

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Law of Torts  
Semester-I (Batch: 2014-19)

End Term Examination: Oct-Nov. 2014

Date: 27<sup>th</sup> October, 2014

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 any thing 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.
- **Bare Act is not allowed.**

**Answer all the questions****Marks**

- Q.1 Suzanne took her 12 year old daughter Melissa to a local theme park, Bonanza. Melissa took, among other roller coaster rides, the 'Fright-of-your-life roller coaster'. Owing to faulty maintenance by the staff of Bonanza, the harness holding Melissa broke and she plunged to the ground and suffered massive injuries. Carl, a bystander near the roller-coaster saw the fall and the injuries to Melissa and he suffered from post traumatic stress disorder. Suzanne phoned to her husband George, who drove directly to the hospital. He arrived one hour later to find that Melissa is no more. He suffered from grief and severe depression. Mytheli, a paramedic who treated Melissa at the scene was so horrified by the injuries that she suffered post traumatic stress disorder. Suzanne became withdrawn and is now terrified of heights. (6+6=12)
- (a) Whether Bonanza is liable for negligence resulting in the death of Melissa?
- (b) Advise Suzanne, Carl, George and Mytheli on any actions they may have against Bonanza for their injuries. Being their advocate, advise each of them by identifying the proper tort action.
- Q.2 Winfield defines torts as: "*Tortious liability arises from the breach of a duty primarily fixed by the law: such duty is towards persons generally and its breach is compensated by an action for unliquidated damages.*" Explain the components of the definition. (05)
- Q.3 Write an explanatory note on trespass (to land, person and goods). Substantiate your answer with case laws. (07)

Or

Write an explanatory note on malicious prosecution. Substantiate your answer with case laws.

Q.4 The questions are based on the image below and the different sets of facts.

(10)



- Winston Churchill (in image) was called 'ugly' by Mr. X in a private gathering. Churchill sues for defamation.
- Ms. Y, at a charity event, calls Winston Churchill as 'hideous' looking. Churchill wants to consider taking legal action against her.
- Mr. Z, while engaging in a political debate with Mr. Churchill to be screened on worldwide television, says that Mr. Churchill resembles the 'Frankenstein's monster.'

Q. Whether Mr. Churchill will succeed in the above mentioned facts? Justify. Being the advocate of Mr. Churchill advise him for each sets of facts. Answer the question as per the principles of Tort Law and decided cases.

Q.5 Write short notes on **any four** of the following:

(4x4=  
16)

- a. Can death extinguish the liability under law of torts? State the previous and present position in relation to death of the parties.
- b. State Liability.
- c. National Commission (Jurisdiction, and qualification and disqualification of members) under the Consumer Protection Act, 1986 (CPA).
- d. Inevitable accidents as a defence under law of torts.
- e. Assault and Battery: Similarities and dissimilarities.
- f. Passing off under Trademarks law and it's interlink with law of torts.

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