

# NATIONAL LAW UNIVERSITY, DELHI

## B.A, LLB. (Hons.): I-YEAR, II-SEMESTER

### Special Repeat Examinations, September/October -2013

#### Paper 2.2: Law of Torts-II

Time: 2½ 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 Mr Rajat (R) has been employed as a supervisor by the M Global Corporation Ltd (MGL) New Delhi since 12 January 2000. R is a devoted and committed supervisor and has also been awarded various rewards for his integrity and honesty. Due to his strict disciplinary actions some workers, who were involved in serious misconducts, have been removed from the services of the MGL. Appeals of these workers have been pending before the Appellate Authority of MGL. Next date of hearing of appeals is fixed on 15 May 2013. Some of the dismissed workers of MGL, for removal from service, have been threatening R of dire consequences. Matters related to threat and intimidation has also been reported to local police. But the local police have not done anything to protect the interest of R. R lost hope for police protection and began to carry his licensed revolver for his protection. He used to carry the firearm inside the premises of the Industry despite the fact there is a prohibition of bringing arms and ammunitions at working place.

On 15 May 2013, some miscreants, by killing security guards, with the intention to commit robbery of valuables from the cash room, entered into the premises of the MGL. R used his revolver to apprehend two of the robbers who were in possession of huge cash of five million of the MGL. Mr James (J), a casual worker of one independent contractor (IC), who did not pay any heed to firing between R and robbers, was seriously injured due to firing caused by R. IC on behalf of J filed a claim, for permanent disablement suffered from the wrongful action of R, for a compensation of two lac rupees from MGL. R has been suspended for breach of terms and conditions of employment for carrying revolver inside the industry.

MGL argues that there is no question of application of secondary liability on the ground that R is a supervisor, not an employee, and the wrongful action was not at all related to the contract of employment of R. MGL contests that the State Government (SG) is vicariously liable for the negligence of civil police for not providing any protection to R which has resulted into permanent disablement of J and the immunity of sovereign function is also not available to the state on the grounds of violation of fundamental rights. MGL further contends that IC, besides the SG, is also liable to pay compensation to his employee because J was working under the supervision and control of IC and contributory negligence is applicable to the claim of J. R contends that he had received threats from former employees of MGL, who were appearing before the appellate authority on the day of firing incident.

The SG disputes all allegations and denies its liability on the ground that maintenance of law and order is a part of sovereign function and it is very difficult for the state to provide police protection to each and every member of society. SG further argues that MGL or IC or both are liable for the wrongful action of R and contributory negligence of J.

IC claims that MGL is liable to pay compensation under secondary liability and there is no application of contributory negligence on the part of J. IC also argues that MGL and R are joint tortfeasors and therefore their liability is joint and several. IC also prays that compensation should be paid by MGL because R is not in a sound financial position to meet the claim.

You are required to frame appropriate issues taking into consideration the factual matrix. Support your conclusion with justification and relevant cases to the issues.

**(8 Marks)**

Q2. Mr. Dasarath Singh was a driver of an auto rickshaw owned by Mr. Lalit Singh. The vehicle in question was registered as a public carrier vehicle. This vehicle was insured under comprehensive insurance policy. On 22nd of March, 2013, some unknown passengers hired the above auto rickshaw from rickshaw stand at Anand Vihar Bus Stand. The said auto rickshaw was reported stolen and the dead body of driver was recovered by the local police on the next day but the auto rickshaw was not recovered. Claim of the owner for the loss of auto rickshaw was accepted by the Insurance Company and a sum of Rs.1, 45,000 was settled, by the said company towards the loss suffered by the owner.

Mrs Dasarath Singh filed a claim petition, before the MACT Karkardooma, New Delhi, under Section 163A of the Motor Vehicles Act, 1988 claiming damages for the death caused to the deceased during the course of his employment. The insurer argued that the driver had been murdered and there is no casual connection between the murder and use of the motor vehicle. On 15 April 2013 during the pendency of the claim of the dependants before the Tribunal, the said auto rickshaw was found parked at a place near to the Police Station Anand Vihar, New Delhi.

You are required to frame issues and decide the claim support your decision with relevant case law. **(8 Marks)**

- Q.3 (a) Action for trespass may succeed where other actions fail.  
Critically examine the ingredients of tort of Battery in light of above statement.
- (b) A, an unmarried woman aged 45 years, visited the clinic of B complaining of prolonged menstrual bleedings for ten days. B examined and advised A to undergo a laparoscopic test under general anaesthesia for making an affirmative diagnosis. A consented to this procedure. However, while A was unconscious, hysterectomy (by which her uterus, ovaries and fallopian tubes were removed) was performed upon her after taking consent from her mother. A filed a suit against B before a civil court claiming compensation. B contended that the surgery was done according to the accepted medical practice. B also contended that removal of uterus and ovaries was proper and necessary and there was no negligence on the part of B in performing the surgery and the surgery cured A of her ailments and also saved her intestines, bladder etc. from possible damage and that was done in the best interest of B. Decide with the help of decided case law. **(8 Marks)**
- Q.4 (a) Differentiate between the strict liability and absolute liability? **(8 Marks)**
- (b) Decide the liability of the defendant under the strict liability in the following situations. Give reasons and support your decisions with relevant cases.
- Defendant has planted some perilous plants on his land. One animal of the neighbour enters into the land of defendant. It eats the leaves of the plants and dies outside the premises of the defendant.
  - Plaintiff and defendant are owners of adjoining houses. A branch of a toxic tree growing on the defendant's land overhung at a height of 25 feet above the ground, in fine weather suddenly broke and fell upon the plaintiff's vehicle, when he was parking the vehicle. The said vehicle was damaged and plaintiff was also seriously injured.
- Q.5 In the famous case *Herd v. Weardale, Steel, Coal & Coke Co. Ltd.* (1915) A.C.67, Herd was employed by the Defendants to work in their mine. In breach of contract of service, Herd refused to do certain work in the mine. In the ordinary course Herd would have been raised from mine to the surface at the end of his work shift. His employers refused to bring him out prematurely although the lift which was the only means of the egress from the mine, was available for this purpose for a period of twenty minutes before he was actually brought out of the mine. He filed a suit against his employers for false imprisonment. It was held by the House of Lords that the employers were not liable. Critically examine the decision in light of the modern principles of law. **(7 Marks)**
- Q.6(a) The law on the recovery of compensation for pure psychiatric harm is a patchwork quilt of distinctions which are difficult to justify. Comment.
- (b) Due to negligence of A, X and his three sons met with a road accident. X and his two sons got severely injured whereas one child was killed. At the time of accident, wife of X was two miles away from the site of accident. On being told of the accident, she rushed to the hospital where she saw the injured husband and children and came to know about the death of one child, as a result of which she suffered severe nervous shock. She files a suit against A seeking compensation. Decide. **(3+3=6 Marks)**
- Q.7 Explain with reasons whether the following cases fall in the category of trespass to person
- Forcibly exposing a minor to X-Rays during diagnostic procedure
  - Mandatory HIV testing at University
  - Pointing unloaded gun on temple of a person
  - Throwing water at a person
- (5 Marks)**

# NATIONAL LAW UNIVERSITY, DELHI

## B.A, LLB. (Hons.): I-YEAR, II-SEMESTER

### Special Repeat Examinations, September/October-2013

#### Paper 2.3: Criminal Law-I

Time: 2½ 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.
- 

- Q1. On a quarrel over a Rs.100 loan appellant came up and inflicted an injury on the lower part of the neck joining with the shoulder of the deceased with a pen knife from behind. The deceased was taken to hospital and died there fifteen days later as a result of septic poisoning from the wound. Surgeon who treated the deceased deposed that injury was on the right side of the neck about 2 ½" by 2 ¾" in dimension and was inflicted with a sharp edged weapon. He also deposed that there was every possibility of deceased surviving but for the wound being septic apparently as a result of it being pressed with hands and bandaged with dirty cloth in the initial stages. Wound was not itself sufficient to cause death as was evident from medical evidence. Conviction was altered from sec. 304 Part II to sec. 326 IPC. Do you agree with the court decision? Elucidate. **(10 Marks)**
- Q2. Distinction between Culpable homicide and murder depends upon the degree of intention and knowledge with which the death is caused. Liability is determined according to the facts and circumstances of each case considering the nature of weapon used, nature of injuries (single or multiple) and other allied factors. Elucidate in the light of *State of Andhra Pradesh V. Punnaya* 1977 SC 45. **(10 Marks)**
- Q3. What is meant by the term "grave and sudden provocation"? Have the courts given this term a different meaning in the statute? Explain with the help of decided cases. **(10 Marks)**
- Q4. Discuss in the context of *Thakorlal D Vadgama V. State of Gujrat* AIR 1973 SC 2313 and *S. Vardarajan V. State of Madras* AIR 1965 SC 942 whether a minor herself could abandon guardianship. How the court satisfies itself about this fact? **(10 Marks)**
- Q5. (a) Explain the principles of law laid down in *K N Mehra's* case. Do you agree with the judgment of the court in holding the accused guilty of theft? Explain. **(5 Marks)**
- (b) When theft and extortion become the robbery? Discuss with examples. **(2.5 Marks)**
- (c) A, a resident student of NLU finds a 500 rupees note on the road going to girl hostel, not knowing to whom it belongs appropriates it to his own use; A afterwards discovers that it belongs to B. A is guilty of which offence under the IPC? Give reasons for your answer. **(2.5 Marks)**

# **NATIONAL LAW UNIVERSITY, DELHI**

## **B.A, LLB. (Hons.): I-YEAR, II-SEMESTER**

### **Special Repeat Examinations, September/October--2013**

#### **Paper 2.4: Political Science –II**

Time: 2½ 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.
- 

**All questions carry equal marks. Answer any five questions.**

Q.1 Was Kant an ideal philosopher, or did he have a solid understanding of international relations?

Or

Does trade reduce conflict or conflict reduce trade or both and why?

Q.2 Why do Marxists believe that capitalism cannot be adequately understood as a domestic phenomenon? How this has been reflected in the theories of imperialism?

Q.3 What is globalization what are its sources? In what ways globalization impinges on the state sovereignty & limits the autonomy of state action?

Q.4 How has modernity altered the character of religious communities in India?

Q.5 Discuss *Marc Galanter's* approach of compensatory discrimination towards the disadvantaged groups in India.