West Bengal Judicial Service (Mains) 2019

Law of Contracts and Torts · compulsory paper

Time: 3 hours · Full marks: 100

Group A: answer all questions

1. (a) Point out the exceptions to the doctrine of 'privity of contract'. (b) A knowingly lets out a quarter to a prostitute as her residence, not for carrying on prostitution. She fails to pay the rent for six months. Can A recover the rent in a court of law? (6+4=10)

2. (a) Mention the similarities and differences between fraud and misrepresentation. (b) X offered to sell his house to Y for Rs. 5 lakh. Z, who was overhearing, came forward and said he was ready to buy X's house on X's terms. Can Z enforce it through a court of law? (6+4=10)

3. (a) Distinguish between an 'offer' and an 'invitation to make an offer', and between a cross offer and a counter offer, with suitable examples. (b) A invites B to see a picture with him. B accepts. A buys a ticket for B and waits for him at the cinema hall. B does not turn up. Has A any cause of action against B? ((4+4)+2=10)

4. (a) "There are certain obligations which are not in truth contracts in the sense of resting on agreement, but which the law treats as if they were." (Salmond) Explain in the context of the Indian Contract Act, 1872. (b) A, B and C jointly lent Rs. 5,000 to D. A dies. B and C file a suit against D for recovery of the money. Will they succeed? Give reasons. (7+3=10)

5. (a) Comment on: (i) a bailee should not mix his own goods with those of the bailor; (ii) pledge is a bailment for a special purpose. (b) A hired a horse to ride on the exhibition ground. While he was riding, the horse was frightened by the crowd, ran into a ditch and was injured. Is A liable? Decide with reasons. ((4+3)+3=10)

Group B: answer all questions

6. (a) Explain malfeasance, misfeasance and non-feasance with examples. (b) A live wire from an electric pole got disconnected in a heavy storm and fell on a passing cyclist, who died of electrocution. Can the Electricity Board defend itself on the ground of Act of God? Explain the rights of the deceased person. (6+4=10)

7. (a) Is it open to a person to recover damages for mental and nervous shock, and if so, in what circumstances? Explain your answer with the help of case law. (b) How far is 'volenti non fit injuria' a defence in an action in tort? Explain with illustration. (6+4=10)

8. (a) Explain contributory negligence and composite negligence with proper examples. (b) A six-year-old boy standing near the footpath was hit by a lorry and severely injured. Can the boy's legal representative claim compensation? Explain. (6+4=10)

9. Write short notes on: (a) res ipsa loquitur; (b) actio personalis moritur cum persona. (5+5=10)

10. Define 'nuisance'. Distinguish between public nuisance and private nuisance. (5+5=10)