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21 (SEM-5) LWTC 5-3 (N)

2024

**LAW OF TORT INCLUDING MV  
ACCIDENT AND CONSUMER  
PROTECTION LAWS**

(New Syllabus)

Paper : 5-3

Full Marks : 80

Time : Three hours

***The figures in the margin indicate  
full marks for the questions.***

1. Choose the correct options :  $1 \times 10 = 10$
- (a) Tort is an infringement of a \_\_\_\_\_ of a private individual giving a right of compensation at the suit of the injured party. (*right in rem/right in personam*)
- (b) \_\_\_\_\_ as a tort means an unlawful interference with a person's use or enjoyment of land, or some right over, or in connection with it.  
(*Nuisance/Trespass*)
- (c) The rule of 'strict liability' is based on the decision in the case \_\_\_\_\_.  
(*Bhopal Gas Tragedy/Rylands v. Fletcher*)

Contd.

- (d) In a civil action for defamation, truth of the defamatory matter is complete defence. (True/False)
- (e) Absolute liability is not applicable in India. (True/False)
- (f) An act causing damage, if done under \_\_\_\_\_ to prevent a greater evil is not actionable even though harm was caused intentionally.  
(Necessity/Inevitable Accident)
- (g) Rescue cases are the exceptions to the maxim of \_\_\_\_\_.  
(*volenti non-fit injuria/damnum sine injuria*)
- (h) The term 'complainant' under the Consumer Protection Act, 2019 is provided under Section \_\_\_\_\_. [2(3)/2(5)]
- (i) Under Section 2(21) of the Consumer Protection Act, 2019 goods refer to every kind of \_\_\_\_\_.  
(*Movable property/Movable and Immovable property*)
- (j) Special provisions as to compensation in case of hit and run motor accident under Motor Vehicles Act, 2019 provided under Section \_\_\_\_\_.  
(161/164)

2. Answer the following : 2×5=10
- (a) What is Doctrine of Apportionment?
- (b) Define the maxim 'Volenti Nanfit injuria'.
- (c) What is trespass abinitio?
- (d) What is deceit in tort?
- (e) What is Nervous Shock?
3. (a) "Tort is an act or omission resulting in breach of duty to an individual for which he is entitled to get reparation from the wrongdoer, and such reparation is unliquidated." — Explain the given statement made by Federick Pollock. Also, distinguish between Tort and Breach of Contract. 6+6=12

**Or**

- (b) What are the characteristics of Tort? Discuss in detail the essential elements of Tort.
4. (a) Discuss the theory of vicarious liability with special reference to the liability of a master for the acts of an independent contractor engaged by him. 12

**Or**

- (b) What do you mean by Remoteness Damages? Discuss the various general remedies available in an action for Tort.  
2+10=12

5. (a) Define Innuendo. Distinguish between libel and slander. What are the defences available against an action for defamation?  $2+3+7=12$

**Or**

- (b) What is Strict liability? Discuss the rules laid down in the case of Rylands *v.* Fletcher along with the exceptions to strict liability.  $2+10=12$

6. (a) What are the objectives of Motor Vehicles (Amendment) Act, 2019? Discuss the provisions of liability in that fault and effect of death of parties under the Act, 2019.  $4+8=12$

**Or**

- (b) Write brief notes on :  $4 \times 3 = 12$

- (i) Doctrine of Stare Decisis
- (ii) Contributory negligence in case of accident
- (iii) Insurer's liability for third party risk

7. (a) Explain the composition, jurisdiction, power and procedure of the consumer Redressal Agencies under the Consumer Protection Act, 2019.  $12$

**Or**

- (b) Define the following as per the Consumer Protection Act, 2019 :  $4 \times 3 = 12$

- (i) Defective Goods
- (ii) Unfair Trade Practice
- (iii) Deficiency in service