# Odisha Judicial Service (Mains) 2019

## Law of Crime and Law of Torts · optional paper

Time: 3 hours. Full Marks: 150 The questions are of equal value. Individual marks are not printed (150 marks for six answers, or 25 each). Answer Six questions selecting three questions from each Section.

### Section A

1. It is said that mens rea is an essential element of an offence. Can mens rea be excluded from the definition of an offence ? Explain referring to decided cases. [25 marks]

2. A attacks B. B has ample opportunity to save himself by running away from the scene. B, however, does not retreat and decides to defend himself. In the process, B causes injury to A. Was B validly exercising his right of private defence ? Explain. Also point out the limitations of the Right of Private Defence. [25 marks]

3. “There may be a circumstance when a person is justified in doing a lesser evil in order to avoid a greater evil." Discuss in the light of Section 81 of the Penal Code. [25 marks]

4. Explain ‘equivocality test’ to determine attempt. Point out the difference between preparation and attempt. [25 marks]

5. “Every murder is culpable homicide but every culpable homicide is not murder." Explain, keeping in mind the scheme of the Penal Code in dealing with the two offences. [25 marks]

6. Five persons with intention to commit robbery proceeded towards the house of Z. The inmates of the household got the information and fled the house in panic. Five persons entered the house and took away the property without using any violence. Explain the offence committed by them. Will it make any difference had the inmates resisted them and all the five had to make a retreat without any property? Explain. [25 marks]

### Section B

7. What do you understand by ‘Tortious Liability’ ? Is it ‘law of tort’ or ‘law of torts’ ? Explain. [25 marks]

8. Explain the extent and scope of the doctrine of Volunti non fit injuria in the law of torts. A is under an imminent danger created by the wrongful act of D. P, a stranger to A, intervenes to save A from the injury but injures himself in the process. Can P claim compensation from D ? [25 marks]

9. What is meant by the term ‘course of employment’ for the purpose of determining vicarious liability of master for the wrongful act of his servant? Is the master liable for the act of his servant which the master had expressly forbidden his servant to do ? [25 marks]

10. Discuss the two defences of justification and fair comment available to a defendant in an action for defamation. Explain and illustrate. [25 marks]

11. What do you understand by false imprisonment ? A puts B in a room and locks the door from outside but leaves the second door of the room unlocked through which B can escape if he chooses to do so. Does this act of A amount to false imprisonment ? Discuss. [25 marks]

12. Explain the rule of absolute liability laid down by the Supreme Court in M. C. Mehta vs. Union of India (1987). In what respect this principle differs from the rule laid down in Rylands vs. Fletcher. [25 marks]