

16 NOV 2024

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) Examine the development of the absolute liability doctrine in India, with reference to *M.C. Mehta v Union of India* 1987 AIR 1086 and the *Union Carbide Corporation case* 1989 SCC (2) 540. How did these cases redefine the strict liability rule of *Rylands v. Fletcher* LR 3 HL 330 to address industrial accidents better?

(Marks 20)

Q.2) Analyse how tort law principles have influenced the interpretation of Fundamental Rights under Part III of the Constitution of India, particularly in developing a compensatory system for constitutional violations. Do you view the use of private law concepts in public constitutional cases as appropriate, and what are the strengths and drawbacks of this approach?

(Marks 20)

Q.3) To what extent is the doctrine of *volenti non-fit injuria* a valid defence in tort law, and what challenges arise in its application when consent is ambiguous, involuntary, or insufficient? Critically assess how courts address these complexities and the limitations that may restrict the doctrine's scope.

(Marks 20)

Q.4) To what extent have the 2019 amendments to the Motor Vehicles Act, 1988, along with the Motor Vehicle Aggregator Guidelines, 2020, resolved the complex regulatory challenges faced by ride-hailing platforms like Ola and Uber, especially in terms of striking a balance between consumer protection, safety, and fostering innovation in the transportation framework?

(Marks 20)

Q.5) Priya Kapoor, a professional model, visited the Salon of Hotel ITC Maurya, New Delhi (Chanakyapuri). As her regular hairdresser/stylist wasn't available, she availed herself of the services of another stylist, despite being dissatisfied with their services in the past. Priya decided to proceed with the manager's assurance that the stylist had significantly improved. She instructed the stylist to provide "long flicks/layers covering her face in the front and at the back and a 4-inch straight hair trim from the bottom." The haircut cost her Rs. 2 lakhs. However, after an hour, when questioned about the haircut, the stylist informed her that she was giving Priya "the London Haircut." To Priya's shock, the stylist had chopped off her entire hair, leaving only 4 inches from the top and barely touching her shoulders, contrary to her explicit instructions. This resulted in significant humiliation and embarrassment for Priya, severely impacting her modelling career and leading to a state of depression. Subsequently, the hotel offered a hair treatment at 50% less than the actual price which was Rs. 5 lakhs which Priya accepted after considerable persuasion. Upon arrival, she was informed that an in-house hairdresser would perform the treatment under her regular stylist's supervision. Convinced by the hotel staff of the in-house stylist's competence, Priya obliged. However, during the treatment, she experienced hair and scalp damage due to excess ammonia, resulting in irritation. Priya alleged that the hairdresser scratched and cut her scalp while pretending to massage it, and her scalp was burnt due to an ammonia-laden cream. Despite her complaints about the treatment, the hotel staff were abusive and disrespectful, threatening her against returning

to the salon. After her efforts to address the issue with ITC Hotel Group's management proved futile, Priya has sought legal recourse and has appointed you as her advocate. She alleges harassment, humiliation, and mental trauma.

1. Can the allegations be defined as "deficiency in service" under the Consumer Protection Act, 2019, and what factors would the relevant authority consider in determining whether the services provided to Priya Kapoor constituted a deficiency?
2. Where should Priya Kapoor file her complaint regarding the alleged 'deficiency in service' provided by the ITC Maurya Salon, and what factors determine the appropriate forum for her case?
3. What specific elements must Priya Kapoor establish to successfully claim compensation for emotional distress and financial loss following the alleged negligent services of the salon?
4. If Priya Kapoor is aggrieved by the decision made by the initial forum regarding her complaint, what are the other alternatives for her to seek redressal?

(Total Marks: 5x4= 20)

Q.6) Aarohi Patel, a well-known child rights activist and founder of the NGO ChildCare Alliance, has initiated a defamation claim against NewsWatch India following the publication of an article on July 1, 2024. The article, titled "Hidden Agenda Behind Child Rights Advocacy? The Questionable Dealings of Aarohi Patel," alleged that Patel had diverted ₹15,00,000, donated by two corporate sponsors, from educational and healthcare projects for underprivileged children, using the funds instead to finance a personal vacation home and luxury lifestyle expenses. The allegations were based on an internal audit report from ChildCare Alliance, which was leaked anonymously to NewsWatch India. The report indicated financial discrepancies that suggested potential misuse of funds. NewsWatch India reached out to Patel for her comments. Patel responded, "These accusations are false, and our financial dealings are transparent and subject to regular scrutiny. This is a clear attempt to tarnish my reputation based on incomplete information."

Despite her denial, NewsWatch India published the article, sensationally presenting the financial irregularities. The article gained traction on social media, with influencers speculating about Patel's ethics without verifying the facts. As a result, several donors reconsidered their contributions to ChildCare Alliance, and Patel was disinvited from various national conferences on child rights. However, NewsWatch India argued that the publication was in the public interest, given the importance of transparency in NGOs handling public donations. They claimed that the leaked internal report raised legitimate questions about the NGO's financial practices, which they had a duty to report on. Patel, on the other hand, claimed that the report was taken out of context and that the publication of the article had caused significant damage to her professional reputation and the credibility of ChildCare Alliance.

Patel now wants to file a defamation suit and claim damages. She has approached you for consultation.

#### Annexure:

NewsWatch India

Title: "Hidden Agenda Behind Child Rights Advocacy? The Questionable Dealings of Aarohi Patel"

In a startling revelation, an internal audit report from ChildCare Alliance, leaked anonymously to us, raises serious concerns about Aarohi Patel, the founder of the NGO. The report indicates that ₹15,00,000, meant for child education and healthcare initiatives, was allegedly diverted for personal use, including the purchase of a vacation home. Despite Patel's denial of the allegations, these financial discrepancies suggest potential misuse of donations. Our investigation reveals deeper questions about the financial accountability of organizations like ChildCare Alliance. Stay tuned for further updates on this developing story.

(Marks 20)