Odisha Judicial Service (Mains) 2022

Law of Crime & Law of Torts · optional paper

3 hours · Full marks: 150

The figures in the right-hand margin indicate marks. Answer six questions, selecting three questions from each Section.

SECTION—A

1. "Self-preservation is the basic human instinct and is duly recognized by the criminal jurisprudence of all civilized countries. All free, democratic and civilized countries recognize the right of private defence within certain reasonable limits."
Critically examine the Right to Private Defence enshrined in the Indian Penal Code, 1860. [25]

2. Common intention is seldom capable of direct proof. It is almost invariably to be inferred from proved circumstances relating to the manner of the origin of the occurrence, the manner in which the accused arrived at the scene and the concert with which attack was made and from the injuries caused by one or some of them. The criminal act actually committed would certainly be one of the important factors to be taken into consideration but should not be taken to be the sole factor.
Critically examine the doctrine of joint liability in the light of the above statement and relevant decisions of the courts. [25]

3. X found a purse on the main road. On opening the purse, he found a cash amount of ₹20,000 and a few contact details inside it. On the basis of these details, X tried to contact the real owner of the purse. He also put notices and advertisements in the local newspaper. However, even after three months, when no one came to claim the purse, X used the money partly for paying the expenses incurred in advertising and contacting persons and the rest of the money for meeting his daily needs. Can X be prosecuted for any offence? What difference would it make if he had not made any effort to identify the real owner? Give answers with appropriate case laws and/or legal provisions. [25]

4. An Afgan citizen, while staying at Kabul, made false representations to Karan, the complainant at Bombay through telephone calls and emails and induced Karan to give ₹5 lakh to the agents of the accused at Bombay, so that rice could be shipped from Kabul to India as per agreement. But rice was never supplied. Can the Afghan citizen be held liable for any offence in India? If so, how can he be prosecuted in India under Indian Penal Code, 1860? Explain in the light of relevant legal provisions and case laws. [25]

5. Arun was in a habit of beating up his wife over trivial issues. One day, during such a fight, Arun picked up a stick lying nearby and hit his wife on her head. Consequent to the blow, the woman fell unconscious. Believing her to be dead, Arun dragged her to the kitchen, sprinkled kerosene on her and set her ablaze. The post-mortem report stated that the victim had received an ante-mortem head injury and had died due to severe burns. Can Arun be held liable for causing death of his wife under the Indian Penal Code? If so, explain the relevant legal provisions in the light of the principles of criminal liability and decided cases. [25]

6. The Law Commission of India, in its 279th Report on 'Usage of Law of Sedition', stated that Section 124A, IPC only seeks to penalize the "pernicious tendency to incite violence or cause public disorder in the guise of exercising right to freedom of speech and expression" and that India is a democracy where

people are at liberty to constructively criticize the Government in a healthy manner.
Critically examine the above mentioned report of the Law Commission of India in the light of various judicial decisions. [25]

SECTION—B

7. Explain the importance of malice in tort law with the help of decided cases. [25]

8. Zaheer acquired license from the authorities to start a chemical factory. He built the factory adjacent to a large settlement. A scientific research study undertaken by a group of researchers revealed that the by-products which were supposed to be released by the factory would give obnoxious smell and may even cause health hazards. The residents of the settlement went to the court for relief against such nuisance.
Can the residents bring an action against Zaheer? What kind of relief would they ask for? Cite appropriate case laws and/or legal provisions to substantiate your answer. [25]

9. Honey Mehta and Honey Sharma are two students studying in Wonderland College. Honey Mehta got embroiled in some student problem in the canteen and was alleged to have beaten up some security guards on campus. A disciplinary action was taken against him and he was debarred from any campus activity for a month. Meanwhile, there was a university cultural program held in the auditorium. Honey Sharma wanted to watch the same. However, as he proceeded towards the auditorium, he was stopped by the guards presuming him to be Honey Mehta. He did not carry his I-Card on that day. Although he reasoned with them that he never got into any trouble and he be allowed to proceed, the guards did not listen to him. Finding no other way, he had to leave campus for home. Subsequently, he brought an action of false imprisonment against the university authorities.
Do you think there was false imprisonment? Give answers with appropriate case laws and/or legal provisions. What are the remedies in case of false imprisonment? [25]

10. Suresh is the owner of a firecracker factory (Rangoli Fireworks). One night, there was a short-circuit in the transformer maintained by the State Electricity Board and the transformer caught fire. The transformer was installed on Suresh's factory premises. The fire easily ignited the stockpile of explosives. Before the fire could be brought under control, it had spread over the adjoining areas and burnt down the houses. Local residents formed an association for initiating legal action.
Is Rangoli Fireworks liable for the damage caused? Which principle of tort law will be applicable here? Explain the principle. Further, explain whether State Electricity Board is also liable in this case. Cite appropriate case laws in support of your answer. [25]

11. A and B were playing football in the community ground. There was a dispute after the match. Both of them quarrelled. B told A that he would teach A a lesson and left the place. Two days later, B came to the ground along with some friends when A was present there. They had sticks with them. As he approached A, the coach intervened and sorted out the differences.
Do you think that B has committed any tort? If so, what is it? What would be your argument on behalf of A? Give reason with decided case laws. [25]

12. Explain the issue of contributory negligence in determining tortious liability with the help of decided cases. [25]