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19 (I) LTMV 1.4

2019

**LAW OF TORT INCL. M.V. ACT &
CONSUMER PROTECTION LAW**

Paper : 1.4

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answers :

1×10=10

a) The Law of Torts is primarily concerned with redressal of wrongful civil actions by awarding _____.

[compensation/civil punishment]

b) Compensation provided in the tort is _____.

[liquidated damages/unliquidated damages]

Contd.

c) The case of _____ deals with Strict liability.

[*Rylands v. Fletcher/Pasley v. Freeman*]

d) The District Forum under the Consumer Protection Act, 1986 has _____ to review its order.

[no power/power]

e) The Motor Vehicles (Amendment) Act, 2019 is being implemented since _____.
[2nd of August, 2019/1st of September, 2019]

f) The main remedy against tortious loss is compensation in _____ or money, reclaimed through subrogation by the claimant's agent.

[punishment/damages]

g) Negligence is a tort which arises from the breach of the duty of care owed by one person to another from the perspective of a _____.

[common man/reasonable person]

h) Although crimes may be torts, the cause of legal action is not necessarily a crime, as the harm may be due to negligence which does not amount to _____.

[criminal negligence/civil negligence]

i) Tortious liability arises from the breach of a duty primarily fixed by the law, such duty is towards persons generally and its breach is compensated by an action for _____ damages.

[liquidated/unliquidated]

j) In certain cases, negligence can be assumed under the doctrine of _____.
[*Damnum Sine Injuria/res ipsa loquitur*]

2. Write short answers : **(any five)** 2×5=10

a) Concept of Tort

b) Distinguish Malice and Motive

- c) Is the *Volenti non fit injuria* an essential condition of liability in tort ?
- d) What do you mean by Intention ?
- e) What is 'Deceit' in reference to Rule in *Derry vs Peak* ?
- f) Define 'consumer' under Consumer Protection Act.

3. Define the scope and characteristics of tort. Distinguish between tort and crime.

12

Or

'Tortious liability arises from the breach of a duty primarily fixed by law : this duty is towards persons generally and its breach is redressible by an action for unliquidated damages.' (Winfield).

Elucidate the above statement with suitable case law.

12

4. Discuss with the help of decided cases, various essentials of the maxims *Damnum Sine Injuria* and *Injuria Sine Damnum*.

12

Or

What do you mean by 'Vicarious Liability' ? Discuss the law evolved by the Supreme Court on 'Vicarious Liability of the State' for torts committed by its servants with reference to Bhopal Gas Leak Disaster Case.

12

5. Discuss the concept of Damages, Remoteness of damages and Nervous shock. Briefly state the development of the law relating to 'Remoteness of damages' in reference to *Re Polemis and Furness, Withy & Co. Ltd. (1921) 3 KB 560*.

12

Or

Briefly discuss the concept of 'no-fault liability' under the Motor Vehicles Act, 1988. What is the extent of liability of the insurer in case of 'no-fault liability' ?

12

6. Discuss the concept of 'Innuendo' with reference to Indian and English cases. What are the essentials of defamation ? Illustrate your answer. 12

Or

Discuss the Composition, Jurisdiction, Power and Functions of National Commission Disputes Redressal Commission. 12

7. Briefly discuss the scope and importance of Consumer Protection Act, 1986. What are the important guidelines for protecting Consumer Rights under the Act ? 12

Or

Write short notes on : **(any three)**

4×3=12

- a) How far an Act of God is an exception to the liability in tort ?
- b) State the consequence of driving without driving licence.

- c) Distinguish between Private & Public nuisance.
- d) Joint Tortfeasors.

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19 (I) LWTR 1.4

2018

**LAW OF TORT INCL. MV ACT
AND CP LAWS**

Paper : 1.4

Full Marks : 80

Time : Three hours

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

1. Choose the correct answer : $1 \times 10 = 10$

(a) "Tort is a civil wrong independent of contract, for which the appropriate remedy is an action of damages".

This statement is made by _____.

(Salmond/Ratanlal and Dhirajlal)

Contd.

- (b) There is no law of 'tort' but 'torts' was said by _____. (Salmond/Winfield)
- (c) The defence of 'act of necessity' is based on the maxim _____. (*Salus populi suprema lex/Ubi jus ibi remedium*)
- (d) Due to earthquake a tenant died. The Landlord can take defence of _____. (inevitable accident/Act of God)
- (e) The maxim '*res ipsa loquitur*' is a _____. (rule of evidence/rule of negligence)
- (f) Direct interference in the possession of land without lawful justification is called _____. (trespass/nuisance)
- (g) Under section 2(1) (d) a person who obtains good for resale or for any commercial purpose is _____. (a consumer/not a consumer)

- (h) Deficiency in service is defined in section _____ of the Consumer Protection Act, 1986. [2(1)(g)/2(1)(f)]
- (i) A member of the District Forum shall hold office for a term of five years or upto the age of _____, whichever is earlier. (60 years/67 years)
- (j) A person aggrieved by an order made by the District Forum may file an appeal in the State Commission within _____. (30 days/45 days)

2. Write short notes on : 2×5=10

- (a) Gloucester Grammar School case
- (b) *Volenti non fit injuria*
- (c) *Innuendo*

(d) Definition of 'Defect' as per the Consumer Protection Act, 1986

(e) 'Original Jurisdiction' of the State Commission and National Commission

3. "A tort is a civil wrong, independent of contract, for which the appropriate remedy is an action for damages".

Discuss fully, bringing out the distinction between a tort and other types of wrong.

12

Or

Define the term 'tort' and explain its characteristics. Discuss the reasons for slow development of law of torts in India.

3+4+5=12

4. Explain the theory of vicarious liability, with special reference to the liability of a master for the acts of his servants. Discuss when a master would not be liable for the acts of his servant.

5+4+3=12

Or

What are the different remedies available for tortious acts? Point out the judicial remedies and explain the same with reference to leading cases.

4+8=12

5. Define the tort of nuisance. Outline the distinction between private and public nuisance. What are the remedies available to plaintiff in a suit filed for nuisance?

3+5+4=12

Or

Define Malicious criminal prosecution. How does tortious liability arise for malicious criminal prosecution? Explain about the distinction between 'Malicious Prosecution' and 'False Imprisonment'.

2+6+4=12

6. Define Consumerism and explain its guiding principles. Write an essay about objectives of the Consumer Protection Act, 1986.

2+2+8=12

Or

Write short notes on : 6+6=12

(a) Definition of 'Consumer' as per the Consumer Protection Act, 1986, with examples

(b) 'Unfair trade practice' as envisaged by the Consumer Protection Act, 1986

7. Explain the redressal mechanism available to consumer under the Consumer Protection Act, 1986 with its jurisdiction.

12

Or

Discuss the procedures for lodging a complaint against defective goods. State how these complaints are adjudicated. Write a few lines on powers of the consumer disputes redressal agencies.

5+4+3=12

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19 (I) TCPL 1-4

2017

**LAW OF TORT INCL. M.V. ACT AND
CONSUMER PROTECTION LAWS**

Paper : 1-4

Full Marks : 80

Time : Three hours

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

1. Choose the correct answer : $1 \times 10 = 10$
- (a) Liability in torts depends on _____.
(quantum of damages suffered/
infringement of legal right)
- (b) _____ is the gist of tortious liability.
(Legal damages/ Violation of legal right)
- (c) Respondent Superior means _____.
(master is superior/principal is legally
responsible for the wrongful acts done
by an employee)

Contd.

(d) Doctrine of common employment is _____ in India.

(applied/not applied)

(e) *Res Ipsa Loquitur* means _____.
(the thing speak for itself/the thing speak for others)

(f) A battery is _____.
(an attempt to do a corporeal hurt to another/the actual striking of another person)

(g) The Consumer Protection Act provides for setting up of _____ bodies at the District, State and National levels for redressal of Consumer disputes.

(Quasi-Judicial/Judicial)

(h) _____ does not fall under consumer rights.

(Right to choose/Right to seek govt. help)

(i) A member of the state commission shall hold office for a term of five years or upto the age of _____ years, whichever is earlier.

(65/67)

(j) _____ empowers the State Commission to transfer any complaint from one district forum to another district forum within the state.

(Section 17-A/Section 17-B)

2. Write short notes on : 2×5=10

(a) Wrongs which are not torts

(b) Exceptions to the maxim *volenti non fit injuria*

(c) The circumstances in which slander is actionable *per se*

(d) Definition of 'Goods' as per the Consumer Protection Act, 1986

(e) Appeal against District Forum's decision.

3. Is there a law of tort or only a law of torts? Answer in the light of theories relating to foundation of tortious liability. 12

Or

Attempt **any two** of the following :

6+6=12

- (i) Explain the essential elements of a tort highlighting the maxim '*Injuria sine damnam*'.
- (ii) Define tort and bring out the distinction between tort and crime.
- (iii) 'Every injury imparts damage but every damage is not injury.'

— Discuss the statement.

4. Explain the following defences : 4×3=12

- (i) Act of God.
- (ii) Inevitable accident.
- (iii) Private defence.
- (iv) Acts of State.

Or

Point out the persons who cannot sue in tort, owing to personal disability. 12

5. Distinguish between : **(any two)** 6+6=12

- (i) Libel and Slander
- (ii) Public Nuisance and Private Nuisance
- (iii) Assault and Battery.

Or

What is meant by negligence? What standards are applied to determine the question of negligence? What defences are available in an action for negligence?

4+3+5=12

6. Define and explain the following as per the Consumer Protection Act with examples : **(any six)** $2+2+2+2+2+2=12$

- (i) Complainant
- (ii) Defect
- (iii) Deficiency
- (iv) Trader
- (v) Consumer Dispute
- (vi) Service
- (vii) Restrictive Trade Practice.

Or

What do you mean by the term 'consumer'? Write an exhaustive note on unfair trade practice as envisaged by the Consumer Protection Act, 1986 giving illustrations and decided case laws. $5+7=12$

7. Narrate briefly the procedures for filing a complaint before the District Forum and procedures that are followed by it for adjudication of a dispute. State its territorial and pecuniary jurisdiction. $9+2+1=12$

Or

State the period of limitations for filing a complaint before the District Forum, State Commission and National Commission. Discuss the procedures for filing appeals against the order of District Forum, State Commission and National Commission. $6+6=12$

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19 (Sem-I) LWTR

2016

**LAW OF TORTS INCLUDING MV ACT
AND CONSUMER PROTECTION LAW**

Paper : 1.4

Full Marks : 80

Time : Three hours

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

1. Fill in the blanks with appropriate answer :
1×10=10

(A) The term tort is derived from a word tortism which is _____. (a word of Latin/a word of French)

(B) Tort may be defined as a _____.
(crime/civil wrong)

(C) Rescue cases are the exception to the maxim of _____. (volenti non fit injuria/damnum sine injuria)

Contd.

(D) The defence of volenti non fit injuria is available to the _____ only. (plaintiff/defendant)

(E) Libel is _____ defamation. (written/spoken)

(F) To prove negligence, the burden of proof is generally on _____. (defendant/plaintiff)

(G) The Consumer Protection Act was enacted in _____. (1984/1986)

(H) Complainant is defined by section _____ of the Consumer Protection Act. [2(6)/2(9)]

(I) Section _____ of the Consumer Protection Act provides for the constitution of three tier Redressal Agencies. (6/9)

(J) The term of members of the Central Council is _____ years. (3/2)

2. Answer the following : 5×2=10

(A) Write Dr. Winfield definition of tort.

(B) What is Act of necessity ?

(C) What is battery ?

(D) Define deficiency in service.

(E) Mention *two* objectives of the Consumer Protection Act.

3. Define tort. Explain about the general conditions of liability in tort. 2+10=12

OR

Write short notes on the following :
(*any two*) 6+6=12

(A) Tort and crime

(B) Tort and breach of contract

(C) Malice, motive, intention.

4. Explain exhaustively about the various exception to the tortious liability. 12

OR

Explain the maxim 'volenti-non-fit injuria' along with the exceptions, if any. 12

5. What is defamation ? What are the different kinds of defamation ? Explain about them. Also explain the essentials of defamation. 2+4+6=12

OR

Define negligence. What are the essentials of negligence ? What are the defences to negligence ? 2+6+4=12

6. Who is consumer ? Explain about the salient features of the Consumer Protection Act, 1986. 12

OR

Write short notes on : **(any two)** $6 \times 2 = 12$

- (A) Unfair trade practice
- (B) Hazardous Goods
- (C) Deficiency in service.

7. Discuss about the composition, jurisdiction and power and function of the National Commission. $3+3+6=12$

OR

Explain about the composition and jurisdiction of various consumer dispute redressal agencies under the Consumer Protection Act. 12

Total number of printed pages-4

19 (3-I) LWTR 1.4

2015

**LAW OF TORT INCLUDING MV &
CONSUMER PROTECTION LAW**

Full Marks : 80

Time : Three hours

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

*Answer Q. nos. 1 & 2 and any five
from the rest.*

1. Write correct answer : 1×10=10
- (a) Compulsory compensation is given in hit and run cases under (the Motor Vehicle Act, Indian Contract Act)
 - (b) The doctrine of absolute liability was established in (1868/1870)
 - (c) The law of torts signifies violation of rights and duties / rights and privileges.
 - (d) The distinction between tort and breach of trust is based on (historical/ancient reason).

Contd.

(e) Who called Salmond's theory as the 'Doctrine of Pigeon Hole' (Dr. Winfield/W.C. Reckless) 3.

(f) Vicarious liability means (delegated/entrusted).

(g) According to Pollock there is _____ of personal capacity for damages for personal injuries. (no limit/limit)

(h) The law of tort is concerned with the (award of damage/punishment)

(i) The tort of defamation protects in the (reputation/body) of persons.

(j) Defect has been defined in Section of the Consumer Protection Act (Section 2(f)/1(g).

2. Write notes on :

2×5=10

(a) Tort and Quasi-contract

(b) Master's duties towards servants

(c) Driving without driving licence

(d) Deceit Rule in *Derry vs Peak*

(e) Deficiency in service.

3. Discuss the characteristics of Tort. Distinguish its liability in England and India. 6+6=12

Or

What are the essential conditions of liability in Tort in India? 12

4. Discuss the general defences which apply in every tort when the plaintiff brings an action against the defendant. 12

Or

Write an exhaustive note on joint Tortfeasors. What is the present position of the Civil Liabilities (Contribution Act) 1978? 8+4=12

5. Define defamation. What are its kind? Distinguish them truly. 4+2+6=12

Or

To bring an action for malicious prosecution, what the plaintiff is to prove? Discuss fully with abuse of legal process. 12

6. What are the factors necessitated to enact Consumer Protection law? Discuss. 12

Or

What is a complaint? How a complaint is adjudicated under the provisions of the Consumer Act 1986 as amended. 4+8=12

7. Discuss the different consumer Disputes Redressal Agencies with their powers. 12

Or

How an order of Redressal Agencies is enforced ? Discuss the appeal provisions of redressal for ums. 6+6=12

Total number of printed pages—3

19 (1) LWTR 1·2 (O)

2014

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

(Old Course)

Paper : 1·2

Full Marks : 80

Time : Three hours

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

*Answer any three questions from Group-A and
any two questions from Group-B.*

Group—A

Answer Q. No. 1 and any two questions.

1. Write short notes on : *(any four)* 4×4=16
- (a) Absolute liability
- (b) No fault liability

Contd.

Group-B

- (c) Inevitable accident
- (d) Resultant legal damage
- (e) Mental element in tort.
2. What are the general defences of torts? Explain them briefly. 16
3. What do you mean by vicarious liability and under what circumstances it may arise? Discuss. 16
4. Discuss the theories of negligence with that of contributory negligence. 16
5. Distinguish between : (any four) 4×4=16
- (a) Libel and Slander
- (b) Malice in law and Malice in fact
- (c) Tort and Breach of Trust
- (d) Act of God and Inevitable accident
- (e) Injuria Sine damnum and Damnum Sine injuria.

6. What is Consumer dispute? How such dispute is resolved under the provision of the Consumer Protection Act 1986? 6+10=16.
7. Write about the different Forums under the Consumer Protection Act to redress the grievances such as District Forum, State Commission and National Commission along with their present powers and functions. 16
8. How an appeal can be filed against the order of District Forum? Discuss the limitation. 16
9. Write a note on special provision as to compensation in case of hit and run motor accident under the M.V. Act. 16