

Roll No: -----

**UNIVERSITY OF PETROLEUM
AND ENERGY STUDIES**



End Semester Examination, December, 2017

Program/course: B.COM LL.B
Subject: Torts & Consumer Protection Law
Code : CLCC1003
No. of page/s: 2

Semester : Ist
Max. Marks : 100
Duration : 3 Hrs

Section A- Short Answer/ Fill ups (1 marks each = 10 marks)
Attempt all

1. Bolam Test is related to tort of
2. Conversion is
3. A enters into the premises of B for the repair purpose at the request of B and entered into the bedroom of B without his permission. Find out the extent of liability of A.
4. Name any two defences of nuisance.
5. Innuendo means
6. Trespass is a wrong against ownership, hence one who possess the property cannot sue for trespass only the owner can sue for trespass. (True/ False)
7. If the interference is direct then the wrong is and if it is consequential, it amounts to
8. A lawful act of defendant may cause nuisance to plaintiff. (True/ False)
9. Joint tort feisor is
10. Consumer is defined under

Section B- Short answer type Conceptual questions (5 marks each = 20 marks)
Attempt any four

1. Explain the maxim Res Ipsa Loquitur with relevant cases.
2. Distinguish between Libel and Slander.
3. Explain tort of conspiracy with the relevant case laws.
4. Define Nuisance. Distinguish between private and public nuisance.
5. What is the pecuniary jurisdiction of all the consumer forums?

Section C- Analytical questions (10 marks each = 20 marks)

Attempt all

1. 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
2. Discuss the development of reasonable foresight from the test of directness with help of relevant case laws on remoteness of damages.

Section D- Application based questions (50 marks)

Attempt all

1. Mr. Mallya is not having good relations with his mother-in-law. He tells his wife “there is hardly a day when your mother does not indulge in adultery.” The statement made by Mr. Mallya is false.
 - a. Is Mr. Mallya liable for the tort of defamation with relevant cases?
(5 marks)
 - b. Also explain the essential elements of the tort of defamation.
(10 marks)
2. 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.
 - a. Decide by identifying the essentials of the appropriate tort on the basis of which *both* Dr. T and the hospital can be made liable? Substantiate with relevant case laws.
(10 marks)
 - b. Discuss the jurisdiction of consumer forum to try X’s case.
(5 marks)
3. Jwala was a practicing advocate at Dehradun in Uttarakhand. He was also a Yuva Sangh leader and had started an agitation on the question of food scarcity in the city and one Yuva Sangh worker had gone to a hunger strike. Chulbul Pandey, a sub inspector was deputed outside the collectorate to control the crowd that had collected there to support the agitation. Then there were some bullet shots made from the revolver of the sub inspector. He stated that while he was grappling with some person who was assaulting him the revolver got fired mistakenly. Later Chulbul had a heated dispute with Jwala inside the collectorate after which Chulbul threatened him of dire consequences.

On that date Chulbul Pandey lodged an FIR stating that he was assaulted by some person. His watch snatched and also the plaintiff Jwala was present at the scene and was instigating the crowd against him. The case was investigated and the plaintiff was arrested on 15th feb and released on bail on 18th feb 2017. He was finally acquitted on June 30th 2017. The plaintiff then sued 4 persons for malicious prosecution, the sub inspector Chulbul Pandey who lodged the F.I.R. , the S.H.O. of that area who entertained the report and two other persons involved with the case. Decide with relevant cases explaining the essential elements of Malicious Prosecution.

(15 Marks)

Also differentiate between malicious prosecution and false imprisonment.

(5 Marks)

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Section A- Short Answer/ Fill ups (1 marks each = 10 marks)

Attempt all

11. The battery must always be the direct result of the defendant's intentional act. (True/ False)
12. Respondent superior means
13. Innuendo means
14. Trespass is a wrong against ownership, hence one who possess the property cannot sue for trespass only the owner can sue for trespass. (True/ False)
15. Conspiracy is
16. Give two objectives of consumer protection act.
17. Truth is a complete defence in case of defamation. (True/False)
18. *Res Ipsa Loquitur* means
19. Statement spoken in anger or vulgar abuse is not actionable per se under defamation. (True/ False)
20. The pecuniary jurisdiction of national consumer forum is

Section B- Short answer type Conceptual questions (5 marks each = 20 marks)

Attempt any four

1. Explain Trespass ab initio with case laws.
2. Distinguish between Conversion and Detinue.
3. Explain contributory negligence. Explain it with relevant case laws.
4. What are the rights available to a consumer under Consumer Protection Act, 1986?
5. Distinguish between Libel and Slander.

Section C- Analytical questions (10 marks each = 20 marks)

Attempt all

1. Explain the essentials of private nuisance with relevant cases. Under what circumstance a public nuisance can be converted into private nuisance?

2. Discuss the defences available to the defendant in a suit for damages for defamation with relevant cases.

Section D- Application based questions (50 marks)

Attempt all

4. 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.

a. Decides the liability of manufacturer John Co. Ltd. with relevant cases.

(10 marks)

b. Discuss the application of the neighbour’s principle with relevant cases.

(5 marks)

5. Gabbar inflicted force on Sambha. Resulting from force applied, Sambha had to have a bone recovered from his skull, he then brought an action in respect of this injury. Is Gabbar liable? Explain it with relevant case laws.

(10 marks)

Also differentiate between Assault and Battery?

(5 marks)

6. Jwala was a practicing advocate at Dehradun in Uttarakhand. He was also a Yuva Sangh leader and had started an agitation on the question of food scarcity in the city and one Yuva Sangh worker had gone to a hunger strike. Chulbul Pandey, a sub inspector was deputed outside the collectorate to control the crowd that had collected there to support the agitation. Then there were some bullet shots made from the revolver of the sub inspector. He stated that while he was grappling with some person who was assaulting him the revolver got fired mistakenly. Later Chulbul had a heated dispute with Jwala inside the collectorate after which Chulbul threatened him of dire consequences.

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