

Roll No.

This question paper contains 4 printed pages]

0(KCS-J)9

Paper : IV

Optional Paper

Time Allowed : 3 hours]

[Maximum Marks : 100

Note : (i) Question No. 1 is *compulsory*. Attempt *two* questions each from Group - A and Group - B.

(ii) Use of Bare Acts is not allowed.

(iii) The answer to each question or part thereof should begin on a fresh page.

5 × 4

1. (a) Discuss statutory authority as a defence to tort.
- (b) Explain the maxim of 'Res Ipsa Loquitor'.
- (c) "A stranger to contract cannot enforce the contract". Comment.
- (d) Briefly explain the law with respect to completion of communication under English and Indian law.

P. T. O.

GROUP - A

(Attempt any two questions)

2. Discuss the essential ingredients of 'undue influence' and explain how the court should proceed in a case where there is allegation of 'undue influence' in a contract. 20

'A's son is bed ridden and he needs money badly, for his treatment. He agrees to dispose of his shop worth Rs. 5 lakh, for Rs. 1 lakh only to 'N'. After one month of Agreement, 'A' sought cancellation of the Agreement on the ground of undue influence. Discuss if 'A' will succeed.

3. Critically examine the rule of law laid down by the Supreme Court in Bhagwandas Goverdhandas Kedia vs. Girdharilal Purshottamdas & Co., AIR 1966 Sc 543. Discuss whether the same holds as a good law in the age of internet and e-mail. 20

4. Explain, with the help of decided cases, whether the following facts create a contractual obligation : 20

- (i) 'A' finds 'B's purse and returns it to him. B makes an oral promise to pay 'A' Rs. 1000/- as reward.
- (ii) Because of frequent disagreements, quarrels and disputes between a father and his son, the father, by a written agreement duly attested by a Notary, promises to pay Rs. 15,000/- per month to his son for living separately.

GROUP - B**(Attempt any two questions)**

5. "Tortious liability arises from the breach of duty primarily fixed by law. This duty is towards persons generally and its breach is redressible by an action of unliquidated damages." 20

Give a critical appraisal of the above statement and make a distinction between tort, crime and breach of contract.

6. "The Rule of *Rylands vs. Fletcher* no longer affords a useful remedy to the plaintiff who has been injured without fault." 20

Critically examine the above statement in the light of recent judicial pronouncements made by the Supreme Court of India.

7. What tort, if any, has been committed in the following facts : 20

- (a) 'A' fettered the forfeit of his donkey and left it on a highway. 'B' was driving a wagon across the highway, at a high speed. The wagon struck the donkey and led to the donkey's death.
- (b) 'A' was cutting a large tree on his land. As the tree fell, a branch struck a boy playing nearby, injuring him in the process.
- (c) 'A's car was being repaired by 'B'. 'B's servant, instead of delivering the repaired car to 'A', took the car for a joyride and met with an accident, wrecking the car.

(d) A cricket match was in progress on a ground which was being used for this purpose since decades. Batsman 'A' struck the ball high in the air, which flew seventeen feet above the ground. After crossing the fence, the ball hit 'Y' on the road, 100 yards away from the ground.

7. What tort, if any, has been committed in the following facts :
- (a) 'A' lettered the forfeit of his donkey and left it on a highway. 'B' was driving a wagon across the highway at a high speed. The wagon struck the donkey and led to the donkey's death.
- (b) 'A' was cutting a large tree on his land. As the tree was falling, a branch struck a boy playing nearby, thus injuring him in the process.
- (c) 'A's car was being repaired by 'B'. 'B's servant, instead of delivering the repaired car to 'A', took the car for a joyride and met with an accident, wrecking the car.