	2	2
3	Differentiate between 'libel' and 'slander'	2	1
4	Match the Following: A. Test of Directness (i) <i>Donoghue vs. Stevenson</i> B. Product liability (ii) <i>Admiralty Commissioners vs. SS Volute</i> C. "But For" Test (iii) <i>Polemis Case</i>	2	1

	D. Last Opportunity <i>(iv) Robinson v. Post Office</i>		
5	<p>Chose the right answer: Statement I: False imprisonment consists of partial or total restraint on the liberty of a person.</p> <p>Statement II: Liability of state in vicarious liability is primarily and only the state can be sued for compensation, the employee who committed the tort cannot be sued.</p> <p>(a) Statement I is correct (b) Statement II correct (c) Both the Statements are correct (d) Both the statement are incorrect</p>	1	3
6	What do you understand by “Misleading Advertisement”?	1	4
SECTION B (20 Marks)			
7	<p>“There can be a battery without assault, so also there can be an assault without a battery”. Keeping in mind the above statement differentiate between battery and assault giving examples</p> <p><u>OR</u></p> <p>Write short notes on</p> <p>(a) Economic Torts (b) Cyber Torts <u>OR</u> Foreign Torts</p>	10	3 2
8	<p>What are ‘constituents of torts’, elaborate with examples?</p> <p><u>OR</u></p> <p>Based on your understanding of <i>Rylands v. Fletcher</i> (1868) and <i>MC Mehta v UOI</i> (1987), explain the concepts of Strict Liability and Absolute Liability and distinguish between the two. Also Comment on the statement “Absolute Liability is not really absolute. It is stricter than strict liability since strict liability was not strict enough.”</p> <p><u>OR</u></p> <p>Discuss the major reforms contemplated under Consumer Protection Bill 2018.</p>	10	3 4
SECTION-C (20 Marks)			
9	What are the ingredients to establish a tort of ‘trespass to person’? The appellant a twenty four year old patient had a malignant growth on his leg which was amputated	10	3

	<p>out of necessity to save his life. He had at first consented but had afterwards before operation withdrawn his consent. Whether this can amount to trespass to person? State reasons.</p> <p><u>OR</u></p> <p>Trespass to the person means a direct or an intentional interference with a person's body or liberty. Classify the forms of trespass to person with relevant cases. Differentiate between Assault and Battery.</p>		
10	<p>The players of the Rugby team of one college were accused of raping a girl. The students were arrested and the prosecution made every effort to make the case public, humiliating the students. After months of fighting, it was finally discovered that the rape claim had been baseless and that the prosecutor knew it was baseless long before the case was dismissed.</p> <p>Whether players can file malicious prosecution case in the above mentioned case, explain the essentials of malicious prosecution.</p>	10	3
SECTION-D (50 Marks)			
11	<p>Taxi driver was turning his taxi at a place where children were playing but he did not take care and negligently hit a child (A) riding on a Tri-cycle. The child's mother heard him scream and, looking out of an upstairs window some eighty yards away, saw the taxi- cab but could not see the boy. As a result she suffered an acute nervous shock. In an action brought by the mother, taxi driver contests the liability on the ground that the place where taxi driver was turning his taxi was a public place used for parking cars and picking up people for the purpose of taking them to their destination hence it was not negligence on his part but on the part of the mother to let their children play at such places. Secondly he also contested the liability to mother for the nervous shock she had suffered on the ground that it was not foreseeable and hence he is neither liable to child not to the mother.</p> <p>Decide with the help of judicial developments and your critical analysis.</p>	15	3
12	<p>Jimmy worked in central Delhi but lived in Gurgaon. One night, Jimmy missed his ride home, so he walked across the street to club to get a drink. He chatted with another customer A and discovered that they lived only a few blocks from each other. A offered to give Jimmy a ride home. Although he knew that A was probably too drunk to drive, Jimmy reluctantly agreed. On the way home, A, driving in a dangerous manner, was involved in a collision with another car whose driver was also driving negligently. Jimmy was injured.</p> <p>Explain the liability of the A in this situation.</p>	10	3

<p>13</p>	<p>Ferry Terminals constructed by the defendants in the Thames (river) caused silting which obstructed large vessels' access to the claimants' jetty and the claimants had to spend large sums in dredging operations.</p> <p>The aforesaid facts give rise to which type of nuisance – public or private. Discuss. What is the standard of liability in private nuisance cases?</p>	<p>10</p>	<p>3</p>
<p>14</p>	<p>John Co. Ltd manufacturer of “Blue Bull” supplies it to the retailer who ‘sold’ it to Dave. Then Dave gave it to his friend Miss Lucy. She consumes the contents of the Blue Bull. The contents contained the decomposed remains of earthworm, 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 wants to sue the manufacturer.</p> <p>a. Mention the case law with similar facts. Who gave the decision? b. Decides the liability of manufacturer John Co. Ltd. with relevant cases. c. Discuss the application of the neighbor’s principle.</p>	<p>15</p>	<p>3</p>

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SECTION A (10 Marks)

S. No.		Marks	CO
1	Correct the Statements (a) The employees when performing sovereign function cannot be held liable for tortious activity neither vicarious liability can be imposed on state for the acts of such employees performing sovereign function. (b) Strict liability is the imposition of liability when the defendant was at fault whereas absolute liability is the imposition of liability when the defendant is not at fault.	2	1
2	What do you understand by the maxim ' <i>Respondeat Superior</i> , give an example	2	1
3	Explain the concept of "conversion".	2	1
4	Right to reputation is <i>jus in rem</i> or <i>jus in personam</i> . Give reason	2	1

5	<p>Chose the right answer: Statement I: Liability of state in vicarious liability is primarily and only the state can be sued for compensation, the employee who committed the tort cannot be sued.</p> <p>Statement II: False imprisonment consists of partial or total restrain on the liberty of a person</p> <p>(e) Statement I is correct (f) Statement II correct (g) Both the Statements are correct (h) Both the statement are incorrect</p>	1	3
6	What do you understand by “Product Liability”?	1	4
SECTION B (20 Marks)			
7	<p>Trespass to the person means a direct or an intentional interference with a person's body or liberty. Classify the forms of trespass to person with relevant cases. Differentiate between Assault and Battery.</p> <p><u>OR</u></p> <p>Write short notes on</p> <p>(c) Constituents of torts (d) Cyber defamation</p>	10	2 2
8	<p>What is the difference between ‘damage’ and ‘damages’? Explain the types of damages and key considerations while awarding the same.</p> <p><u>OR</u></p> <p>Discuss the rights of consumer under the Consumer Protection Act, 1986. Enumerate the key amendments proposed in the redressal structure by way of Amendment Bill 2018.</p>	10	2 4
SECTION-C (20 Marks)			
9	The plaintiff was placed by his mother at a school kept by the defendants. The mother applied to take him away but the defendant blatantly refused and kept him at school during part of the holiday. The infant did not know of the denial of the holiday nor that had he been restrained. The plaintiff argued that this improper conduct amounted to false imprisonment. The issue was whether there was a detention against the will of the plaintiff?	10	3

	Answer whether the case is of false imprisonment by explaining the essentials of false imprisonment and case laws.		
10	Plaintiff's daughter-in-law purchased cake from bakery. She requested that there be no ornaments on cake. Bakery placed two plastic bird ornaments, white in color, on cake, which had white frosting. When piece of cake was served to plaintiff, she swallowed one bird. What kind of a tort liability would be attracted in this case? Discuss.	10	3
SECTION-D (50 Marks)			
11	<p>Defame Daily is a newspaper with a wide circulation. One day it ran a front page story 'Solicitor feared to have absconded with clients' funds'. There was also a photo of the front of an office bearing the name 'Money Ho & Co' next to the story. The newspaper published the article based on information given by a caller to its hotline but it did not verify the facts. Later it found it had made a mistake and immediately published an apology. The sole proprietor of the firm Money Ho was pregnant during this period. She was depressed and this led to a pre-term delivery. She filed the case.</p> <p>Answer the following with reference to the above stated facts supported by case laws and also apply the test of remoteness of damage:</p> <ol style="list-style-type: none"> 1. Contentions on behalf of plaintiff (firm) to prove defamation. 2. Contentions on behalf of the defendant. 3. Analysis 	10	3
12	<p>ABC ltd. had a small textile workshop where clothes were dyed using some chemicals. This workshop was surrounded by paddy fields owned by Mr. Z. During the process of textile, dyeing a harmful chemical was released as a residue, which was stored in an overhead tank. One day due to excessive release of the chemical during the day's work the overhead tank got full and some leakage took place, which escaped the factory and led to the adjoining area, polluting the paddy field. Mr. Z initially did not notice any change but later realized that due to the spread of toxic waste the entire crop had been destroyed. He brought an action against the workshop owners.</p> <p>What action could be brought by Mr. Z? Compare and contrast the doctrine of absolute liability and strict liability. Explain with the help of relevant case laws.</p>	15	3
13	<p>On July 19th 2018, the police force of ABC state was conducting a mock drill. The drill was taking place near a small village. Due to negligence on part of a constable a grenade exploded, causing a lot of injury to Raj, a native of the village who was passing by. Raj approached you asking for help. Explain who will be held liable in such a situation. Please explain the difference between sovereign and non-sovereign act of the State along with the relevant case laws.</p>	10	3

14	<p>X underwent a surgery for removal of stones in his kidney. The surgery was performed by Dr. T, a renowned surgeon, at a leading private hospital. During the surgery, Dr. T left a piece of gauze in X's abdominal cavity due to which infection developed and a second surgery had to be performed on X for removal of the gauze of which he had to spend Rs.28 Lacs. X wants to sue Dr. T and the Hospital.</p> <ol style="list-style-type: none"> a. Decide by identifying the essentials of the appropriate tort on the basis of liability. Substantiate with relevant case laws. b. Explain <i>Res Ipsa Loquitur</i>. c. Discuss the jurisdiction of consumer forum to try X's case. 	15	4