Odisha Judicial Service (Mains) 2023

Law of Crime and Law of Torts · optional paper

3 hours · 150 marks

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

Section—A

1. Critically examine the maxim actus non facit reum nisi mens sit rea and discuss its exceptions. How far do you agree that the concept of mens rea is adopted in Indian Criminal Jurisprudence? [25 marks]

2. It is often said that "there is a very thin but fine distinction between the offences of 'culpable homicide amounting to murder' and 'culpable homicide not amounting to murder' because the difference is merely of question of different degree of probability of death ensuing". Examine the correctness of the above statement with the help of legal provisions and decided cases. [25 marks]

3. What do you understand by 'criminal attempt'? What are various theories to distinguish between 'preparation' and 'attempt'? Explain with the help of decided cases. [25 marks]

4. A Delhi bound train met with an accident near Tatanagar railway station in which several passengers died. X died in that accident. While X's dead body was lying on the side of railway track, Y with dishonest intention removed three gold rings, a wrist watch and money bag from that dead body. Has Y committed theft? Discuss the liability of Y with justification. [25 marks]

5. Explain the principles of 'group liability' in criminal law. Discuss whether several persons engaged in the commission of a criminal act may be guilty of different offences by means of that act. Refer to decided cases. [25 marks]

6. "Only involuntary act of intoxication is a defence." Critically examine this statement in the light of relevant statutory provisions and decided cases. [25 marks]

Section—B

7. "Act of God is an accident due to a natural cause, directly and exclusively without human intervention." In light of this statement, discuss what is 'act of God' and to what extent it provides protection of defendant and differentiate 'act of God' from 'inevitable accident'. [25 marks]

8. Discuss the rule ubi remedium ibi jus as the origin of the law of torts. Explain in this regard, the basic dominance and subsequent abolition of the forms of action in the development of the law of torts. [25 marks]

9. What are the tests for determining remoteness of damages? Why is the 'foreseeability test' considered more rational? Explain with the help of case-laws. [25 marks]

10. Discuss Rylands vs Fletcher rule and state its exceptions. How far absolute liability principle is different from strict liability rule? Explain and refer to landmark decisions. [25 marks]

11. What are the essential elements of 'negligence'? Explain with the help of decided relevant cases. [25 marks]

12. "Qui facit per alium facit per se." Explain this maxim with the help of decided cases. [25 marks]