Bihar Judicial Service (Mains) 2018

Law of Contracts and Torts · optional paper

Time: 3 hours · Full marks: 150

Answer six questions, taking three from each Part.

Part I

(Law of Contracts)

1. (a) " 'Indemnity' has relation to conduct either of the indemnifier himself or of a third party. A 'Guarantee' is always related to the conduct of third party." Elucidate. (15 Marks)
(b) " 'Privity of Contract' is no longer a rule but only an exception." Explain in the context of modern transaction. (10 Marks)

2. (a) "An offer is to acceptance what a lighted matchstick is to train of gunpowder. It produces something which cannot be recalled or undone."- (Anson) Explain. (15 Marks)
(b) A owned B Rs. 10,000 but the debt is barred by the Indian Limitation Act, 1963. Subsequently A signs a written promise to pay Rs. 10,000 on account of the previous debt. Decide the validity of this agreement. (10 Marks)

3. (a) "The object of awarding damages for breach of contract is to put the injured party in the same position, so far as money can do it, as if he had not been injured."
In the light of the above statement, explain the various kinds of damages that the court can award. Also explain the rules relating to assessment of damages. (15 Marks)
(b) "The revocation of Agent's authority can be made by the principal subject to certain rules. Examine these rules in the light of protection to agent. (10 Marks)

4. (a) Discuss the contract of bailment with the duties of Bailor and Bailee. Illustrate with suitable examples. (15 Marks)
(b) "Minority can only be claimed as a shield but not as a sword." Explain the statement and mention the situations when a minor is liable under the law of contract. (10 Marks)

5. (a) "Undue influence is said to be a subtle species of fraud whereby mastery is obtained over the mind of victim by insidious approaches and seductive artifices." Explain. (10 Marks)
(b) "Quasi-contract consists of the contractual obligation which is entered upon not because the parties have consented to it but because law does not allow a person to have unjustified benefit at the cost of other party." Explain the real basis of Quasi-contracts with legal provisions and illustrations. (15 Marks)

Part II

(Law of Torts)

6. (a) "A statement in performance of duty is privileged." In the light of this statement critically examine the tort of defamation. (15 Marks)
(b) X the famous writer and art critic while criticising the pointing of Y the famous painter wrote in the newspaper as follows. "Mr. Y's paintings are pots of paints hurled in the eyes of public." He afterwards wrote to Y saying that whatever he had written had been said by him in the course of his duty and hoped that he would not allow this to interfere with their friendship. Y replied and said, "Next time I meet you, I shall punch your nose damn hard. I hope you will not this to interfere with our friendship. " What torts, if any, have been committed and what defence are available to them? (10 Marks)

7. (a) "A master is not responsible for a wrongful act done by his servant, unless it is done in the course of employment". Comment and explain the circumstances when wrongful acts are deemed to be done in the 'course of employment'. Refer to decided cases. (15 Marks)
(b) 'Damnum Sine Injuria' and 'Injuria Sine Damnum' are two different principles of law, agreed upon the same principle of law." Comment briefly. (10 Marks)

8. (a) An attempt to deceit which does not deceive is not fraud." Do you agree? Whether mere silence with regard to material fact will amount the tort of deceit? Support your answer with decided cases "
(b) "Necessity knows no law." Comment. (10 Marks)(15 Marks)

9. (a) "The defendant must not only owe towards the plaintiff a duty to take care, he must be in breach of it." Explain with decided case laws. Describe the exceptions of the rule. (15 Marks)
(b) How a person will be liable for inducing breach of contract? What may be justification against such kind of wrong? (10 Marks)

10. (a) Make the distinctions between:
(i) Strict and Absolute liability (5 Marks)
(ii) False imprisonment and malicious prosecution (5 Marks)
iii) Libel and Slander (5 Marks)
(b) Which of these two expressions, Law of Torts or Law of Tort, is correct and why? (10 Marks)