

**GUJARAT NATIONAL LAW UNIVERSITY
SILVASSA CAMPUS**

**Course: Law of Torts (Including MV Accident and Consumer Protection Act)
Semester- I (Batch: 2023-28)**

End Semester Examination (Special/Repeat): Jan 2024

Date: 30th Jan, 2024

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: (2 Marks: 150-200 words),(3 Marks: 250-300 words),(4 Marks:350-400 words),(5-10 Marks:650-800 words)

PART A

Answer any four of the following questions

Rahul is the owner of a construction company, and he employs several workers, including **Prikshit**, an experienced crane operator. One day, **Rahul** instructs **Prikshit** to operate a crane to lift heavy materials to the upper floors of a building under construction. **Rahul** provides specific guidelines on the weight limit the crane can handle and emphasizes the importance of ensuring the safety of the construction site. While operating the crane, **Prikshit** becomes distracted by his phone and fails to notice a group of pedestrians walking near the construction site. The load being lifted exceeds the recommended weight limit, causing the crane to malfunction. As a result, the load falls, injuring one of the pedestrians, **Prachi**.

Marks

5+5

In light of the facts mentioned above decide the following

- a. Is there a tort liability attracted by **Rahul** and **Prikshit**? Give reasons.
- b. What are the circumstances in which such liability occurs?

Please illustrate your answer with relevant case laws.

The complainant is the father of late son **Dhruv**, a student of the respondent school **DVP Public School**. During the summer camp, the school invited students for various activities including swimming in which the appellant's son also participated. One day the appellant received an urgent phone call from the school requesting him to come immediately since his son was unwell and when the appellant reached the school he was informed that his son had been taken to **XYZ Hospital** as he had drowned in the swimming pool. On reaching the hospital, the appellant's son was declared dead. In view of the facts mentioned

(10)

above, the appellant approached the State Commission complaining of negligence and deficiency in service on the part of the School and claimed a compensation of Rs 20,00,000 along with Rs 2,00,000 on account of mental agony and Rs 55,000 towards the cost of litigation

In light of the facts stated above, decide the liability of **DVP Public School** for deficiency of service under Consumer Protection Act, 1986. Elucidate your answer with relevant case laws.

John, a professional electrician, is hired by **ABC Manufacturing Company** to repair faulty wiring in their factory. The factory operates heavy machinery, and a sudden power failure could lead to significant financial losses. The factory manager informs **John** about the urgency of the repairs and emphasizes the importance of ensuring uninterrupted power supply during working hours. **John** inspects the wiring but, due to time constraints, decides to take shortcuts in the repair process. He fails to follow industry safety standards, neglects to properly secure the wiring, and leaves some exposed wires near the main power source. Additionally, he forgets to inform the factory manager about potential risks associated with the incomplete repair. A week later, during a busy production day, a power surge occurs as a result of **John's** faulty repairs. The factory experiences a sudden blackout, causing several machines to malfunction. In the ensuing chaos, an employee, Jane, trips over the exposed wires and sustains serious injuries. 4+6

In light of the facts mentioned above answer the following questions:

- a. Decide the liability of **John** in this case. Provide reasons. (4 marks)
- b. What are the grounds on which liability can be imposed on **John**? (6 marks)

Elucidate your answers with relevant case laws.

Rani owns a picturesque cottage in a quiet suburban neighbourhood. Next door **Ramesh** operates a small manufacturing business producing specialty wood products. Over time, **Rani** starts experiencing disturbances that she believes are affecting her peaceful enjoyment of her property. The disturbances include loud machinery noises, unpleasant odors emanating from the manufacturing process, and occasional debris from **Ramesh's** business landing in **Rani's** garden. Upset by these disturbances, **Rani** decides to take legal action against **Ramesh**, claiming that his business activities constitute a nuisance. **Ramesh** argues that his business has been operating in the same location for years without any complaints and that **Rani** is being overly sensitive. He also contends that the noises and odors are a natural consequence of his legitimate business activities. 5+5

In light of the statement mentioned above answer the following questions:

- a. Define nuisance. Whether, in light of the facts given above, Mike can be sued for nuisance or not?.

- b. What are the defenses available to a person alleged to have committed the tort of nuisance?
- a. Define libel and explain briefly all its important ingredients. (5+5)
- b. Briefly lay down and explain the defenses available against defamation.

PART B

- | | Marks |
|---|--------------|
| Q.6 Write a short note on any five of the following: | 5x2 |
| a. <i>Volenti non fit injuria</i> | |
| b. Sovereign Immunity | |
| c. <i>Damnum sine injuria</i> and <i>injuria sine damnum</i> , | |
| d. Rights <i>in rem</i> and Rights <i>in personam</i> . | |
| e. Trespass <i>ab initio</i> . | |
| f. Innuendos as defamatory statement | |
| g. 'Unfair trade practices' under Consumer Protection Act, 2019. | |
