

NATIONAL LAW UNIVERSITY, DELHI
B.A.LL.B.(Hons.), V Year, X Semester (Batch 2012)
End-Semester Examinations, May/June-2017

Paper 10.3: Clinic-IV

Time: 2.00 Hours

Total Marks: 30

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the Question Paper except your Roll No.

Note- There is an option in question (viii).

Virat Singh is the owner of Peach County, Greater Alaknanda, Delhi (The Property). On 15th December 2015, Virat Singh entered into a lease agreement with Ashwin Kohli to rent the Property at a monthly rental of Rs. 2,17,035/- to be paid in advance by the 7th of every month for which the payment was due. The Property was to be used by Ashwin Kohli to run his company Apsoft Computers Ltd. The deed contained the standard clauses of payment of security deposit equivalent to three months, which was duly paid by Ashwin Kohli, and a lock-in period of three years. On 25th March 2017, Virat Singh received three months notice from Ashwin Kohli terminating the lease deed, with effect from 30th March 2017. He cited limitation of space as the reason for the said termination. Further, Virat Singh received a legal notice on 27th March 2017 where Ashwin Kohli had raised grievances regarding maintenance of the Property, alleging that his business was running into losses due to inaction on part of Virat Singh and his team to repair the property even after repeated communication.

Virat Singh filed a suit in District Court, Saket against Ashwin Kohli, seeking damages for breach of contract. In his statement, Virat Singh mentioned that the allegations are absolutely baseless and false as the property is maintained regularly and that it was for the first time he had heard of these issues at the property. Furthermore, he is alleging that Ashwin Kohli had unlawfully terminated the lease deed causing him financial loss and, therefore, should duly pay all the liabilities arising out of the default. Sanjay Kumar, an employee of Virat Singh and the manager of the Property, in his statement, mentioned about his conversation with the manager of Ashwin Kohli, Suman Singh, where he had said that the Property was the most suitable for their purposes and also mentioned that their business was running very well and they had decided to employ more staff. Also, as the manager of the Property, he always received positive feedback from everyone and never received any complaints from Suman Singh or Ashwin Kohli regarding any issues of water logging or poor lighting in the common area. He further stated that Ashwin Kohli is illegally terminating the lease deed as he wants to shift to an alternative place because he has employed more staff whom he cannot accommodate at this Property.

Ashwin Kohli, in his statement, mentioned that immediately after shifting to the Property he had gone to London for business purposes and soon thereafter he started receiving complaints regarding the Property from his manager, Suman Singh. The Property was falling into disrepair with the central air conditioning not working, nor was the lighting in the common area which also was water logged. He had to carry the repair works himself as it was not possible to carry on the business and even after his repeated endeavours, Suman Singh did not take any interest and instead stopped taking his phone calls or replying to his messages and e-mails to avoid his liability. It was after this that he decided to terminate the contract after giving three months notice. Further, he alleged that Virat Singh has filed this meritless case out of revenge and to extort money from him.

You are instructed to appear as Counsel on behalf of Virat Singh and after the initial client interview you sit to prepare for the hearing to be held on 8th June 2017 at 10.30 am. You have the statements of Virat Singh, Ashwin Kohli, Suman Singh and Sanjay Kumar with you. Your next step is to formulate a case theory after analysing the statements and other documents.

- i) What are the ingredients of a good case theory which you must keep in mind while undertaking this task? **(5 marks)**
- ii) What are the steps involved in the process of formulation of a case theory? **(3 marks)**
- iii) What is the significance of a good case theory? **(2 marks)**

P.T.O.

After the hearing on 8th June, the matter is now listed for evidence when you would be required to cross-examine Ashwin Kohli.

- iv) What would be your purpose while conducting cross-examination of Ashwin Kohli? **(3 marks)**
- v) What type of questions would you ask him to achieve that purpose and why? **(2 marks)**
- vi) What is the purpose of Examination-in-Chief and what type of questions should be asked during an examination-in-chief? **(2 marks)**
- vii) What should be the content and structure of a legal submission? **(4 marks)**

While preparing for the legal arguments, you have come across a reported case which is relevant to the legal argument you will be making in order to have some of the evidence excluded. The case goes against your argument and would likely damage your chances of having the evidence excluded, if the Court were to be informed about it.

- viii) Giving full reasons, describe your duties in Court in relation to your legal argument and how should you act in the circumstances? **(5 marks)**

OR

While you are preparing for the legal arguments scheduled for the next day, Virat Singh telephones you to say that he is going on a vacation to Seychelles Islands for a month and would not be able to attend the proceedings. He, therefore, wants you to seek adjournment in the matter and take a date of August by sending your junior on the ground that you are unwell. On the last date of hearing, the judge had fixed strict time schedule to finish the case before the court holidays as there had been severe delays in the matter.

- viii) Giving full reasons, describe whether you perceive any conflict between your duties towards the Court, towards your client and towards the society. In this situation, whether you would seek adjournment? Why or why not?

(5 marks)

You secured a notable victory in the case for Virat Singh. Two weeks after the judgment was handed down, and following receipt of payment in full for your professional services, you receive the following correspondence from Virat Singh.

“Dear Counsel,

Thank you for all your efforts on my behalf. I have purchased a dozen crates of champagne (very superior vintage!! A hundred pounds a bottle!!) by way of saying thanks. I want you behind me, case or no case. Let me know where you want it delivered.

*Cheers,
Virat. ”*

- ix) As per the professional ethics and standards, how should you act in this situation? Should you accept the gift? **(2 marks)**
- x) Again giving full reasons, would your action differ if you had not received the above letter, but, following payment for your service, you received in your chambers a bottle of champagne (value Rs 1,000/-) which had arrived with the following note? **(2 marks)**

*“Dear Counsel,
Many thanks for all your help
Virat.”*

NATIONAL LAW UNIVERSITY, DELHI

B.A.LL.B.(Hons.), V Year, X Semester (Batch 2012) End-Semester Examinations, May/June-2017

Paper 10.1: Law of Insurance

Time: 3.00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the Question Paper except your Roll No.

-
- Q.1 Advise the New India Assurance Co. Ltd. as to its liability and its extent in the following cases:
- (a) X has a personal mediclaim for self and family from New India Assurance Co. Ltd. X's wife Y is employed with a travel agency which has taken a group health insurance policy with United India Insurance Co. Ltd. for its employees and their immediate family members. The New India Policy has a clause which provides that in the event the insured event is covered by another insurance, New India Assurance would pay its rateable proportion of the loss. X suffers a heart attack and the medical bills are presented by X to New India three weeks after discharge. X, leaves the column as to whether the insurance is covered by another insurer blank writing on the side Not Applicable.
- (b) X has taken a valued all risks policy from New India Assurance Co. Ltd. on painting by a famous painter Govind Nath, possessed by him, valuing it at rupees fifty lakhs for four years. The policy required that for one fourth of the value of the policy X shall be his own insurer and the policy cover was for rupees twenty five lakhs. During the course of policy cover, the market price of paintings by Govind Nath jumped sharply and in the third year of the cover, one of his decidedly inferior works was auctioned for rupees five crores. X feeling concerned takes another policy on the painting for rupees three crores from United India Insurance. The painting is lost in a burglary when the first and second policies were both running. X makes claim on New India Assurance first.
- (c) X has insured its boutique fashion store with New India Assurance Co. Ltd. against fire. One night, due to negligence of the restaurant owners at the top floor of the shopping complex, where the store was located, a fire occurred and spread rapidly engulfing the fashion store of X also. Many of the garments and fashion accessories were thrown out for saving them. While they were strewn on road, waiting to be collected, many of the onlookers quietly walked away with a many of the costly pieces. New India Assurance entertains doubts as to whether it was liable for the stolen pieces.
- (4X3=12 Marks)**
- Q.2 Determine in the following who is legally entitled to policy monies:
- (a) A life insurance policy is taken by X which names his father as the nominee. Subsequently X marries and on his death, his wife lays a claim on the policy monies, making the insurance company and X's father defendants.
- (b) X takes a life insurance policy for the benefit of his wife Y. On discovering his wife's illicit relations with a neighbor, he files a divorce suit and sends a letter to the insurance company seeking the removal of her name as a beneficiary of the policy and its substitution with his mother. One month after sending the letter he suffers a massive heart attack and dies. Both Y and X's mother lay claim on the policy monies.
- (4X2=8 Marks)**
- Q.3 Advise the insurer as to its rights in the following cases:
- (a) X has insured his shop and goods in it for rupees fifty lakhs against fire with United India Assurance Co. Ltd. Shop is gutted in fire and X suffers a loss of rupees seventy five lakhs. Believing that he could get rupees fifty lakhs from United India Insurance, X sues the neighbor restaurant owner, who was responsible for fire due to his negligence, for rupees twenty five lakhs.

P.T.O.

- (b) In the above case, X is his own insurer for the remaining value of the property, whose entire value is rupees one crore. X is able to get from the neighbouring restaurant owner rupees fifty lakhs in damages. **(4X2=8 Marks)**

Q.4 Determine as to whether the insurers could avoid liability in the following cases:

- (a) X has an insurance policy on goods in his warehouse and life insurance policy on self. In breach of warehouse license terms imposed by the government, he stores explosives in the warehouse. One hot summer day, when he was resting in his warehouse, waiting for customers, the explosives caught fire gutting not just the property but also causing X's death. X's estate makes a claim on both the policies.
- (b) X has a warehouse where he stores wooden planks as a part of his trade and wooden chips. He has taken a fire insurance policy for the warehouse and goods stored in it and also has a personal accident insurance policy which has an exception clause where the insurer is not liable if the accident is caused due to epileptic fits. While X lit his gaslighter for the purpose of lighting a cigarette, he suffered an epileptic fit which caused the lighter to fall on wooden chips, causing a fire which not only gutted the warehouse and the wood in it, but also caused the death of X. X's estate makes a claim on the insurers of both policies. **(6X2=12 Marks)**

Q.5 Distinguish between:

- (a) Subrogation and abandonment.
- (b) First condition of average and second condition of average.
- (c) Condition delimiting the risk and warranty.
- (d) Renewal of life policies and revival of life policies.
- (e) Treaty reinsurance and facultative obligatory reinsurance. **(2X5=10 Marks)**

NATIONAL LAW UNIVERSITY, DELHI

B.A.LL.B.(Hons.), V Year, X Semester (Batch 2012) End-Semester Examinations, May/June-2017

Paper 10.2: Human Rights, International Humanitarian and Refugee Law

Time: 3.00 Hours

Total Marks: 50

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the Question Paper except your Roll No.

-
- Q.1 A coherent approach to the protection, promotion and interpretation of Human Rights is best possible through the strengthening of regional Human Rights mechanism. Discuss in light of the pioneering work done by the European Court of Human Rights (ECHR) and the other regional mechanisms of the world. **(12 Marks)**
- Q.2 Abuba is a land locked country having several ethnic groups who although belonging to the same religion have been involved in bitter infighting amongst themselves and with the elected government over the political control of Abuba for long.
Gulbadan Hetmatyar who is war lord in Abuba belongs to one of these ethnic group and has been accused of severe violations of human rights by the rival ethnic groups for long.
Gulbadan Hekmatyar being under intense pressure in his home country to surrender before the elected government escapes and enters India seeking refugee status.
It is well known that we have neither signed nor ratified the Refugee Convention of 1951.
In light of the above discuss the following:-
- (a) India has neither signed nor ratified the Refugee Convention of 1951 and the subsequent Protocol of 1967 and continues to address the refugee issue on an adhoc and case to case basis.
Discuss the various measures which the Government of India has been taking to address the issue of refugee problem. **(5 Marks)**
- (b) Discuss the various grounds on which a person can seek refugee status under the 1951 Convention? **(5 Marks)**
- Q.3 Savara is a country which has been under one party rule for several decades, with no active opposition or identifiable political groups being in the political picture of Savara for long.
Years of misrule by this one party government and severe drought like situation for years has resulted in grave economic crisis resulting in growing unrest amongst the general population of Savara which now has increasingly started protesting violently against the government of their country.
The government has been trying to control the situation through violent and brutal means against its own population which consists of various opposition leaders and rebel groups which has resulted in severe violations of the Humanitarian laws on occasions.
In light of the above discuss the following:
- (a) Discuss the origin and development of International Humanitarian Law principles through the 1949 Geneva Conventions and the 1977 Additional Protocols.
- (b) Highlight the importance of grave breaches of the Geneva Conventions and the Common Article 3 of the Geneva Conventions. **(12 Marks)**
- Q.4(a) ढी ढी ढी such other facts as it may consider necessary for prevention of human rights.ö
Discuss the scope of residuary powers of NHRC especially in the context of *Ramdeo Chauhan v. Bani Kanta Das* (2010)14 SCC 2098.
- (b) The gross human rights violations by the police initially and then by the armed forces requisitioned to control the escalating caste violence in a part of the country came to the notice of NHRC through a newspaper report.
Can the issue be taken cognizance of by NHRC? What measures, if any, can be taken by the Commission in view of its mandate under the enactment? **(10 Marks)**
- Q.5 The customary, traditional practice of Female Genital Mutilation (FGM) relating to a particular set of a religious community is viewed therein to be religiously prescribed and that the rules cannot be re-written in the name of social reforms and cannot be challenged as being violative of Part III of the Constitution.
Discuss the given and similar situations in the background of the provisions of International Human Rights Instruments. **(6 Marks)**