# Bihar Judicial Service (Mains) 2014

## Law of Contracts and Torts · optional paper

1. "A contract cannot be enforced by a person who is not a party to it even though it is made for his benefit." Discuss this statement and refer to relevant decided cases and point out the exceptions to this rule.

2. (a) What do you understand by capacity to contract? Who are competent and who are not competent to contract under the Indian Contract Act, 1872? Explain with the help of suitable examples and relevant case laws.
(b) Decide the following problem on the basis of decided cases: A and B contract to marry each other. Before the time fixed for marriage, A goes mad. Test the validity of contract.

3. (a) Explain what do you understand by quasi-contract? What are its distinctive features? What is the juridical basis of quasi-contract? Explain with the help of illustrations and decided cases.
(b) Decide the following problem on the basis of decided cases: A supplies B, a lunatic, with necessaries suited to his condition in life. Is A entitled to be paid for? Give reasons.

4. (a) Define consideration. Under what circumstances, the object and consideration of contract are deemed unlawful? How does the public policy affect consideration? Explain with the help of cases.
(b) A promised B to subscribe a sum of money for the construction of a 'Town Hall'. Can B compel A to perform his promise? Decide with the help of decided case.

5. (a) What is an agreement by way of wager? What test would you apply to determine if or not an agreement is by way of wager? Distinguish a wagering agreement from a good contract.
(b) Are the following transactions agreement by way of wager? (i) Insurance contract; (ii) Lottery.

6. (a) "Tortious liability arises from the breach of a duty, primarily fixed by the law. The duty is towards persons generally and its breach is redressible by an action for unliquidated damages." (Winfield) Explain the above statement.
(b) Is it necessary that to become a crime, an act must be a tort? Discuss.

7. Discuss various remedies available against the tort with special reference to judicial and extrajudicial remedies.

8. (a) Explain the doctrine of contributory negligence and discuss in detail various principles governing this doctrine. Answer with the help of leading cases.
(b) A parked his car in a street and left his dog inside. The dog had always been quiet and docile. As B was walking past the car, the dog which had been barking and jumping about in the car smashed a glass panel and a splinter entered into B's right eye which had to be removed. B sued A for damages. Will he succeed? Give your answer with the help of decided case.

9. (a) Define assault and battery and distinguish between the two. Can mere words amount to an assault? Is actual physical contact necessary in a battery? Explain with the help of relevant case laws.
(b) A points an unloaded pistol at B, who sues him for an assault. A in his defence pleads that the pistol was unloaded. How will you decide? Give reasons to support your answer.

10. Define the term nuisance and discuss its essential elements. In what way does the public nuisance differ from private nuisance? For success in the suit of nuisance, what elements have to be proved by

the plaintiff?