

AU-7057

B.A. LL.B./B.Com. LL.B. (First Semester) Examination, 2014

Law of Torts

Maximum Marks: 80 Marks

Note: Attempt questions of all three sections as directed. Distribution of marks is given with sections.

Section-‘A’

15×2=30

(Objective Type Questions)

Note: Attempt all questions. Each question carries 2 marks

1.

- | | |
|--|---|
| (i)
(a) Tortum | viii
(c) An act is not tort, who has consented to it |
| (ii)
(a) Lack of consciousness about one's right and the spirit of toleration | ix
(b) Reylands v. Fletcher |
| (iii)
(b) Uncodified law | x.
(b) A right in rem |
| (iv)
(d) All are correct | xi
(b) Judicial decisions |
| (v)
(a) The Principle is liable for the act of agent. | xii
(c) Both (a) and (b) |
| (vi)
(c) the society in general | xiii
(c) Both (a) and (b) |
| vii
(a) A party seeks to enforce its right against another party | xiv
(a) Act of god |
| | xv
(b) Un-liquidated |

Section-B

5×4=20

(Short Answer Type Questions)

Note: Attempt any five questions. Each question carries 4 marks.

2. Tort defined by various Jurist.

Explain definitions by different authors

1. Ratanlal and Dhirajlal
2. Limitation act, 1963 section 2(m)
3. Fraser
4. P.H. Winfield and Jolowicz
5. V.H. Roovers
6. Salmond
7. Clerk and Lindsell

8. Underhill
9. Sir Frederick Pollock

3. Short Notes

(a) Mal-feasance -

- Commission of an unlawful act
- Generally applicable to those unlawful act which is actionable per se and do not require proof
- Support answer with Examples

(b) Misfeasance -

- Improper performance of some lawful act
- Examples

(c) Nonfeasance -

- Failure to perform an obligatory act.
- Examples

4. Doctrine of Common Employment

- Explain the doctrine
- Explain the ratio of the case Priestly v Fowler
- Impact of law reform act, 1948

5. Battery and its ingredient

- Explain the term battery
- Illustration/Examples
- Ingredients
 - i. Use of force
 - ii. Use of force was intentional
- Explain with help of case laws including Cole v Turner

6. Defence in a Suit of false Imprisonment

- Self defence
- Defence of one's property
- legal process
- consent
- parental authority
- Assisting an officer of law
- Preventing breach of public peace
- Public authority

7. Libel and its Ingredient

- Definition of libel
- Illustrations/Examples
- Ingredients
 1. Statement must be false
 2. It must be in permanent for
 3. It must be defamatory-
- Libel actionable per se

8. Explain following torts

(a) Trespass ab-initio

- Trespass from the beginning (Explain briefly)
- Position in India and UK
- Examples

(b) Detinue

- Withholding the immediate possession of good from one who is entitled

- Examples
- (c) Conversion
 - Wrongful taking or using or destroying of good or an exercise of dominion over them inconsistent with the title of the owner
 - What constitute Conversion
 - Wrongfully taking
 - Wrongfully detaining
 - Wrongfully disposing
 - Examples

Section –C
(Long Answer Type Questions)

2×15=30

Note: Attempt any two questions. Each question carries 15 marks

9 Vicarious Liability

- I. Introduction - Vicarious liability
- II. Basis and reason
 - (i) Respondeat Superior
 - (ii) Qui facit per alium facit per se

III. How arise

- By ratification (Explain in Brief)
- By relationship (Explain in brief)
- By abetment (Explain in brief)

IV. Master-servant

- Who is a servant
- Contract of service
- Contract for service
- Two test
 - Control Test
 - Organisation Test
- Cases where Master- Servant Relation is absent
 - Lending a servant
 - Doctrine of casual Delegation
 - Master's Liability to Servant
 - Doctrine of common employment
 - Master's Common law Duties
 - Course of employment (Explain in brief) including
 - Natural Consequences
 - Negligence
 - Deviation
 - Mistake
 - Wilful Wrong
 - Fraud
 - Crime
 - Exception to Master's Liability (Out of course of employment)

10. Trespass to land, Plaintiff must prove, Remedies available

- Definition
- Illustrations/Examples
- How affected

- By entering upon the land of another (Explain in brief)
- By remaining on land against the owners will (Explain in brief)
- By causing some object or matter to enter upon the plaintiff's land (Explain in brief)
- Plaintiff must prove two things
 - Actual Possession of land
 - Direct Interference with the possession
- Who can sue
- Defences available
 - Consent
 1. Licence
 2. grant
 - Authority of law
 1. Reentry on land
 2. retaking of good
 3. inspection of premises
 4. Necessity
 5. Self defence
 6. Execution of legal process
- Remedies
 1. Ejection
 2. Self help
 3. Use of force
 4. Action of law

11. Rylands v Fletcher case

- Rylands v. Fletcher
 - Facts of case
 - Two main rule
 - i. There should be an escape from the land of something likely to do mischief if it escape
 - ii. There should be some non-natural use of land
- Five Exception to the rule
 1. Act of god
 2. Wrongful or malicious act of a stranger
 3. Plaintiff's own fault
 4. Common benefit
 5. Statutory authority
- Defence
 1. Plaintiff's Contributory Negligence
 2. Plaintiff is a trespasser
 3. Plaintiff Undertook the risk
 4. Act of a third party
 5. Act of God

Prepared by : Mr. Prabhash Dalei
 Assistant Professor (Ad-hoc)
 School of Law