

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

**Course: Law of Torts (including MV Accident and Consumer Protection Act)  
Semester- I (Batch: 2022-27)**

**End Semester Examination: November 2022**

**Date: 03<sup>rd</sup> Nov, 2022**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word limit: 6/7 Marks: 250-350 words, 3/4 Marks: 200-250 words.

- |   | <b>Marks</b> |
|---|--------------|
| Q.1 “All persons have the capacity to sue and be sued in torts”. Explain the statement with the help of relevant principles of law of torts and relevant decided case laws.   | (6)          |
| Q.2 The Government of India annexed the Portuguese territories of Goa, Daman and Diu by conquest on December 20, 1961. On March 5, 1962, the President of India passed an Ordinance in which the laws in force in Goa, Daman and Diu territories continued until amended or repealed by a competent legislature. The Ordinance was further replaced by an Act that gave retrospective effect from March 5, 1962. Critically evaluate, in the light of the case laws and the legal provisions, the legality of this annexation under the principle of law of torts. How has the legal principle evolved and developed in the constitutional mandate of India?  | (4)          |
| Q.3 The plaintiff’s husband, Mr Samir Soni, was present in the A.D.F.C. Bank, Satellite Branch in Ahmedabad on April 27, 2022, to transact banking business. While he was there, an armed robber entered, placed a pistol to his head, and told Ms Hetalben Shah, the teller, to give him the money or open the door, or he would kill Samir Soni. Ms Hetalben Shah was located behind a bulletproof glass window and partition. She, however, did not comply with the demand but instead fell to the floor. The robber shot Mr Samir Soni in the head and instantly killed him. The plaintiff (widow of Mr Samir Soni) brought an action for the wrongful death against A.D.F.C. Bank, Satellite Branch and Ms Hetalben Shah to recover damages for the plaintiff's husband's death. | (2x3=6)      |

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

- a) Which principle of tortious liability is relevant to determine the parties' liability? What are its essentials?
- b) Determine the civil liability of A.D.F.C. Bank, Satellite Branch in the suit. Argue for both sides of the case.
- c) Determine the civil liability of Ms Hetalben Shah in this suit. Argue for both sides of the case..

- Q.4 In *Rylands v. Fletcher* (1868) L.R.L.R. 3 H.L.H.L. 330, Justice Blackburn had coined the principle of strict liability. Give a detailed account of the legal history and judgement of the case. Critically examine this case in the light of the factual and legal matrix involved in the *Union Carbide Corporation v. Union of India* (1989 S.C.C. (2) 540). How has the principle grown and developed from strict liability to absolute liability? (6)
- Q.5 The plaintiff, Advocate Bhavesh Jain, is a senior member of the Gujarat Bar Council, Ahmedabad. He had good practice on both the civil and criminal sides. His workload indicates that he has built a lucrative practice. He has a long list of high-profile clients and also has many followers. He is also a mentor to many young aspiring lawyers. The plaintiff, Advocate Bhavesh Jain, was hired by a confident Mr. Mangalam Shetty, a real estate businessman, for a civil suit. At the instruction of his client, the plaintiff issued a legal notice to Mr. Nitin Walia, the defendant. In response the defendant replied to the legal notice via a letter, which included personal allegations against him, criticized him as an attorney, and named him a corrupt lawyer. The plaintiff opened the letter and was hurt and upset because of what it contained. There was a personal allegation made against him. After that, the plaintiff filed a suit claiming Rs.1,00,000/- as damages for defamation in the letter. The letter has an acknowledgement of receipt. (6)

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

What would be the liability of the defendant in the following case scenarios:

- a) Has defamation been committed in light of the abovementioned factual matrix? Trace its essentials.
- b) What would be the liability of the defendant in the following case scenarios
- If the letter was opened and read by one of the plaintiff's legal associates (juniors)?
  - If the plaintiff's servant, in breach of his duty and out of curiosity, took the letter from an enclosed envelope and read it.
- Q.6 In the Case *Byrne v. Boadle* (1863) 2 H. & C. 722, a barrel of flour rolled out of an open doorway on the upper floor of the defendant's warehouse and fell upon the plaintiff, a passenger in the street below. Which principle of law was applied by the court in deciding the Case? Explain its pre-conditions in light of English and Indian case laws. (3)
- Q.7 Write a critical case comment including the facts, issue, judgement principle of the Case and critical comment on the following cases (**Any four**): (12)
- Garratt v. Dailey* Supreme Court of Washington, 1955. 46 Wash.2d 197, 279 P.2d 1091
  - Caparo Industries Limited v. Dickman* [1990] 2 AC 605
  - Kasturi Lal Ralia Ram Jain v. State of Uttar Pradesh* A.I.R. 1965 SC 1039.
  - Donoghue v. Stevenson* 1932 AC 562
  - Difference between assault and battery
  - Nuisance as a tort



- Q.8 In April 5 2016, Rajeev Chandra bought a mobile handset, Xiaomi Note 3, worth Rs. 21,000 through a web domain (online portal) Dmazon. An online payment was made for the same. On April 8 2016, Rajeev Chandra received a mobile phone that was found to be defective and not in the condition as agreed. Thereafter Rajeev contacted Dmazon, through their customer care phone number, stating that he received a defective mobile handset. However, there was no help from Dmazon. Agitated by the response of Dmazon, Rajeev wants to seek legal redress for his grievance before an appropriate forum. In light of the abovementioned factual matrix, advice Rajeev about the appropriate forum and its procedure under the Consumer Protection Act 2019. (4)
- Q.9 Discuss the concept of third-party liability under the Motor Vehicles Act 1988. (3)

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