GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR
Course: **Law of Torts**
(including MV Accident and Consumer Protection Act)
Semester-I (Batch: 2018-23)

End Semester Examination: Oct-Nov. 2018

Date: 25th October, 2018
Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

All questions are compulsory:	Marks

Q.1 "Defamation is the publication of any statement which tends to lower a person in the estimation of the right thinking members of the society generally or which makes to shun or avoid them". Substantiate the statement in the light of the relevant provision of Code of Civil Procedure, Indian Penal Code and the Constitution of India. Explain with the help of case laws and legal provisions the defences that may be availed in a civil suit for defamation.   (07)

Q.2 On July 17, 1868 Lord Cairns upheld the Exchequer Chamber's ruling in favour of strict liability in *John Ryland and Jehu Horrocks v Thomas Fletcher (1868) L.R. 3 H.L. 330*. Critically analyse this judgement in the light of its exceptions and show if there is a need to move away from this common law principle into a principles of more contemporary applications.   (07)

Q.3 The Defendant No.1, Mr. Rushil Mehta, is the registered Charted Accountant and is the owner of 'Moneywise', a charted accountant firm situated in Satellite, Ahmedabad. The defendant is the auditors of a public limited company InfoTech Auto Ltd, which is an automobile spare parts manufacturing company, with its registered office in Ahmedabad. The shares of InfoTech Auto Ltd are quoted in the Bombay Stock Exchange (BSE). The Defendant No. 2, who are the directors of InfoTech Auto Ltd, issued a statement stating that the profits for the FY 2009-10, were short of the expectation, and announced the year end profit on 31st March 2010. The auditor's report showed that the share price to be lesser than that of the FY 2008-09, which was audited by the Defendant No 1 and approved by the Directors of InfoTech Auto Ltd. Subsequently in an Annual General Meeting (AGM) conducted on 12th September 2010, the defendant No 1's second quarterly report showed that the company would make a pre-tax profit of ₹ 102 crore, the report was read and the accounts were adopted.   (3+4= 07)

Subsequently, the plaintiffs Indiabulls Ltd, which was also into the business of manufacture and sale of auto parts, started acquiring the shares of InfoTech Auto Ltd. The plaintiff initially bought 50,000 shares on 16th September 2010. Later, on 28th September 2010, it further acquired 1,00,000 shares making their share in InfoTech Auto Ltd, to be 32%. By 14th October 2010, Indiabulls Ltd had purchase 98% of the shares of

InfoTech Auto Ltd and proposed to acquire the balance which they subsequently did on 28th December 2010.

On 25th February 2011, the plaintiffs brought an action for negligence claiming damages alleging that the purchase of shares which took place after 12th September 2010 and the subsequent bid were all made based on the reliance upon the account of the defendants. The plaintiffs further contested that the accounts were inaccurate and misleading and in particular of overvaluation of stocks and pre-sales profit. In fact, the pre-sales profit of ₹ 102 crore was actually a loss of over 78 lakh. The plaintiffs suffered a loss as they had bought shares in the Defendant No.2's company, and were unable to repay their debts so incurred. Had the true facts been known to the plaintiffs, they would not have made the bid for the acquisition of InfoTech Auto Ltd.

The plaintiffs sued the Defendant No.1 for the negligent audit of the company and the Defendant No.2 for negligently certifying the audit which caused them the loss.

In the light of the mentioned factual matrix, answer the following questions with the help of relevant case laws and the principles of tortious liability:

(a) Determine the liability of the Defendant No.1 and Defendant No.2, if any. Give appropriate reasons.

(b) What are the conditions under which the torts liability for negligence may arise?

Q.4   Ila, a computer programmer employed by Tata Consultancy Services (TCS), Ahmedabad, spent the day working at the premises of TCS's client, Infosys India Ltd, situated at Garima Park, IITC Gandhinagar. Having finished her work at Infosys India Ltd, she agreed to drive Infosys India Ltd.'s Manager, Mr. Sushil Kumar, to the Sardar Vallabhai Patel International Airport, as he was in a hurry. She drove him in the Tata Consultancy Services company car which was allotted to her. On the way to the airport, due to Ila's negligent driving, the car met with an accident, injuring Ila and Mr. Sushil Kumar. Mr. Sushil Kumar sued Tata Consultancy Services (TCS) for damages for injuries suffered in the accident.   (3+4= 07)

In the light of the mentioned factual matrix, answer the following questions with the help of relevant case laws and the principles of tortious liability:

(a) What is vicarious liability and its essentials?

(b) Would Tata Consultancy Services be vicariously liable for injuries suffered by Mr. Sushil Kumar? Give reasons with case laws.

Q.5   Answer the following (**any two**):   (5+5= 10)

(a) Give a detailed account of the statutory provisions relating to the function of the three-tier consumer grievance redressal machinery and its jurisdiction under the Consumer Protection Act 1986.

(b) Explain how the civil law remedy of no-fault liability has been incorporated under the Motor Vehicle Act, 1988.

(c) Explain the salient features of the Motor Vehicle (Amendment) Bill 2016 which was introduced in Lok Sabha on 9th August 2016.

Q.6   Write short notes on **any three**:   (3x4= 12)

(a) *Ubi jus ibi remedium*

(b) The But - For Test

(c) Cyber Torts

(d) Civil and criminal liability for public nuisance

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