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NATIONAL LAW UNIVERSITY, JODHPUR

End-Term Examination (July-November 2024)

Semester: UG I Semester

Subject: LAW OF TORTS, MV Act and Consumer Protection Act

Time: 3 Hours

Marks: 100

*Instructions*

*Answer any five questions.*

Q.1) To what extent have tort law principles influenced the interpretation of Fundamental Rights under Part III of the Constitution of India in developing a compensatory system for violation of these rights, and what are the advantages and disadvantages of applying private law concepts to public constitutional cases?

(Marks 20)

Q.2) How effectively have the 2019 amendments to the Motor Vehicles Act 1988, read with the Motor Vehicle Aggregator Guidelines, 2020 addressed the multifaceted regulatory challenges surrounding the operation of ride-hailing platforms like Ola and Uber, particularly in balancing consumer protection, safety, and innovation within the Indian transportation system?

(Marks 20)

Q.3) On the night of July 15, 2024, a catastrophic explosion occurred at the Kolkata Chemical Corporation's plant near Baranagar, West Bengal, caused by the failure of a chloromethyl ether (CME) storage tank. This incident resulted in the release of toxic gas into the nearby village of Sudhirpur, leading to the deaths of 50 residents and over 400 hospitalizations due to severe respiratory illnesses. A 2023 internal safety audit, commissioned by the company's management, had revealed critical deficiencies in the storage infrastructure and recommended urgent repairs, which management ignored. Forensic investigations found that the tanks had significant corrosion and were structurally compromised prior to the explosion. The company engaged a third-party contractor to carry out repairs and modifications on the storage tanks, despite the contractor lacking the necessary qualifications and regulatory approval for such work. The company was aware of the contractor's inadequacies and the potential risks but failed to enforce proper oversight or compliance with safety standards. Furthermore, the company had previously faced fines for environmental violations in 2022, highlighting a consistent pattern of negligence regarding safety protocols. In response to this disaster, the Government of India has constituted a panel of experts to address the grievances of the affected individuals and communities. You have been empanelled as an advocate for this panel, tasked with guiding the investigation and ensuring justice for the victims. Emphasize the implications of the company's actions regarding liability for loss of life, health impacts, and environmental degradation and propose potential avenues for compensation for the affected residents.

(Marks 20)

Q.4) Rahul Mehta, a prominent business executive, entered into a purchase agreement with Sky High Builders for a luxury flat located in the highly anticipated Skyline Tower project. Rahul paid Rs. 11 crores for the flat, which the builder promised would be completed within two years. The builder heavily advertised the project, claiming it would be the tallest building in the world, and even featured renowned actor, Ajitabh Bachchan in promotional campaigns, enhancing its appeal and credibility.

However, after two years, the project remains incomplete, and there has been no communication from the builder regarding the reasons for the delay. Further inquiries revealed that the airport authority had



denied permission for the height of the building due to safety regulations, rendering the builder's claims about the project misleading. As a result, the timeline for completion remains uncertain, causing Rahul considerable distress and financial planning issues. Despite multiple attempts to contact the builder for an update on the project's status, Rahul received vague responses and faced persistent delays in obtaining a resolution. The builder's failure to deliver the property on time, combined with misleading advertising regarding the building's height, has left Rahul feeling cheated and frustrated. Now, Rahul seeks legal recourse against Sky High Builders, alleging deficiency in service and false advertising under the Consumer Protection Act, 2019. He has appointed you as his advocate to represent his case and seek redress for the financial loss and emotional distress he has experienced due to the builder's actions. He needs your advice on the following points.

Questions:

1. Before which forum and under which provision can Rahul initiate a case under the Consumer Protection Act, 2019?
2. What legal remedies can Rahul pursue, for the delay in possession and false representations made by Sky High Builders regarding the project?
3. In light of the alleged advertisements about the building's height and completion timeline, does Rahul have a claim against the builder and the Mr Ajitabh Bacchan Consumer Protection Act, 2019?
4. If the consumer forum's decision is unfavourable to Rahul, what options for further appeal or redress does the Consumer Protection Act, 2019, provide him to seek justice?

(Marks 4x5=20)

Q.5) To what extent is the doctrine of *volenti non fit injuria* a valid defence in tort law? Critically evaluate the challenges that arise when consent is ambiguous, involuntary, or insufficient, and assess how courts navigate these complexities and the limitations that may restrict the scope of the doctrine.

(Marks 20)

Q.6) In the case of *Ashutosh Rao v. The Truth Daily*, following the death of the renowned entrepreneur Ramesh Rao, a newspaper published an article titled "*The Celebrated Life of Ramesh Rao*". One line in the article stated, "Despite his public image as a benevolent benefactor, there are whispers about his financial connections that may not be as virtuous as they seem." This publication sparked significant backlash on social media, casting doubt on Ramesh's character and legacy, ultimately causing emotional distress to his family. Ashutosh, Ramesh's son, is now considering legal action for defamation, claiming that the article's insinuations have caused irreparable harm to his father's reputation, despite his passing. Readers familiar with Ramesh's philanthropic efforts could interpret this statement as suggesting that his charitable persona was concealing dubious dealings. The publisher argues that the statement was made in good faith. Ashutosh has approached you for legal advice regarding potential defamation claims and solutions.

(Marks 20)