

LL. B. I Term

Paper - LB – 103 – Law of Torts

The Law of Torts is primarily concerned with redressal of wrongful civil actions by awarding compensation. In a society where men live together, conflict of interests are bound to occur and they may from time to time cause damage to one or the other. In addition, with the rapid industrialization, tortious liability has come to be used against manufacturers and industrial units. The Law of Torts had originated from Common Law and by and large this branch of law continues to be uncodified. Tortious liability has been codified only to a very limited extent such as workmen's compensation, motor vehicle accidents, environmental degradation, consumer protection and the like.

As the Law of Torts is basically a judge made law, students are required to study it in the light of judicial pronouncements. They are required to equip themselves with the latest developments extending to the entire course.

Prescribed Books:

1. W.V.H. Rogers, **Winfield & Jolowicz on Tort** (19th ed., 2015)
2. R.F.V.Heuston and R.A. Buckley, **Salmond & Heuston on The Law of Torts** (20th ed.,1992)
3. G.P. Singh, **Ratanlal & Dhirajlal The Law of Torts** (26th ed., updated re-print 2015)
4. Tony Weir, **A Casebook on Tort** (9th ed., 2004)
5. Avtar Singh (Rev.), **P.S. Atchuthen Pillai Law of Torts** (9th ed., 2004)

PART A: LAW OF TORTS

Topic 1 : Introduction : Definition, Nature and Scope

- (a) Origin and Development of Law of Torts in England – Forms of action – Specific remedies from case to case.
 - (b) Evolution of Law of Torts in India – Un-codified and judge-made - Advantages and disadvantages.
 - (c) Meaning and function of Law of Torts – Prescribing standards of human conduct, redressal of wrongs by payment of compensation, injunction.
 - (d) Definition of Tort
 - (e) Constituents of Tort – Wrongful act, Legal damage and Remedy – *Injuria Sine Damno* and *Damnum Sine Injuria – Ubi jus ibi remedium*
 - (f) Tort *vis-a-vis* other wrongs e.g. crime, breach of contract, etc.
 - (g) Relevance of intention, motive and malice in law of torts
1. *White v. John Warrick & Co., Ltd.*, (1953) 2 All ER 1021 1
 2. *Town Area Committee v. Prabhu Dayal*, AIR 1975 All. 132 5
 3. *P. Seetharamayya v. G. Mahalakshamma*, AIR 1958 AP 103 7
 4. *Jayalakshmi Salt Works Pvt. Ltd. v. State of Gujarat* (1994) 4 SCC 1

- | | |
|--|----|
| 5. <i>Rajkot Municipal Corporation vs. Manjulben Jayantilal Nakum & ors.</i>
1997 (9) SCC 552 | 12 |
| 6. <i>State of A. P. v. Govardhanlal Pitti</i> (2003) 3 SCALE 107 | |
| 7. <i>Ashby v. White</i> (1703) 2 Lord Raym 938 | |
| 8. <i>Municipal Corpn. of Agra v. Asharfi Lal</i> , AIR 1921 All. 202 | |
| 9. <i>Mayor of Bradford Corpn. v. Pickles</i> (1895) AC 587 | |
| 10. <i>Gloucester Grammar School case</i> (1410) Y.B. 11 hen. IV of 47 | |

Topic 2 : Defences against Tortious Liability

(a) Consent as defence – *Volenti non fit injuria* – Essentials for the application of defence; Exceptions to the defence – Rescue cases and Unfair Contract Terms Act, 1977 (U K); (b) Statutory authority; (c) Act of God

- | | |
|--|----|
| 11. <i>Smith v. Charles Baker and Sons</i> (1891) AC 325 (HL) | 25 |
| 12. <i>South Indian Industrial Ltd., Madras v. Alamelu Ammal</i> ,
AIR 1923 Mad. 565 | 30 |
| 13. <i>Haynes v. Harwood</i> (1935) 1 K B 146 | 31 |
| 14. <i>Ramchandrarani Nagaram Rice & Oil Mills Ltd. v. Municipal
Commissioners of Purulia Municipality</i> , AIR 1943 Pat. 408 | 36 |
| 15. <i>Manindra Nath Mukherjee v. Mathuradas Chatturbhuj</i> ,
AIR 1946 Cal. 175 | 40 |
| 16. <i>Hall v. Brooklands Auto Racing Club</i> (1932) 1 KB 205 | |
| 17. <i>T.C. Balakrishnan v. T.R. Subramanian</i> , AIR 1968 Ker. 151 | |

Topic 3 : Negligence – Liability at Common Law and Statutory Law

(a) Theories of Negligence; (b) Meaning and Definition; (c) Essential Ingredients – duty to take care, breach of duty, consequent damage; (d) Proof of Negligence- *Res ipsa loquitur*

- | | |
|--|-----|
| 18. <i>Donoghue v. Stevenson</i> (1932) All ER Rep. 1 | 47 |
| 19. <i>Municipal Corporation of Delhi v. Subhagwanti</i> , AIR 1966 SC 1750 | 53 |
| 20. <i>Pinnamaneni Narasimha Rao v. Gundavarapu Jayaprakasu</i> ,
AIR 1990 AP 207 | 56 |
| 21. <i>Jacob Mathew v. State of Punjab</i> (2005) 6 SCC 1 | 67 |
| 22. <i>Malay Kumar Ganguly v. Sukumar Mukherjee & Ors</i>
AIR 2010 SC 1162 | 87 |
| 23. <i>Khenyei v. New India Assurance Co. Ltd. – Copy</i> | 103 |

Topic 4 : Nervous Shock

- | | |
|--|-----|
| 24. <i>Hambrook v. Stokes Bros.</i> (1924) All ER Rep. 110 | 108 |
| 25. <i>(Hay or) Bourhill v. Young</i> (1942) 2 All ER 396 (HL) | 113 |
| 26. <i>McLoughlin v. O'Brian</i> (1982) 2 All ER 907 (HL) | 116 |
| 27. <i>Alcock v. Chief Constable of the South Yorkshire Police</i>
(1991) 4 All ER 907 (HL) | 130 |

28. *Page v. Smith* (1995) 2 All ER 736
 29. *Dulieu v. White* (1901) 2 KB 669
 30. *King v. Phillips* (1953) 1 QB 429

Topic 5 : Remoteness of Damages

31. *In Re An Arbitration between Polemis and Furness, Withy & Co.*
 (1921) All ER Rep. 40 148
 32. *Overseas Tankship [UK] Ltd. v. Morts Dock & Engineering Co.*
[The Wagon Mound] (1961) 1 All ER 404 150
 33. *Hughes v. Lord Advocate* (1963) AC 837 154
 34. *Smith v. Leech Brain & Co.* (1961) 3 All ER 1159

Topic 6 : No Fault Liability – Strict and Absolute Liability

(a) Strict Liability – Rule in *Rylands v. Fletcher* – Origin and nature, scope, defences – Application of the rule in India; (c) Absolute Liability – Rule in *M. C. Mehta v. Union of India*; (d) Liability under modern legislation – The Public Liability Insurance Act, 1991

35. *Rylands v. Fletcher* (1868) LR 3 HL 330. 164
 36. *M. C. Mehta v. Union of India*, AIR 1987 SC 1086. 169
 37. *M. P. Electricity Board v. Shail Kumar*, AIR 2002 SC 551. 176
 38. *The Madras Railway Co. v. The Zemindar of Carvatenagarum*,
 LR (1874) 1 IA 364

Topic 7 : Vicarious Liability of State

(a) Basis of Liability - Position in England and India; (b) Government Liability in Torts – (1) Constitutional Provisions; (2) Sovereign and Non-sovereign Functions; (3) *Law Commission of India First Report, 1956*; (4) Violation of Fundamental Rights and Sovereign Immunity

39. *State of Rajasthan v. Vidyawathi* (1962) Supp. 2 SCR 989 178
 40. *Kasturilal Ralia Ram Jain v. State of U. P.* (1965) 1 SCR 375 184
 41. *N. Nagendra Rao & Co. v. State of A. P.*, AIR 1994 SC 2663 195
 42. *Chairman, Railway Board v. Chandrima Das* (2002) 2 SCC 465 207

Topic 8 : Defamation

Libel & Slander – Defences, Justification by Truth, Fair and Bonafide Comments, Privilege, Consent and Apology

43. *Prof. Imtiaz ahmad vs. Durdana Zamir* (2009) 109 DRJ 357 212
 44. *Tushar Kanti Ghosh v. Bina Bhaumic* (1953) 57 CWN 378 215
 45. *Rustom K. Karanjia v. K. M. D. Thakersey*, AIR 1970 Bom. 424. 224
 46. *Melepurath Sankunni Ezhuthassan v. Thekittil Geopalankutty Nair*
 (1986) 1 SCC 118

PART - B : CONSUMER PROTECTION ACT, 1986

Evolution of Consumer Protection Movement-Consumer movement-Meaning-
Definition-Consumer movement in England and America-UN Guidelines on
Consumer Protection

Definitions of “Consumer”, “Complaint”, “Complainant”, “Defect”, and
“Deficiency”, Goods, “RTP”, “UTP”, “Service”.

Establishment of Central, State and District Consumer Protection Councils

Adjudicatory Bodies – District Consumer Disputes Redressal Forum, State Consumer
Disputes Redressal Commission and National Consumer Disputes Redressal
Commission – Constitution, Powers, Jurisdiction, Procedure, Appeals

- | | |
|--|-----|
| 47. <i>Faqir Chand Gulati v. Uppal Agencies Private Ltd.</i>
(2008) 10 SCC 345 | 232 |
| 48. <i>Indian Medical Association v. V. P. Shantha</i> , AIR 1996 SC 550 | 246 |
| 49. <i>Laxmi Engineering Works v. P.S.G. Industrial Institute</i> , 1995 SCC (3) 583. | 256 |
| 50. <i>Lucknow Development Authority v. M.K. Gupta</i> , 1994 SCC (1) 243 | 267 |
| 51. <i>C.C.I. Chambers Co-op. Housing Society Ltd. v. Development Credit
Bank Ltd.</i> , AIR 2004 SC 184 (Complicated questions of fact – not a
ground to throw away the complaint) | |
| 52. <i>State of Karnataka v. Vishwabarathi House Building Co-op. Society</i> ,
AIR 2003 SC 1043 (Constitutional validity of the Consumer
Protection Act, 1986) | |
| 53. <i>Harsingh M. Vasava v. State of Gujarat</i> , AIR 2002 SC 1212 (Period
of limitation) | |
| 54. <i>J.J. Merchant v. Srinath Chaturvedi</i> , AIR 2002 SC 2931 | |

IMPORTANT NOTE: 1. The topics and cases given above are not exhaustive. The
teachers teaching the course shall be at liberty to add new topics/cases.

2. The students are required to study the legislations as amended up-to-date and consult the
latest editions of books.

3. The question paper shall include one compulsory question. The question papers set for the
examinations held during 2010-11 and 2011-12 are printed below for guidance of the students.

LL.B. I Term Examinations, December, 2010

Note: Attempt *five* questions including Question No. 1 which is compulsory.
All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (a) Explain the meaning of tort.
 - (b) Distinguish between Tort and Crime.
 - (c) Discuss statutory authority as a defence to tort.
 - (d) Egg-shell skull theory in tort.
 - (e) Doctrine of remoteness of damages.

2. Explain the maxims *Injuria sine damno* and *Damnum sine injuria*.
 A group of transporters joined hands and offered reduced rates of transportation and lucky draw in order to induce customers to transport goods only through them. In consequence of this, a company B which was kept out of the combination suffered trade losses. B sues for damages alleging that defendants maliciously formed the group to kick him out of the trade. Decide giving reasons.

3. Critically examine the vicarious liability of the state for the tortuous acts of its employees. Refer to the relevant case law, if any.

4. A was employed as an inspector by the Armament Inspection Department. He was directed to report on duty in the Ordnance Factory to which he first resisted on the ground that it was a dangerous job but later on joined the same. An accident took place in the premises of the Ordnance Factory in which A was injured. Before this accident, the employer had offer him a clerical job at a lower salary which he refused. A sued the employer for damages. Employer in defence pleaded *volenti non fit injuria*. Decide.

5. Explain the essential elements of the tort of defamation.
 Z is not having good relations with his mother-in-law. He tells his wife. "there is hardly a day when your other does not indulge in adultery."
 The statement made by Z is false. Is Z liable for the tort of defamation?

6. A, an iron foundry unit, imported metal scrap from certain war ravaged country. One day while the scrap was being unloaded from the trucks in the premises of the unit, an explosion occurred resulting in the death of an employee and two children living in the adjoining house. It was found that the scrap consisted of some bomb shell scraps of war weapons not completely defused. On an action filed against it, A pleaded complete ignorance of the presence of live shells in the scrap. Discuss the liability, if any, of A for the damages towards employee and/or children on the basis of the rule laid down in *M.L. Mehta vs. Union of India*.

7. A speeding bus carrying school children plunged into a river. A teacher T travelling in the bus escaped with only minor head injuries, but the fear of narrow escape from sudden death gave him a shock resulting in anxiety neurosis.

A little later, the accident was reported to the school authorities who in turn informed the parents of the children. X and Y, father and brother of one of the child Z immediately rushed to the spot and saw the lifeless body of Z being fished out of the river. X and Y suffered morbid depression.

T, X and Y want to sue for compensation for the nervous shock suffered by them. Elaborating the law on nervous shock, advise them as to their chance of success.

8. Anuradha, wife of Amit, was diagnosed to be suffering from Toxic Epidermal Necrolysis. Dr. Saxena was consulted who prescribed a long acting corticosteroid 'Depomedrol' injection at a dose of 80 mg twice daily. Despite administration of this medicine, her condition deteriorated rapidly and she died within a week. On expedrt opinion, it was fond that the treatment line followed by Dr. Saxena is not supported by any school of medical thought, and is in sheer ignorance of basis hazards relating to use of steroids.

Amit files an application in the Consumer Forum claiming 75 lakhs as damages for the death of his wife. Dr. Saxena objects to the jurisdiction of Consumer Forum and also pleaded lack of negligence on his part. Decide.

LL.B. I Term Supplementary Examinations, June-July, 2011

Note: Attempt *five* questions including Question No. 1 which is compulsory. All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (a) Distinguish between tortuous and contractual liability.
 - (b) Discuss vis major as a defence to tortuous liability.
 - (c) Explain the maxim 'res ipsa loquitur'
 - (d) Explain the concept of 'innuendo' with the help of decided cases.
 - (e) Critically analyse Winfield's definition of tortuous liability.
2. Explain the maxims *injuria sine damno* and *damnum sine injuria*.
 Ram suffered substantial losses due to his unauthorized banquet hall, located in a residential colony, being selectively sealed in compliance with a resolution passed by his political rivals. Drawing distinction between malice in law and malice in fact, examine whether tortuous liability arises in this case.
3. (a) "The maxim is *volenti non fit injuria*, it is not *scienti non fit injuria*." Explain.
 (b) A horse bolts along a highway, causing risk of grave injury to people on the road. A spectator rushes to stop it and is, in the process, injured. Can the spectator recover damages from the owner of the horse? Would it make any difference to your answer if the spectator was a police official?
4. D, a doctor, inoculate some children with Hepatitis B vaccine. The children were taken ill because of the presence of some toxin in the vaccine used by D who purchased it from C,

a reputed chemist. C, in turn, had purchased the vaccine from M, the manufacturer. Decide the tortious liability, if any, of D, C and M towards the children discussing the concept of 'duty of care' as enunciated by Lord Alkin in *Donoghue V. Stevenson*.

5. C, a child aged six years, was travelling in his school bus. Due to rash and negligent driving by the bus driver, the bus fell into a river. The children in the bus were rescued and taken to a nearby hospital. An hour later, information about the accident was conveyed on phone to C's mother (M) by the school principal. M rushed to the hospital where she saw C in a serious condition on life support system, as a result of which she suffered severe psychiatric illness. Can M claim damages for nervous shock? Decide, tracing the development of the law relating to nervous shock.
6. (a) Discuss the essential elements of the tort of defamation.
(b) A cyclist negligently collided against a pedestrian who was carrying a bomb. The bomb exploded and the pedestrian died as a consequence of the explosion. An army tent nearby was also set on fire due to the same explosion, resulting in burn injuries to the *jawans* on duty. Discuss the extent of liability of the negligent cyclist explaining the tests for remoteness of damage.
7. Explain the rule of strict liability as laid down in *Rylands v. Fletcher* with exceptions. An ordinance factory owned by X manufactured explosives and munition for the Govt. of India. One day, a shell exploded within the premises of the factory and a workman Y was injured. Y sues X for damages under the *Rylands v. Fletcher* rule. Will Y succeed?

Would your answer be different if Y claims damages under the rule laid down in *M.C. Mehta v. Union of India* [AIR 1987 SC 1086].
8. "Although the decision of the Supreme Court in *Kasturi Lal Ralia Ram Jain v. State of Uttar Pradesh* has not been over-ruled as such, yet for all practical purposes its force has been considerably reduced." Elucidate, tracing the development of the law relating to vicarious liability of the state for the torts committed by its servants.

LL.B. I Term Examinations, December, 2011

Note: Attempt all *five* questions. All questions carry *equal* marks.

1. Write short notes on any two of the following:
 - (a) Distinguish between tortious and contractual liability.
 - (b) Maxim *Novus actus interveniens*
 - (c) Maxim *Res ipsa loquitur*
2. Distinguish between *Damnum sine injuria* and *Injuria sine damno* with the help of decision cases.

The plaintiff was running a computer consultancy business. Another competitor in the same business opened an office in the vicinity of the plaintiff's office. Consequently the plaintiff suffered a sharp fall in his income and sued the competitor for the damages. Will the plaintiff succeed? Decide giving reasons.

3. (a) H, a hair dresser treated P's hair with a dye and as a result P contracted dermatitis. The manufacturers of the dye M & Company had delivered the dye to H in labeled bottles together with a small brochure of instructions. Both the label and the brochure contained a warning that the dye might be dangerous to certain skins and a test of skin was recommended before it was used.

P sues the manufacturers M & Company for negligence. Would the manufacturers of the dye be held liable to P? Also discuss the liability of H towards P. Discuss with the help of decided cases.

- (b) Poisonous berries were grown in public garden under the control of D. Shrub bearing the berries was neither fenced or a notice regarding its poisonous character displayed. Berries looked like cherries. A child, aged seven, ate those berries and died. Would D be held liable for tort of negligence? Decide giving reasons.
4. (a) Elucidate the maxim '*Volenti non fit injuria*'. Whether only knowledge of danger or risk on the part of plaintiff is sufficient to invoke this defence? Discuss with the help of case law.
5. Discuss the historical development of the law relating to 'Nervous Shock'. Can a person claim damages, caused due to nervous shock, which he suffered on seeing the aftermath of the accident after being told about the accident?
6. "The law sometimes recognizes 'non fault' liability." Discuss. What are the rules laid down by the English and Indian Courts in this connection? What is the measure of damages in such cases?
7. Critically examine the 'vicarious liability' of the State under Article 300 of the Constitution of India, 1950/

Arjun, a nine year old boy was suspected to have stolen a mobile phone. He was taken to the police Station. He died there as a result of beating and assault by the policeman on duty. His mother claim compensation for his death from the state government. Decide giving reasons.

8. (a) The employees of Telecommunication Department opened a manhole in a street for the purpose of maintaining underground telephone equipment. In the evening they left the manhole unguarded but covered with a tent. They placed warning paraffin lamps round the tent. P, a boy of eight years and Q, a boy of ten years took a lamp and entered the manhole. As they entered, the lamp was knocked into the hole and a violent explosion took place with flames shooting thirty feet into the air. P was knocked back into the hole where he sustained serious burns. P's father filed a suit against the Telecommunication Department for damages. Will he succeed?

LL.B. I Term Examinations, June-July, 2012

Note: Attempt any *five* questions. All questions carry *equal* marks.

1. Distinguish between *injuria sine damno* and *damnum sine injuria* with the help of decided case.

Ram dug up a trench and constructed a bund on his land in order to ward off the flow of flood water into his land from a neighbouring stream. As a result of Ram's act, the water inundated Shanti's land and damaged her crops. What remedy, if any, is available to Shanti under the law of torts? Would your answer be different if Ram's act had been guided by some personal enmity with Shanti?

2. (a) The maxim is '*violenti non fit injuria*'; it is not '*scienti non fit injuria*'. Explain.
(b) Rohan jumped into a well in order to commit suicide. Nitin, a bystander, saw this and jumped into the well in order to save Rohan. In trying to save Rohan against his will, Nitin sustained injuries. Can he claim damages from Rohan?
3. Gita underwent a surgery for removal of stones in her kidney. The Surgeon 'S' who perform the surgery, left a piece of gauze in the abdominal cavity during the operation. Peritonitis developed which led to a second surgery being performed on Gita. Decide the liability of 'S' citing landmark Supreme Court judgments on medical negligence.
4. D negligently backed his taxi-cab into C, a child riding on a tri-cycle. The child's mother heard him scream and, looking out of an upstairs window some eighty yards away, saw the tri-cycle under the tax-cab but could not see the boy. As a result she suffered an acute nervous shock. In an action brought by the mother. D concedes his responsibility for negligence but contests liability to the mother for the nervous shock she had suffered.
Decide, tracing the development of the law relating to nervous shock.
5. (a) Explain the tests to determine remoteness of damage with the help of landmark cases.
(b) Discuss the essential elements of the tort of defamation.
6. Write short notes on any two of the following:
 - (a) Statutory authority as a defence to tortious liability.
 - (b) Distinction between tort and crime.
 - (c) The concept of 'duty of care' as enunciated by Lord *Atkin* in *Donoghue v. Stevenson*.
 - (d) Salient features of the Public Liability Insurance Act, 1991.
7. How far is absolute liability different from strict liability?

Due to the descriptive activities of a terrorist group, a storage tank belonging to an enterprise engaged in an inherently dangerous industry collapsed. A highly toxic gas contained in the tank escaped and caused the death of a few slum dwellers in the

neighbourhood. Discuss the liability of the enterprise in such cases and the measure of compensation prescribed in such cases by the Supreme Court.

8. Discuss the law relating to vicarious liability of the state in India for the torts committed by its servants.

The customs authorities seized a jeep belonging to X on the ground that the had not paid import duty on the said jeep. The customs authorities made a false representation to the Magistrate stating that the vehicle was unclaimed property and disposed of the same under the order of the Magistrate. Subsequently the Revenue Tribunal set aside the order of confiscation and directed the return of the jeep to X. X files a sit against the Government for the recovery of his jeep or the alternative, damages equivalent to its value. Decide citing relevant judicial precedents.

LL.B. I Term Examinations, 2015

Note: Answers may be written either in English or Hindi; but the same medium should be used throughout the paper.

Answer **Five** Questions.

Answer any **four** questions from Part A and **One** Question from Part B

PART A

1. (a) "Tortious liabilities arises from the breach of a duty primarily fixed by law; this duty is towards person generally and its breach is redressible by an action for unliquidated damages." Write a brief critical note on this definition.
(b) Damage in tort is generally compensated by damages to an aggrieved party. How can one find out whether 'damage' as claimed by a plaintiff amounts to 'legal damage' or not?
2. (a) Write a note on the doctrine of consent as a defence in an action for a tort.
(b) 'P' was injured when an elevator he entered plunged several floors and stopped abruptly. Jain elevator corporation (JEC) had built the elevator and was also responsible for maintaining of 'P' sues JEC. During the legal proceedings, JEC claims that P's complaint should be dismissed because he has never proved or for that matter even offered a theory as to why the elevator functioned incorrectly. Therefore, there is no evidence that they were at fault. Decide citing appropriate legal principles and case law.
3. (a) Write a note on the defences available in the tort of defamation.\ (b) 'X', a worker was injured at his work at a factory owned by M/s T & Co. when a cover over a cauldron of molten hot liquid fell in and caused an explosion, propelling the liquid toward 'X'. Taking into account the possibility of such accident, the Company had

constructed some protective walls around the cauldron. It was not known that the cover would explode when it fell in the liquid. 'X' moves the court for damages for the injury caused to him. Decide citing relevant case laws.

4. to what extent is the Government of India responsible for the tortious acts committed by its servants? Trace the development of the law in this regard with the help of important judicial decisions.

5. "A rule specifying strict liability in tort makes a person legally responsible for the damage and loss caused by his/her acts and omissions regardless of culpability. So also, under strict liability, there is no requirement to prove fault, negligence or intention." Elucidate.

Explain the exceptions available to a tortfeasor in strict liability cases with supporting case law.

6.(a) "The crude view that the law should take cognizance only of physical injury resulting from actual impact has been discarded, and it is recognized that an action will lie for injury by shock sustained through the medium of the eye or the ear without direct contact." Elucidate with proper case law.

(b) Explain the law on recovery of damages by Primary and Secondary victims in nervous shock cases with the help of decided cases.

PART B

7. (a) Who is a consumer under Consumer Protection Act, 1986?

(b) "... A medical practitioner was not to be held liable simply because things went wrong from a mischance or misadventure or through an error of judgment in choosing one reasonable course of treatment in preference of another." Elucidate this observation of lord Denning with respect to medical negligence cases.

8. (a) Write a note on 'The definition service' under the Consumer Protection Act, 1986.

(b) Write a brief note on the decision of a Supreme Court in *Indian Medical Association v. V.P. Shantha* (1995) 6 SCC 651, which settled the dispute regarding applicability of the Act to persons engaged in medical profession either as private practitioners or as Government Doctors working in Hospitals or Government Dispensaries.



LL.B. I Term

Law of Torts

Cases Selected and Edited By

Kiran Gupta

Sarbjit Kaur

Shabnam

Awekta Verma

Monica Chaudhary

Poonam Verma

Vidit

FACULTY OF LAW
UNIVERSITY OF DELHI, DELHI- 110 007
July, 2016