Bihar Judicial Service (Mains) 2011

Law of Contracts and Torts · optional paper

1. "An offer cannot be accepted unless and until it has been brought to the person to whom it is made." What is an offer? When is the communication of an offer completed? Illustrate with judicial decisions. Distinguish between offer and invitation to treat.

2. The two fundamental propositions of English law are 'privity of consideration' and 'privity of contract'. Elaborate the two principles and their acceptability in India.

3. The question whether the contract is void or voidable presupposes the existence of a contract within the meaning of the Act, and cannot arise in the case of an infant. In this context, explain the nature of a minor's agreement and its effectiveness. Can a minor be allowed to enforce a contract which is of some benefit to him? Explain.

4. "An agreement to do an impossible act in itself is void." Referring to this statement, explain the doctrine of frustration and specific grounds of frustration.

5. Every party injured by the breach of a contract may bring an action for damages and every action for damages raises certain problems. Discuss the problems raised in every action for damages.

6. The rule in Rylands v. Fletcher is interpreted in light of the constitutional provisions by the Supreme Court in M.C. Mehta v. Union of India (1987) 1 SCC 395. Explain the rule laid down in Rylands v. Fletcher. In reference to the said rule, elaborate the corresponding development in India with reference to the aforementioned statement.

7. Sir Barnes Peacock, former Chief Justice of Supreme Court of Calcutta, in P&O Steam Navigation Company v. Secretary of State for the Indian Council, held the government liable for damages for injury due to negligence of some of its servants, as far back as in 1861. Subsequently, this decision was overruled in Kasturilal Ralia Ram and the theory of sovereign immunity was upheld. In regard to this, discuss the concept of sovereign immunity and its development till date, with the help of judicial decisions.

8. "In an action for malicious prosecution, the plaintiff has to prove, first, that he was innocent, and second, that there was want of reasonable and probable cause." What is malicious prosecution? Explain the essentials to be proved in a suit for damages for malicious prosecution.

9. "The duty to take care arises out of various relations which it may not be possible to enumerate exhaustively and the courts recognize 'new duties' when they think that to be just." In reference to the 'new duties' in the above statement, elaborate the concept of duty of care with reference to duty of care in medical profession.