

HAS (Mains) - 2021

(This question paper contains 7 printed pages]

ASME-21-LAW-(II)

Roll Number

LAW (PAPER-II)

Time Allowed : 3 Hours]

[Maximum Marks : 100

QUESTION PAPER SPECIFIC INSTRUCTIONS

Please read the following instructions carefully before attempting questions :

1. There are **EIGHT** questions printed in English. Attempt any **FIVE** questions.
2. Question No. 1 is compulsory. Out of remaining **SEVEN** attempt any **FOUR**.
3. *All* questions carry equal marks. The number of marks carried by a question/ part is indicated against each.
4. Write answers in legible handwriting. Each part of the question must be answered in sequence and in same continuation.
5. Attempts of questions shall be counted in sequential order. Unless struck off, attempt of a question shall be counted if attempted partly. Any page or portion of the page left blank in answer book must be clearly struck off.
6. Re-evaluation/Re-checking of answer book of the candidate is not allowed.

1. (a) 'Performance of the conditions of an offer may amount to acceptance of the offer even in the absence of intimation of acceptance.' Comment in the light of the provisions of the Contract Act and decided Case law. 6
- (b) D, a minor daughter of Mr. Ramani, a top industrialist in Mumbai, stayed with her friends in a hotel in Delhi with the permission of her parents. The manager of the hotel Mr. Young developed intimacy with D during her stay there. In the absence of her friends, Young allured her with expensive gifts and promised to marry her. D left hotel with Young without telling anything to her friends or parents. After the report of her friends, the Police found D in the company of Young in a local train. Can, as per the provisions of IPC, Mr. Young be prosecuted for Kidnapping ? 6
- (c) A house servant was charged with the murder of an elderly couple in a posh colony in Delhi. The prosecution produced the evidence of receipt of money the couple had received sent by their son based in USA on the same day. Under which provision of the Indian Evidence Act, 1872, this would be relevant ? 4
- (d) Define tort. Analyse the various definitions of tort given by eminent jurists that help understand its nature. 4
2. (a) *"Whether or not the time is the essence of the contract must depend on the facts and circumstances of each case. Intention of the parties together with the circumstances should be looked into to ascertain this."*
Comment on the statement with relevant case law and the provisions of the Contract Act, 1872. 6

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- (b) Discuss the law relating to the exercise of the right of private defence under the IPC 1860, especially with reference to its commencement, continuation, extent of force that can be used and the limitations on the exercise of this right. Support your answer with the help of judicial decisions. 6
- (c) Distinguish between Confession and Admission as per the provisions of the Evidence Act. 4
- (d) "A person is liable only for those consequences which are not too remote from his conduct." Comment in view of the principles of torts law in India. 4
3. (a) Explain the 'Doctrine of Frustration'. Discuss the remedies available to the parties, the methods to estimate the damages as per the Contract Act, 1872. 6
- (b) Discuss briefly 'Disputes as to Immovable Property' as provided under the Criminal Procedure Code, 1973. 6
- (c) Compare 'Burden of Proof' and 'Onus of Proof.' Explain with the help of relevant provisions of the Evidence Act and decided case law. 4
- (d) Alisha was fond of being spectator at Formula One (a type of motor car races) events. During one of such races, there was a collision between two cars, one of which was thrown among the spectators, thereby injuring Alisha. Can she recover damages from the organisers ? 4

4. (a) Ms. Meha Jhakkad entered in a contract with Bony TV for judging its popular musical show '*Talent Dikhla Ja*' for six months in consideration of a sum paid in advance by Mr. Bony, the CEO of the Channel. However, sufficient episodes could not be recorded as per the decided timeline since on several occasions, Ms. Meha was too ill to judge the show. Bony TV suffered huge losses in arranging substitute and managing telecast. The profit as well as TRP (Television Rating Point) declined substantially. Discuss the rights and liabilities of Ms. Meha and Bony TV. 6
- (b) What are the necessary conditions/circumstances under which the court can give the benefit of Exception 1 of Sec. 300 ? Explain with the help of leading cases. 6
- (c) It cannot be laid down as an absolute rule of law that dying declaration cannot form the sole basis of conviction unless it is corroborated. Explain. 4
- (d) Is 'intention' an essential ingredient of the torts falling in the category of 'trespass to person' ? Discuss the role of 'intention' in tortious liability in such cases. 4
5. (a) Discuss various categories of relations resembling those created by the contract. 6
- (b) Ms. Nene, a carrier, is entrusted by Ms. Bendre with property to be carried by land or by water. Ms. Nene dishonestly misappropriates the property. What is the liability of Ms. Nene under Indian Penal Code, 1860 ? 6

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- (c) The SC in one of its judgments has stated that “This section is based on the well-known maxim *Pater est quem nuptiae demonstrat* (He is the father whom the marriage indicates). Trace the said provision in the Indian Evidence Act, 1872 and explain with the help of applicable case laws. 4
- (d) How is ‘Rule of Absolute Liability’ different from ‘Rules of Strict liability’? Due to extraordinary heavy rainfall, a storage tank belonging to an enterprise engaged in an inherently dangerous industry collapsed. Highly toxic gas contained in the tank escaped and caused the death of twenty persons and adversely affected several others. Will the enterprise be liable? What is the measure of damages in such cases? 4
6. (a) Sonu, a minor, by falsely representing himself to be a major entered into an agreement with Saurabh to sell his property X. Saurabh made a payment of Rs. 50 Lakh as full and final consideration amount for the same. Sonu, however, later refused to execute the sale deed of X in favour of Saurabh pleading his incompetency due to minority. Saurabh filed a suit for specific performance of contract and sought refund of the amount paid in the alternative prayer. Decide. 6
- (b) Section 149 IPC does not create separate offence but only declares vicarious liability of unlawful assembly for acts done in common object. Discuss various ingredients of the provision. 6

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- (c) Write a note on 'Expert witnesses' as provided under the Indian Evidence Act, 1872. 4
- (d) Critically examine the vicarious liability of the State for the tortious acts of its employees. 4
7. (a) What do you understand by Standard Form Contract ? Whether unreasonable clauses in such contracts are enforceable ? 6
- (b) X, by falsely pretending to be a Civil Servant, dishonestly induces Z to let him have on credit jewellery for which he does not intend to pay ever. Which crime under IPC has X committed by deceiving Z intentionally ? 6
- (c) Discuss Oral and Documentary evidence. 4
- (d) Absence of reasonable and probable cause does not necessarily mean the existence of malice. Discuss abuse of legal procedure as a tort. 4
8. (a) Mr. Madan, aged 75, had been admitted to the ICU of Prakash Kiran hospital in serious condition. Sophie, a nurse, took care of him throughout. She worked day and night and helped him recover from ailments and improve his health condition. Madan got so impressed with her service during his treatment that he transferred his house to Sophie. Later after getting discharged from the hospital, Madan wanted to cancel the transfer alleging that his consent was not free and get back his house. Advise Madan with the help of relevant provisions of the Contract Act, 1872 and decided case law. 6

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- (b) What are the situations when a trespass becomes a criminal trespass as per IPC ? 6
 - (c) Describe the provisions of the Indian Evidence Act that need not be proved. 4
 - (d) Discuss the tortious liability of medical professionals for the loss suffered by their patients due to their negligence. Support your answer with the help of recent SC cases. 4

