

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination November 2024

Semester: UG I Semester

Subject: Legal Methods

Time: Three Hours

Marks: 100

Instructions:

1. Attempt any five out of the six questions
2. All questions carry equal marks
3. Students are prohibited from using any electronic device

Q.1) Explain the development of Common Law and Equity under Common Law System? Explain the role of writs under Common Law system and its relevance under contemporary times?

(Marks 20)

Q.2) Following is the provision on Undue Influence under the Contract Act-

“Undue influence” defined.—(1) A contract is said to be induced by “undue influence” where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other. (2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another— (a) where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or (b) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

Explain the role of presumption and burden of proof in the above mentioned provision of the Contract Act?

(Marks 20)

Q.3) Explain the relevance of Question of Law and Question of fact in the determination of the role of judge and jury in a legal system? Explain the context of judicial discretion within the same?

(Marks 20)

Q.4) Explain the role of customs in a legal system? Explain the role that customs play as a source of law under the realm of Public International Law?

(Marks 20)

Q. 5) Following is an order passed by the Central Government-

S.O. 2714(E).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Removal of Licensing Requirements, Stock Limits and Movement Restrictions on Specified Foodstuffs Order, 2016, namely - 1. Short title and commencement- (1) This Order may be called the Removal of Licensing Requirements, Stock Limits and Movement Restrictions on Specified Foodstuffs (Second Amendment) Order, 2024. (2) It shall come into force on the date of their publication in the Official Gazette. 2. In the Removal of Licensing Requirements, Stock Limits and Movement Restrictions on Specified Foodstuffs Order, 2016, in paragraph 3, in sub-paragraph (2), for item (i), the following shall be substituted, namely - "(i) pulses namely Tur and Chana, excluding Kabuli Chana, for a period up to 30th September, 2024 with following stock limits for all States and Union Territories.

Explain the role and legal relevance of the above mentioned order? Explain the import of the term S.O in the above mentioned order? Explain the procedure to identify the concerned authority of the central government? (Marks

20)

Q.6) Refer to the judgment attached and provide for the ratio and obiter, if any? (Marks 20)

Court has held in the said decision is that there is a presumption that a vehicle is driven on the master's business and by his authorised agent or servant but the presumption can be met. It cannot be, on this basis, contended that such presumption extends to other acts of a driver. Sri Kamath nextly relied on the decision of this Court in *Harsha V. Rai v. Karna*. The principle laid down by the Supreme Court in the above said decision in regard to the presumption that arises, is followed in this case. That does not help the appellants.

In regard to the other acts done by a driver while driving a vehicle for the owner in the course of his employment, this Court has relied on the observations of Sellers, J., in *Twine v. Bean's Express*. The observations are as follows: ".....If the question is asked: Was the driver, Harrison, in giving a lift to the deceased man acting within the scope of his employment? The answer is clearly 'No'. He was doing something that he had ??? right whatsoever to do, and quo the deceased man he was as much on a ??? of his own as if he had been driving somewhere on some amusement of his own quite unauthorised by his employers.... He was in fact doing two things at once. He was driving his van from one place to another by a route that he was properly taking when he ran into the omnibus, and as he was driving the van he was acting within the scope of his employment. The other thing that he was doing simultaneously was something totally outside the scope of his employment, namely, giving a lift to a person who had no right whatsoever to be there. In my opinion, once the facts are understood the case is a perfectly simple one, and there is only one answer to it."

This is the principle that aptly applies to the facts and circumstances of this case. The reasoning of Shri Kamath that respondent 1 having not stated in his evidence that he had not permitted respondent 3, the driver, to pick up persons on the way, gives rise to a presumption of at least an inference that such permission had been granted to the driver and, therefore respondent 1 was vicariously liable.