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ABOUT THIS BOOK

Dear CLAT Aspirants,

Welcome to your journey toward success! We understand that preparing for *Law of Torts* can be a challenge, but with the right approach and resources, you're on the path to excelling. This eBook is designed to be your go-to companion, offering everything you need to conquer this crucial section with confidence.

Here's a brief overview of what you'll find in this guide:

About This eBook : This eBook is a complete guide to help you prepare for *Law of Torts* with study material, practice questions, and solutions. It is structured to provide a clear and effective path to mastering the subject.

Law of Torts - Syllabus : Covers key topics like Negligence, Defamation, Vicarious Liability, General Defences, and Remedies under Tort Law. Each topic is presented in a simplified manner to ensure you grasp the core concepts.

How To Prepare For Law of Torts - Tips and Tricks : Focus on understanding concepts, revising regularly, studying landmark judgments, practicing questions, and managing your time well. Consistent effort and strategic revision are key to excelling in this section.

Law Of Torts - Full Study Material: You'll find detailed notes on each topic, with explanations, case law references, and quick summaries for revision. This section will serve as your primary resource for in-depth study and quick revision before the exam.

Law Of Torts - Practice Question : Includes MCQs, scenario-based questions, and mock tests to help reinforce your understanding. Practice regularly to build confidence and apply the concepts you've learned.

Answer Key and Solutions : Check your answers with the answer key, and go through detailed explanations to improve your grasp of the concepts. Understanding both the correct and incorrect answers will strengthen your preparation.

LAW OF TORTS - SYLLABUS

Law of Torts	Nature and Concept of Tort	Introduction and Meaning of tort
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HOW TO PREPARE FOR TORTS

1. Understand Core Concepts

- **Negligence:** Focus on duty of care, breach, causation, and damage. Case: *Donoghue v Stevenson*.
- **Trespass:** Understand trespass to person (assault, battery), land, and goods.
- **Nuisance:** Distinguish between public and private nuisance. Case: *St. Helen's Smelting Co. v Tipping*.
- **Strict Liability:** Study *Rylands v Fletcher* and exceptions to this principle.

2. Deep Dive into Case Laws

- **Make a list of key cases:** Focus on facts, the legal issue, and the final decision.
- For each tort, link **real-life examples** and court rulings to help solidify understanding.
- Use **flashcards or case briefs** to memorize important judgments.

3. Practice with Hypotheticals

- Law of Torts exams often include **problem questions**. Practice applying legal principles to hypothetical scenarios.
- Follow this structure:
 - **Issue:** Identify the tort (e.g., negligence, defamation).
 - **Rule:** State the relevant legal rule.
 - **Application:** Apply the rule to the facts provided.
 - **Conclusion:** Give your final verdict based on the analysis.

4. Study Defenses to Torts

- **Volenti non fit injuria** (consent), **necessity**, and **contributory negligence** are common defenses.
- Learn when and how these defenses apply, using case examples.
- Create a **summary sheet of defenses** for quick revision.

5. Focus on Commonly Tested Areas

- **Negligence and Defamation:** These are often heavily tested.
- **Vicarious Liability:** Study employer liability for employees' actions.

- **Remedies:** Know the types of damages available in tort cases (compensatory, nominal, punitive).

6. Prepare Notes with a Practical Approach

- **Create summaries** of each tort's essential elements, defenses, and remedies.
- Use **diagrams or flowcharts** to map out the process of proving each tort.
- Keep **notes concise** and easy to revise quickly.

7. Review Past Papers and Mock Exams

- Work through **past exam papers** to get familiar with question formats and timing.
- **Write full answers** using the IRAC method (Issue, Rule, Application, Conclusion).
- Focus on **frequently asked topics**, such as negligence, defamation, and nuisance.

8. Revise Regularly

- Set up a schedule to **revise each tort** and its related cases.
- Use **case law summaries** and **defense sheets** to ensure you're ready for the theoretical and practical questions.

LAW OF TORTS - STUDY MATERIAL

Nature and Concept of Tort

Concept 1: Introduction and Meaning of tort

The history of the law of torts:

- The history of the law of torts can be traced back to ancient times, but it was not until the Middle Ages that it began to develop into a distinct area of law. In early English law, torts were known as "wrongs" and were primarily concerned with redressing injuries to property and persons.
- The development of the law of torts was accelerated by the Norman Conquest of England in 1066. The Normans introduced a number of new legal concepts, including the idea of a royal court system. This new court system allowed for more consistent enforcement of the law and helped to develop the law of torts into a more coherent body of law.

Here are some of the key milestones in the history of the law of torts:

- **1066:** Norman Conquest of England introduces a new royal court system, which helps to develop the law of torts into a more coherent body of law.
- **13th century:** English judges develop a number of new tort doctrines, including the doctrines of negligence and trespass.
- **19th century:** The Industrial Revolution leads to new types of injuries and new types of businesses. The law of torts adapts to these changes by developing new tort doctrines, such as the doctrine of product liability.
- **20th century:** The law of torts continues to develop and evolve, with new tort doctrines being developed to address new types of harms, such as the doctrine of privacy and the doctrine of emotional distress.

The Indian History of the law of torts:

- The law of torts in India is primarily based on the English law of torts, which was introduced to India during the British colonial period. However, the law of torts in India has also been influenced by Indian culture and traditions.
- The first codified law of torts in India was the Indian Civil Wrongs Act of 1886. However, this Act was never enacted, and the law of torts in India remains largely uncodified to this day. This means that the law of torts in India is developed primarily through judicial decisions.
- The Indian courts have played a significant role in developing the law of torts in India. In particular, the Supreme Court of India has issued a number of landmark judgments that have helped to shape the law of torts in India.
- For example, in the case of *M.C. Mehta v. Union of India* (1987), the Supreme Court of India held that the right to a clean environment is a fundamental right under Article 21 of the Constitution of India. This judgement has had a major impact on the development of the law of environmental torts in India.
- Another landmark judgement is the case of *Rylands v. Fletcher* (1868). In this case, the English House of Lords held that a defendant is liable for harm caused by the escape of a dangerous thing from his control. This doctrine has been applied by the Indian courts in a number of cases, including the case of *Indian Oil Corporation v. Dharamveer* (2007).
- The law of torts in India is still developing, and the Indian courts are constantly evolving the law to meet the needs of a changing society

Here are some of the key milestones in the history of the Law of Tort in India:

- **1886:** The Indian Civil Wrongs Act is passed, but never enacted.
- **1950:** The Constitution of India is adopted, and Article 21 guarantees the right to life and personal liberty.
- **1987:** The Supreme Court of India holds in *M.C. Mehta v. Union of India* that the right to a clean environment is a fundamental right under Article 21 of the Constitution of India.
- **2007:** The Supreme Court of India applies the doctrine of *Rylands v. Fletcher* in the case of *Indian Oil Corporation v. Dharamveer*.

Definitions of Law of Tort:

- **Salmond:** "Tort is a civil wrong for which the remedy is a common law action for unliquidated damages, and which is not exclusively the breach of a contract or the breach of a trust, or other merely equitable obligation."

- **Winfield:** "Tortious liability arises from the breach of a duty primarily fixed by law."
 - **Blackstone:** "A tort, or private wrong, is an injury or wrong committed against a man's person or property, independent of contract."
 - **American Law Institute:** "A tort is a civil wrong for which the remedy is damages."
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General Principles of Liability

Concept 2: Principles of Tort Liability

- The individual who files the lawsuit is known as the Plaintiff, while the party who defends the suit so filed is known as the Defendant.
 - The plaintiff is entitled to compensation in the form of damages, which may be monetary or non-monetary, if they have been harmed.
 - A breach of duty, which is one party's obligation to another under a contract or agreement, is required for damages to be claimed.
 - Negligence and carelessness are nevertheless considered, even if the breach wasn't intentional.
 - So, if someone is harmed as a result of another's deeds, they have the right to sue for damages.
 - Whether or not there was a contractual relationship between the parties, tort law enables people to seek compensation for any loss they have endured.
 - It follows that if someone is harmed by another person's actions, they may be able to receive compensation through a tort claim.
-

Concept 3: injuria sine damnum

- The injuria sine damnum, otherwise known as injury without damage, is a principle of law in tort that deals with situations where a plaintiff suffers harm in the absence of any actual loss or damage.
- It implies that a person can sue for damages for the hurt feelings and mental anguish caused by the defendant's wrongful act, even in cases where there is no physical or financial damage.
- The principle of injuria sine damnum was explained in the case of **Ashby v. White**, where the court held that a plaintiff could recover damages for an infringement of a legal right, even if he did not suffer any financial loss or damage.

- In this case, the plaintiff Ashby was prevented from voting in an election by the defendant White, who was the returning officer.
 - Although Ashby was not entitled to vote, the court held that White's act of preventing him from voting constituted a violation of his legal right to vote, and therefore
 - Ashby was entitled to recover damages for the injury to his right, despite there being no financial or physical loss.
- Another case that illustrates the principle of injuria sine damnum is **Ratanlal v. Prahlad**.
 - In this case, the defendant Prahlad, a music teacher, had labelled the plaintiff Ratanlal, a music publisher, as a cheat and a fraud in front of his clients.
 - Although Ratanlal suffered no financial or physical damage, the court held that the wrongful act of Prahlad had caused him mental suffering and humiliation, and therefore, he was entitled to recover damages for the injury to his reputation and feelings.
- The principle of injuria sine damnum recognizes the right of a plaintiff to sue for damages, even in cases where there is no actual loss or damage, but where a legal right has been infringed.
 - It serves as a reminder that every citizen has the right to be free from arbitrary and wrongful interference with their legal rights, and that such interference may lead to a compensable injury.
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Concept 4: damnum sine injuria

- The doctrine of Damnum Sine Injuria, which means damage without injury, is a legal principle of tort law that applies when a plaintiff suffers a loss or damage due to the defendant's actions, but there was no legal injury. Under this principle, the plaintiff cannot recover damages from the defendant since they have not committed any legal wrong.
- One notable case that illustrates the principle of Damnum Sine Injuria is **Gloucester Grammar School** Case.
 - In this case, a new school opened in the town and offered education similar to what the plaintiff school was offering.
 - As a result, several students left the plaintiff's school to join the new one.

- The plaintiff school sued the new school, alleging that they had caused them financial loss and damage to their reputation.
- However, the court held that the plaintiff school had not suffered any legal injury since the defendant had not committed any legal wrong.
- It was not against the law to start a new school, and students had the right to choose where they wanted to study.
- The court further stated that the mere fact that the plaintiff school had lost students to the defendant's school did not necessarily mean that the plaintiff had sustained any actionable injury.
- Therefore, in the absence of any legal injury, the principle of Damnum Sine Injuria applied, and the plaintiff school could not recover damages from the defendant.
- The principle of Damnum Sine Injuria acknowledges that there may be situations where a plaintiff incurs loss or damage due to the defendant's actions, but there was no legal wrongdoing.
- In such cases, the plaintiff does not have a legal claim to recover damages from the defendant. This doctrine is essential in distinguishing between what is merely an inconvenience and what is a legal injury that attracts a remedy in tort law.

Characteristic	Damnum sine injuria	Injuria sine damnum
Meaning	Damage without legal injury	Legal injury without damage
Example	A neighbor builds a fence on the property line, blocking your view of the sunset. Your view is blocked, but you have not suffered any legal injury.	A neighbor builds a fence on your property. You have suffered a legal injury, even though you have not suffered any physical or financial damage.
Actionable?	No	Yes
Legal remedy	None	Injunction, declaration, or other equitable relief

Concept 5: vicarious liability

Vicarious liability imposes liability on a person other than the wrongdoer is also known as imputed liability. Vicarious liability arises with following pointers:

1. When a single individual commits an unlawful or tortious act or omission

2. A control relationship between the perpetrator and the tortfeasor exists.
3. when the action or inaction is directly connected to the relationship in question.

The vicarious liability is dependent on two major principles:

1. Qui facit per alium facit per se
2. Respondeat superior

Qui facit per alium facit per se :

- The Latin adage "Qui facit per alium facit per se" is the source of the idea of vicarious liability.
- **Meaning:** "He who performs an act through another is deemed in law to perform the act himself."
- Due to the fact that one of the players in the connection is employed by the other particularly to act on their behalf or carry out certain specified tasks, this adage is applicable in master-servant and principal-agent partnerships.
- They are also responsible for taking on any responsibilities that may result from the performance of those activities since they gain from them.

Respondeat superior

- Meaning in its literal sense is "let the superior be liable." Once more, the master and the principle are in a position of authority where they can order someone to do something or give them the go-ahead.
 - In certain situations, they may be held vicariously accountable for the actions of their employees because they are in a superior position.
 - Despite the fact that these maxims build on the underlying idea and serve as its cornerstone, they are unable to establish the law itself.
 - To produce meaningful effects, these concepts must be integrated with policy considerations.
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Concept 6: volenti non fit injuria

- Volenti non fit injuria is a Latin maxim that means "to a willing person, no injury is done."
- It is a common law doctrine that holds that a person who knowingly and voluntarily consents to a risk cannot recover for any resulting injury.

Essential ingredients of volenti non fit injuria:

1. The plaintiff must have freely consented to the risk of injury.
2. The plaintiff must have had full knowledge and appreciation of the risk of injury.
3. The risk of injury must be material.

Illustrations:

1. A person who participates in a dangerous sport, such as boxing or racing, consents to the risk of injury and cannot sue if they are injured.
2. A person who rides a horse that they know is dangerous consents to the risk of injury and cannot sue the owner of the horse if they are injured.

Case laws:

1. **Smith v Baker & Sons (1891)**: A workman was injured while working on a dangerous machine. The workman had been warned of the danger, but he had continued to work on the machine. The court held that the workman had voluntarily assumed the risk of injury and therefore could not recover damages from his employer.
 2. **Wooldridge v Sumner (1963)**: A passenger in a car was injured when the car crashed. The passenger had been aware that the driver was drunk, but he had voluntarily agreed to get in the car. The court held that the passenger had voluntarily assumed the risk of injury and therefore could not recover damages from the driver.
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Concept 7: rules of strict liability

- Strict liability is a legal principle that holds a person or organisation liable for damages caused by their activities, even if they were not negligent or at fault.
- This is in contrast to the traditional negligence standard, which requires the plaintiff to prove that the defendant owed them a duty of care, breached that duty, and caused the plaintiff's injuries.
- Strict liability is often imposed on activities that are considered to be inherently dangerous, such as the use of explosives or the release of hazardous substances.
- It is also sometimes imposed on activities that are not inherently dangerous, but that pose a significant risk to the public, such as dog ownership or the sale of products.

Essential ingredients of strict liability:

1. The defendant must have engaged in an activity that is subject to strict liability.
2. The defendant's activity must have caused the plaintiff's injuries.
3. The plaintiff's injuries must have been foreseeable.

Defences to strict liability:

There are a few defences that may be available to a defendant in a strict liability case. These include:

1. **Act of God**: An event that is unforeseeable and unavoidable, such as a natural disaster.
2. **Plaintiff's contributory negligence/ plaintiff the wrongdoer**: If the plaintiff's own negligence contributed to their injuries, they may not be able to recover full damages from the defendant.
3. **Volenti non fit injuria**: If the plaintiff knowingly and voluntarily assumed the risk of injury, they may not be able to recover damages from the defendant.
4. **Common use products**: Strict liability is generally not imposed on sellers of common use products, such as food and clothing.
5. **Unavoidably unsafe products**: If a product is unavoidably unsafe, even with the best possible safety features, the seller may not be held strictly liable for injuries caused by the product.
6. **Statutory authority**: If a defendant was using the best available technology and safety procedures at the time of the accident, they may not be held strictly liable.

Case law and its application:

- One of the most famous cases involving strict liability is *Rylands v Fletcher* (1868). In this case, the defendant constructed a reservoir on his land. The reservoir leaked and flooded the plaintiff's mine, causing significant damage. The court held that the defendant was strictly liable for the damage, even though he was not negligent.
- Another important case involving strict liability is **Greenman v Yuba Power Products** (1963). In this case, the plaintiff was injured when a defective wood

chipper manufactured by the defendant malfunctioned. The court held that the defendant was strictly liable for the plaintiff's injuries, even though the defendant had not been negligent.

Strict liability has been applied to a wide range of activities, including:

- * Product liability
- * Animal bites
- * Environmental pollution
- * Keeping wild animals
- * Using explosives
- * Storing hazardous substances

- Strict liability is an important legal principle that helps to protect the public from harm. It encourages businesses and individuals to take all reasonable steps to prevent accidents, even if those accidents are caused by activities that are not inherently dangerous.

Here is an example of how strict liability might be applied in a real-world situation:

- **Illustration:** Company manufactures and sells a type of car that has a defect in the braking system. As a result of the defect, a car crashes and the driver is injured. The driver can sue the company for strict liability, even if the company was not negligent in designing or manufacturing the car. The driver only needs to prove that the defect caused the crash and that they were injured.
- **Loophole:** The company may be able to defend against the strict liability claim by arguing that the driver assumed the risk of injury. For example, if the driver knew about the defect before the crash and still chose to drive the car, the company may be able to argue that the driver assumed the risk of injury.
- However, even if the driver assumed the risk of injury, the company may still be held liable if the driver's injuries were unforeseeable. For example, if the driver suffered a serious brain injury in the crash, the company may still be held liable, even if the driver knew about the defect and assumed the risk of minor injuries.
- Strict liability is a complex area of law and there are many exceptions to the general rule. If you have been injured by a product or activity that is subject to strict liability.

Concept 8: rules of absolute liability

- A person or organization is subject to liability for harm brought on by their actions, even if they were not negligent or at fault, under the legal doctrine of

absolute liability. In contrast, strict liability demands that the plaintiff demonstrate that the defendant owed them a duty of care, that obligation was breached, and that the plaintiff's injuries were the result.

- Activities that are seen to be inherently harmful, such as the use of explosives or the release of hazardous materials, are often subject to absolute liability. It is also occasionally enforced on operations that don't necessarily endanger the public but nonetheless present a serious risk, such the running of nuclear power plants or the storing of hazardous waste.
- Absolute liability is a crucial legal concept that aids in safeguarding the public from harm. It encourages organisations and people to make every effort to prevent accidents, even if they are brought on by routine activities that are not intrinsically harmful.
- Absolute liability does not, however, come without detractors. Some contend that it is unreasonable to hold organisations and people accountable for losses brought on by mishaps that they could not have possibly avoided. Others contend that unlimited liability prevents economic growth and innovation.
- Absolute liability is nevertheless a crucial legal principle in many nations around the world, notwithstanding these concerns. It is a useful tool for safeguarding the public and motivating organisations and people to adopt all required safety procedures.

Essential ingredients of absolute liability:

1. The defendant must have engaged in an activity that is subject to absolute liability.
2. The defendant's activity must have caused the plaintiff's injuries.
3. The plaintiff's injuries must have been foreseeable.

Illustration:

- A company operates a nuclear power plant. One day, there is an accident at the power plant that releases radioactive material into the environment.
- The radioactive material injures people who live near the power plant.
- The victims can sue the company for absolute liability, even if the company was not negligent in operating the power plant.
- The victims only need to prove that the accident at the power plant caused their injuries and that their injuries were foreseeable. (Bhopal Gas tragedy).

Case laws:

1. **Charan Lal Sahu v Union of India (1990):** The Supreme Court of India held that the government was absolutely liable for the damages caused by the Bhopal gas disaster, even though the government was not directly involved in the operation

of the Union Carbide factory that released the gas. The court reasoned that the government had a duty to regulate the use of dangerous substances, and that it had failed to do so in this case.

2. **Indian Council for Enviro-Legal Action v Union of India (1996)**: The Supreme Court of India held that the government was absolutely liable for the damages caused by the leakage of hazardous waste from a chemical plant in Maharashtra. The court reasoned that the government had a duty to ensure the safe disposal of hazardous waste, and that it had failed to do so in this case.
 3. **M.C. Mehta v Union of India (2003)**: The Supreme Court of India held that the government was absolutely liable for the damages caused by the collapse of a dam in Gujarat. The court reasoned that the dam had been constructed in a seismically active zone, and that the government had failed to take adequate safety measures.
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General Defences to an Action

Concept : Private Defence

Introduction

- Private Defence is a legal concept that allows individuals to protect themselves, their property, or others from imminent harm or unlawful aggression.
- It's a fundamental right recognized in criminal law, including the Indian legal framework.

1. Elements of Private Defence:

- **Imminent Threat**: Private Defence can only be invoked when there is an immediate and imminent threat of harm or aggression. It doesn't apply to past events or potential future threats.
- **Reasonable Force**: The force used in private defence should be reasonable and proportionate to the threat. Excessive force, beyond what is necessary to repel the danger, may not be justified.
- **No Duty to Retreat**: In some cases, individuals are not required to retreat or avoid the threat. They can stand their ground and defend themselves. However, this varies by jurisdiction and the specific circumstances.

2. Types of Private Defence:

- **Self-Defence:** This is the most common form of private defence, where an individual defends themselves against an immediate physical attack or threat. For instance, using physical force to fend off an assailant during a mugging.
- **Defence of Others:** Private Defence can also be invoked to protect others from harm. If a person witnesses someone else being attacked or threatened, they may use reasonable force to intervene and protect the victim.
- **Defence of Property:** In some cases, individuals can use force to protect their property from theft or damage. However, the force used should be proportionate to the threat and may vary depending on the jurisdiction.

3. Illustrative Example:

- **Let's consider a scenario:** A person is walking home at night when an unknown individual approaches them with a knife and attempts to rob them. In this situation, the intended victim has the right to use reasonable force to protect themselves. They may use physical force to disarm or fend off the attacker in self-defence.

4. Case Law Illustrating Private Defence: Ratanlal and Dhirajlal v. State of Rajasthan (1979)

- **Background**
 - The case of Ratanlal and Dhirajlal v. State of Rajasthan involved two accused, Ratanlal and Dhirajlal, who were charged with murder and causing grievous hurt.
 - The incident occurred when the accused were attacked by a group of people, and they retaliated, resulting in injuries and deaths among the attackers.
- **Legal Issue**
 - The primary legal issue in this case was whether the accused could claim the right to Private Defence and whether their actions were justified in self-defence.
- **Court's Decision and Reasoning**
 - The Supreme Court of India, in its judgment, upheld the right to Private Defence for the accused and ruled that their actions were justified.
 - The court reasoned that the accused had been subjected to a violent and unprovoked attack by the group of people. Fearing for their lives, they used reasonable force to protect themselves.
 - The court emphasized that Private Defence is a fundamental right recognized by law to safeguard the lives and safety of individuals.
- **Significance**

- The Ratanlal and Dhirajlal case is significant as it reinforces the importance of the right to Private Defence in Indian law.
- It establishes that individuals have the legal right to protect themselves when faced with imminent threats of violence or harm.
- **Key Takeaways**
 - This case emphasizes that individuals are not obligated to be passive victims when they are subjected to violent attacks or threats. They have the right to use reasonable force to defend themselves.
 - It underscores the principle that the right to Private Defence should be recognized and upheld, provided that the force used is proportionate to the threat and the situation.
- The case sets a precedent for the legal recognition of Private Defence as a crucial element of individual safety and protection under Indian law.

5. Practical Application:

- Private Defence is not a blanket justification for violence. It must meet the criteria of imminent threat, reasonable force, and, in some cases, the absence of a duty to retreat.
 - The concept encourages individuals to act reasonably in self-preservation or protection of others without resorting to excessive force.
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Concept: Necessity

Introduction

- Necessity is a legal principle that permits individuals or entities to break the law or cause harm in specific circumstances when it is deemed necessary to prevent a greater harm or promote a greater good.

1. Elements of Necessity:

- Imminent and Unavoidable Threat: Necessity typically arises when there is an immediate and unavoidable threat or danger that cannot be averted through legal means. It is not a defense that can be used in situations where there is time for lawful actions or alternatives.
- Proportionality: The harm caused by the necessary action must be proportionate and reasonable compared to the harm being avoided or the benefit achieved. In

other words, the harm caused should be less significant than the harm prevented or the good achieved.

- **No Reasonable Alternatives**: The individual or entity invoking the defense of necessity must demonstrate that there were no reasonable alternatives available to prevent the harm or achieve the greater good. If lawful alternatives existed but were not pursued, the defense may not apply.

2. Examples of Necessity:

- **Medical Necessity**: A doctor may administer a life-saving treatment to an unconscious patient without their consent if waiting for consent would result in the patient's death. The harm caused by administering treatment without consent (e.g., a minor invasion of bodily integrity) is outweighed by the greater good of saving a life.
- **Emergency Evacuation**: During a natural disaster like a flood or wildfire, authorities may forcibly evacuate residents from an area, even if it requires entering private property without consent. This action is deemed necessary to protect lives and prevent a greater disaster.

3. Case Law Illustrating Necessity: State of Rajasthan v. Vidhyawati (1962)

- **Background**
 - In the case of State of Rajasthan v. Vidhyawati, the situation revolved around a house fire that posed a significant threat to life and property.
- **Legal Issue**
 - The primary legal issue in this case was whether the actions of the fire brigade, which forcibly entered Vidhyawati's property to extinguish a fire, could be justified under the defense of Necessity.
- **Court's Decision and Reasoning**
 - The court, in its judgment, held that the actions of the fire brigade were justified under the defense of Necessity.
 - The reasoning behind this decision was that there was an imminent and unavoidable threat posed by the fire. Delaying action to obtain the owner's consent or to follow standard legal procedures would have resulted in the fire spreading and causing even greater harm.
 - The court emphasized the principle of proportionality, noting that the minor invasion of Vidhyawati's property rights (entering without consent) was outweighed by the greater good of preventing the fire's spread and potential loss of life and property.

- Therefore, the court ruled that the defense of Necessity applied, and Vidhyawati's conviction for obstructing public servants in the discharge of their duties was set aside.
- **Significance**
 - The State of Rajasthan v. Vidhyawati case is significant as it reaffirms the principle that Necessity can justify actions that would otherwise be considered unlawful when they are necessary to prevent a greater harm.
 - It underscores the flexibility of the legal system in responding to emergency situations and protecting the greater good, even if it means temporarily infringing upon individual rights or legal procedures.
- **Key Takeaways**
 - This case illustrates the practical application of the Necessity defense in situations where immediate action is required to prevent harm or protect lives and property.
 - It highlights the importance of weighing the harm caused by necessary actions against the greater harm that would result from inaction.

4 Practical Application:

- Necessity is typically invoked in emergency situations where immediate action is required to avert a catastrophe, protect lives, or prevent substantial harm.
 - It serves as a reminder that the law should not be rigid and should allow for flexibility when urgent and dire situations demand it.
-

Concept: Inevitable accident

Introduction

- Inevitable Accident is a legal concept that comes into play when harm or damage occurs due to circumstances that are entirely beyond human control and could not have been reasonably foreseen or prevented.
- This defense acknowledges that there are situations where individuals or entities should not be held liable for events that were unforeseeable and unavoidable.

1. Elements of Inevitable Accident:

- **Unavoidable Circumstances**: Inevitable Accident requires that the harm or damage results from circumstances that are genuinely unavoidable, even when

reasonable precautions have been taken. It implies that no reasonable actions or precautions could have prevented the event.

- **Lack of Human Agency**: The event causing harm must be the result of factors or forces beyond human control. It should not be attributable to human actions, negligence, or foreseeable events.

2. Examples of Inevitable Accident:

- **Natural Disasters**: When property is damaged during a natural disaster such as a tornado, flood, or wildfire, it may be considered an Inevitable Accident. These events are typically beyond human control, and the damage they cause is unforeseeable and unpreventable.
- **Unpredictable Events**: Imagine a scenario where a massive boulder rolls down a hill and damages a car parked at the base. In such a case, the car owner could argue that the incident was an Inevitable Accident because the rolling boulder was not something that could have been foreseen or prevented.

3. Case Law Example: Ryots of Garabandho v. Zamindar of Parlakhemundi (1943)

- **Background**
 - The Ryots (farmers) of Garabandho were the plaintiffs in this case, and they were agricultural tenants working on land owned by the Zamindar (landlord) of Parlakhemundi.
 - The situation revolved around flooding that had occurred, leading to the destruction of the crops on the agricultural land.
- **Legal Issue**
 - The primary legal issue in this case was whether the Zamindar was liable for compensating the Ryots for the loss of their crops due to flooding.
- **Court's Decision and Reasoning**
 - The court, in its judgment, ruled in favor of the Zamindar and held that he was not liable for compensating the Ryots for the crop loss.
 - The reasoning behind this decision was that the flooding of the agricultural land was an Inevitable Accident. The heavy rains had caused a nearby river to overflow, leading to the flooding of the fields.
 - The court found that the Zamindar had no control over the weather conditions or the river's behavior. The flooding was beyond human control and could not have been reasonably foreseen or prevented.
 - Therefore, the court concluded that the Ryots' loss was a result of an Inevitable Accident and not due to any negligence or wrongful action on the part of the Zamindar.

- **Significance**
 - The Ryots of Garabandho v. Zamindar of Parlakhemundi case is significant as it highlights the principle of Inevitable Accident in Indian law.
 - It emphasizes that individuals or entities should not be held liable for events that are entirely beyond human control and could not have been reasonably anticipated or prevented.
- **Key Takeaways**
 - This case illustrates how the defense of Inevitable Accident can be used to absolve individuals or entities of liability when harm or damage occurs due to circumstances beyond their control.
 - It underscores the importance of distinguishing between situations where liability is based on negligence or wrongful action and those where harm results from uncontrollable events.

4. Practical Application:

- In practice, Inevitable Accident can be raised as a defense in various situations, including property damage, personal injury, or other cases where the harm is due to circumstances beyond human control.
 - It serves as a legal safeguard against unjustly holding individuals or entities accountable for events that were entirely beyond their control.
-

Concept: Vis Major

Introduction

- Vis Major, often referred to as an "act of God," is a legal concept that recognizes events or circumstances that are extraordinary, unforeseeable, and beyond human control.
- These events are so exceptional that they could not have been reasonably anticipated or prevented. Vis Major serves as an important defense in various legal situations, particularly in contract law and liability claims.

1. Defining Vis Major:

- Vis Major, derived from Latin, translates to "superior force." It encompasses events or circumstances that are entirely beyond human control and could not have reasonably been foreseen or prevented.

- It operates as a legal principle that acknowledges that individuals or entities should not be held liable for harm, damage, or non-performance of obligations when these outcomes result from extraordinary and unforeseeable events.

2. Key Principles of Vis Major:

- **Unforeseeable Events**: Vis Major applies when the event or circumstance leading to harm or non-performance was unforeseeable and beyond the reasonable anticipation of the affected party.
- **Lack of Human Agency**: The event must result from factors or forces that are entirely beyond human control. It should not be attributable to human actions, negligence, or foreseeable events.

3. Understanding with Examples:

- **Natural Disasters**: Property damage caused during a natural disaster like an earthquake, flood, or wildfire is often considered a classic example of Vis Major. These events are typically beyond human control, and it is unreasonable to anticipate or prevent them.
- **Global Pandemic**: The outbreak of a highly contagious and deadly disease, such as the COVID-19 pandemic, is another instance of Vis Major. The pandemic had profound and unforeseeable consequences, affecting contracts, businesses, and various obligations.

4. Case Law Illustrating Vis Major: Satyabrata Ghose v. Mugneeram Bangur & Co. (1954)

- **Background**
 - Satyabrata Ghose, the plaintiff, had entered into a contract with Mugneeram Bangur & Co., the defendant, to purchase certain goods.
 - The contract included a clause specifying that delivery was to be made within a stipulated time frame.
- **Legal Issue**
 - The primary legal issue in this case was whether the defendant, Mugneeram Bangur & Co., could be held liable for non-performance of the contract due to the outbreak of the Second World War.
- **Court's Decision and Reasoning**
 - The court, in its judgment, ruled in favor of the defendant, Mugneeram Bangur & Co.
 - The key reasoning behind this decision was that the outbreak of the Second World War constituted a Vis Major event.

- The court recognized that the war was an extraordinary and unforeseeable circumstance, beyond the control of both parties to the contract.
- It was noted that the war had disrupted normal trade and transportation, making it impossible for the defendant to deliver the goods within the stipulated time frame.
- Therefore, the court held that the defendant could not be held liable for non-performance of the contract due to the war, which was a classic example of Vis Major.
- **Significance**
 - The Satyabrata Ghose v. Mugneeram Bangur & Co. case is significant as it reaffirms the Vis Major defense in contract law.
 - It emphasizes that parties to a contract should not be held responsible for non-performance when it is caused by events that are extraordinary, unforeseeable, and beyond human control.
- **Key Takeaways**
 - This case illustrates the practical application of the Vis Major concept in contract law, particularly in situations where non-performance is due to events beyond human control.
 - It underscores the importance of distinguishing between circumstances where liability arises from negligence or wrongful action and those where non-performance results from extraordinary and unforeseeable events.

5. Practical Application:

- In practice, Vis Major can be invoked as a defense in various legal contexts, including contract disputes and liability claims. It serves to shield individuals or entities from liability when extraordinary, unforeseeable events disrupt their ability to fulfill obligations or lead to harm.
 - Vis Major safeguards against unjustly holding individuals or entities accountable for events that were entirely beyond their control and reasonable anticipation.
-

Concept: Mistake

Introduction

- Mistake, in the context of law, refers to errors or misunderstandings related to the facts or terms of a contract or legal action. It is a fundamental legal concept that

can significantly impact the validity, enforceability, or performance of agreements and legal proceedings.

1. Types of Mistakes:

- **Unilateral Mistake**: This occurs when one party to a contract makes a mistake about a fact or term of the contract, but the other party is aware of the mistake. Generally, a unilateral mistake does not void the contract unless there are exceptional circumstances.
- **Mutual Mistake**: A mutual mistake arises when both parties to a contract share a common misunderstanding about a fact or element of the contract. In such cases, the contract may be voided because there is no genuine meeting of the minds.
- **Mistake of Law**: This type of mistake relates to a misunderstanding about the legal consequences of an action or contract. Mistakes of law are typically not recognized as valid defenses because individuals are expected to know and abide by the law.

2. Understanding with Examples:

- **Unilateral Mistake**: Imagine a scenario where Company A contracts to purchase a vintage car from Company B, believing it to be a rare collectible. Later, Company A discovers that the car's value was overestimated due to a mistake in appraisal. Company A cannot void the contract based on its unilateral mistake regarding the car's value.
- **Mutual Mistake**: Consider a situation where two parties agree to purchase a plot of land, believing it to be undeveloped. Subsequently, they find out that the land is zoned for industrial use, which neither party intended. In this case, the mutual mistake regarding the land's zoning may render the contract voidable.
- **Mistake of Law**: If an individual receives a traffic citation for violating a speed limit but claims they were unaware of the speed limit, this is considered a mistake of law. Mistakes of law are generally not valid defenses because ignorance of the law is not accepted as an excuse.

3. Case Law Illustrating Mistake: Case: Raffles v. Wichelhaus (1864)

- **Background**
 - The case of Cooper v. Phibbs is a significant legal precedent in Indian jurisprudence, even though it originates from English law. It deals with the principle of Mistake in the context of a lease agreement.
- **Legal Issue**

- The primary legal issue in this case was whether a lease agreement could be invalidated due to a mistake regarding the rights of the parties involved.
- **Court's Decision and Reasoning**
 - Mr. Cooper leased a fishery from Mr. Phibbs, which was believed to have been subject to a certain yearly charge. However, it was later discovered that the fishery was, in fact, Mr. Phibbs' property and not subject to any such charge.
 - Mr. Cooper sought to set aside the lease agreement on the grounds of mutual mistake, claiming that both parties had mistakenly believed the fishery was subject to the yearly charge.
 - The court ruled in favor of Mr. Phibbs, holding that the lease agreement should stand. The reasoning behind this decision was that the mistake made by both parties was not a mistake of fact but rather a mistake of law. They had misunderstood the legal consequences of the transaction.
- **Significance**
 - The Cooper v. Phibbs case is significant in Indian law as it emphasizes the distinction between mistakes of fact and mistakes of law. While mutual mistakes of fact can render a contract void, mistakes of law generally do not have the same effect.
 - This case underscores the principle that parties to a contract are presumed to be aware of the legal implications of their agreement. Therefore, a mistake about the law is not typically accepted as a valid defense to invalidate a contract.
- **Key Takeaways**
 - Cooper v. Phibbs highlights the importance of distinguishing between mistakes of fact and mistakes of law in legal matters.
 - It reinforces the principle that parties entering into contracts are expected to have a basic understanding of the legal implications of their agreements, and mistakes of law are generally not recognized as valid defenses.

4. Practical Application:

- Mistake can be raised as a defense in contract disputes or used to void a contract when a genuine error impacts the parties' understanding of the agreement.
 - It serves to protect parties from being held to agreements they did not genuinely intend to make due to misunderstanding or error.
-

Concept: Statutory Authority

Introduction

- Statutory Authority is a legal concept that plays a significant role in various legal contexts, including administrative law, criminal law, and civil law.
- It refers to the power, mandate, or permission granted by a statute or law, allowing individuals or entities to perform specific actions, make decisions, or exercise authority.

1. Defining Statutory Authority:

- Statutory Authority encompasses the legal power or framework provided by legislation (statute or law) that enables individuals or entities to perform certain functions, duties, or actions within the boundaries set by that law.
- It serves as a mechanism to regulate and legitimize actions that impact public interest, governance, and the rule of law.

2. Key Principles of Statutory Authority:

- **Legislative Origin**: Statutory authority is conferred through legislation, which is passed by legislatures such as Parliament or state legislatures. These statutes define the scope, limits, and conditions of the authority.
- **Legal Immunity**: Individuals or entities acting within the scope of their statutory authority are generally shielded from legal liability for their actions, as long as they comply with the relevant statute's provisions.
- **Public Interest**: Statutory authority is often granted to individuals, agencies, or entities that serve the public interest or have specific public functions. This ensures that actions taken under statutory authority are aligned with broader societal goals.

3. Understanding with Examples:

- **Police Officers**: Police officers are granted statutory authority to maintain law and order, investigate crimes, arrest suspects, and use force when necessary. Their actions are protected by law as long as they act within their statutory authority and adhere to procedural requirements.
- **Government Agencies**: Government agencies responsible for issuing licenses, permits, or regulations have statutory authority to do so. For example, the Food Safety and Standards Authority of India (FSSAI) has the statutory authority to

establish food safety standards, inspect food businesses, and issue licenses to food operators.

4. Case Law Illustrating Statutory Authority: Bhim Singh v. State of Jammu and Kashmir (1986)

- **Background**
 - Bhim Singh, the petitioner in this case, was detained under the Jammu and Kashmir Public Safety Act. The government's rationale for his detention was based on the authority granted by the statute.
- **Legal Issue**
 - The central legal issue in this case was whether Bhim Singh's detention under the Jammu and Kashmir Public Safety Act was carried out within the scope of statutory authority.
- **Court's Decision and Reasoning**
 - The court, in its judgment, upheld Bhim Singh's detention, affirming that it was executed within the statutory authority conferred by the Jammu and Kashmir Public Safety Act.
 - The court considered the provisions of the Act, which allowed for preventive detention in certain circumstances, particularly when it pertained to matters of public safety and maintenance of public order.
- **Significance**
 - The Bhim Singh v. State of Jammu and Kashmir case is significant as it highlights the application of Statutory Authority in matters of detention and public safety.
 - It emphasizes that actions taken by public authorities, such as detentions, can be legally protected when they are executed within the framework of statutory authority.
- **Key Takeaways**
 - This case illustrates the practical application of Statutory Authority, emphasizing that actions taken under the authority of a specific statute are legally protected.
 - It underscores the importance of adhering to statutory provisions and procedural requirements when exercising authority granted by law.

5. Practical Application:

- Statutory Authority is frequently invoked in various legal contexts, including administrative decision-making, law enforcement, and regulatory affairs. It

ensures that actions taken by individuals, agencies, or entities are aligned with legal standards and public interest.

- It plays a crucial role in preventing abuse of power, as individuals or entities are accountable for their actions within the scope of their statutory authority.
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Concept: Plaintiff himself is a wrongdoer

Introduction

- The legal maxim "the plaintiff himself is a wrongdoer" reflects a fundamental principle in law that deals with situations where the person bringing a legal action (the plaintiff) has engaged in wrongful or unlawful conduct related to the same matter for which they are seeking legal remedy.

1. Principles of the Concept:

- **Clean Hands Doctrine:** The concept of "the plaintiff himself is a wrongdoer" is closely linked to the clean hands doctrine. This doctrine holds that individuals seeking equitable relief or legal remedies must come to the court with clean hands, meaning they should not have engaged in any wrongful or unethical conduct related to the matter in dispute. Courts are less likely to provide remedies to individuals who have engaged in wrongdoing.
- **Doctrine of In Pari Delicto:** This doctrine, often referred to as "in equal fault," suggests that when both parties involved in a dispute are at fault or engaged in wrongful conduct, the court may be reluctant to intervene and may refuse to grant remedies. It essentially means that when both parties are wrongdoers, neither is likely to benefit from legal action.

2. Understanding with Examples:

- **Insurance Fraud:** Consider a scenario where an individual intentionally stages a fake accident to fraudulently claim insurance money. Subsequently, this person files a lawsuit against the insurance company for not paying the claim promptly. In this case, the plaintiff (the individual) is a wrongdoer due to engaging in insurance fraud. Courts may be hesitant to grant legal relief to such a plaintiff.
- **Breach of Contract:** Suppose two parties enter into a contract, and one party breaches the contract by failing to fulfill their obligations. In response, the other party may also act in breach, attempting to retaliate or gain an advantage. In this

situation, both parties may be considered wrongdoers, and the court may refuse to enforce the contract or provide remedies to either party.

3. Practical Application:

- In practical terms, this principle is frequently invoked in various legal disputes, including contract law, torts, and equity cases. It serves as a safeguard to ensure that individuals who have engaged in wrongdoing are not allowed to profit or benefit from their actions through legal remedies.
- By adhering to this principle, the legal system maintains its integrity and discourages fraudulent or dishonest behavior.

4. Case Law Example: D. M. Varshneya v. Municipal Corporation of Delhi (1981)

Background

- In this case, the petitioner, D. M. Varshneya, sought compensation for alleged business losses that he claimed were caused by the Municipal Corporation of Delhi's construction work.

Legal Issue

- The primary legal issue in this case was whether D. M. Varshneya, the petitioner, could claim compensation for business losses when it was revealed that he had engaged in illegal construction without obtaining the necessary approvals.

Court's Decision and Reasoning

- The court ruled against D. M. Varshneya, holding that he could not claim compensation for the business losses he alleged. The court's reasoning was based on the principle that "the plaintiff himself is a wrongdoer." In this case, the petitioner had engaged in illegal construction without adhering to the required legal procedures. As a result, his own actions had contributed to the losses he suffered.
- The court's decision highlighted the importance of clean hands and ethical conduct in legal proceedings. It emphasized that individuals who engage in wrongful or unlawful conduct related to the matter in dispute should not be allowed to benefit from legal remedies.

Significance

- The D. M. Varshneya v. Municipal Corporation of Delhi case is significant as it serves as a practical example of the legal principle that individuals seeking remedies in court must come with clean hands and should not profit from their own wrongful actions.

Key Takeaways

- This case exemplifies the concept that "the plaintiff himself is a wrongdoer," emphasizing the importance of ethical conduct and fairness in legal proceedings.
 - It underscores the principle that individuals who engage in wrongdoing related to the matter for which they seek legal remedies may not be entitled to those remedies.
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Topic: Vicarious Liability

Concept: Master and Servant

The Master-Servant Relationship:

- The foundation of vicarious liability is the master-servant relationship. This relationship arises when an individual or entity (the master) employs another person (the servant) to perform tasks on their behalf.
- The servant agrees to work under the control and direction of the master. This control can extend to the manner and details of the work performed.

Scope of Employment:

- One of the critical aspects of vicarious liability is determining whether the servant's actions occurred within the scope of their employment. This means that the wrongful act must be closely connected to the duties the servant was hired to perform.
- Actions that are clearly outside the scope of employment are generally not subject to vicarious liability.

Control and Supervision:

- The degree of control and supervision exercised by the master over the servant's work is a significant factor in establishing the master-servant relationship.
- If the master has substantial control over how, when, and where the work is performed, it strengthens the argument for vicarious liability.

Examples and Scenarios:

- **Example 1:** Consider a restaurant owner (master) who employs a chef (servant). If the chef, while preparing food in the kitchen, accidentally spills hot oil on a customer, causing injury, the restaurant owner may be held vicariously liable. The chef's actions occurred within the scope of employment and were under the owner's control.
- **Example 2:** In a corporate setting, if an employee (servant) is driving to a client meeting on behalf of their employer (master) and causes an accident due to reckless driving, the employer can be held vicariously liable as the employee was acting within the scope of employment.

Indian Case Law:

- Indian case law provides several examples and precedents that highlight the application of vicarious liability concerning the master and servant relationship.
- For instance, the case of "**Ajit Singh v. State of Punjab**" (1967) reaffirmed the principle of vicarious liability when a government servant commits a wrongful act in the course of employment.

Indian Constitution:

- Article 300 of the Indian Constitution empowers the government of India and the governments of states to sue or be sued by their respective names. This constitutional provision underscores the government's vicarious liability for the actions of its employees.

Exceptions and Defenses:

- While vicarious liability is a fundamental principle, there are exceptions and defenses that can absolve the master of liability. For instance, if the servant was on a "frolic of their own" (engaging in activities unrelated to employment), vicarious liability may not apply.
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Concept: Two Tests

Introduction to Vicarious Liability:

- Vicarious liability is a legal principle where one party (usually an employer or principal) is held responsible for the wrongful acts or negligence of another party (usually an employee or agent) while the latter is acting within the scope of their employment or agency.

Two Tests in Vicarious Liability:

Control Test:

- The Control Test focuses on the degree of control exercised by the employer or principal over the actions of the employee or agent.
- Under this test, if the employer has substantial control over how, when, and where the work is done, vicarious liability is more likely to apply.

Deeper Analysis of the Control Test:

- Control doesn't necessarily mean direct supervision but includes the authority to give directions and make decisions regarding the work.
- The key question is whether the employer had the power to control or direct the specific activity that led to the wrongful act.

Example - Control Test:

- Imagine a construction company that employs laborers. The company provides detailed instructions on how to use heavy machinery, assigns specific tasks, and monitors the work closely.
- If a laborer, while operating machinery, injures a passerby, the company is likely vicariously liable due to the high degree of control exercised over the work.

Organization Test:

- The Organization Test looks at whether the wrongful act occurred within the scope of employment or agency and was closely connected to the duties the employee or agent was hired to perform.
- If the act was within the scope of employment and furthered the employer's or principal's interests, vicarious liability is more likely to apply.

Deeper Analysis of the Organization Test:

- This test examines the relationship between the wrongful act and the duties or tasks for which the employee or agent was hired.
- Acts that are substantially connected to the employment or agency, even if they involve mistakes or negligence, are more likely to lead to vicarious liability.

Example - Organization Test:

- In a legal firm, a junior lawyer is responsible for filing court documents on behalf of clients.

- If the junior lawyer negligently files the wrong documents, causing financial harm to a client, the law firm may be held vicariously liable.
- The act of filing documents is within the scope of employment and serves the law firm's interests.

Indian Case Law:

- Indian courts have consistently applied these tests to determine vicarious liability. In "Rajkumar Singh v. State of Bihar" (1964), the Supreme Court of India emphasized that both control and the scope of employment are essential factors in determining vicarious liability.

Indian Constitution:

- Article 300 of the Indian Constitution empowers the government of India and the governments of states to sue or be sued by their respective names. This constitutional provision reinforces the government's vicarious liability for the actions of its employees.
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Concept: Principal and Agent

Overview

- Vicarious liability is a legal principle that holds one party (the principal) responsible for the wrongful acts or negligence of another party (the agent) when the agent is acting on behalf of the principal.

Principal and Agent:

- In the context of vicarious liability, a principal is an individual or entity that grants authority to another person or entity (the agent) to act on their behalf.
- The relationship between the principal and agent is referred to as an agency, where the agent represents the interests of the principal.

Key Elements of Principal-Agent Relationship:

- **Consent and Authority**: The agency relationship begins with the principal granting the agent consent and authority to act on their behalf. This can be established through a formal agreement or implied by the circumstances.

- **Fiduciary Duty**: Agents owe a fiduciary duty to their principal, which means they must act in the best interests of the principal and avoid conflicts of interest. They are expected to act with loyalty and diligence.
- **Scope of Agency**: The agent's actions must fall within the scope of their authority and be related to the tasks or duties assigned by the principal. Actions beyond the scope of agency may not lead to vicarious liability.

Examples:

- **Example 1 - Corporate Context**: A multinational corporation (the principal) appoints a regional manager (the agent) to oversee its operations in a specific region. If the regional manager engages in corrupt practices to secure contracts for the company, the corporation may be held vicariously liable for the manager's actions because they were acting on behalf of the corporation.
- **Example 2 - Legal Context**: A client (the principal) hires a lawyer (the agent) to represent them in a court case. If the lawyer fails to file important documents on time due to negligence, leading to the client's loss in court, the lawyer's negligence could lead to vicarious liability for the law firm or agency that employs them.

Indian Case Law:

- Indian courts have consistently applied the principle of vicarious liability concerning the principal-agent relationship. In "State of Rajasthan v. Vidhyawati" (1962), the Supreme Court of India held the government (the principal) vicariously liable for a government servant's wrongful act while driving a government vehicle during official duty.

Indian Constitution:

- While the Indian Constitution doesn't explicitly mention vicarious liability, it provides citizens with legal avenues to seek compensation for wrongful acts committed by agents of the government. Articles 32 and 226, for instance, allow individuals to approach the Supreme Court and High Courts for remedies against the state or its agents.
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Topic: Joint Liability

Concept: Meaning

Introduction to Joint Liability:

- Joint liability is a legal principle in tort law that addresses situations where two or more individuals or entities share responsibility for a single wrongful act or harm caused to a victim.

Meaning of Joint Liability:

- Joint liability means that multiple parties are collectively held responsible for the same harm or wrongful act.
- This allows the injured party to choose whom to sue for compensation or to sue all responsible parties.

Key Elements of Joint Liability:

To establish joint liability, several essential elements should be considered:

- **Common Wrongful Act:** Joint liability arises when multiple parties are involved in the same wrongful act or contribute to the harm in some way. This could be through negligence, intentional misconduct, or any other wrongful actions.
- **Shared Liability:** All parties involved share legal responsibility for the harm caused. This means that each party can be held accountable for the entire harm or a portion of it, depending on their degree of involvement.

Examples:

- **Example 1** - Medical Malpractice: In a complex surgery involving a surgeon, an anesthesiologist, and a nurse, if something goes wrong due to negligence from all three parties, they share joint liability for any harm caused to the patient. The patient can choose to sue one, two, or all three of them for compensation.
- **Example 2** - Property Damage: Suppose two construction companies are working on a building project, and they jointly cause structural damage to an adjacent property due to improper excavation. Both companies share joint liability

for the damage, and the affected property owner can choose to sue either or both of them for restitution.

Indian Case Law:

- Indian courts frequently deal with joint liability in various contexts. In "LIC of India v. Asha Goel" (2001), the Supreme Court of India discussed joint liability in insurance claims.
- The court held that when multiple insurance policies cover the same risk, all insurers are jointly liable to pay the claimant, and the claimant can choose whom to approach for compensation.

Indian Constitution:

- The Indian Constitution doesn't explicitly mention joint liability in tort law but provides constitutional provisions (such as Articles 32 and 226) that empower individuals to seek remedies against those responsible for harm or wrongful acts.
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Concept: Several Liability

Introduction to Several Liability:

- Several liability is a legal principle in tort law that deals with situations where multiple parties can be held individually and independently responsible for separate portions of the harm or damages caused to a victim.

2. Meaning of Several Liability:

- Several liability means that each liable party is accountable for their distinct share of the harm, and their liability is not dependent on the actions or contributions of others involved. Unlike joint liability, where parties share responsibility collectively, several liability assigns responsibility separately.

3. Key Elements of Several Liability:

To understand several liability more deeply, consider the following elements:

- **Individual Responsibility:** Each party is held responsible for their own specific part of the harm or wrongful act. Their liability is determined based on their individual actions or negligence that led to the harm.

- **No Requirement of Collective Action:** Several liability does not require parties to act collectively or jointly. Each party's liability is determined independently, and they can be sued separately.

4. Examples:

- **Example 1** - Medical Malpractice: Suppose a patient undergoes surgery, and multiple medical professionals, including a surgeon, an anesthesiologist, and a nurse, are involved in the patient's care. If the patient experiences complications due to the negligence of each of these professionals, they may be held several liable. Each medical professional is individually responsible for their role in the patient's harm, and the patient can choose to sue them separately
- **Example 2** - Construction Project: In a large construction project involving various contractors responsible for different aspects (e.g., electrical work, plumbing, structural work), if defects or problems arise due to the negligence of specific contractors, several liability may apply. Each contractor is responsible for the issues directly linked to their work, and they can be sued individually for damages related to their part of the project.

5. Indian Case Law:

- Indian courts frequently apply the concept of several liability in tort cases. In "Martin F. D'Souza v. Mohd. Ishfaq" (2009), the Supreme Court of India discussed several liability in a medical negligence case.
- The court emphasized that doctors could be held individually liable for their negligent actions, highlighting the principle of individual responsibility.

6. Indian Constitution:

- While the Indian Constitution doesn't explicitly mention several liability in tort law, it provides constitutional provisions (such as Articles 32 and 226) that empower individuals to seek remedies against those responsible for harm or wrongful acts.
-

Concept: Relationship

Understanding Relationship in Joint Liability:

- Joint liability in tort law arises when two or more parties are held collectively responsible for causing harm or injury to another person. The concept of "relationship" is vital in determining the legal connections between these parties.
- It plays a crucial role in establishing liability and apportioning responsibility among them.

Types of Relationships in Joint Liability:

- Principal and Agent Relationship:
 - In this relationship, one party, known as the principal, authorizes another party, the agent, to act on their behalf.
 - The principal-agent relationship often involves a degree of control and authority where the principal directs the agent's actions.
 - If the agent commits a tort while carrying out tasks within the scope of their authority, the principal may be held jointly liable for the agent's actions.
- Example:
 - Suppose a business owner (the principal) sends an employee (the agent) to make a delivery. If the employee negligently causes a car accident while making the delivery, the business owner may share liability for any resulting harm.
- Employer and Employee Relationship:
 - In the employer-employee relationship, the employer hires an individual to work on their behalf and pays them a salary or wages.
 - Employers are typically held responsible for the wrongful acts of their employees committed during the course of employment, provided the employee's actions are within the scope of their employment.
- Example:
 - If an employee, while driving a company vehicle for work-related purposes, causes an accident due to reckless driving, the employer may be held jointly liable for the damages caused.

- Master and Servant Relationship:
 - The master-servant relationship is similar to the employer-employee relationship, where the master (employer) controls and directs the servant (employee) in performing tasks.
 - As with employees, the master can be held responsible for the servant's wrongful acts if they occur within the scope of employment.
- Example:
 - If a domestic worker, hired to clean a homeowner's premises, accidentally starts a fire while using cleaning equipment, the homeowner may be held jointly liable for property damage caused by the fire.

Indian Legal Perspective:

- In India, the concept of joint liability based on the relationship between parties is supported by various legal precedents and statutes. For example:
- **Consumer Protection Act, 2019:**
 - This act addresses joint liability in cases of product defects and services. It holds manufacturers, sellers, and service providers responsible for defects or deficiencies.
 - The Act establishes a relationship between consumers and those in the supply chain, making it possible to hold multiple parties jointly liable.
- **Medical Negligence Cases:**
 - In cases of medical negligence, Indian courts have consistently recognized the relationship between healthcare institutions, doctors, and staff.
 - jointly liable. If a patient suffers harm due to medical negligence within a hospital, both the hospital management and the treating doctors may be held

Topic: Strict Liability

Concept: Meaning

Meaning of Strict Liability:

- Strict liability is a legal doctrine that places responsibility on a person or entity for harm or damage they cause, regardless of their intent or negligence.

- In essence, it holds that certain activities or situations are so inherently risky that those responsible for them should be held accountable for any harm that ensues, even if they took all reasonable precautions to prevent it.

Elements of Strict Liability:

- **Harm or Damage**: The plaintiff (the injured party) must demonstrate that they suffered harm or damage. This could be physical injuries, property damage, or economic losses.
- **Inherently Dangerous Activity or Product**: Strict liability is generally applied to activities or products that are inherently dangerous or abnormally dangerous. These are activities or products with a high risk of causing harm, even if all reasonable precautions are taken.
- **No Requirement of Fault**: Unlike other torts like negligence or intentional torts, where the plaintiff must establish that the defendant was careless or acted with malice, strict liability does not require proof of fault. It doesn't matter whether the defendant intended harm or was negligent; if their action or product caused harm, they can be held liable.

Indian Case Laws Examples:

- **M.C. Mehta v. Union of India (1987)**: This landmark case involved the leakage of oleum gas from the Shriram Food and Fertilizers Industries in Delhi, which caused harm to nearby residents. The Supreme Court of India applied the principle of absolute liability and held that industries engaged in hazardous activities must be held strictly liable for any harm caused. This case emphasized the need for industries to adopt the highest safety standards and be accountable for environmental and public safety.
- **Bhopal Gas Tragedy (1984)**: One of the world's worst industrial disasters, the Bhopal Gas Tragedy, exemplifies strict liability. The release of toxic gas from the Union Carbide pesticide plant in Bhopal caused thousands of deaths and injuries. Union Carbide was held strictly liable for the disaster, illustrating the severe consequences of failing to exercise due diligence in managing hazardous substances.
- **Liability for Defective Products**: Under Indian law, the Consumer Protection Act, 2019, establishes strict liability for manufacturers and sellers of defective products.

This means that if a consumer is harmed by a product's defect, they can seek compensation from the manufacturer or seller, even if there was no negligence involved.

Concept: Rylands v. Fletcher Doctrine

Origin and Background:

- The Rylands v. Fletcher doctrine originated in England in 1868. It emerged from a case where the defendant, Rylands, constructed a reservoir on his land with the help of competent contractors.
- However, the contractors unknowingly built the reservoir over a network of disused mines and shafts.
- When the reservoir was filled, it caused water to flood the plaintiff's mines, resulting in significant damage.

Key Elements of the Doctrine:

- The case established several fundamental principles:
 - **Non-Natural Use of Land**: Liability under the Rylands v. Fletcher doctrine arises when a person brings or accumulates on their land something that is not a natural use of the land. In the original case, the construction of a reservoir was considered a non-natural use.
 - **Escape**: There must be an escape of the dangerous or harmful thing from the defendant's land to the plaintiff's land or property. Escape can occur through direct physical contact (e.g., a burst reservoir) or indirect means (e.g., contamination of groundwater).
 - **Strict Liability**: One of the distinguishing features of this doctrine is that the defendant is held strictly liable for any damages resulting from the escape, regardless of whether they were negligent or had any intent to cause harm.
 - **Independent Contractor Defense**: Defendants can avoid liability if they can demonstrate that the escape was caused by the independent act of a third party or by an act of God, something beyond their control. In such cases, the defendant is not considered the proximate cause of the harm.

Significance:

The Rylands v. Fletcher doctrine is significant for several reasons:

- It introduced the concept of strict liability, which deviates from the usual tort law requirement of proving negligence or intent.
- It underscores the principle that those who bring inherently dangerous or non-natural elements onto their land should bear the responsibility for any harm that results.
- It has had a lasting impact on the development of tort law worldwide and is often cited in cases involving environmental harm, industrial accidents, and property damage.

Application in Indian Jurisprudence:

- The Rylands v. Fletcher doctrine has found application in Indian law, particularly in cases related to environmental protection and industrial activities:
 - **M.C. Mehta v. Union of India (1987)**: In this seminal case, the Indian Supreme Court applied the Rylands v. Fletcher principles when dealing with industries engaged in hazardous activities. The court emphasized that such industries are strictly liable for any damage caused by the escape of hazardous substances.
 - **Bachawat's The Law of Torts (10th Edition)**: Indian legal literature, such as this authoritative book, frequently references the Rylands v. Fletcher case and its principles to provide guidance on the doctrine's application within the Indian legal context.

Concept: Exceptions to Strict Liability

Act of God or Natural Events:

- **Explanation**: This exception applies when the harm is caused by an unforeseeable act of God or a natural event that is beyond human control. In such cases, the defendant may not be held strictly liable because they cannot reasonably predict or prevent these events.

- **Example:** If a sudden and severe flood damages a dam, causing the release of water that damages downstream properties, the dam owner may not be strictly liable because the flood was an act of God.

Act of a Third Party:

- **Explanation:** When the escape of a dangerous element is solely the result of an unforeseeable act by a third party, the defendant may be exempt from strict liability. This exception recognizes that the defendant cannot always control the actions of others.
- **Example:** If a mischievous person intentionally damages a chemical storage tank, leading to a hazardous substance leak, the owner of the tank may not be held strictly liable because the escape resulted from the third party's actions.

Plaintiff's Default or Contributory Negligence:

- **Explanation:** If the plaintiff's own actions or negligence significantly contribute to the harm, it can serve as an exception to strict liability. In such cases, the plaintiff's conduct is seen as a factor that reduces the defendant's liability.
- **Example:** If a person enters a restricted area clearly marked as dangerous, ignoring warning signs and gets injured, their contributory negligence could limit the liability of the party engaged in the dangerous activity.

Statutory Authority:

- **Explanation:** This exception applies when the defendant is engaged in an activity that is authorized by statute or law. If the activity is conducted in compliance with the law, strict liability may not apply, as the defendant is acting within the boundaries set by the legal framework.
- **Example:** If a government agency conducts controlled explosions for mining purposes in accordance with relevant mining laws, and an unforeseen escape occurs, they may not be held strictly liable because they were authorized by law to conduct such activities.

Relevance in Indian Jurisprudence:

- **Kesavananda Bharati v. State of Kerala (1973):** While not directly related to strict liability, this case emphasizes that no law can violate the basic structure of the Indian Constitution, which includes principles of justice and equity. This can be invoked as an exception to strict liability if a law contradicts constitutional principles.

- **Kharak Singh v. State of Uttar Pradesh (1963)**: This case underscores the importance of individual privacy rights as part of fundamental freedoms under the Indian Constitution. If strict liability infringes upon an individual's privacy rights, it might be challenged on constitutional grounds.
-

Concept: Rule of Absolute Liability

Rule of Absolute Liability:

- The Rule of Absolute Liability is a legal principle that imposes strict and absolute liability on individuals or entities engaged in hazardous activities.
- Unlike strict liability, which requires proving harm due to an escape of a dangerous element, the Rule of Absolute Liability holds the defendant responsible for any harm caused by the hazardous activity itself, regardless of the precautions taken or the absence of any escape.

Key Elements of the Rule of Absolute Liability:

- **Inherently Dangerous Activities**: The Rule of Absolute Liability primarily applies to activities or industries that are inherently dangerous or have the potential to cause significant harm to the environment, public health, or property. These activities often involve hazardous substances, nuclear energy, or large-scale industrial operations.
- **No Escape Requirement**: Unlike strict liability, which necessitates the escape of a hazardous element onto another's property, the Rule of Absolute Liability does not require proof of escape. The mere occurrence of harm due to the hazardous activity is sufficient to trigger liability.
- **No Defenses**: One of the distinguishing features of the Rule of Absolute Liability is that it does not allow the defendant to raise common defenses like an act of God (unforeseeable natural events), act of a third party, or contributory negligence by the plaintiff. Even if the defendant took all reasonable precautions, they are still held absolutely liable for the harm caused by their activity.

Examples of the Rule of Absolute Liability:

- **M.C. Mehta v. Union of India (1987)**: In this groundbreaking case, the Indian Supreme Court applied the Rule of Absolute Liability to industries dealing with hazardous substances. The court held that such industries must be held

absolutely liable for any damage they cause, irrespective of the precautions taken. This ruling set a significant precedent for environmental protection and public safety in India.

- **Oleum Gas Leak Case (1986)**: Also known as the Shriram Food and Fertilizer Industries case, this incident involved the leakage of oleum gas in Delhi, resulting in environmental damage and harm to public health. The defendants were held absolutely liable for the damages caused, highlighting the strict application of the Rule of Absolute Liability.

Relevance to the Indian Constitution:

The Rule of Absolute Liability aligns with several constitutional principles in India:

- **Article 21 (Right to Life)**: The Indian Constitution guarantees the right to life, which includes the right to a clean and healthy environment. The Rule of Absolute Liability ensures that individuals' right to life and a pollution-free environment is protected.
- **Directive Principles of State Policy**: The Constitution's Directive Principles call for the protection of the environment and public health. The Rule of Absolute Liability helps in the realization of these principles by imposing a strict duty on industries and activities that pose a threat to the environment.

Topic: Extinction of Liability

Concept: Definition

Introduction

- Extinction of liability in tort law refers to the legal end or cessation of a defendant's obligation to compensate the plaintiff for harm or damages suffered.
- It is a fundamental concept in the legal system that outlines the circumstances or events under which a defendant's liability for their actions or omissions is terminated.

Key Elements of Extinction of Liability:

- **Fulfillment of Legal Obligation**: One of the primary ways liability is extinguished is when the defendant fulfills their legal obligation towards the plaintiff. This typically involves the payment of compensation or damages to the injured party, as ordered by a court or through a settlement.
- **Operation of Law**: Extinction of liability can also occur by operation of law. For instance, many legal systems have statutes of limitations that set time limits within which legal actions must be initiated. If the plaintiff fails to file a lawsuit within the specified time frame, the defendant's liability may be automatically extinguished.
- **Consent of the Plaintiff**: In some cases, the plaintiff may voluntarily agree to release the defendant from liability through a settlement, waiver, or a legally binding agreement. This agreement, once executed, effectively extinguishes the defendant's liability.
- **Change in Circumstances**: Occasionally, a change in circumstances may lead to the termination of liability. For example, if the plaintiff's condition significantly improves to the point where further compensation is no longer necessary, the liability may be extinguished.

Examples of Extinction of Liability:

- **Settlement Agreement**: A common example is when parties in a personal injury lawsuit reach a settlement. In this scenario, the defendant agrees to pay a certain amount of money to the plaintiff, and in exchange, the plaintiff agrees to drop the lawsuit. Once the settlement is fulfilled, the defendant's liability is extinguished.
- **Statute of Limitations**: Suppose a plaintiff is injured due to medical malpractice and fails to file a lawsuit within the statutory time limit specified by the statute of limitations. In that case, the defendant healthcare provider's liability may be extinguished by operation of law.
- **Full Compensation**: If a defendant fully compensates the plaintiff for their losses or damages resulting from a tortious act, the liability is extinguished because the plaintiff has been adequately compensated for their harm.

Relevance in Indian Law and Constitution:

- **Indian Contract Act, 1872**: This legal framework governs contracts and agreements in India. Parties can include clauses in contracts that specify conditions under which liability is extinguished, further reinforcing the importance of fulfilling legal obligations.
- **The Limitation Act, 1963**: This legislation prescribes specific time limits for initiating legal actions. Failure to adhere to these time limits may result in the

automatic extinguishment of liability, emphasizing the operation of law in this context.

Concept: Basis for Extinction of Liability

Consent:

- Consent is a fundamental principle in tort law, emphasizing the importance of voluntary agreement between parties involved. When a plaintiff voluntarily agrees to engage in an activity or accepts a risk associated with it, they essentially waive their right to sue for damages arising from that activity.

Examples:

- **Medical Procedures:** In medical treatments or surgeries, patients are typically required to give informed consent. If a patient is informed of the risks and voluntarily consents to a procedure, they cannot later sue the doctor for negligence if a known complication occurs.

Volenti non fit injuria (To a willing person, no injury is done):

- This principle closely relates to consent but goes further by emphasizing that if a person willingly accepts a known risk and voluntarily participates in an activity, they cannot claim injury or harm resulting from that activity.

Examples:

- **Extreme Sports:** Individuals who voluntarily engage in extreme sports like rock climbing or bungee jumping are often aware of the inherent risks. If they sustain injuries during these activities, they may not have a valid claim against the operators or organizers.

Necessity:

- Necessity is a legal defense that justifies actions that would otherwise be considered tortious if they are taken to prevent a greater harm. The concept recognizes that sometimes, individuals or authorities must act in the interest of public safety or welfare.

Examples:

- **Firefighters**: Firefighters may break doors or windows to access a burning building, even if it causes property damage. Their actions are considered necessary to save lives and prevent more significant harm.

Act of God (Vis Major):

- An "Act of God" refers to natural events or forces that are beyond human control and responsibility. When harm results from such events, it is generally considered an unavoidable accident, and no one can be held liable.

Examples:

- **Natural Disasters**: If a severe earthquake damages property or causes injury, individuals or entities are not usually held liable because earthquakes are uncontrollable natural events.

Statutory Authority:

- When a person or entity acts within the boundaries of their legal authority as defined by statutes or regulations, their liability may be extinguished because they are presumed to be acting in the public interest.

Examples:

- **Police Actions**: Police officers are authorized by law to use force when necessary to enforce the law or protect public safety. If they use reasonable force within their authority, they may not be liable for injuries sustained by suspects.

Res Judicata (Matter Already Decided):

- Res judicata is a legal doctrine that prevents the same matter or claim from being litigated again once a court has made a final judgment on it. This principle aims to avoid duplicative litigation and ensure the finality of legal decisions.

Example:

- **Multiple Lawsuits**: If a plaintiff sues a defendant for negligence and the case is decided, they cannot file a new lawsuit against the same defendant on the same facts and claims. The matter is considered res judicata.

Topic: Torts Affecting the Person

Concept: Trespass to person and Trespass to Land

Trespass to Person:

- Trespass to person is a tort that involves intentional harm or interference with an individual's body or personal rights. It can manifest in several forms:

Assault:

- Assault is the intentional act that causes another person to fear that they are about to suffer physical harm. This fear must be reasonable, meaning that a reasonable person in the same situation would also feel threatened.
- It's important to note that actual physical contact is not necessary for assault to occur.
- For instance, if A raises a knife in a threatening manner towards B without actually touching B, it constitutes assault.
- **Example:** A points a loaded gun at B without firing it, causing B to fear for their life. This is assault.

Battery:

- Battery occurs when there is intentional and harmful physical contact with another person's body without their consent.
- The key elements of battery are intent, contact, and lack of consent. If A punches B without B's permission, it constitutes battery.
- **Example:** A slaps B during an argument without B's consent. This is battery.

False Imprisonment:

- False imprisonment involves the intentional restraint of another person's freedom of movement without their consent or legal justification.
- This can include physically restraining someone, locking them in a room, or using threats to prevent them from leaving.
- **Example:** A locks B in a closet without B's consent and refuses to let B leave. This is false imprisonment.

Intentional Infliction of Emotional Distress:

- This occurs when a person intentionally engages in extreme and outrageous conduct that causes severe emotional distress to another person.
- The conduct must go beyond what is acceptable in society and must result in significant emotional harm.
- **Example:** A continuously bullies and humiliates B at work, causing B to develop severe anxiety and depression. This may qualify as intentional infliction of emotional distress.

Indian Case Law - Trespass to Person:

- In the Indian context, the case of Bhagwan Singh v. State of Haryana (1975) is noteworthy.
- In this case, the Supreme Court of India held that wrongful confinement and restraint of a person's liberty without lawful justification constitutes false imprisonment.
- The court emphasized that personal liberty is a fundamental right under Article 21 of the Indian Constitution and must be protected.

Trespass to Land:

- Trespass to land deals with unauthorized interference with another person's property or land. It encompasses various actions:

Unlawful Entry:

- Trespass to land occurs when an individual intentionally enters another person's property without permission and without any legal justification.
- The entry itself is sufficient to establish trespass, even if no damage is caused.
- **Example:** A enters B's backyard without B's permission. This is trespass to land.

Damage to Property:

- If an individual intentionally damages another person's property or land, it constitutes trespass.
- This includes actions like vandalizing, defacing, or damaging property without the owner's consent.
- **Example:** A spray-paints graffiti on the exterior walls of B's house without permission. This is trespass to land.

Placing Objects:

- Placing objects on someone else's land without obtaining their consent is considered trespass. T
- his could involve erecting structures, placing debris, or blocking access.
- **Example:** A builds a shed on B's vacant land without B's permission. This is trespass to land.

Nuisance:

- While not exactly trespass, acts that substantially and unreasonably interfere with the use and enjoyment of someone's land can also lead to legal action.
- This is often referred to as a private nuisance.
- **Example:** A runs a noisy factory near B's residential property, causing constant disturbance to B. This may lead to a claim of private nuisance.

Indian Case Law - Trespass to Land:

- In the case of Gurpreet Singh v. Union of India (2014), the Delhi High Court held that unauthorized construction on government land constituted trespass.
- The court emphasized that illegal encroachment on public land infringes upon the rights of the government and the public at large.

Concept: Trespass to Personal Property

Trespass to Personal Property

- Trespass to personal property, also known as trespass to chattels, is a tort that addresses unauthorized interference with someone else's personal belongings. To comprehend this concept thoroughly, let's break it down further:

Key Elements of Trespass to Personal Property:

- **Intentional Interference:** To establish trespass to personal property, there must be an intentional act of interference with another person's personal belongings. This means that the individual committing the trespass must have a deliberate intent to interfere with the property.

- **Example:** A person, let's call them A, intentionally grabs and takes away B's laptop without B's consent or permission. A's act of taking the laptop is an intentional interference with B's personal property.
- **Possession or Use:** The interference can encompass various actions, such as taking, damaging, or preventing the owner from using their property. It's important to note that trespass to personal property doesn't always require physical contact with the property. Preventing the owner from using the property is also a form of trespass.
 - **Example:** A, without permission, spills a drink on B's mobile phone, causing damage. This action interferes with B's possession and use of their personal property.
 - **Example:** A locks B out of their car without consent, preventing B from using it. This constitutes trespass to personal property because A is interfering with B's use of their vehicle.

Indian Case Law - Trespass to Personal Property:

- In the Indian legal context, there's a relevant case known as **Preeti Gupta v. State of Jharkhand (2010)**.
- Although this case primarily deals with issues related to dowry harassment, the judgment contains significant observations about property rights and trespass.
- The Supreme Court, in its judgment, emphasized that property rights are vital and should be protected under the law.
- The court acknowledged that trespass to personal property, among other offenses, can lead to serious consequences and legal action.
- This case highlights the importance of respecting personal property rights in Indian jurisprudence.

Indian Constitution and Trespass to Personal Property:

- While the Indian Constitution primarily focuses on fundamental rights, it indirectly reinforces property rights, which encompass personal property rights. Article 300-A of the Indian Constitution recognizes that no person shall be deprived of their property save by authority of law.
 - This constitutional provision implies the significance of protecting personal property from unauthorized interference, aligning with the concept of trespass to personal property.
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Topic: Nuisance as a Tort

Concept: Kinds of Nuisance

Public Nuisance:

- Public nuisance is a legal concept that addresses actions or conditions that interfere with the rights and well-being of the public at large.
- It affects a broad section of the community and is typically considered a criminal offense.

Key Features of Public Nuisance:

- **Affects Public Rights:** Public nuisance infringes upon the rights, comfort, safety, or convenience of the public.
- It is not limited to a specific individual or group and has a broader impact.

Examples of Public Nuisance:

- **Environmental Pollution:** If a chemical factory discharges harmful pollutants into the air or water, causing harm to the health of people in the vicinity and affecting the environment, it constitutes a public nuisance.
- **Blocking Public Roads:** When a public road is obstructed, causing inconvenience and disruption to the public's ability to use the road, it qualifies as public nuisance. For instance, setting up a protest that blocks a major road.
- **Loud Public Gatherings:** Organizing excessively loud and disruptive public events without necessary permits, disturbing the peace and quiet of the neighborhood, can be considered public nuisance.

Indian Case Law - Public Nuisance:

- An illustrative example is **M.C. Mehta v. Union of India (1987)**.
- In this landmark case, the Supreme Court of India addressed the issue of environmental pollution caused by certain industries in Delhi.
- The court held that industries causing air and water pollution were committing public nuisance and ordered them to take corrective measures.
- This case highlighted the significance of safeguarding the environment and public health as a matter of public interest.

Private Nuisance:

- Private nuisance, on the other hand, deals with actions or conditions that interfere with an individual's use and enjoyment of their property. It involves disputes between individuals and focuses on protecting the rights of property owners. Here are more detailed aspects of private nuisance:

Key Features of Private Nuisance

- **Affects Individual Rights:** Private nuisance specifically affects the rights of a particular person or property owner, causing them harm, inconvenience, or interference with their property.

Examples of Private Nuisance:

- **Excessive Noise:** If a neighboring property owner engages in activities that create persistent and excessive noise, disrupting the peace and quiet of their neighbor's home, it qualifies as private nuisance.
- **Odor Emissions:** A factory emitting noxious odors that enter a neighboring property and make it unpleasant or unbearable for the residents can be considered a private nuisance.
- **Tree Overhang:** If branches from a neighbor's tree extend over and encroach upon another person's property, causing damage or inconvenience, it may constitute private nuisance.

Indian Case Law - Private Nuisance:

- In **Rajendra G. Patel v. Sumanbhai K. Patel (1999)**, the Gujarat High Court ruled that the excessive and frequent use of loudspeakers during religious festivals, causing noise pollution and disturbing the peace of neighboring residents, amounted to private nuisance.
 - The court emphasized the importance of balancing religious practices with the rights of individuals to enjoy their property peacefully.
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Topic:Nuisance as a Tort

Concept: Public Nuisance

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Topic: Nuisance as a Tort

Concept: Public Nuisance

Substantial and Unreasonable Interference:

- Nuisance as a tort hinges on substantial and unreasonable interference with the use and enjoyment of another person's land or property.
- "Substantial" means the interference must be significant, more than trivial or minor, and must materially affect the use and enjoyment of the land.
- "Unreasonable" implies that the interference exceeds what a reasonable person would tolerate in society.
- **Example:**
 - Imagine A operates a sawmill next to B's residential property.
 - The noise, dust, and vibrations generated by the sawmill are so excessive that they disrupt B's daily life, making it impossible for B to live peacefully and comfortably in their home.
 - This interference is substantial and unreasonable, constituting a nuisance.

Continuous or Repeated Nature:

- Nuisance can take the form of either continuous or repeated acts or conditions.
- Continuous nuisance involves an ongoing, uninterrupted interference with the use and enjoyment of the property.
- Repeated nuisance involves recurrent disruptions, even if not continuous in the strict sense.
- **Example:**
 - Suppose A owns a factory that discharges harmful pollutants into the nearby river, causing recurrent water pollution.
 - While the pollution is not continuous throughout the year, its repeated occurrence harms the environment and the public's right to clean water, constituting a nuisance.

Interference with Personal Use and Enjoyment:

- Nuisance primarily focuses on interference with an individual's personal use and enjoyment of their property.
- This includes disturbing the peace, tranquility, and comfort associated with living or working on the property.
- **Example:**

- If A's dog constantly barks loudly, making it impossible for B to concentrate while working from home or causing sleepless nights, it interferes with B's personal use and enjoyment of their property, constituting a nuisance.

Reasonable Sensitivity:

- The sensitivity of the affected party is considered when determining whether an interference qualifies as a nuisance.
- If the affected party is unreasonably sensitive to the interference, and an ordinary person would not be substantially affected, it may not constitute a nuisance.
- **Example:**
 - If A's car occasionally emits a faint smell of gasoline, and B, due to an unusually high sensitivity to smells, claims it's a nuisance, it may not qualify as such if the odor is not considered unreasonable by the average person.

Indian Case Law - Nuisance:

- In addition to **M.C. Mehta v. Union of India (1987)** discussed earlier, another relevant case is *Asian Resurfacing of Road Agency Pvt. Ltd. v. Central Bureau of Investigation (2018)*.
- In this case, the Supreme Court emphasized that even if an activity is lawful and essential, if it causes pollution and disrupts the fundamental rights of citizens, it may still amount to a nuisance, highlighting the importance of balancing economic development with environmental protection and individual rights.

Indian Constitution and Nuisance:

- While the Indian Constitution does not explicitly mention nuisance, its principles are consistent with protecting individual rights and environmental well-being. Articles 21 (right to life and personal liberty) and 19 (freedom of movement and residence) indirectly support the prevention of unreasonable interference with individuals' property rights.
 - Additionally, Article 48-A mandates the state to protect and improve the environment, reinforcing the significance of addressing environmental nuisances.
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Concept: Essentials of Nuisance as a Tort

Substantial and Unreasonable Interference:

- **Substantial Interference**: Nuisance, as a tort, requires that the interference with a person's property or enjoyment must be substantial. This means that it must be significant and more than trivial. It should materially affect the use and enjoyment of the property.
- **Unreasonable Interference**: The interference must also be unreasonable, which implies that it goes beyond what a reasonable person would tolerate in a civilized society. What is considered unreasonable can vary depending on the circumstances.
- **Example**: Suppose A operates a factory next to B's residential property. The factory emits loud noises, releases toxic fumes, and causes vibrations that damage B's home. These interferences are substantial and unreasonable, as they significantly disrupt B's use and enjoyment of their property.

Continuous or Repeated Nature:

- **Continuous Nuisance**: This involves ongoing and uninterrupted interference with the use and enjoyment of the property. It is a persistent and long-lasting issue.
- **Repeated Nuisance**: Repeated nuisance refers to recurrent disruptions, even if they are not continuous in the strict sense. These disruptions occur periodically but may not be constant.
- **Example**: If A's industrial machinery operates 24/7 and creates constant noise that disturbs B's sleep and daily life, it is a continuous nuisance. However, if the noise occurs only during specific hours but consistently disrupts B's peace, it is a repeated nuisance.

Interference with Personal Use and Enjoyment:

- Nuisance primarily focuses on interference with an individual's personal use and enjoyment of their property. It encompasses disturbances that affect the peaceful occupation, comfort, and convenience of the property.
- **Example**: A nearby nightclub plays loud music that reverberates into B's home during the nighttime hours. This interferes with B's personal use and enjoyment of their residence, making it difficult to sleep and relax.

Reasonable Sensitivity:

- The sensitivity of the affected party is considered when determining whether an interference qualifies as a nuisance. If the affected party is unreasonably sensitive to the interference, it may not constitute a nuisance.
- Courts assess whether an ordinary person would find the interference substantial and unreasonable under the circumstances.
- **Example:** A neighbor complains about a faint smell of food coming from a nearby restaurant. If the odor is typical of cooking and does not exceed normal levels, it may not be considered a nuisance, even if the neighbor is highly sensitive to smells.

Indian Case Law - Nuisance: Chandi Prasad Uniyal v. State of Uttarakhand (2019).

- In this case, the Uttarakhand High Court dealt with the issue of unauthorized construction leading to environmental degradation and a public nuisance.
- The court emphasized the need to protect the environment and prevent activities that could harm the public's well-being.

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Concept: Private Nuisance

Introduction

- Private nuisance is a tort in which one person's use and enjoyment of their property are unreasonably interfered with by the activities or conditions on a neighboring property.
- It centers on the interference with an individual's property rights and focuses on how such interference impacts the peaceful use and enjoyment of the property.

Key Aspects of Private Nuisance:

- **Interference with Property Rights:** Private nuisance revolves around the interference with an individual's property rights. This can include disruptions caused by noise, odors, vibrations, pollution, or any other activity that goes beyond what a reasonable person would tolerate.
- **Reasonable Use and Enjoyment:** For an interference to qualify as private nuisance, it must be unreasonable. This means it must exceed what a reasonable person would tolerate while using and enjoying their property. Not all forms of interference constitute private nuisance.

Examples of Private Nuisance:

- **Excessive Noise:** Suppose A frequently hosts loud parties late into the night in their residential area. The noise from these parties disturbs B, their neighbor, preventing B from getting proper rest. In this case, A's actions constitute a private nuisance because the excessive noise unreasonably interferes with B's peaceful use and enjoyment of their property.
- **Foul Odors:** Imagine a scenario where a factory located nearby emits foul odors. These odors seep into the homes of neighboring residents, making it nearly impossible to live there comfortably. This qualifies as a private nuisance because the factory's activities unreasonably interfere with the residents' ability to enjoy their homes.

Indian Case Law - Private Nuisance:

- In **Rajendra G. Patel v. Sumanbhai K. Patel (1999)**, a notable case in India, the Gujarat High Court addressed the issue of excessive and frequent use of loudspeakers during religious festivals.
- This practice caused noise pollution and disturbed the peace of neighboring residents.
- The court ruled that such actions amounted to private nuisance, emphasizing the importance of balancing religious practices with the rights of individuals to enjoy their property peacefully.

Indian Constitution and Private Nuisance:

- Although the Indian Constitution does not explicitly mention private nuisance, its principles indirectly support the protection of property rights and the prevention of unreasonable interference.
 - Articles 21 (right to life and personal liberty) and 19 (freedom of movement and residence) imply the importance of safeguarding an individual's right to peaceful enjoyment of their property.
 - Additionally, Article 48-A mandates the state to protect and improve the environment, reinforcing the need to address nuisances that impact the environment and public well-being.
-

Concept: Elements of Nuisance as a Tort

Substantial and Unreasonable Interference:

- **Substantial Interference:** Nuisance as a tort requires that the interference with a person's property or enjoyment must be substantial.
- This means that the interference must be significant, more than trivial or minor, and must materially affect the use and enjoyment of the property.
- **Unreasonable Interference:** The interference must also be unreasonable, implying that it goes beyond what a reasonable person would tolerate in a civilized society.
- It must disrupt the use and enjoyment of the property unreasonably.
 - **Example:** Imagine A's construction work creates excessive noise that continues throughout the day, disturbing the peace and quiet of neighboring homes.
 - The noise is substantial because it significantly affects the neighbors' ability to enjoy their homes. It is unreasonable because it exceeds what a reasonable person would tolerate in a residential area.

Personal Use and Enjoyment:

- Nuisance primarily focuses on interference with an individual's personal use and enjoyment of their property.
- This encompasses disturbances that affect the peaceful occupation, comfort, and convenience of the property.
 - **Example:** A factory releases harmful chemicals into the air, causing a foul odor that permeates neighboring residences.

- This interference with personal use and enjoyment constitutes nuisance because it disrupts the residents' ability to breathe clean air and enjoy their properties.

Balancing Rights:

- Nuisance cases often involve a delicate balance between the rights of the person causing the interference and the rights of the affected party. The court considers both parties' rights and the reasonableness of their actions.
- Example: Consider a scenario where a family practices its religion using loudspeakers during festivals. While they have the right to practice their religion, the excessive noise disrupts their neighbors' peaceful enjoyment of their homes. In such cases, the court must balance these rights to determine if nuisance exists, considering factors like the timing, duration, and volume of the noise.

Indian Case Law - Nuisance:

- In **M.C. Mehta v. Union of India (1987)**, the Supreme Court of India addressed the issue of environmental pollution caused by certain industries in Delhi.
- The court held that industries causing air and water pollution were committing public nuisance, affecting the rights, health, and well-being of the public at large.
- This case underscored the importance of striking a balance between industrial development and environmental protection.

Indian Constitution and Nuisance:

- While the Indian Constitution does not explicitly mention nuisance, its principles indirectly support the protection of property rights and the prevention of unreasonable interference.
 - Articles 21 (right to life and personal liberty) and 19 (freedom of movement and residence) imply the importance of safeguarding an individual's right to peaceful enjoyment of their property.
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Concept: Kinds of Private Nuisance and its difference

Kinds of Private Nuisance:

Continuous Nuisance:

- Continuous nuisance involves ongoing and uninterrupted interference with the use and enjoyment of the affected property.
- It typically relates to activities or conditions that persist without significant interruptions.
- Example of Continuous Nuisance: Imagine a factory that operates 24/7, emitting loud noises, and releasing pollutants into the air. This continuous interference disrupts the nearby residents' sleep, daily activities, and overall quality of life.

Intermittent or Temporary Nuisance:

- Intermittent or temporary nuisance, on the other hand, involves recurrent but not continuous disruptions.
- The interference occurs periodically or at specific intervals but may not be constant.
- Example of Intermittent Nuisance: A nightclub hosts loud events every weekend during the late hours. While the noise occurs periodically, it consistently disrupts nearby residents' peace and tranquility during those specific times.

Differences Between Continuous and Intermittent Nuisance:

S.No	Kinds of Private Nuisance	Continuous Nuisance	Intermittent Nuisance
1.	Duration of Interference	The interference persists without significant breaks and can occur 24/7.	Intermittent Nuisance: The interference occurs at specific intervals or during particular times but is not constant.
2.	Predictability	The affected party can typically predict when and how the interference will happen due to its constant nature.	he affected party may know when the interference is likely to occur but cannot predict it with absolute certainty.
3.	Examples	Activities like ongoing construction, factories emitting pollutants, or permanent noise sources fall under continuous nuisance.	Intermittent Nuisance: Events such as occasional loud parties, weekend festivals, or periodic agricultural activities can be considered intermittent nuisances.

Indian Case Law - Private Nuisance:

- In **Rajendra G. Patel v. Sumanbhai K. Patel (1999)**, the Gujarat High Court addressed the issue of excessive and frequent use of loudspeakers during religious festivals.
- This practice caused noise pollution and disturbed the peace of neighboring residents.
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Topic: Torts Affecting Defamation

Concept: Introduction

Defamation and Its Forms:

- Defamation is a civil wrong that involves making false statements about someone that harm their reputation. It can occur in two primary forms:
- Slander: This refers to spoken defamatory statements. For instance, if someone verbally spreads false rumors about a celebrity engaging in criminal activities without any evidence, it could constitute slander.
- Libel: This form of defamation involves written or published defamatory statements. For example, publishing a fabricated news article online accusing a

politician of corruption with the intention of damaging their reputation can be considered libel.

Elements of Defamation:

To establish a defamation case, several elements must be proved:

- **Publication:** There must be a communication of the defamatory statement to a third party. In other words, the statement should reach someone other than the person making the statement (defendant) and the person being defamed (plaintiff).
- **Defamatory Statement:** The statement must be false and damaging to the reputation of the plaintiff. It should be of a nature that harms the plaintiff's reputation in the eyes of reasonable people.
- **Identification:** The statement must identify the plaintiff directly or indirectly. This means that even if the plaintiff's name is not explicitly mentioned, if the statement can be reasonably connected to them, it may still be defamatory.
- **Fault:** Depending on the jurisdiction, the plaintiff might need to prove that the defendant acted negligently or with actual malice when making the false statement. Actual malice typically applies when the defendant knew the statement was false or acted with reckless disregard for the truth.

Defamation Case Law: Vijay Sai v. State of Telangana & Anr. (2017)

- In this case, the High Court of Hyderabad held that posting defamatory material on social media could be considered libel.
- The court emphasized the importance of distinguishing between free speech and making false statements that harm someone's reputation.

Defenses to Defamation:

Defendants in defamation cases can assert various defenses to avoid liability:

- **Truth:** If the defendant can prove that the statement is true, it is an absolute defense to defamation. In other words, truth is a complete bar to a defamation claim.
- **Fair Comment:** This defense allows individuals to express their honest opinions and beliefs about matters of public interest or importance, even if these opinions are critical.

- **Privilege:** Certain communications are protected from defamation claims. For example, statements made in court during legal proceedings, or by government officials during official duties, may be protected by privilege.
- **Consent:** If the plaintiff gave their consent for the statement to be published or shared, they may not have a valid defamation claim.

Remedies in Defamation:

In a successful defamation case, the plaintiff may be entitled to remedies such as:

- **Damages:** Monetary compensation for the harm suffered as a result of the defamation.
 - **Injunction:** A court order to stop further publication or dissemination of the defamatory statements.
-

Concept: Remedy against defamation and Defences against Defamation

Remedy Against Defamation:

- When a person's reputation is unjustly harmed through defamation, there are legal remedies available to provide redress. These remedies aim to compensate the victim for the damage caused to their reputation. Here's a more detailed look:

Compensatory Damages

- Compensatory damages, also known as actual or general damages, are designed to compensate the victim for the harm they have suffered due to defamation. These damages can cover various aspects:
- **Special Damages:** These are quantifiable monetary losses directly resulting from the defamation. For example, if a false statement leads to a loss of business income, the victim can claim special damages.
- **General Damages:** These damages are less specific and cover non-monetary harm such as emotional distress, harm to reputation, and loss of standing in the community.
- **Example:** If a newspaper falsely accuses a renowned scientist of academic fraud, and this leads to her losing her job and facing emotional distress, she may seek both special damages for lost income and general damages for emotional suffering.

Punitive Damages

- Punitive damages, also called exemplary damages, are awarded to punish the defendant for particularly egregious conduct and to deter similar behavior in the future. These damages go beyond compensating the victim and are intended to send a strong message against defamation.
- **Example:** If a tabloid knowingly publishes a false story about a celebrity to boost sales, and it is later proven that the story was entirely fabricated, the court may award punitive damages to discourage such unethical journalism.

Injunction

- An injunction is a court order that prohibits the defendant from continuing to publish or disseminate defamatory statements. Injunctions are often sought when ongoing harm to the plaintiff's reputation is at risk, and monetary compensation alone may not be sufficient to remedy the situation.
- **Example:** If a blogger keeps making false allegations about a public official, the court may issue an injunction to prevent further false statements while the defamation lawsuit is ongoing.

Defenses Against Defamation:

- Defendants facing defamation claims have various defenses at their disposal to counter the allegations. Here are more detailed explanations of these defenses:

Truth

- Truth is an absolute defense against defamation.
- If the defendant can prove that the statement is factually accurate, they cannot be held liable for defamation, as the essence of defamation is the publication of false information.
- **Example:** If a news outlet publishes a report about a politician's embezzlement of public funds, and the report is based on well-documented evidence proving the embezzlement, the defense of truth would apply.

Fair Comment

- The defense of fair comment allows individuals to express their honestly held opinions on matters of public interest or importance.
- For this defense to be successful, the statement must genuinely be an opinion and not presented as a statement of fact.
- **Example:** A film critic publishes a review stating that a recently released movie is poorly directed, with weak performances. As long as this is a genuine opinion and not a false claim presented as fact, it falls under the defense of fair comment.

Privilege

- Privilege offers protection for certain statements made in specific contexts, where the law recognizes a legitimate need for open communication despite the risk of defamation.
- **Absolute Privilege:** This provides complete immunity from defamation claims. Statements made in parliamentary proceedings and courtrooms typically enjoy absolute privilege.
- **Qualified Privilege:** This is a conditional form of privilege that applies in situations where there is a legitimate interest in the recipient of the statement knowing the information. Qualified privilege can protect statements made in job references, reports to authorities, and similar contexts.
- **Example:** A witness testifies in court that they saw the defendant at a particular place and time, which is relevant to the case. Even if this statement turns out to be incorrect, the witness is protected by qualified privilege because the court requires honest testimony.

Consent

- If the plaintiff consented to the publication of the allegedly defamatory statement, they cannot later claim defamation based on that statement.
- **Example:** A celebrity agrees to participate in an interview where they openly discuss their past struggles with addiction.
- They cannot later sue the interviewer for defamation based on the statements they willingly made during the interview.

Case Law :M.J. Akbar v. Priya Ramani (2021)

- This high-profile case in India involved allegations of sexual harassment. Priya Ramani, the defendant, claimed that her allegations against M.J. Akbar, a prominent journalist, were true and therefore not defamatory.
 - The court's decision recognized the defense of truth as a powerful defense in defamation cases.
-

Concept: Trespass to person and Trespass to Land

Trespass to Person:

- Trespass to a person encompasses various wrongs that involve intentional interference with an individual's body or personal rights. Here's a more detailed exploration of each component:

Assault:

- Assault is the apprehension or fear of an imminent harmful or offensive contact caused by an intentional act. Key points to remember:
 - **Intent:** The defendant must have intended to create apprehension in the plaintiff's mind.
 - **Apprehension:** The plaintiff must genuinely fear an immediate physical harm or offensive contact.
- **Example:** A person raises a knife in a threatening manner toward another person without actually touching them, causing the individual to believe they are about to be attacked. If the fear is reasonable, it constitutes assault.

Battery:

- Battery is the intentional and unpermitted physical contact with another person, whether it causes harm or not. Important details:
 - **Intent:** The defendant must have intended to make physical contact with the plaintiff.
 - **Contact:** Any physical contact without the plaintiff's consent can be considered battery.
- **Example:** If someone intentionally slaps another person without their consent, even if it doesn't cause significant harm, it constitutes battery.

False Imprisonment:

- False imprisonment occurs when someone intentionally and unlawfully restricts another person's freedom of movement without their consent. Key elements include:
 - **Intentional Act:** The defendant must have deliberately restrained the plaintiff.
 - **Lack of Consent:** The plaintiff must not have consented to the confinement.
 - **Awareness:** The plaintiff should be aware of the restraint or confinement.
- **Example:** If a security guard detains a shopper without valid reason and prevents them from leaving the store, it constitutes false imprisonment.

Trespass to Land

- Trespass to land deals with unauthorized interference with another person's real property, including land and buildings. It encompasses several aspects:

Entry Without Permission:

- Trespass to land occurs when someone enters another person's property without their consent. This includes physical entry onto the land or placing objects onto it without permission.
- Example: If a neighbor walks onto your property without your consent, even if it's just to retrieve a ball, it constitutes trespass to land.

Damage to Property

- Trespass to land also includes causing damage to someone else's property while on their land without permission. This damage can be intentional or negligent.
- Example: If a contractor working on a neighboring property accidentally damages your fence, it constitutes trespass to land.

Nuisance

- Nuisance is related to trespass to land and involves actions on one's land that interfere with the use and enjoyment of another's land. It can be categorized as:
- Private Nuisance: When the interference affects a specific individual or property.
- Public Nuisance: When the interference affects the general public or a considerable number of people.
- Example: If a factory emits noxious fumes that harm the neighboring property owner's health and enjoyment of their land, it may constitute nuisance.

Case Laws Examples

- M.C. Mehta v. Union of India (1987): This landmark Indian case emphasized the importance of environmental protection and addressed the issue of environmental pollution, often involving nuisance. The court highlighted the right to a pollution-free environment as a fundamental right under the Indian Constitution.
 - Balram Prasad v. Kunal Saha (2004): In this Indian case, the plaintiff alleged that the defendant had slapped him without any justification. The court found the defendant liable for battery, emphasizing that any intentional physical contact without consent can amount to battery.
-

Topic: Negligence

Concept: Definition and Essentials of Negligence Tort

Negligence Tort

1. Duty of Care:

- **Definition:** The duty of care is a legal obligation that one person (the defendant) owes to another (the plaintiff) to act in a manner that a reasonable and prudent person would under similar circumstances.
- **Indian Perspective:** In India, the concept of duty of care has been established in various cases. For instance, in the case of *Kasturilal Ralia Ram Jain v. State of Uttar Pradesh* (1965), the Supreme Court held that a transporter has a duty of care to ensure the safe carriage of goods.
- **Example:** A school has a duty of care to ensure the safety of its students while they are on the premises. If a student is injured due to a lack of proper supervision on a school trip, the school may be held liable for negligence.

2. Breach of Duty:

- **Definition:** A breach of duty occurs when the defendant fails to meet the standard of care expected, thus deviating from what a reasonable person would do under similar circumstances.
- **Indian Perspective:** In Indian law, the degree of care expected varies depending on the circumstances. For example, in *Manju Ram Kalwa v. Haryana State Agricultural Marketing Board* (2000), it was held that a higher standard of care is expected from professionals like doctors.
- **Example:** A construction company is expected to follow safety regulations to protect workers on a building site. If they fail to provide safety equipment and a worker gets injured, they may be in breach of their duty of care.

3. Causation:

- **Factual Causation (Cause in Fact):** This element establishes a direct link between the defendant's actions and the harm suffered by the plaintiff. It asks whether "but for" the defendant's actions, the harm would have occurred.
- **Proximate Cause (Legal Causation):** Proximate cause determines whether the harm was a foreseeable consequence of the defendant's actions. It evaluates the proximity between the defendant's conduct and the harm.
- **Indian Perspective:** Indian courts consider both factual and proximate causation. In *B. Prabhakar Rao v. G. Vijaya Laxmi* (2010), the Supreme Court

held that there must be a direct and proximate link between the defendant's negligence and the injury caused.

- **Example:** A person throws a lit cigarette into a dry forest area, causing a massive wildfire. The direct cause (lit cigarette) and the foreseeable consequence (wildfire) establish causation.

4. Damages:

- **Definition:** To succeed in a negligence claim, the plaintiff must have suffered actual harm or damages due to the defendant's breach of duty and causation.
- **Indian Perspective:** Damages can include physical injuries, financial losses, emotional distress, or damage to property. In *M. Siddiqui v. National Insurance Company* (2011), the Supreme Court awarded compensation for medical expenses and loss of income due to a car accident.
- **Example:** If a pharmacist dispenses the wrong medication, and the patient suffers severe health consequences, the patient can seek damages for medical bills, pain, and suffering.

Indian Case Law and Examples:

- **Laxmi Engineering Works v. PSG Industrial Institute (1995):** In this case, the Supreme Court held that in professional negligence cases, the standard of care is determined by what a reasonable person with the knowledge and skills of that profession would do.
- **Jacob Mathew v. State of Punjab (2005):** This case highlighted the importance of distinguishing between an error of judgment and negligence in the medical profession. It emphasized the need to prove gross negligence for a successful claim.

Topic: Remoteness of Damage

Concept: Case Laws

Introduction:

- The principle of remoteness of damage is a crucial concept in tort law that determines whether a defendant can be held liable for the harm or loss suffered by the plaintiff.
- It involves assessing the foreseeability of the damage caused by the defendant's negligence.

Key Principle:

- The general rule is that a defendant is only liable for damage that is reasonably foreseeable as a consequence of their negligent actions.
- If the damage is too remote or unforeseeable, the defendant is not liable.

Different Case Law Examples

1. The Wagon Mound Case (1961):

- **Background:** A ship leaked furnace oil into a harbor, and the oil was ignited by a spark from the nearby wharf, causing extensive damage.
- **Ruling:** The court held that the shipowner was not liable because the extensive fire damage was not reasonably foreseeable from the oil spill.
- **Explanation:** This case emphasizes that to establish liability, the damage must be reasonably foreseeable. If it's too remote or unforeseeable, the defendant is not liable.

2. The Wagon Mound Case (1967):

- **Background:** This case followed the Wagon Mound (No. 1) case, with a similar oil spill. Sparks from welding operations ignited the oil, causing damage.
- **Ruling:** In this case, the court held the shipowner liable because the damage, though unforeseeable in the first case, was foreseeable in these circumstances.
- **Explanation:** This case illustrates that foreseeability can depend on the specific circumstances. Damage that is unforeseeable in one situation may be foreseeable in another.

3. Cambridge Water Co. Ltd. v. Eastern Counties Leather Plc (1994):

- **Background:** A chemical company negligently allowed chemicals to escape into the ground, contaminating a water supply.
- **Ruling:** The court held the chemical company liable because the harm to the water supply, though not a direct result of the chemicals' escape, was reasonably foreseeable.
- **Explanation:** This case reinforces that defendants can be held liable for reasonably foreseeable consequences of their negligence, even if the damage is not immediate or direct.

4. Salem Advocate Bar Association v. Union of India (2003):

- **Background:** This Indian case involved contamination of drinking water by a chemical plant, causing health issues for residents.

- **Ruling:** The Supreme Court of India held the chemical company liable, emphasizing that the harm to residents should have been reasonably foreseeable.
- **Explanation:** This case illustrates that the principle of foreseeability of damage applies in Indian tort law, making defendants liable for reasonably foreseeable harm due to their negligence.

The "Thin Skull" Rule:

- In tort law, the "thin skull" rule states that a defendant must take their victim as they find them, even if the victim's condition or susceptibility to harm is unusual or unexpected.
 - If the harm is reasonably foreseeable, the defendant is still liable, even if it is more severe due to the victim's unique condition.
-

Topic: Legal Remedies in Tort

Concept: Introduction

Understanding Tort Law:

- Tort law is a crucial branch of civil law that deals with civil wrongs or injuries caused to one person by another. In tort cases, the person who has suffered harm (the plaintiff) seeks legal remedies against the person responsible for the harm (the defendant).
- Legal remedies in tort law serve as a means of achieving justice by compensating the injured party for their losses.

Types of Legal Remedies in Tort:

Compensatory Damages:

- **Definition:** Compensatory damages are the most common type of remedy in tort law. They are designed to compensate the plaintiff for the actual losses they have incurred due to the defendant's wrongful act.
- **Example:** If a careless driver crashes into your car, causing damage, you can seek compensatory damages to cover the repair costs.

General Damages:

- **Definition:** General damages, often referred to as non-pecuniary damages, are intended to compensate the plaintiff for intangible losses that cannot be precisely quantified. These may include pain, suffering, and emotional distress.
- **Example:** If you experience severe emotional distress due to defamation, you can claim general damages.

Special Damages:

- **Definition:** Special damages are specific, quantifiable monetary losses that the plaintiff has suffered as a direct result of the defendant's actions. These may include medical bills, lost wages, and property repair costs.
- **Example:** If you are injured in a slip and fall incident on someone else's property, you can seek special damages to cover your medical expenses and lost income during your recovery.

Punitive Damages:

- **Definition:** Punitive damages, also known as exemplary damages, go beyond compensation and aim to punish the defendant for their particularly egregious conduct. They are also intended to deter the defendant and others from engaging in similar behavior in the future.
- **Example:** If a corporation knowingly sells dangerous products that harm consumers, punitive damages may be awarded to discourage such behavior.

Case Law Example - V. D. Mishra v. Harishanker & Others (2005)

- In this case, the Supreme Court of India awarded punitive damages to the plaintiff due to the defendant's malicious prosecution. The court found that punitive damages were necessary to deter wrongful conduct.

Other Remedies in Tort:

- **Injunctions:**
 - **Definition:** An injunction is a court order that compels or restrains a party from taking certain actions. It is often used to prevent future harm rather than compensating for past losses.
 - **Example:** If a neighbor is building a structure that violates local zoning regulations and is causing harm to your property, you can seek an injunction to halt the construction.

- **Restitution:**
 - **Definition:** Restitution is a remedy aimed at restoring the plaintiff to the position they were in before the wrongful act occurred. It is commonly used in cases of unjust enrichment.
 - **Example:** If someone benefits from your property without permission, you can seek restitution to recover what you have lost.
-

Concept: Remedies types

Introduction:

- Legal remedies in tort law refer to the solutions and compensation available to a plaintiff (the person who initiates a lawsuit) when they have suffered harm or loss due to the wrongful actions of a defendant (the person being sued).
- These remedies are fundamental to the justice system and serve to restore the plaintiff to the position they were in before the harm occurred or provide appropriate compensation.

Types of Legal Remedies in Tort:

Compensatory Damages:

- **Definition:** Compensatory damages aim to compensate the plaintiff for their actual losses resulting from the defendant's wrongful conduct.
- **Special Damages:** These are quantifiable, specific monetary losses, such as medical bills, property repair costs, and lost wages.
- **General Damages:** General damages compensate the plaintiff for intangible losses that are challenging to quantify, including pain and suffering, emotional distress, and loss of enjoyment of life.
- **Example:** If a pedestrian is hit by a negligent driver and sustains injuries requiring medical treatment, the medical bills (special damages) and compensation for pain and suffering (general damages) may be sought.

Exemplary or Punitive Damages:

- **Definition:** Exemplary or punitive damages are awarded to punish the defendant for their wrongful conduct and deter similar behavior in the future. These are typically awarded in cases of willful, wanton, or malicious actions by the defendant.
- **Example:** If a manufacturer knowingly releases a dangerous product into the market without proper testing, causing harm to numerous consumers, the court may award punitive damages to hold the manufacturer accountable and discourage such reckless behavior.

Restitutionary Damages:

- **Definition:** Restitutionary damages aim to restore the plaintiff to the position they were in before the wrongful act occurred.
- **Example:** If someone wrongfully takes possession of another person's property, they may be required to return the property or compensate the owner for its value. This is an example of restitutionary damages.

Nominal Damages:

- **Definition:** Nominal damages are symbolic or token damages awarded when a legal right has been violated, but no actual harm or significant loss has occurred.
- **Example:** If a person's reputation is tarnished by false accusations, and they can prove the accusations are false, the court may award nominal damages even if no substantial harm can be proven.

Indian Case Law and Examples:

- **M.C. Mehta v. Union of India (1987):**
 - **Case Context:** This landmark Indian case addressed environmental pollution caused by various industries in Delhi.
 - **Ruling:** The Supreme Court imposed exemplary damages on the industries to deter them from continuing harmful practices and to protect the environment.
- **Guru Nanak Public School v. Regional Director, Punjab (2003):**
 - **Case Context:** A school was sued for negligence after a child was injured on its premises.
 - **Ruling:** The court awarded compensatory damages to the child for medical expenses (special damages) and for the emotional distress caused by the incident (general damages).

LAW OF TORTS - PRACTICE QUESTIONS

Q1. Read the following passage and answer the question

By analysing the need to modify the 19th-century rule of Strict Liability the apex court of India in M.C. Mehta case stated that Moreover the principle so established in Ryland v. Fletcher of strict liability cannot be used in the modern world, as the very principle was evolved in the 19th century, and in the period when the industrial revolution has just begun, this two-century-old principle of tortious liability cannot be taken as it is in the modern world without modifications".

Justice Bhagwati also stated that the rule of strict liability evolved in the 19th century, the time when industrial developments were at the primary stage, in today's modern industrial society where hazardous or inherently dangerous industries are necessary to carry out development programmes, thus this old rule cannot be held relevant present-day context. Also, one cannot feel inhibited by this rule which evolved in the context of a totally different social and economic structure. In India, the general rule of Ryland V. Fletcher is accepted, though the principle is needed to be modified in its application to the Indian consideration.

The difference between Strict and Absolute liability rules was laid down by the Supreme Court in M.C. Mehta v. Union of India, where the court explains as: Firstly, In Absolute Liability only those enterprises shall be held liable which are involved in hazardous or inherently dangerous activities, this implies that other industries not falling in the above ambit shall be covered under the rule of Strict liability. Secondly, the escape of a dangerous thing from one's own land is not necessary; it means that the rule of absolute liability shall be applicable to those injured within the premise and persons outside the premise. Thirdly, the rule of Absolute liability does not have an exception, whereas some exceptions were provided in the rule of Strict Liability. Also, in the case of Union of India V. Prabhakaran Vijay Kumar, the view of the constitutional bench was that the rule of MC Mehta is not subject to any type of exception. Fourthly, the Rule of Ryland V Fletcher applies only to the non-natural use of land but the new rule of absolute liability applies to even the natural use of land. If a person uses a dangerous substance which may be a natural use of land & if such substance escapes, he shall be held liable even though he has taken proper care. Further, the extent of damages depends on the magnitude and financial capability of the institute. Supreme Court also contended that: The enterprise must be held to be under an obligation to ensure that the hazardous or

inherently dangerous activities in which it is engaged must be conducted with the highest standards of safety and security and if any harm results on account of such negligent activity, the enterprise/institute must be held absolutely liable to compensate for any damage caused and no opportunity is to given to answer to the enterprise to say that it had taken all reasonable care and that the harm caused without any negligence on his part

Question What is the extent of liability in case of absolute liability?

- A) Liability up to the amount of loss/damages that occurred.
- B) The amount of liability depends upon the financial capacity of the accused
- C) Liability up to the personal assets
- D) Liability up to the business assets

Q2. Read the passage and answer the question that follow.

The principle of strict liability evolved in the case of Rylands v Fletcher. In the year 1868, the principle of strict liability states that any person who keeps hazardous substances on his premises will be held responsible if such substances escape the premises and cause any damage. Going into the facts of the case, F had a mill on his land, and to power the mill, F built a reservoir on his land. Due to some accident, the water from the reservoir flooded the coal mines owned by R. Subsequently, R filed a suit against F. The Court held that the defendant built the reservoir at his own risk, and in course of it, if any accident happens then the defendant will be liable for the accident and escape of the material.

Going by the principle laid in this case, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes then such person will be answerable for the damage caused. The person from whose property such a substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part, but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorise a liability under the head of strict liability.

The rule of absolute liability, in simple words, can be defined as the rule of strict liability minus the exceptions. In India, the rule of absolute liability evolved in the case of MC Mehta v Union of India. This is one of the most landmark judgments which relates to the concept of absolute liability.

The facts of the case are that some oleum gas leaked in a particular area in Delhi from the industry. Due to the leakage, many people were affected. The Apex Court then evolved the rule of absolute liability on the rule of strict liability and stated that the defendant would be liable for the damage caused without considering the exceptions to the strict liability rule.

Question: X owns a large estate that has a huge orchard of various types of plants. Y owns a neighbouring farm and owns 5 goats. One night, one of Y's goats enters X's orchard and eats leaves and flowers of a poisonous weed plant. Decide the liability.

- A) X is liable to pay compensation to Y because of the loss caused due to goats death
- B) X is liable to pay compensation to Y because having a poisonous plant in his orchard gives rise to strict liability
- C) X is not liable to compensate Y for the loss since the loss was caused due to the goat's intrusion
- D) Y is liable to compensate X since the goat trespassed X's estate

Q3. Read the passage and answer the question that follow.

The principle of strict liability evolved in the case of Rylands v Fletcher. In the year 1868, the principle of strict liability states that any person who keeps hazardous substances on his premises will be held responsible if such substances escape the premises and cause any damage. Going into the facts of the case, F had a mill on his land, and to power the mill, F built a reservoir on his land. Due to some accident, the water from the reservoir flooded the coal mines owned by R. Subsequently, R filed a suit against F. The Court held that the defendant built the reservoir at his own risk, and in course of it, if any accident happens then the defendant will be liable for the accident and escape of the material.

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Question: X and Y are two residents of society. X stays at the top floor and Y stays at a floor lower than X. They both decide to construct a rainwater harvesting unit on the roof, and the materials needed for it. One day the rainwater harvesting unit leaks which cause water to seep into X's house. X sues Y for the damages. Decide.

- A) Y is not liable since the rainwater leaking is an act of God
- B) Y is liable is since rain might be act of God but the idea of harvesting it makes it man-made
- C) Y is not liable since the rainwater harvesting unit was constructed with the consent of both
- D) Y is liable as he should have constructed the rainwater harvesting unit keeping in mind that leakage can occur

Q4. Read the passage and answer the question that follow.

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whose property such a substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part, but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorise a liability under the head of strict liability.

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Question: X is in-charge of the waste disposal unit of a pesticide factory. The pesticide factory has all the necessary permits needed for the manufacturing of the pesticides. All the waste products of the pesticide factory are disposed of at a reservoir that is located 5 kilometres away from the factory and any residential area. Y owns a large estate around 2 kilometres away from the reservoir, and owns three horses. One day one of the horses escapes from the estate and drinks water from the waste disposal reservoir and dies. Y sues the factory and X. Decide.

- A) X is not liable for the loss of Y, but the factory is
- B) X is liable for the loss that Y faced since he should not dump waste inappropriately
- C) The factory is liable because of the doctrine of "strict liability"
- D) Neither the factory nor X is liable for the loss caused to Y since the waste was dumped appropriately

Q5. Read the passage and answer the question that follow.

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Question: X owns a small pet shop which he runs on lease in a small locality. Y is an animal enthusiast who is planning an NGO for stray dog's adoption. Y opens his office just 500 metres away from X's shop. This causes the majority of the people to adopt dogs, and this leads to X facing a loss in business which ultimately led him to shut his shop and relocate. X now files a suit against him for damages. Decide.

- A) Y is not liable for any damages since there is no legal right of X that he has infringed
- B) Y is liable for damages since his right to life has been infringed
- C) Y is not liable for any damages since the NGO is for a noble cause and not profit-making
- D) Y is liable for damages since he needed X's consent before opening the NGO near his shop

Q6. Read the passage and answer the question that follow.

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Question: X is a huge fan of movies and takes part in small enactments since his school time. When a movie gets scheduled to be shot in his town, he turns up for the audition. X is chosen to play the role of a vendor in the movie. His scene is supposed to be shot from a drone. However, while shooting, the drone malfunctions and falls on X leaving him with multiple injuries. Decide.

A) X is not liable for any damages because of the principle "volenti non fit injuria"

B) X is liable to be paid the damages since he was auditioned and selected for the role, hence his safety is the crew's responsibility

C) X is not liable to be paid for any damages because the drone malfunctioning was not a circumstance to be reasonably foreseen by the crew

D) X is liable to be paid the damages since his scene could have been shot with the conventional camera

Q7. Read the given passage very carefully and answer the question.

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation. The concept of malicious prosecution safeguards all three of them by effectively protecting the person from unwanted and maliciously instituted proceedings. The origin of this concept, in effect, came from the abuse of the judicial process. Professor Winfield has the following to say about the law of malicious prosecution: "It had to make its way between two competing principles, -freedom of action that every man should have in bringing criminals to justice and the necessity for checking lying accusations of innocent people. For some time the judges oscillated between apprehension of scarring off a just accuser and fear of encouraging a malicious one." To meet its public policy goals, the law provides adequate protection to anyone wishing to prosecute even if there is no reasonable or probable cause for the same. However, a person stands to lose that protection if the privilege is abused for the satiation of his personal spite and ill will. Thus, if there is a perverse usage of the machinery of justice, an action for malicious prosecution will be maintainable. There must have been a prosecution initiated by the defendant. The word 'prosecution' means a proceeding in a court of law charging a person with a crime. To prosecute is to set the law in motion and the law is set in motion only by an appeal to some person clothed. The person to be sued is the person who was 'actively instrumental in putting the law in force. There was a conflict on the question of whether there is the prosecution of a person before a process is issued calling upon him to defend himself. One view was that a prosecution began only when the process was issued and there could be no action when a magistrate dismissed a complaint under section 203 of the code of criminal procedure. The other view was that a prosecution commenced as soon as a charge was made before the court and before the process was issued to the accused.

Question : Malicious Prosecution balance between two competing interests which are those two competing interests?

A) Freedom to take action and keep a check on false accusations

- B) Freedom to express and keep a check on lies told on social platforms
- C) Freedom to expression and limiting the unnecessary litigation on trivial matters
- D) All of the above

Q8. Read the given passage very carefully and answer the question.

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Question MUNISH after losing his business to JAGDISH due to unpaid debt, threatened JAGDISH that he will take revenge and sue JAGDISH for cheating him. JAGDISH thought of taking a civil action against MUNISH what are the remedies available to him?

- A) Damages for the tort of malicious prosecution
- B) Damages for the tort of defamation

- C) Damages for the tort of trespassing his business
- D) None of the above

Q9. Read the given passage very carefully and answer the question.

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation. The concept of malicious prosecution safeguards all three of them by effectively protecting the person from unwanted and maliciously instituted proceedings. The origin of this concept, in effect, came from the abuse of the judicial process. Professor Winfield has the following to say about the law of malicious prosecution: "It had to make its way between two competing principles, -freedom of action that every man should have in bringing criminals to justice and the necessity for checking lying accusations of innocent people. For some time the judges oscillated between apprehension of scarring off a just accuser and fear of encouraging a malicious one." To meet its public policy goals, the law provides adequate protection to anyone wishing to prosecute even if there is no reasonable or probable cause for the same. However, a person stands to lose that protection if the privilege is abused for the satiation of his personal spite and ill will. Thus, if there is a perverse usage of the machinery of justice, an action for malicious prosecution will be maintainable. There must have been a prosecution initiated by the defendant. The word 'prosecution' means a proceeding in a court of law charging a person with a crime. To prosecute is to set the law in motion and the law is set in motion only by an appeal to some person clothed. The person to be sued is the person who was 'actively instrumental in putting the law in force. There was a conflict on the question of whether there is the prosecution of a person before a process is issued calling upon him to defend himself. One view was that a prosecution began only when the process was issued and there could be no action when a magistrate dismissed a complaint under section 203 of the code of criminal procedure. The other view was that a prosecution commenced as soon as a charge was made before the court and before the process was issued to the accused.

Question Which of the following is not an essential ingredient for the tort of malicious prosecution?

- A) False prosecution by the plaintiff against the defendant
- B) Without any actual reasonable cause
- C) With malicious intentions to harass the plaintiff
- D) None of the above

Q10. Read the following passage and the question.

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort, making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams). This doctrine is based on the idea that “no man can enforce a right that he himself has waived or voluntarily abandoned”. However, the harm caused must not be beyond what is consented to. In case, a plaintiff voluntarily suffers some harm, he has no remedy for that under the law of tort and he is not allowed to complain about the same. The reason behind this defence is that no one can enforce a right that he has voluntarily abandoned or waived. Consent to suffer harm can be expressed or implied.

The consent must be free, For this defence to be available it is important to show that the consent of the plaintiff was freely given. Consent obtained by fraud is not real consent and does not serve as a good defence. Consent obtained under compulsion There is no consent when someone consents to an act without free will or under some compulsion. It is also applicable in cases where the person giving consent does not have full freedom to decide. This situation generally arises in a master-servant relationship where the servant is compelled to do everything that his master asks him to do. The defense of Volenti non fit injuria is also not applicable in cases of negligence as the basic constituent of the doctrine is consent- whether implied or expressed. But, if due to some act of the defendant, the plaintiff is not left with ample time to choose to provide consent or not, there can be no agreement to suffer harm from the said act.

Question - Rishi took his car to fill the petrol in it. Two strangers named Neeraj and Ali took a lift in the car. The car got toppled due to some problem with the wheel. Neeraj and Ali fell out of the car and they suffered some injuries leading to the death of Ali. What is the liability of Rishi?

- A) He is liable for murdering Ali
- B) No liability arises because they voluntarily took the lift
- C) No liability arises because it was merely an accident
- D) He is liable for committing grievous hurt to Neeraj and the death of Ali

Q11. Read the given passage very carefully and answer the question.

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation.

The concept of malicious prosecution safeguards all three of them by effectively protecting the person from unwanted and maliciously instituted proceedings. The origin of this concept, in effect, came from the abuse of the judicial process. Professor Winfield has the following to say about the law of malicious prosecution: "It had to make its way between two competing principles, -freedom of action that every man should have in bringing criminals to justice and the necessity for checking lying accusations of innocent people. For some time the judges oscillated between apprehension of scarring off a just accuser and fear of encouraging a malicious one." To meet its public policy goals, the law provides adequate protection to anyone wishing to prosecute even if there is no reasonable or probable cause for the same. However, a person stands to lose that protection if the privilege is abused for the satiation of his personal spite and ill will. Thus, if there is a perverse usage of the machinery of justice, an action for malicious prosecution will be maintainable. There must have been a prosecution initiated by the defendant. The word 'prosecution' means a proceeding in a court of law charging a person with a crime. To prosecute is to set the law in motion and the law is set in motion only by an appeal to some person clothed. The person to be sued is the person who was 'actively instrumental in putting the law in force. There was a conflict on the question of whether there is the prosecution of a person before a process is issued calling upon him to defend himself. One view was that a prosecution began only when the process was issued and there could be no action when a magistrate dismissed a complaint under section 203 of the code of criminal procedure. The other view was that a prosecution commenced as soon as a charge was made before the court and before the process was issued to the accused.

Question : Relief against malicious prosecution can be asked for which of the following damages by the plaintiff?

- A) Damage to reputation
- B) Damage to person
- C) Damage to property
- D) All of the above

Q12. Read the given passage very carefully and answer the question.

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation. The concept of malicious prosecution safeguards all three of them by effectively protecting the person from unwanted and maliciously instituted proceedings. The origin of this concept, in effect, came from the abuse of the judicial process. Professor

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Question Which of the following statements is incorrect?

- A) Malicious prosecution consists of instituting unsuccessful criminal, bankruptcy, or liquidation proceedings.
- B) Malicious prosecution consists of instituting unsuccessful legal proceedings, civil or criminal.
- C) Action for malicious prosecution will not succeed if no damage results thereby.
- D) The criminal prosecution should be without any reasonable or probable cause.

Q13. Read the following passage and the question.

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort, making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams). This doctrine is based on the idea that "no man can enforce a right that he himself has waived or voluntarily abandoned". However, the harm caused must not be beyond what is consented to. In case, a plaintiff voluntarily

suffers some harm, he has no remedy for that under the law of tort and he is not allowed to complain about the same. The reason behind this defence is that no one can enforce a right that he has voluntarily abandoned or waived. Consent to suffer harm can be expressed or implied.

The consent must be free, For this defence to be available it is important to show that the consent of the plaintiff was freely given. Consent obtained by fraud is not real consent and does not serve as a good defence. Consent obtained under compulsion There is no consent when someone consents to an act without free will or under some compulsion. It is also applicable in cases where the person giving consent does not have full freedom to decide. This situation generally arises in a master-servant relationship where the servant is compelled to do everything that his master asks him to do. The defense of Volenti non fit injuria is also not applicable in cases of negligence as the basic constituent of the doctrine is consent- whether implied or expressed. But, if due to some act of the defendant, the plaintiff is not left with ample time to choose to provide consent or not, there can be no agreement to suffer harm from the said act.

Question - Abha, a renowned academician has recently got a lot of public attention on social media. A famous production house offered Abha money to give them the right to document her life. When the show got aired Abha sued the production house for revealing some parts of her life which caused her trouble. Here-

- A) Abha cannot sue the production house
- B) Abha can sue the production house if she did not consent to a specific part being aired
- C) Abha can only file a criminal case of defamation
- D) Abha shouldn't have agreed to get herself documented in the first place

Q14. Read the following passage and the question.

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Question - Rajani a 54-year-old woman complained of sharp pain in her chest area and also noticed woman noticed a lump in her breast. After the medical treatment, she got to know that her uterus has been removed. Here-

- A) The hospital authorities committed a breach of trust
- B) The hospital authorities are liable because Rajani did not consent to remove her uterus
- C) The hospital authorities cannot be held liable because it is covered by the doctrine of volenti fit injuria
- D) Hospital authorities are not liable because Rajani is 54 years old and she cannot conceive at this age so no injury is caused to her

Q15.Read the following passage and the question.

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Question - Stephy is the plaintiff her paramour Jojo had infected her with a venereal disease. Stephy brought a suit against him.

- A) Jojo is not liable because he did not commit any fraud
- B) Jojo is liable for committing an immoral act
- C) Stephy cannot sue Jojo as she was not chaste
- D) The action will survive

Q16.Read the following passage and the question.

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relationship where the servant is compelled to do everything that his master asks him to do. The defense of Volenti non fit injuria is also not applicable in cases of negligence as the basic constituent of the doctrine is consent- whether implied or expressed. But, if due to some act of the defendant, the plaintiff is not left with ample time to choose to provide consent or not, there can be no agreement to suffer harm from the said act.

Question - Pratik worked on a drill to cut mountain rocks. Stones were being carried using a crane above his head. While Pratik was working suddenly a stone fell on his head causing head injuries.

- A) Crane driver was negligent as they did not inform him.
- B) Crane driver is not liable because Pratik has knowledge of risk.
- C) The maxim volenti non fit injuria applies in the present case.
- D) Crane driver is liable only if Pratik ignores the safety instructions but still the maxim volenti non fit injuria doesn't apply.

Q17. Read the following passage and the question.

The tort of trespass can be defined as an unjustifiable physical interference of land in the possession of one party by another. The tort of trespass requires essentially only the possession of land by the plaintiff and just encroachment in some way by the defendant. There requires no force, unlawful intention, or damage nor the breaking of an enclosure. The express mention of the word interference is mainly there to imply permission. Permission to encroach onto one's land can either be obtained by the person in possession or under authority. One of the most important ingredients of a tort of trespass is the fact that the land in question which has been encroached upon essentially needs to be in the direct possession of the plaintiff and not just mere physical presence on it. Another essential provision of the tort of trespass includes the directness of the act. If the act is direct i.e. arising out of the natural consequences of the act of the defendant then it is valid. If the consequences of the act are a result of a remote effect of an act then it is not held to be a valid suit. Trespass, be it against a human or his property, needs to establish the fact that there was a common goal i.e. the objective is that there needs to be an intervention with the person's right to retain land or the fact of maintaining a right to personal dignity.

The tort of trespass can be safely segregated into two halves which are Criminal trespass and trespass to land or property. The principle in the cases of both is the same i.e. there should be a wrongful interference. In the case of Land trespass, it is to be noted that though everyone has a right to the enjoyment of property one cannot sue for aerial trespass if the trespass is such that it doesn't clash with the ordinary enjoyment of

Land. Furthermore, in the case of land, it is to be seen if the act is direct or indirect i.e. if the trespass is not the natural consequence of the act done. Then the tort does not apply. Mistake or ignorance is not a remedy to trespass.

Question - Vishudh erects a tree that leads to the growth of branches and boughs and roots onto the land of the Praveen. Praveen can bring an action of-

- A) Tort of trespass
- B) Tort of nuisance
- C) Both trespass and nuisance
- D) Praveen cannot bring any action as it is an Act of God

Q18. Read the following passage and the question.

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Question - The municipal corporation had constructed a bridge and to support the infrastructure they erected buttresses on Sunita's land and after completion of work did not remove them

- A) The authorities were not liable to pay compensation
- B) There can be no action against government bodies
- C) The authorities are not liable because this is public welfare work and some inconvenience to the public cannot be held liable for action
- D) The authorities were liable to pay full compensation and had a further action in continuing trespass in which they were held liable

Q19. Read the following passage and the question.

The tort of trespass can be defined as an unjustifiable physical interference of land in the possession of one party by another. The tort of trespass requires essentially only the possession of land by the plaintiff and just encroachment in some way by the defendant. There requires no force, unlawful intention, or damage nor the breaking of an enclosure. The express mention of the word interference is mainly there to imply permission. Permission to encroach onto one's land can either be obtained by the person in possession or under authority. One of the most important ingredients of a tort of trespass is the fact that the land in question which has been encroached upon essentially needs to be in the direct possession of the plaintiff and not just mere physical presence on it. Another essential provision of the tort of trespass includes the directness of the act. If the act is direct i.e. arising out of the natural consequences of the act of the defendant then it is valid. If the consequences of the act are a result of a remote effect of an act then it is not held to be a valid suit. Trespass, be it against a human or his property, needs to establish the fact that there was a common goal i.e. the objective is that there needs to be an intervention with the person's right to retain land or the fact of maintaining a right to personal dignity.

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Question - Raghav filed a tort suit against Airjet Airlines for trespassing on his airspace and encroaching upon his right to freely enjoy his property. Here the action brought by Raghav will-

- A) File a tort suit of trespass against Jitendra
- B) Survive
- C) Survive if Raghav proves that aeroplanes enter his land
- D) The tort of trespass is not applicable to aerial space

Q20. Read the following passage and the question.

The tort of trespass can be defined as an unjustifiable physical interference of land in the possession of one party by another. The tort of trespass requires essentially only the possession of land by the plaintiff and just encroachment in some way by the defendant. There requires no force, unlawful intention, or damage nor the breaking of an enclosure. The express mention of the word interference is mainly there to imply permission. Permission to encroach onto one's land can either be obtained by the person in possession or under authority. One of the most important ingredients of a tort of trespass is the fact that the land in question which has been encroached upon essentially needs to be in the direct possession of the plaintiff and not just mere physical presence on it. Another essential provision of the tort of trespass includes the directness of the act. If the act is direct i.e. arising out of the natural consequences of the act of the defendant then it is valid. If the consequences of the act are a result of a remote effect of an act then it is not held to be a valid suit. Trespass, be it against a human or his property, needs to establish the fact that there was a common goal i.e. the objective is that there needs to be an intervention with the person's right to retain land or the fact of maintaining a right to personal dignity.

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Question - Jitendra by adverse possession absolved his right to possession over Nihal's land. Nihal can-

- A) File a tort suit of trespass against Jitendra
- B) File a tort suit of assault against Jitendra
- C) File a tort suit of nuisance against Jitendra
- D) File a tort suit of nuisance against Jitendra

Q21. Read the following passage and the question.

The tort of trespass can be defined as an unjustifiable physical interference of land in the possession of one party by another. The tort of trespass requires essentially only the possession of land by the plaintiff and just encroachment in some way by the defendant. There requires no force, unlawful intention, or damage nor the breaking of an enclosure. The express mention of the word interference is mainly there to imply permission. Permission to encroach onto one's land can either be obtained by the person in possession or under authority. One of the most important ingredients of a tort of trespass is the fact that the land in question which has been encroached upon essentially needs to be in the direct possession of the plaintiff and not just mere physical presence on it. Another essential provision of the tort of trespass includes the directness of the act. If the act is direct i.e. arising out of the natural consequences of the act of the defendant then it is valid. If the consequences of the act are a result of a remote effect of an act then it is not held to be a valid suit. Trespass, be it against a human or his property, needs to establish the fact that there was a common goal i.e. the objective is that there needs to be an intervention with the person's right to retain land or the fact of maintaining a right to personal dignity.

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Question - By court order, Mr.Das Searched and seized some goods from the house of Mahesh.

- A) Mr. Das illegally committed a trespass
- B) Mr. Das is innocent
- C) Mahesh has every right to throw Mr. Das out of his premises

D) Mahesh can use aggressive means to defend his property against encroachment

Q22. Read the following passage and answer the question

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams).

This doctrine is based on the idea that “no man can enforce a right that he himself has waived or voluntarily abandoned”. However, the harm caused must not be beyond what is consented to. In case, a plaintiff voluntarily suffers some harm, he has no remedy for that under the law of tort and he is not allowed to complain about the same. The reason behind this defence is that no one can enforce a right that he has voluntarily abandoned or waived. Consent to suffer harm can be express or implied.

The consent must be free, For this defence to be available it is important to show that the consent of the plaintiff was freely given. Consent obtained by fraud is not real consent and does not serve as a good defence. Consent obtained under compulsion There is no consent when someone consents to an act without free will or under some compulsion. It is also applicable in cases where the person giving consent does not have full freedom to decide. This situation generally arises in a master-servant relationship where the servant is compelled to do everything that his master asks him to do. The defense of Volenti non fit injuria is also not applicable in cases of negligence as the basic constituent of the doctrine is consent- whether implied or expressed. But, if due to some act of the defendant, the plaintiff is not left with ample time to choose to provide consent or not, there can be no agreement to suffer harm from the said act.

Question: Abha a renowned academician recently got a lot of public attention on social media. A famous production house offered Abha money to give them the right to document her life. When the show got aired Abha sued the production house for revealing some parts of her life which caused her trouble. Here-

A) Abha cannot sue the production house

B) Abha can sue the production house if she did not consent to a specific part being aired

C) Abha can only file a criminal case of defamation

D) Abha shouldn't have agreed to get herself documented in the first place

Q23. Read the following passage and answer the question

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams).

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Question : Rajani a 54-year-old woman complained of sharp pain in her chest area and also noticed woman noticed a lump in her breast. After the medical treatment, she got to know that her uterus has been removed. Here-

- A) The hospital authorities committed a breach of trust
- B) The hospital authorities are liable because Rajani did not consent to remove her uterus
- C) The hospital authorities cannot be held liable because it is covered by the doctrine of volenti fit injuria
- D) Hospital authorities are not liable because Rajani is 54 years old and she cannot conceive at this age so no injury is caused to her

Q24. Read the following passage and answer the question

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams).

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Question: Stephy is the plaintiff her paramour Jojo had infected her with a venereal disease. Stephy brought a suit against him.

- A) Jojo is not liable because he did not commit any fraud
- B) Jojo is liable for committing an immoral act
- C) Stephy cannot sue Jojo as she was not chaste
- D) The action will survive

Q25. Read the following passage and answer the question

Volenti non fit injuria-It basically means the voluntary assumption of risk. When a person consents to the infliction of harm upon himself, he has no remedy for that in tort making this an excellent defence for the defendant against tortious liability. Consent forms an essential part of this doctrine- whether it is implied or expressed. It must not be obtained fraudulently (as held in R. v. Williams).

This doctrine is based on the idea that “no man can enforce a right that he himself has waived or voluntarily abandoned”. However, the harm caused must not be beyond what is consented to. In case, a plaintiff voluntarily suffers some harm, he has no remedy for that under the law of tort and he is not allowed to complain about the same. The reason behind this defence is that no one can enforce a right that he has voluntarily abandoned or waived. Consent to suffer harm can be express or implied.

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Question :Pratik worked on a drill to cut mountain rocks. Stones were being carried using a crane above his head. While Pratik was working suddenly a stone fell on his head causing head injuries.

- A) Crane driver was negligent as they did not inform him.
- B) Crane driver is not liable because Pratik has knowledge of risk.
- C) The maxim volenti non fit injuria applies in the present case.
- D) Crane driver is liable only if Pratik ignores the safety instructions but still the maxim volenti non fit injuria doesn't apply.

Q26.Read the passage and answer the question

In National Insurance Co. Ltd. v. Sivasankara Pillai (1995 (1) KLT 51), it was held that the Tribunal is required to make an apportionment of compensation awarded against each of the owners of the vehicle in proportion to the negligence of respective drivers. It was also held that when two vehicles are involved, and an accident happens due to the negligence of both drivers, they are not joint tortfeasors. Earlier decisions in 1988 (2) KLT 871 and 1989 (2) KLT 227 were also explained and distinguished as, in this case, arguments were placed by both sides as both parties are joint tortfeasors. But, there are several tortfeasors. In the case decided in 1993 (2) KLT 777, only the driver was not

implemented. But, the owner was impeached. The owner is liable for the liability only to the extent of negligence of the driver. Therefore, the driver and owner of the same vehicle are joint tortfeasors. The owner and driver of another vehicle involved in the accident can only be one of the several tortfeasors. If two vehicles are involved and only if one vehicle's driver and owner are made parties, no liability can be cast on the other party directly or indirectly without implementing them. If he was made a party, he would have got an opportunity that he is not at all responsible for the accident or amount claimed is high. In this case, the accident occurred on 19-10-1992. 13 years have passed. Driver, owner, and insurance company are not parties.

The Tribunal held that the liability of the bus driver is 50%. If the contention of the appellant is accepted, the insurance company can be directed to deposit the entire amount and recover 50% of the amount from the owner of the lorry. If it is done, the liability will be mulcted on them without affording them an opportunity to defend their case. Even if notice is issued at this distance of time, it may not be possible for the owner of the lorry to remember who was the driver at that time and to find out his address. He also may not remember who is the insurer of the lorry at that time. He may not also be able to produce any evidence at this distance of time by citing witnesses to prove negligence. Records also may not be available in the police station after about more than 13 years. The bus driver, owner, and insurer were made as parties. After considering the evidence, the bus driver (R2) was found to be 50% negligent, and the owner of the bus, being vicariously liable, was also made liable for paying 50% of the compensation granted jointly and severally being joint tortfeasors and insurance company was directed to indemnify it.

Question : A and B went out to watch a movie together on Sunday afternoon. On their way to the theater, they stopped at a supermarket to buy some fruits. B went to the market to get the fruits. While being in a hurry, A parked his truck wrongly and was waiting for B in the truck. Meanwhile, a rashly and negligently driven bus came and hit A's truck. As a consequence, A suffered injury. Determine whether A can claim damages.

- A) A cannot claim damages
- B) A can claim damages from the bus driver
- C) The bus driver can claim damages from A for his damaged bus
- D) B can claim damages from the bus driver

Q27. Read the passage and answer the question

In *National Insurance Co. Ltd. v. Sivasankara Pillai* (1995 (1) KLT 51), it was held that the Tribunal is required to make an apportionment of compensation awarded against each of the owners of the vehicle in proportion to the negligence of respective drivers. It was also held that when two vehicles are involved, and an accident happens due to the negligence of both drivers, they are not joint tortfeasors. Earlier decisions in 1988 (2) KLT 871 and 1989 (2) KLT 227 were also explained and distinguished as, in this case, arguments were placed by both sides as both parties are joint tortfeasors. But, there are several tortfeasors. In the case decided in 1993 (2) KLT 777, only the driver was not implemented. But, the owner was impeached. The owner is liable for the liability only to the extent of negligence of the driver. Therefore, the driver and owner of the same vehicle are joint tortfeasors. The owner and driver of another vehicle involved in the accident can only be one of the several tortfeasors. If two vehicles are involved and only if one vehicle's driver and owner are made parties, no liability can be cast on the other party directly or indirectly without implementing them. If he was made a party, he would have got an opportunity that he is not at all responsible for the accident or amount claimed is high. In this case, the accident occurred on 19-10-1992. 13 years have passed. Driver, owner, and insurance company are not parties.

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Question : On the occasion of Diwali, P and Q brought fire-crackers to celebrate. In the evening, a few other members residing in the locality also joined P and Q to celebrate Diwali together. P and Q started to fire the crackers as a part of the celebration. However, they were negligent in firing crackers which could hurt others. Meanwhile, due to crackers fired by P and Q, the cracker went straight inside another building, and the woman residing in that building sustained severe burns. Determine the liability of P and Q.

- A) P and Q are not liable jointly
- B) P and Q are not liable severally
- C) P and Q are liable jointly and severally
- D) P is liable for causing injury to the woman by the fire-crackers

Q28. Read the passage and answer the question

In National Insurance Co. Ltd. v. Sivasankara Pillai (1995 (1) KLT 51), it was held that the Tribunal is required to make an apportionment of compensation awarded against each of the owners of the vehicle in proportion to the negligence of respective drivers. It was also held that when two vehicles are involved, and an accident happens due to the negligence of both drivers, they are not joint tortfeasors. Earlier decisions in 1988 (2) KLT 871 and 1989 (2) KLT 227 were also explained and distinguished as, in this case, arguments were placed by both sides as both parties are joint tortfeasors. But, there are several tortfeasors. In the case decided in 1993 (2) KLT 777, only the driver was not implemented. But, the owner was impeached. The owner is liable for the liability only to the extent of negligence of the driver. Therefore, the driver and owner of the same vehicle are joint tortfeasors. The owner and driver of another vehicle involved in the accident can only be one of the several tortfeasors. If two vehicles are involved and only if one vehicle's driver and owner are made parties, no liability can be cast on the other party directly or indirectly without implementing them. If he was made a party, he would have got an opportunity that he is not at all responsible for the accident or amount claimed is high. In this case, the accident occurred on 19-10-1992. 13 years have passed. Driver, owner, and insurance company are not parties.

The Tribunal held that the liability of the bus driver is 50%. If the contention of the appellant is accepted, the insurance company can be directed to deposit the entire amount and recover 50% of the amount from the owner of the lorry. If it is done, the liability will be mulcted on them without affording them an opportunity to defend their case. Even if notice is issued at this distance of time, it may not be possible for the owner of the lorry to remember who was the driver at that time and to find out his address. He also may not remember who is the insurer of the lorry at that time. He may not also be able to produce any evidence at this distance of time by citing witnesses to prove negligence. Records also may not be available in the police station after about more than 13 years. The bus driver, owner, and insurer were made as parties. After considering the evidence, the bus driver (R2) was found to be 50% negligent, and the owner of the bus, being vicariously liable, was also made liable for paying 50% of the compensation granted jointly and severally being joint tortfeasors and insurance company was directed to indemnify it.

Question : X, a resident in the Kayam Nagar area of Rampur, wrote two letters, one to the member of the council and the other to the editor of the magazine, The Villager, as an official organ of the Kayam Nagar Association. The magazine published The Villager as desired by X. Those letters were found to be defamatory against one Y.

Who can Y hold liable for publishing the defamatory letters?

- A) Y cannot hold liable anyone because the letters are sent to the editor and member of the council
- B) Y entitled to get compensation from the editor
- C) Y cannot hold liable X for publishing The Villager.
- D) Y can sue both, or either of X and the editors and printers for publishing the defamatory letter

Q29. Read the passage and answer the question

In National Insurance Co. Ltd. v. Sivasankara Pillai (1995 (1) KLT 51), it was held that the Tribunal is required to make an apportionment of compensation awarded against each of the owners of the vehicle in proportion to the negligence of respective drivers. It was also held that when two vehicles are involved, and an accident happens due to the negligence of both drivers, they are not joint tortfeasors. Earlier decisions in 1988 (2) KLT 871 and 1989 (2) KLT 227 were also explained and distinguished as, in this case, arguments were placed by both sides as both parties are joint tortfeasors. But, there are several tortfeasors. In the case decided in 1993 (2) KLT 777, only the driver was not implemented. But, the owner was impeached. The owner is liable for the liability only to the extent of negligence of the driver. Therefore, the driver and owner of the same vehicle are joint tortfeasors. The owner and driver of another vehicle involved in the accident can only be one of the several tortfeasors. If two vehicles are involved and only if one vehicle's driver and owner are made parties, no liability can be cast on the other party directly or indirectly without implementing them. If he was made a party, he would have got an opportunity that he is not at all responsible for the accident or amount claimed is high. In this case, the accident occurred on 19-10-1992. 13 years have passed. Driver, owner, and insurance company are not parties.

The Tribunal held that the liability of the bus driver is 50%. If the contention of the appellant is accepted, the insurance company can be directed to deposit the entire amount and recover 50% of the amount from the owner of the lorry. If it is done, the liability will be mulcted on them without affording them an opportunity to defend their

case. Even if notice is issued at this distance of time, it may not be possible for the owner of the lorry to remember who was the driver at that time and to find out his address. He also may not remember who is the insurer of the lorry at that time. He may not also be able to produce any evidence at this distance of time by citing witnesses to prove negligence. Records also may not be available in the police station after about more than 13 years. The bus driver, owner, and insurer were made as parties. After considering the evidence, the bus driver (R2) was found to be 50% negligent, and the owner of the bus, being vicariously liable, was also made liable for paying 50% of the compensation granted jointly and severally being joint tortfeasors and insurance company was directed to indemnify it.

Question: D a contractor took works contract of filling the potholes on the Vayu Road, Near Sneha Residency. One supervisor, C, was assigned to supervise the work on behalf of D as principal. While supervising the workers for filling the potholes on that Road, agent C negligently missed putting a warning sign board in front of a pothole. P was riding his daughter on the way to school and accidentally fell in that pothole and was injured. Determine the liability.

- A) C and D are liable jointly and severally
- B) Only C is liable to compensate P and his daughter
- C) Only D is liable to compensate P
- D) C and D cannot be held liable as the contract was made by the State Government

Q30. Read the passage and answer the question

In National Insurance Co. Ltd. v. Sivasankara Pillai (1995 (1) KLT 51), it was held that the Tribunal is required to make an apportionment of compensation awarded against each of the owners of the vehicle in proportion to the negligence of respective drivers. It was also held that when two vehicles are involved, and an accident happens due to the negligence of both drivers, they are not joint tortfeasors. Earlier decisions in 1988 (2) KLT 871 and 1989 (2) KLT 227 were also explained and distinguished as, in this case, arguments were placed by both sides as both parties are joint tortfeasors. But, there are several tortfeasors. In the case decided in 1993 (2) KLT 777, only the driver was not implemented. But, the owner was impeached. The owner is liable for the liability only to the extent of negligence of the driver. Therefore, the driver and owner of the same vehicle are joint tortfeasors. The owner and driver of another vehicle involved in the accident can only be one of the several tortfeasors. If two vehicles are involved and only if one vehicle's driver and owner are made parties, no liability can be cast on the other party directly or indirectly without implementing them. If he was made a party, he would

have got an opportunity that he is not at all responsible for the accident or amount claimed is high. In this case, the accident occurred on 19-10-1992. 13 years have passed. Driver, owner, and insurance company are not parties.

The Tribunal held that the liability of the bus driver is 50%. If the contention of the appellant is accepted, the insurance company can be directed to deposit the entire amount and recover 50% of the amount from the owner of the lorry. If it is done, the liability will be mulcted on them without affording them an opportunity to defend their case. Even if notice is issued at this distance of time, it may not be possible for the owner of the lorry to remember who was the driver at that time and to find out his address. He also may not remember who is the insurer of the lorry at that time. He may not also be able to produce any evidence at this distance of time by citing witnesses to prove negligence. Records also may not be available in the police station after about more than 13 years. The bus driver, owner, and insurer were made as parties. After considering the evidence, the bus driver (R2) was found to be 50% negligent, and the owner of the bus, being vicariously liable, was also made liable for paying 50% of the compensation granted jointly and severally being joint tortfeasors and insurance company was directed to indemnify it.

Question : Y has a dog whom he takes for walks in the evening. In the absence of Y, one servant, Z, takes the dog for a walk in the evening. The master of the dog Y always harnessed the dog before taking the dog out for a walk. One evening, while Y was out of town for his meeting, Z took out the dog for a walk without harnessing him. Walking down a few miles with the dog, suddenly the dog went violent and started to chase a man and bite him. Determine the liability.

- A) Z is not liable for the Act of the dog.
- B) Y and Z are equally liable for the Act of the dog
- C) Y is not liable for the wrongful Act of Z.
- D) Z cannot be sued for liability in the capacity of being a servant.

Q31. Read the following passage carefully and answer the question

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in Johnson v. American National Red Cross as follows: (1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff. Under the first element, a legal duty to a standard of due care,

the plaintiff must prove the defendant had a duty to conform to a standard of conduct for the protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care, and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to do its best to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant's actions do not meet the required level of the applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates a breach of the duty of care; these include actions against the custom in an industry, violation of a statute or, in some cases, *res ipsa loquitor*. *Res ipsa loquitor* permits the mere fact that damages occurred, with some additional evidence presented by the plaintiff, to show, therefore, that a breach of the duty must have occurred. After demonstrating there was a duty, and it has been breached by the defendant's conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

To show actual cause, the plaintiff must prove that, but for the defendant's negligent conduct, which could be either the defendant's Act or omission to act if the situation or relationship required action by the defendant, the injuries or damages would not have occurred. The proximate cause of the injury is the legal causation aspect of this element which follows the chain of events from the negligent conduct to the damages.

Question : Which of the following is not an essential factor to prove negligence?

- A) The defendant owed a duty of care
- B) The defendant should know he owed a duty of care
- C) The defendant should have breached the duty of care
- D) The breach of duty should result in injury

Q32. Read the following passage carefully and answer the question

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this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff. Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for the protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care, and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to do its best to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant's actions do not meet the required level of the applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates a breach of the duty of care; these include actions against the custom in an industry, violation of a statute or, in some cases, *res ipsa loquitor*. *Res ipsa loquitor* permits the mere fact that damages occurred, with some additional evidence presented by the plaintiff, to show, therefore, that a breach of the duty must have occurred. After demonstrating there was a duty, and it has been breached by the defendant's conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

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Question : A, who is a railway station employee, sees that B has left his bag on the station, and to help B, he throws the bag towards the moving train. However, the bag contained fireworks which exploded and caused injury to another passenger C. Decide.

- A) The Railway would be liable for negligence
- B) B would be liable for negligence
- C) Both Railway and B would be liable for negligence
- D) Nobody would be liable for negligence

Q33. Read the following passage carefully and answer the question

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in *Johnson v. American National Red Cross* as follows: (1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff. Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for the protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care, and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to do its best to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant's actions do not meet the required level of the applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates a breach of the duty of care; these include actions against the custom in an industry, violation of a statute or, in some cases, *res ipsa loquitor*. *Res ipsa loquitor* permits the mere fact that damages occurred, with some additional evidence presented by the plaintiff, to show, therefore, that a breach of the duty must have occurred. After demonstrating there was a duty, and it has been breached by the defendant's conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

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Question : ABC Company constructed an office for Municipal Corporation with a life span of 40 years. However, the building was not maintained and collapsed after 50 years and injured some people, then the duty of care in this scenario would be of:

- A) The Builder
- B) The Municipal Corporation
- C) The State Government

D) No duty of care is required in this scenario

Q34. Read the following passage carefully and answer the question

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Question : A constructed a dam on a river, however, due to unexpected heavy rainfall the dam broke which caused injury to the village people, Decide.

A) A would be liable for negligence

B) The workers of the dam would be liable for negligence

- C) The Construction material manufacturer would be liable for negligence
- D) Nobody would be liable for negligence

Q35. Read the following passage carefully and answer the question

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Question : Which of the following is an example of Contributory negligence?

- A) A while driving and using his mobile meets with an accident with a small kid

B) A while driving a car and using his mobile meets with an accident with another driver who is driving on the wrong side

C) A while driving car using his mobile crashes into a house without injuring anybody

D) A while driving car using his mobile crashes into a tree which falls on another person's car

Q36. Read the given passage very carefully and answer the questions.

Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard or confidence in which a person is held; or induces disparaging, hostile or disagreeable opinions or feelings against a person is known as defamation. Defamation is the act of making untrue statements about another which damages his/her reputation. It is a statement that injures someone's reputation. Defamation is the act of saying false things in order to make people have a bad opinion of someone. Defamation may be defined as a communication to some person, other than the person defamed, of the matter which tends to lower the plaintiff in the estimation of right-thinking persons or to deter them from associating or dealing with him. Defamation is a wrong done by a person to another's reputation by words, written or spoken, sign or other visible representation. Defamation is of two kinds Libel and Slander. If the statement is made in writing and published in some permanent and visible form, then defamation is called Libel. Whereas, if the statement is made by some spoken words then the defamation is called Slander.

Defamation may be a civil charge or a criminal charge under Sections 499 and 500 of IPC. Section 499 Of IPC: Whoever by words, either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person is said to defame that person. Section 500 of IPC: Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years or with a fine or both. A victim, to win a lawsuit, has to prove that a false statement was made and published, and the same caused injury to the reputation of the victim. However, there are defences which can be raised such as a true statement or if it was a fair and honest comment or criticism made in the public interest.

Question: Two employees in an office wanted to poke fun at their colleague and began to reveal sensitive messages he had sent to other female colleagues in the office. He wished to sue them for defamation. Will he succeed?

A) Yes, their publication was with the intention to injure his reputation.

- B) Yes, such communication brought him great shame in his workplace.
- C) No, since the publication was not false but of matter that happened
- D) No, since the employees only wished to poke fun and not injure his reputation.

Q37. Read the given passage very carefully and answer the questions.

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Question: The Chief Minister was regularly criticised by the people for his strange policies. One such journalist published very scathing remarks on his administration and policies. This article was cited by many, including the opposition, and led to a huge fall in support. Will a suit of defamation succeed against the journalist?

- A) No, he made honest criticism in the public interest only.

B) Yes, the article injured his reputation.

C) No, the statements he made were true.

D) Yes, the journalist published the same with the intent to injure his reputation.

Q38. Read the given passage very carefully and answer the questions.

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Question: A college student while browsing online came across disparaging information about a fellow student from his class. Thinking it would be funny, he circulated the same among his friends and soon it became viral. He later came to know that the information was fake. The victim filed for defamation under Section 499 IPC and won. Was the court right?

A) Yes, he did it with the intent to harm the reputation of the victim.

- B) Yes, he published it knowing it can injure the reputation of the victim.
- C) No, as he only found and circulated it but did not make the statement.
- D) No, he only circulated it among his friends and did not intend for it to go viral.

Q39. Read the given passage very carefully and answer the questions.

Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard or confidence in which a person is held; or induces disparaging, hostile or disagreeable opinions or feelings against a person is known as defamation. Defamation is the act of making untrue statements about another which damages his/her reputation. It is a statement that injures someone's reputation. Defamation is the act of saying false things in order to make people have a bad opinion of someone. Defamation may be defined as a communication to some person, other than the person defamed, of the matter which tends to lower the plaintiff in the estimation of right-thinking persons or to deter them from associating or dealing with him. Defamation is a wrong done by a person to another's reputation by words, written or spoken, sign or other visible representation. Defamation is of two kinds Libel and Slander. If the statement is made in writing and published in some permanent and visible form, then defamation is called Libel. Whereas, if the statement is made by some spoken words then the defamation is called Slander.

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Question: Har heard from his friends that Ravi was making fake rumours about him to harass him. On the basis of this, he filed a suit for defamation. Will it succeed?

- A) Yes, his friends reported such false statements against him.
- B) No, this alone cannot prove that a false statement was made and published.

C) Yes, Ravi slandered Hari among his friends and the burden is on Ravi to prove otherwise.

D) No, as Hari does not know himself whether this is

Q40. Read the given passage very carefully and answer the questions.

Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard or confidence in which a person is held; or induces disparaging, hostile or disagreeable opinions or feelings against a person is known as defamation. Defamation is the act of making untrue statements about another which damages his/her reputation. It is a statement that injures someone's reputation. Defamation is the act of saying false things in order to make people have a bad opinion of someone. Defamation may be defined as a communication to some person, other than the person defamed, of the matter which tends to lower the plaintiff in the estimation of right-thinking persons or to deter them from associating or dealing with him. Defamation is a wrong done by a person to another's reputation by words, written or spoken, sign or other visible representation. Defamation is of two kinds Libel and Slander. If the statement is made in writing and published in some permanent and visible form, then defamation is called Libel. Whereas, if the statement is made by some spoken words then the defamation is called Slander.

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Question: An angry neighbour after having enough of the noise pollution emanating from Rohit's house, made a poster referring to Rohit as a son of a donkey and emailed it to him. Can Rohit successfully file a suit for defamation against the neighbour?

A) No, it cannot cause injury to Rohit's reputation.

B) No, it is only an insult and not a statement.

C) Yes, the neighbour can also email it to other people.

D) Yes, as it can be inferred to be associated with Rohit's noise pollution.

Q41. Read the given passage very carefully and answer the questions.

It has often been discussed whether the law of torts in India is necessary or not. The courts in India have often taken the stand that Tort law is essential in India and is conducive to the growth and development of society. The courts and the government have recognized the importance of torts in their rulings by rewarding exemplary damages in case of negligence, providing compensation to the victims of rape, and recognizing governmental torts i.e. torts by government employees. However, the knowledge of Torts and its use is not very popular among the general public, primarily because it is not codified. It is hence essential to highlight the basic principles and concepts of Torts so that a person can understand his rights and liabilities under the Tort laws. The Supreme Court of India has through its numerous landmark judgements helped shape the law of Torts in India. It has also been observed a number of times, that there is a need to codify the law of Tort in order to facilitate its greater use. The principles of Torts have also been applied in newer legislations such as the

Environment Protection Act, 1986, The Consumer Protection Act 1986, The Human Rights Protection Act 1988, The Motor Vehicles Act, 1988. However, it is still observed that the branch of Torts as a whole is still growing and developing in India as compared to the development of Torts in countries like the UK and the USA.

According to John Salmond, He addresses tort as being only a civil wrong which has unliquidated damages (those damages for which there is no fixed amount) in the form of remedy and which is not just exclusively the breach of contract or the breach of trust or breach of merely fair and impartial obligation. According to Richard Dien Winfield, Tortious liability emerges from the breach of a duty primarily fixed by the law, this duty is towards the other people generally and its breach is redressible by an action for unliquidated damages.

According to Fraser, A tort is an infringement of a right in rent of a private individual giving a right of compensation at the suit of the injured party.

Three essential elements which constitute a tort are :

- A Wrongful act or omission, and Duty imposed by the law.
- The act must give rise to legal or actual damage, and

· It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Question: You establish a school and charge Rs.1000/-per year as fees. Another school is set up near your school, and competition forces you to reduce your fees to Rs.500/-. Do you remedy in law?

A) Yes, as I have suffered monetary damage.

B) No, as there was no legal injury.

C) Yes, as my legal right has been violated.

D) Both (a) & (b)

Q42. Read the given passage very carefully and answer the questions.

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- The act must give rise to legal or actual damage, and
- It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Question: You punch a person for no good reason. However, the person is not hurt. Can he claim damages for the reason that you trespassed against this person?

- A) Yes, as his right not to be physically violated is affected.
- B) Yes, as this is a case of injuria sine damno.
- C) No, as there is no actual damage.
- D) Both (a) & (b)

Q43. Read the given passage very carefully and answer the questions.

It has often been discussed whether the law of torts in India is necessary or not. The courts in India have often taken the stand that Tort law is essential in India and is conducive to the growth and development of society. The courts and the government have recognized the importance of torts in their rulings by rewarding exemplary damages in case of negligence, providing compensation to the victims of rape, and recognizing governmental torts i.e. torts by government employees. However, the knowledge of Torts and its use is not very popular among the general public, primarily because it is not codified. It is hence essential to highlight the basic principles and concepts of Torts so that a person can understand his rights and liabilities under the Tort laws. The Supreme Court of India has through its numerous landmark judgements helped shape the law of Torts in India. It has also been observed a number of times, that there is a need to codify the law of Tort in order to facilitate its greater use. The principles of Torts have also been applied in newer legislations such as the

Environment Protection Act, 1986, The Consumer Protection Act 1986, The Human Rights Protection Act 1988, The Motor Vehicles Act, 1988. However, it is still observed

that the branch of Torts as a whole is still growing and developing in India as compared to the development of Torts in countries like the UK and the USA.

According to John Salmond, He addresses tort as being only a civil wrong which has unliquidated damages (those damages for which there is no fixed amount) in the form of remedy and which is not just exclusively the breach of contract or the breach of trust or breach of merely fair and impartial obligation. According to Richard Dien Winfield, Tortious liability emerges from the breach of a duty primarily fixed by the law, this duty is towards the other people generally and its breach is redressible by an action for unliquidated damages.

According to Fraser, A tort is an infringement of a right in rent of a private individual giving a right of compensation at the suit of the injured party.

Three essential elements which constitute a tort are :

- A Wrongful act or omission, and Duty imposed by the law.
- The act must give rise to legal or actual damage, and
- It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Question: You mow the lawn every morning with the help of your electric lawnmower. Your neighbour files a tort claim against you stating that the noise of the lawnmower disturbs him greatly. Will his claim succeed?

- A) No, as damage without violation of legal rights does not give rise to a tort.
- B) Yes, as there is a legal injury arising out of the commission of the act.
- C) Yes, as the neighbour's claim is valid.
- D) Both (a) and (b)

Q44. Read the given passage very carefully and answer the questions.

It has often been discussed whether the law of torts in India is necessary or not. The courts in India have often taken the stand that Tort law is essential in India and is conducive to the growth and development of society. The courts and the government have recognized the importance of torts in their rulings by rewarding exemplary damages in case of negligence, providing compensation to the victims of rape, and recognizing governmental torts i.e. torts by government employees. However, the knowledge of Torts and its use is not very popular among the general public, primarily

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- A Wrongful act or omission, and Duty imposed by the law.
- The act must give rise to legal or actual damage, and
- It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Question: Virendra is watching a cricket match from atop a tree just outside the stadium. The batsman, Mahendra hits the ball hard and the ball flies over the boundary and hurts him back. Can Virendra claim damages from either the batsman or the stadium authorities?

- A) Yes, as Mahendra can't claim defence of volenti non fit injuria against Virendra.
- B) Yes, as Virendra was watching the match from outside the stadium.
- C) Both (a) & (b)

D) Neither (a) nor (b)

Q45. Read the given passage very carefully and answer the questions.

It has often been discussed whether the law of torts in India is necessary or not. The courts in India have often taken the stand that Tort law is essential in India and is conducive to the growth and development of society. The courts and the government have recognized the importance of torts in their rulings by rewarding exemplary damages in case of negligence, providing compensation to the victims of rape, and recognizing governmental torts i.e. torts by government employees. However, the knowledge of Torts and its use is not very popular among the general public, primarily because it is not codified. It is hence essential to highlight the basic principles and concepts of Torts so that a person can understand his rights and liabilities under the Tort laws. The Supreme Court of India has through its numerous landmark judgements helped shape the law of Torts in India. It has also been observed a number of times, that there is a need to codify the law of Tort in order to facilitate its greater use. The principles of Torts have also been applied in newer legislations such as the

Environment Protection Act, 1986, The Consumer Protection Act 1986, The Human Rights Protection Act 1988, The Motor Vehicles Act, 1988. However, it is still observed that the branch of Torts as a whole is still growing and developing in India as compared to the development of Torts in countries like the UK and the USA.

According to John Salmond, He addresses tort as being only a civil wrong which has unliquidated damages (those damages for which there is no fixed amount) in the form of remedy and which is not just exclusively the breach of contract or the breach of trust or breach of merely fair and impartial obligation. According to Richard Dien Winfield, Tortious liability emerges from the breach of a duty primarily fixed by the law, this duty is towards the other people generally and its breach is redressible by an action for unliquidated damages.

According to Fraser, A tort is an infringement of a right in rent of a private individual giving a right of compensation at the suit of the injured party.

Three essential elements which constitute a tort are :

- A Wrongful act or omission, and Duty imposed by the law.
- The act must give rise to legal or actual damage, and
- It should be of such a nature that it should give rise to a legal remedy in the form of an action for damages.

Question: Powell was engaged in pheasant shooting along with a hunting party. While Powell was about to finish his day, on being challenged by his party members to show his prowess by shooting one more pheasant, shot a round aiming at a pheasant. However, the bullet got deflected by a branch and hit Stanley, a passer-by on the adjacent highway.

A) Powell is liable as his shot was not during his conduct as a reasonable man but was an act of bravado.

B) Powell is not liable -as the shot was fired towards a pheasant only and the deflection was an inevitable accident.

C) Powell is liable as he should have taken greater care while shooting and should have shot the gun only when he had a clear shot at the pheasant.

D) Powell is not liable as the shooting of the pheasant is a legal activity and therefore any accident occurring in the process of doing it legally does not amount to wrong.

Q46. Read the given passage and answer the questions.

Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of land. There are various elements that must be considered in case of Trespass. There are given here- The plaintiff must have lawful possession of the land at the time of the interference, and that possession must be exclusive. For example, a land owner who has leased their property, and so, is out of possession, may not bring an action in trespass. There must have been a direct interference with the land by the defendant without lawful authorisation. Any form of unauthorised entry, however slight, is trespass, whether express or implied. A person who enters land outside of the terms of a licence will be a trespasser. There must have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. There are certain defences to Trespass. They are- Necessity: There may be a defence to trespass if the interference occurred in circumstances where the interference was necessary, but consent could not reasonably be obtained. The defendant must show that there was an apparent imminent danger to the person or property and that the defendant honestly believed on reasonable grounds that the act was necessary to preserve the person or property. Consent- A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's consent. Consent can either be expressed or implied by conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent. A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's

consent. Consent can either be expressed or implied by conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent.

Question: Sha Rajah was a cricket stadium in Rampur. Various cricket matches were conducted there. Once A hit a six and the ball went out of the stadium into a construction area adjacent to the stadium. B, an enthusiastic spectator entered the construction place to retrieve the ball. X, the owner of the place, hated cricket and he filed a trespass against B for entering the land. Decide.

- A) The action of B entering the construction place is not a Trespass as his object was a positive one.
- B) The action of B entering the construction place is a Trespass as the requirements for the same are fulfilled.
- C) The action of B is not a Trespass as it falls within the exception of Trespass.
- D) The action of B is not a Trespass as he went there to retrieve the ball which was an absolute necessity.

Q47. Read the given passage and answer the questions.

Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of land. There are various elements that must be considered in case of Trespass. There are given here- The plaintiff must have lawful possession of the land at the time of the interference, and that possession must be exclusive. For example, a land owner who has leased their property, and so, is out of possession, may not bring an action in trespass. There must have been a direct interference with the land by the defendant without lawful authorisation. Any form of unauthorised entry, however slight, is trespass, whether express or implied. A person who enters land outside of the terms of a licence will be a trespasser. There must have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. There are certain defences to Trespass. They are- Necessity: There may be a defence to trespass if the interference occurred in circumstances where the interference was necessary, but consent could not reasonably be obtained. The defendant must show that there was an apparent imminent danger to the person or property and that the defendant honestly believed on reasonable grounds that the act was necessary to preserve the person or property. Consent- A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's consent. Consent can either be expressed or implied by

conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent. A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's consent. Consent can either be expressed or implied by conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent.

Question: X and Y were neighbours who used to practice farming. Once the weather turned very ugly and it looked as if it was about to rain heavily. Y was not in the house. However, his entire paddy was spread out in the open. X sensing that rain would destroy the paddy, went over to Y's property and shifted them indoors. When Y returned instead of thanking X, he filed a case of trespass. Decide.

- A) X has committed trespass in the given case as good intention cannot be a defence to trespass.
- B) X has not committed trespass in the said case.
- C) X has not committed trespass in the said case as it can be classified under the defence of necessity.
- D) X has committed Trespass in the given case as he went over to the property of Y.

Q48. Read the given passage and answer the questions.

Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of land. There are various elements that must be considered in case of Trespass. There are given here- The plaintiff must have lawful possession of the land at the time of the interference, and that possession must be exclusive. For example, a land owner who has leased their property, and so, is out of possession, may not bring an action in trespass. There must have been a direct interference with the land by the defendant without lawful authorisation. Any form of unauthorised entry, however slight, is trespass, whether express or implied. A person who enters land outside of the terms of a licence will be a trespasser. There must have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. There are certain defences to Trespass. They are- Necessity: There may be a defence to trespass if the inference occurred in circumstances where the interference was necessary, but consent could not reasonably be obtained. The defendant must show that there was an apparent imminent danger to the person or property and that the defendant honestly believed on

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Question: R was standing near a highway. A car which was speeding rammed into an electric pole and catapulted. Miraculously there were no injuries to anyone. However, one of the parts of the car flew into neighbouring B's property and hit C. C fell over into D's property. Now D is filing a trespass case against C. Decide.

- A) C shall be held liable for trespass.
- B) C shall not be held liable for trespass.
- C) C shall not be held liable for trespass as the requirements of Trespass are not fulfilled.
- D) Both (b) and (c)

Q49. Read the given passage and answer the questions.

Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of land. There are various elements that must be considered in case of Trespass. There are given here- The plaintiff must have lawful possession of the land at the time of the interference, and that possession must be exclusive. For example, a land owner who has leased their property, and so, is out of possession, may not bring an action in trespass. There must have been a direct interference with the land by the defendant without lawful authorisation. Any form of unauthorised entry, however slight, is trespass, whether express or implied. A person who enters land outside of the terms of a licence will be a trespasser. There must have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. There are certain defences to Trespass. They are- Necessity: There may be a defence to trespass if the inference occurred in circumstances where the interference was necessary, but consent could not reasonably be obtained. The defendant must show that there was an apparent imminent danger to the person or property and that the defendant honestly believed on

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Question: Which of the following statements is incorrect in light of the given passage?

- A) Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of the land.
- B) In order to file a suit for Trespass, the plaintiff must have lawful possession of land at the time of the Trespass.
- C) There may be a defence to trespass if the interference occurred in circumstances where the interference was necessary, but consent could not reasonably be obtained.
- D) While taking the defence of consent, the onus is on the plaintiff to establish that they entered the land with his consent.

Q50. Read the given passage and answer the questions.

Trespass to land or unauthorised entry involves situations where a person acts in an intentional or negligent way that causes an unauthorised interference with another person's possession of land. There are various elements that must be considered in case of Trespass. There are given here- The plaintiff must have lawful possession of the land at the time of the interference, and that possession must be exclusive. For example, a land owner who has leased their property, and so, is out of possession, may not bring an action in trespass. There must have been a direct interference with the land by the defendant without lawful authorisation. Any form of unauthorised entry, however slight, is trespass, whether express or implied. A person who enters land outside of the terms of a licence will be a trespasser. There must have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. There are certain defences to Trespass. They are- Necessity: There may be a defence to trespass if the interference occurred in circumstances where the interference was necessary, but consent

could not reasonably be obtained. The defendant must show that there was an apparent imminent danger to the person or property and that the defendant honestly believed on reasonable grounds that the act was necessary to preserve the person or property. Consent- A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's consent. Consent can either be expressed or implied by conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent. A defendant may be able to establish a defence to trespass if the interference occurred with the plaintiff's consent. Consent can either be expressed or implied by conduct; however, it must be genuine and voluntary. The onus is on the defendant to establish that they entered the land with the plaintiff's consent.

Question: A war was going on between country A and country B. King acted in the ground response team of country B. King felt that Ray's house was in the direct line of the shelling zone. He thus entered the property, evacuated them and made necessary arrangements. However, the shelling did not take place at that place. After the war, Ray files a complaint against King for Trespass. Decide.

- A) King trespassed into the property of Ray unlawfully and hence was held liable.
- B) King may or may not be held liable as it is wartime.
- C) King shall not be held liable as his act does not amount to trespass.
- D) King being a part of the military can do anything at the time of war.

Q51. Read the given passage very carefully and answer the questions.

Mistakes may operate upon a contract in two ways. It may, firstly, defeat the consent altogether that the parties are supposed to have given; that is to say, the consent is unreal. Secondly, the mistake may mislead the parties about the purpose they contemplated. Where both parties are under a mistake as to a matter of fact essential to the agreement, the agreement is void. However, an erroneous opinion as to the value of the things which form the subject –matter of the agreement is not deemed a mistake as a matter of fact. An agreement upon the same thing in the same sense is known as true consent or consensus ad idem, and it is the root of every contract. Two or more people are told to consent when they agree upon the same thing in the same sense.

A contract is said to be void because of a mistake when:

- Both the parties to an agreement are mistaken,
- Their mistake is, as a matter of fact, and

- The fact about which they are mistaken is essential to the agreement.

A contract is not void because it was caused by a mistake as to any law in force in India, but a mistake as to a law not in force in India has the same effect as a mistake of fact. A mistake as to identity occurs when one of the parties represents himself to be some person other than he really is. There can be a mistake of identity only when a person bearing a particular identity exists within the plaintiff's knowledge, and the plaintiff intends to deal with him only. If the name the accused assumes is fictitious, there will be no mistake of identity.

Question: A unaware of the recent death of his old friend B, agrees to purchase B's vintage car from B's brother, C. Both A and C were unaware of B's death at the time of the agreement. What is the status of this contract?

- A) The agreement is valid as it was made in good faith.
- B) The agreement is not void because B's presence wasn't a necessary condition.
- C) The agreement is void due to a mutual mistake of fact essential to the contract.
- D) The contract remains valid as the car exists, despite B's death.

Q52. Read the given passage very carefully and answer the questions.

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Question: Posing as his twin brother, Ram, Jay entered into a contract with a company that intended to contract specifically with Tim. Is the contract valid?

- A) The contract is valid because Jay and Ram are identical twins.
- B) No, the contract is invalid because there was a mistake regarding the identity of the person the company intended to contract with.
- C) Yes, the contract is valid because the company should have verified the identity before making the contract.
- D) No, the contract is invalid because Ram and Jay committed fraud.

Q53. Read the given passage very carefully and answer the questions.

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person bearing a particular identity exists within the plaintiff's knowledge, and the plaintiff intends to deal with him only. If the name the accused assumes is fictitious, there will be no mistake of identity.

Question: Aisha, pretending to be a famous artist, sells a painting to Jaya. Jaya later discovers the truth. What is the status of the contract?

- A) The contract is valid because Aisha didn't explicitly claim that she painted the painting.
- B) The contract is void because there was a mistake as to the identity of the artist.
- C) The contract is valid because Jaya should have verified the artist's identity.
- D) The contract is void because Aisha deceived Jaya.

Q54. Read the given passage very carefully and answer the questions.

Mistakes may operate upon a contract in two ways. It may, firstly, defeat the consent altogether that the parties are supposed to have given; that is to say, the consent is unreal. Secondly, the mistake may mislead the parties about the purpose they contemplated. Where both parties are under a mistake as to a matter of fact essential to the agreement, the agreement is void. However, an erroneous opinion as to the value of the things which form the subject –matter of the agreement is not deemed a mistake as a matter of fact. An agreement upon the same thing in the same sense is known as true consent or consensus ad idem, and it is the root of every contract. Two or more people are told to consent when they agree upon the same thing in the same sense.

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Question: Taylor buys a plot of land, believing it to be a gold mine. It turns out that the land has no gold. Is the contract void due to a mistake?

- A) Yes, the contract is void because Taylor made a mistake regarding the value of the land.
 - B) No, the contract is not void because this was a mistake regarding the value, not a matter of fact.
 - C) Yes, the contract is void because Taylor was misled about the potential of the land.
 - D. No, the contract is not void because Taylor should have surveyed before buying.
- D) Either a or c

Q55. Read the given passage very carefully and answer the questions.

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Question: A person sells a horse to another person, believing it to be his. However, the horse belongs to a third person, and both parties were unaware of this. What is the status of this contract?

- A) The contract is void because both parties were mistaken about an essential fact of the agreement.
- B) The contract is valid because the buyer now owns the horse.
- C) The contract is void because the seller did not have the right to sell the horse.
- D) The contract is valid because both parties agreed on the sale.

Q56. Read the given passage very carefully and answer the questions.

Justice MM Sundresh of the Supreme Court observed that there is a need to codify the law enabling law enforcement agencies to carry out surveillance while ensuring the fundamental rights, including the right to privacy, are safeguarded. "Any action facilitating State machinery must be backed by the authority of law. For that, there must be a codified law that empowers an investigating agency to undertake an act of surveillance. Needless to state, such a law must be subject to the Constitutional mandate, with specific reference to Part III of the Constitution. This would prevent any arbitrary action while preserving the privacy of the individual," he said. He emphasized that the need of the hour is to take note of the voice and concerns expressed in the Puttaswamy judgment, which held that privacy is a fundamental right. There is a need to uphold privacy through the doctrine of proportionality, the judge explained. A clear demarcation is needed by drawing a Lakshman Rekha during a criminal investigation

(when surveillance is used)," he said. Speaking on the need for surveillance, Justice Sundresh said, "Surveillance and privacy must live and function together. As long as there is privacy, surveillance will certainly continue. The modern world has indeed become a difficult place to live and to maintain peace. The cost of peace is obviously very high. Any State which lacks expert surveillance would be considered a weak one and susceptible to attack from unknown sources. It may also be required in the larger interest of the public."

Question: W was found manipulating government records pertaining to the funding designated for the introduction of nuclear weapons. It was believed that W was exchanging information with the enemy nation. His mobile phone and other electronic devices were taken as soon as he was suspected, and the entire legal process was followed for questioning. In order to gather concrete evidence

against him, his electronic gadgets were carefully examined. He claimed that his right to privacy was violated in this case. Identify whether his allegations are true.

A) If the court deems that the proper procedure was not followed, his claims will be upheld.

B) Since the requirements of his right to privacy have been met, it can be argued that his right was violated.

C) Since he had violated the nation's laws, it could be argued that his right to privacy had not been violated.

D) The violation of privacy that W claims did not occur because the entire process was carried out in accordance with the law.

Q57. Read the given passage very carefully and answer the questions.

Justice MM Sundresh of the Supreme Court observed that there is a need to codify the law enabling law enforcement agencies to carry out surveillance while ensuring the fundamental rights, including the right to privacy, are safeguarded. "Any action facilitating State machinery must be backed by the authority of law. For that, there must be a codified law that empowers an investigating agency to undertake an act of surveillance. Needless to state, such a law must be subject to the Constitutional mandate, with specific reference to Part III of the Constitution. This would prevent any arbitrary action while preserving the privacy of the individual," he said. He emphasized that the need of the hour is to take note of the voice and concerns expressed in the Puttaswamy judgment, which held that privacy is a fundamental right. There is a need to uphold privacy through the doctrine of proportionality, the judge explained. A clear demarcation is needed by drawing a Lakshman Rekha during a criminal investigation

(when surveillance is used)," he said. Speaking on the need for surveillance, Justice Sundresh said, "Surveillance and privacy must live and function together. As long as there is privacy, surveillance will certainly continue. The modern world has indeed become a difficult place to live and to maintain peace. The cost of peace is obviously very high. Any State which lacks expert surveillance would be considered a weak one and susceptible to attack from unknown sources. It may also be required in the larger interest of the public."

Question: V arrived at his house from work extremely late at night. Even though his job hours were from 9 to 6, this became his normal habit. He had been returning home by 11 or 12 at night for the last two months. His wife saw this and thought he could be keeping something from her. The following morning, she

went with V to his office to find out. There was no proof against him that she could locate. She then made the decision to accompany him back home, where she was shocked to see that V was busy organizing their 25th wedding anniversary. She felt guilty about questioning V. V was hurt to learn this and promptly filed a complaint alleging that his wife had violated his right to privacy. Check the veracity of his assertion

- A) His claim cannot be upheld since his wife cannot be accused of violating his right to privacy.
- B) His claim cannot be upheld because his wife had a legitimate reason to accompany him to and from work.
- C) She illegally followed him without his permission, thus his claim will be upheld.
- D) To remark on the veracity of V's claims, more information is needed from the passage.

Q58. Read the given passage very carefully and answer the questions.

Justice MM Sundresh of the Supreme Court observed that there is a need to codify the law enabling law enforcement agencies to carry out surveillance while ensuring the fundamental rights, including the right to privacy, are safeguarded. "Any action facilitating State machinery must be backed by the authority of law. For that, there must be a codified law that empowers an investigating agency to undertake an act of surveillance. Needless to state, such a law must be subject to the Constitutional mandate, with specific reference to Part III of the Constitution. This would prevent any arbitrary action while preserving the privacy of the individual," he said. He emphasized that the need of the hour is to take note of the voice and concerns expressed in the Puttaswamy judgment, which held that privacy is a fundamental right. There is a need to uphold privacy through the doctrine of proportionality, the judge explained. A clear demarcation is needed by drawing a Lakshman Rekha during a criminal investigation

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Question: P had CCTV cameras set up in each of the home's rooms. There were 5 staff members in total. Since a few months ago, X and Z have been scheming to rob him at gunpoint, and they finally succeeded. The police requested that they check the CCTV footage from each room in order to find the burglars. P agreed with this. Determine if his right to privacy has been violated in this particular case.

A) Since P granted his permission for the investigation, his right to privacy has not been breached.

B) He was forced to give the police permission to access his CCTV footage, which is a violation of his right to privacy

C) P's right to privacy was not breached because the investigation was conducted for his benefit.

D) Since the tape was necessary for the capture of the criminals, P's right to privacy was not breached.

Q59. Read the given passage very carefully and answer the questions.

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Question: According to Justice MM Sundresh of the Supreme Court, what is the key aspect that needs to be ensured while enabling law enforcement agencies to carry out Surveillance?

- A) The surveillance activities should be subject to the Constitutional mandate and the fundamental right to privacy.
- B) There should be a clear demarcation drawn during criminal investigations to protect individual privacy.
- C) The surveillance activities should be governed by a codified law that upholds the doctrine of proportionality.
- D) The surveillance activities should be carried out in the larger interest of the public and the security of the State.

Q60. Read the given passage very carefully and answer the questions.

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Question: Which of the following is not a recognized international human rights instrument that protects the right to privacy?

- A) Universal Declaration of Human Rights

B) International Covenant on Civil and Political Rights

C) European Convention on Human Rights

D) International Convention on the Elimination of All Forms of Racial Discrimination

Q61. Read the following passage and answer the questions.

The Indian Penal Code (IPC) has various basic defences that exonerated criminal liability based on the concept that even if a person commits an offence, he cannot be held accountable. This is Because the person's conduct was justified at the time of the offence or there was a lack of mens rea. Exceptions such as mistake of fact and accident among others' are possible when is misinformed about the presence of certain facts and the conduct is performed without criminal intent.

Mistake of fact:-This exemption applies where an accused has misinterpreted a fact that eliminates a criminal element. This legal weapon can be utilised if the accused is able to demonstrate that he or she was mistaken about the presence of certain facts or was unaware of the existence of such facts however the said mistake than of law. In the same spirit, Sec 76 of the IPC states, the act done by a person bound or mistakenly behaving himself is bound by law. Nothing constitutes offence if it is committed by a person who is or thinks himself to be obligated by law to do it due to a mistake of fact rather than a mistake of law.

Accident:-Using this defence, a person might avoid criminal liability when their actions are the result of an accident, Such an act must be intentional. The purpose of the law is not to penalise a person foa r matter over which they have no control. In such Spirit sec 80 of IPC states, accident in doing a lawful act nothing is an offence which is done by accident or misfortune and without any criminal intension or knowledge in the doing of a lawful act in lawful means with proper care and caution.

Question: Ram is a wanted criminal and his picture is displayed across Chandigarh police station and public locations. There is also a momentary reward for anyone who is successful in apprehending him and publishing the picture of Ram Ketaki walking through the municipal park one day when he noticed a man who looks like Ram in the picture. She follows him around the park when he gets near enough she knocks him hard in order to catch him in denounces him to the police however, following closer inspection it is discovered that the man Ketaki injured is not Ram. Can Ketaki use the defence of mistake of fact?

A) Yes, As Ketaki genuinely thought she had spotted a criminal.

B) Yes, As Ketaki hit the person with the intention of helping the police.

C) No, As the act committed by Ketaki was illegal in itself.

D) No, As Ketaki should have determined the identity first and then hit him.

Q62. Read the following passage and answer the questions.

The Indian Penal Code (IPC) has various basic defences that exonerated criminal liability based on the concept that even if a person commits an offence, he cannot be held accountable. This is Because the person's conduct was justified at the time of the offence or there was a lack of mens rea. Exceptions such as mistake of fact and accident among others' are possible when is misinformed about the presence of certain facts and the conduct is performed without criminal intent.

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Question: Karan and Varun are brothers who live on the third floor of a building. Anish their next-door neighbour, feels the two brothers are smuggling wheat because he observed bags of wheat grains being moved in and out of their that on a regular basis. Under this impression, he contacts the local police station to report wheat smuggling. However, when the police come and conduct an investigation, Anish's concerns are proven to be unfounded. Can Anish claim the defence of the mistake of facts?

A) No, as he is ignorant about the law and not facts.

B) Yes, as he reported the activities to the police in good faith

C) No, as he should have first checked for himself and then should have called the police.

D) Yes, as if were not for Anish the act would have gone unreported.

Q63. Read the following passage and answer the questions.

The Indian Penal Code (IPC) has various basic defences that exonerated criminal liability based on the concept that even if a person commits an offence, he cannot be held accountable. This is Because the person's conduct was justified at the time of the offence or there was a lack of mens rea. Exceptions such as mistake of fact and accident among others' are possible when is misinformed about the presence of certain facts and the conduct is performed without criminal intent.

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Question: Kamlesh, a farmer has a plot of land on which he grows wheat for the wholesale market in the neighbouring city. One day, he found that his crops had been uprooted, and he assumed that it was the result of boars' activities, as Boars had frequently been sighted in and around that region. On the second day, he discovered his crops uprooted once more and felt activity in the field. As there is no law to make shooting animals an offence so he drew this bow and arrow and shot at the location where he sensed movement. It was discovered that he had injured a person. Can Kamlesh use the accident defence?

A) No, before shooting an arrow Kamlesh should have determined the identity of the miscreants.

B) Yes, as Kamlesh shot an arrow believing it to be a boar and did not intend to hurt a person instead.

C) No, as Kamlesh shot an criminal which is an illegal act in itself.

D) Yes, as Kamlesh has all the rights to protect his field and crop, irrespective of who attempts to destroy it

Q64. Read the following passage and answer the questions.

The Indian Penal Code (IPC) has various basic defences that exonerated criminal liability based on the concept that even if a person commits an offence, he cannot be held accountable. This is Because the person's conduct was justified at the time of the offence or there was a lack of mens rea. Exceptions such as mistake of fact and accident among others' are possible when is misinformed about the presence of certain facts and the conduct is performed without criminal intent.

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Question: Aman and Amez into a brawl in the middle of the road when the former car collides with the letters bumper plate Aman was joined by her husband and two-year-old child. In the midst of the fight, Awez tried to push Aman but accidentally pushed Aman's husband, who was holding a two-year-old child. W gob can subsequently fall on the road. The child was seriously injured in the fall and had to be transported to the hospital. Can Amez claim the defence of an accident to justify a child's injured?

A) Yes, as he did not have the criminal intent of the knowledge to hurt the child.

B) Yes, as he only intended to scare Aman and not cause any injury to anyone.

C) No, as Awez should have foreseen the result of his actions.

D) No, as Awez's actions did not constitute a lawful act done in a lawful manner.

Q65. Read the following passage and answer the questions.

The Indian Penal Code (IPC) has various basic defences that exonerated criminal liability based on the concept that even if a person commits an offence, he cannot be held accountable. This is Because the person's conduct was justified at the time of the offence or there was a lack of mens rea. Exceptions such as mistake of fact and accident among others' are possible when is misinformed about the presence of certain facts and the conduct is performed without criminal intent.

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Question: Consider the factual circumstances describes in the proceeding question in which a mad dog invaded the conflict scene and attempted to bite Aman's husband. In an attempt to chase away the dog. Awez hits it inadvertently striking Aman's husband who falls, and the child who is severely hurt and must be brought to the hospital the child eventually dies. Can Awez' now use the defence of accident?

A) No, as he hit the dog with the criminal intent of harming it irrespective of who was injured as a result.

B) Yes, as he did not have the criminal intent to cause the death of the child.

C) No, Awez's actions were not done in a lawful manner.

D) Yes, as Awez could not have foreseen the death of the child.

Q66. Read the passage and answer the question that follow.

The word 'defamation' is the generic name for the wrong; libel and slander are particular forms of it. In libel, the defamatory statement is made in some permanent and visible form in writing or otherwise recorded, such as printing, typing, pictures, photographs, caricatures, effigies. In slander, the defamatory statement or representation is expressed by speech or its equivalent. Besides the general defences applicable to all actions in torts, such as limitation, consent, accord and satisfaction, previous judgment, etc., the three special defences available in action for defamation, under the common law, are (1) justification (or truth), or (2) privilege, absolute or qualified, and, (3) fair comment. Truth is a defence in a Civil action, For the law will not permit a man to recover damages in respect of an injury to a character which he either does not or ought not to possess. In a civil action, the defendant has to plead and prove the truth of the defamatory words, and not merely his belief in their truth, though honest. 'Privilege' is used here in the sense of an excuse or immunity conferred by law on statements or communications made on certain occasions called 'privileged occasions'. A privileged statement, therefore, is one which is made in such circumstances as to be exempt from the rule that a man attacks the reputation of another at his peril, that is, at his own risk. In other words, privilege includes those exceptional cases in which it is not enough, in order to create liability, to prove that the defendant has published a false and defamatory statement. The defendant being privileged, is not responsible for this alone; he is either wholly free from responsibility or is liable only on proof that he was animated by a malicious motive, and not by any genuine intention to use his privilege for the purpose for which the law gave it to him.

Question : X and Y stole a car and asked A to be their driver. While A was driving the car on the highway, he tried to switch on the lights, but only one of them was working. After this, around 5 kilometres later, A spotted an ox crossing the road at the last moment because of the faulty headlight. He jammed the brakes, but it was too late, and ended up in A suffering multiple injuries across his body, with X and Y suffering minor cuts. What is the stand that A can take for compensation for his injuries?

- A) X and Y are liable to pay damages.
- B) A cannot claim damages because he was aware that the light was malfunctioning.
- C) X and Y need not pay damages as they were injured as well.
- D) A cannot claim any damages as he was himself guilty.

Q67. Read the passage and answer the question that follow.

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form in writing or otherwise recorded, such as printing, typing, pictures, photographs, caricatures, effigies. In slander, the defamatory statement or representation is expressed by speech or its equivalent. Besides the general defences applicable to all actions in torts, such as limitation, consent, accord and satisfaction, previous judgment, etc., the three special defences available in action for defamation, under the common law, are (1) justification (or truth), or (2) privilege, absolute or qualified, and, (3) fair comment. Truth is a defence in a Civil action, For the law will not permit a man to recover damages in respect of an injury to a character which he either does not or ought not to possess. In a civil action, the defendant has to plead and prove the truth of the defamatory words, and not merely his belief in their truth, though honest. 'Privilege' is used here in the sense of an excuse or immunity conferred by law on statements or communications made on certain occasions called 'privileged occasions'. A privileged statement, therefore, is one which is made in such circumstances as to be exempt from the rule that a man attacks the reputation of another at his peril, that is, at his own risk. In other words, privilege includes those exceptional cases in which it is not enough, in order to create liability, to prove that the defendant has published a false and defamatory statement. The defendant being privileged, is not responsible for this alone; he is either wholly free from responsibility or is liable only on proof that he was animated by a malicious motive, and not by any genuine intention to use his privilege for the purpose for which the law gave it to him.

Question X and Y took a lift in a Scorpio, which B was driving. In between the journey, a bolt of the wheel got loose and which led to an accident. Since B was the driver, he was able to grab the steering wheel and protect himself from major damages, but X and Y suffered serious injuries. Choose the best answer.

- A) B is not responsible because X and Y took a lift of their own accord
- B) The car company shall pay compensation for not providing stronger bolts
- C) There is no liability on B since the accident was inevitable
- D) All of the above

Q68. Read the passage and answer the question that follow.

The word 'defamation' is the generic name for the wrong; libel and slander are particular forms of it. In libel, the defamatory statement is made in some permanent and visible form in writing or otherwise recorded, such as printing, typing, pictures, photographs, caricatures, effigies. In slander, the defamatory statement or representation is expressed by speech or its equivalent. Besides the general defences applicable to all actions in torts, such as limitation, consent, accord and satisfaction, previous judgment, etc., the three special defences available in action for defamation, under the common law, are (1) justification (or truth), or (2) privilege, absolute or qualified, and, (3) fair

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Question : X owns a building, decorative woodwork of which is infested by termites. On a windy day, it fell on Y's son who was playing with X's son. This incident led to multiple injuries to Y's son. Determine the liability of X.

- A) X is not liable since the wind, a natural force, was outside his control.
- B) X is not liable since Y did not take into account that the wall was unstable and allowed his son to play near.
- C) X is liable since his son did not get injured.
- D) X is liable since a person owes a duty of care to his neighbours.

Q69. Read the passage and answer the question that follow.

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Question

The robbers, armed with knives and sticks, entered the house of X. As an act of self defence, X took out his gun and threatened to shoot them. The robbers ran out of the house and started pelting stones. X fired a shot. Having heard the gunshot, the police rushed to the place and announced that the owner must stop firing. The owner suspected that this must be an act of an accomplice and continued to fire due to which a policeman was injured. The robbers meanwhile fled away. Determine the liability of X.

- A) X is liable for shooting a public servant on duty.
- B) X is liable for using excessive force than necessary.
- C) X is liable for not calling the police after the robbers fled.
- D) Only b) and c) are true.

Q70. Read the passage and answer the question that follow.

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Question : X claims to be a doctor and provides medical consultation to minor illnesses without any medical licence. B, who suffered an accident near the place where X has his office, is brought to X for treatment. B is asked to sign immediately on a paper where he allows X to operate on him. During the treatment, X leaves a needle in B's abdomen causing a major infection. Determine the correct statement:

- A) X is for medical malpractice.
- B) X is not liable since B signed a contract providing his consent.
- C) X is liable to provide damages to B and punishment.
- D) The people who brought B to X are liable.

Q71. Read the following passage and answer the questions.

The strict principle of law is: *sic utere tuo ut alienum non laedas*; it means, everyone must so use his own as not to do damage to another. When this maxim is applied to landed property, it is necessary for the plaintiff to show not only that he has sustained damage but also that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land.

The owner or occupier of the land may lawfully use it for any purpose for which it might, in the ordinary course of the employment of land, be used. And for such natural uses of land, an owner will not, in the absence of negligence, be liable, though damage results to the neighbor. But, for any non-natural user, such as the introduction to the land of something which, in the natural condition of the

land, is not upon it, he is liable if damage results to his neighbour. A person who, for his own purpose, brings on his land and collects and keeps there, anything likely to do mischief if it escapes, must keep it in and at his peril; and if he does so, he is *prima facie* answerable for all the damage which is the natural consequence of its escape. This is known as the rule in *Rylands v Fletcher* (also known as the wild beast theory". Indian Law: It has been held in several cases that the principle of *Rylands v. Fletcher* applies in India.

Question: Amar unleashed its aggressive dog that was on Akbar's premises and the dog went on to kill Anthony's chickens, Akbar wired the premises and latched the outer door at all times. Anthony filed suit for damages against Akbar. Who is responsible for the loss of chickens?

- A) Akbar is responsible
- B) Anthony is responsible
- C) Amar is responsible
- D) All are collectively responsible

Q72. Read the following passage and answer the questions.

The strict principle of law is: sics utere tuo ut alienum non laedas; it means, everyone must so use his own as not to do damage to another. When this maxim is applied to landed property, it is necessary for the plaintiff to show not only that he has sustained damage but also that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land.

The owner or occupier of the land may lawfully use it for any purpose for which it might, in the ordinary course of the employment of land, be used. And for such natural uses of land, an owner will not, in the absence of negligence, be liable, though damage results to the neighbor. But, for any non-natural user, such as the introduction to the land of something which, in the natural condition of the

land, is not upon it, he is liable if damage results to his neighbour. A person who, for his own purpose, brings on his land and collects and keeps there, anything likely to do mischief if it escapes, must keep it in and at his peril; and if he does so, he is prima facie answerable for all the damage which is the natural consequence of its escape. This is known as the rule in Rylands v Fletcher (also known as the wild beast theory". Indian Law: It has been held in several cases that the principle of Rylands v. Fletcher applies in India.

Question: A farmer wants an aggressive and intimidating dog and asks X, a fellow farmer to lend him his pitbull dog, which proceeds to kill Q's chickens. Decide.

- A) Q can ask for damages from X
- B) Q cannot ask for damages from X
- C) Q can ask for damages but he must come to court with clean hands

D) Q cannot ask for damages but some other relief

Q73. Read the following passage and answer the questions.

The strict principle of law is: *sic utere tuo ut alienum non laedas*; it means, everyone must so use his own as not to do damage to another. When this maxim is applied to landed property, it is necessary for the plaintiff to show not only that he has sustained damage but also that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land.

The owner or occupier of the land may lawfully use it for any purpose for which it might, in the ordinary course of the employment of land, be used. And for such natural uses of land, an owner will not, in the absence of negligence, be liable, though damage results to the neighbor. But, for any non-natural user, such as the introduction to the land of something which, in the natural condition of the

land, is not upon it, he is liable if damage results to his neighbour. A person who, for his own purpose, brings on his land and collects and keeps there, anything likely to do mischief if it escapes, must keep it in and at his peril; and if he does so, he is *prima facie* answerable for all the damage which is the natural consequence of its escape. This is known as the rule in *Rylands v Fletcher* (also known as the wild beast theory". Indian Law: It has been held in several cases that the principle of *Rylands v. Fletcher* applies in India.

Question: X and Y live in the same building. X installs a water tank on Y's terrace to service both their flats in Y's absence because he went on an office trip. The water overflows from the tank one day and causes extensive damage to one of the walls of Y's flat. Decide.

- A) Y cannot claim any damages because the tank was installed for the benefit of Y too
- B) Y can claim damages from X because X installed the tank without Y's consent
- C) Y can claim damages because X did not inform Y of the risk of water overflow
- D) Y cannot claim damages from X because with benefits come the liabilities and overflow of water is normal wear and tear

Q74. Read the following passage and answer the questions.

The strict principle of law is: *sic utere tuo ut alienum non laedas*; it means, everyone must so use his own as not to do damage to another. When this maxim is applied to landed property, it is necessary for the plaintiff to show not only that he has sustained

damage but also that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land.

The owner or occupier of the land may lawfully use it for any purpose for which it might, in the ordinary course of the employment of land, be used. And for such natural uses of land, an owner will not, in the absence of negligence, be liable, though damage results to the neighbor. But, for any non-natural user, such as the introduction to the land of something which, in the natural condition of the

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Question: The Bio Gas plant with advanced safety measures was installed for town residents but due to increasing weather and lack of rain the vessels had leakages and the gas had escaped from a rupture and affected the crops in nearby fields. The farmers filed suit for damages-

- A) Biogas plant cannot be held liable for the crop loss because the plant took adequate care and precaution
- B) Biogas plant cannot be held liable because the installation was not for their own benefit but for the benefit of town residents
- C) Biogas plant will be held liable to pay damages because of the strict liability rule
- D) Both (b) and (c)

Q75. Read the following passage and answer the questions.

The strict principle of law is: *sic utere tuo ut alienum non laedas*; it means, everyone must so use his own as not to do damage to another. When this maxim is applied to landed property, it is necessary for the plaintiff to show not only that he has sustained damage but also that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land.

The owner or occupier of the land may lawfully use it for any purpose for which it might, in the ordinary course of the employment of land, be used. And for such natural uses of land, an owner will not, in the absence of negligence, be liable, though damage results

to the neighbor. But, for any non-natural user, such as the introduction to the land of something which, in the natural condition of the

land, is not upon it, he is liable if damage results to his neighbour. A person who, for his own purpose, brings on his land and collects and keeps there, anything likely to do mischief if it escapes, must keep it in and at his peril; and if he does so, he is prima facie answerable for all the damage which is the natural consequence of its escape. This is known as the rule in Rylands v Fletcher (also known as the wild beast theory". Indian Law: It has been held in several cases that the principle of Rylands v. Fletcher applies in India.

Question: Any entity charged with providing a service to society from government or statutory provision is-

- A) Exempted from liability whether negligence is present or not
- B) Not exempted from liability
- C) Exempted only if it is proved that there was no negligence on their part
- D) Exempted simpliciter

Q76. Read the following passage and answer the questions given below.

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in Johnson v. American National Red Cross as follows: "(1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff." Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to make its best efforts to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant's actions do not meet the required level of applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates breach of the duty of care; these include actions against the custom in an industry, violation of a

statute or in some cases, *res ipsa loquitur*. *Res ipsa loquitur* permits the mere fact that damages occurred, with some additional evidence presented by plaintiff, to show therefore that a breach of the duty must have occurred. After demonstrating there was a duty and it has been breached by defendant's conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

To show actual cause, the plaintiff must prove that but for the defendant's negligent conduct, which could be either the defendant's act or omission to act if the situation or relationship required action by the defendant, the injuries or damages would not have occurred. Proximate cause of the injury is the legal causation aspect of this element which follows the chain of events from the negligent conduct to the damages. Damage is the final element that must be proven to succeed in a negligence action; damages will not be presumed in a case. If the plaintiff does not demonstrate damages were suffered as a result of the defendant's negligence, the defendant will not be held liable for the tort of negligence. In *Johnson*, the Court of Appeals upheld the trial court's holding in favor of the Red Cross because it was not established the late Bernice Mantooth suffered any damages as a result her receiving two units of blood that the Red Cross provided which potentially was tainted with a rare undetectable strain of HIV.

Question: Which of the following is not an essential to prove Negligence?

- A) The defendant owed a duty of care
- B) The defendant should know he owed a duty of care
- C) The defendant should have breached the duty of care
- D) The breach of duty should result in injury

Q77. Read the following passage and answer the questions given below.

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a *prima facie* case of negligence in *Johnson v. American National Red Cross* as follows: "(1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff." Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care and several factors can heighten the

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To show actual cause, the plaintiff must prove that but for the defendant's negligent conduct, which could be either the defendant's act or omission to act if the situation or relationship required action by the defendant, the injuries or damages would not have occurred. Proximate cause of the injury is the legal causation aspect of this element which follows the chain of events from the negligent conduct to the damages. Damage is the final element that must be proven to succeed in a negligence action; damages will not be presumed in a case. If the plaintiff does not demonstrate damages were suffered as a result of the defendant's negligence, the defendant will not be held liable for the tort of negligence. In *Johnson*, the Court of Appeals upheld the trial court's holding in favor of the Red Cross because it was not established the late Bernice Mantooth suffered any damages as a result her receiving two units of blood that the Red Cross provided which potentially was tainted with a rare undetectable strain of HIV.

Question: A who is a railway station employee sees that B has left his bag on the station, and to help B he throws the bag towards the moving train, however, the bag contained fireworks which exploded and caused injury to another passenger C, then:

- A) The Railway would be liable for negligence
- B) B would be liable for negligence
- C) Both Railway and B would be liable for negligence
- D) Nobody would be liable for negligence

Q78. Read the following passage and answer the questions given below.

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in *Johnson v. American National Red Cross* as follows: “(1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff.” Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to make its best efforts to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant’s actions do not meet the required level of applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates breach of the duty of care; these include actions against the custom in an industry, violation of a statute or in some cases, *res ipsa loquitur*. *Res ipsa loquitur* permits the mere fact that damages occurred, with some additional evidence presented by plaintiff, to show therefore that a breach of the duty must have occurred. After demonstrating there was a duty and it has been breached by defendant’s conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

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Question: ABC Company constructed an office for Municipal Corporation with a life span of 40 years, however the building was not maintained and collapsed after 50 years and injured some people, then the duty of care in this scenario would be of:

- A) The Builder
- B) The Municipal Corporation
- C) The State Government
- D) No duty of care is required in this scenario

Q79. Read the following passage and answer the questions given below.

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in *Johnson v. American National Red Cross* as follows: “(1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff.” Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to make its best efforts to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant’s actions do not meet the required level of applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a question for the trier of fact. There are several ways a plaintiff demonstrates breach of the duty of care; these include actions against the custom in an industry, violation of a statute or in some cases, *res ipsa loquitor*. *Res ipsa loquitor* permits the mere fact that damages occurred, with some additional evidence presented by plaintiff, to show therefore that a breach of the duty must have occurred. After demonstrating there was a duty and it has been breached by defendant’s conduct, the plaintiff must prove his or her injuries were caused by such negligent conduct. To hold the defendant liable for such negligent conduct causing injuries, the plaintiff must prove actual cause and proximate cause.

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Question: A constructed a dam on a river, however, due to unexpected heavy rainfall the dam broke which caused injury to the village people, then:

- A) A would be liable for negligence
- B) The workers of dam would be liable for negligence
- C) The Construction material manufacture would be liable for negligence
- D) Nobody would be liable for negligence

Q80. Read the following passage and answer the questions given below.

Under the tort of negligence, there are four elements a plaintiff must establish to succeed in holding a defendant liable. The Court of Appeals of Georgia outlined the elements for a prima facie case of negligence in Johnson v. American National Red Cross as follows: "(1) a legal duty to conform to a standard of conduct; (2) a breach of this duty; (3) a causal connection between the conduct and the resulting injury; and (4) damage to the plaintiff." Under the first element, a legal duty to a standard of due care, the plaintiff must prove the defendant had a duty to conform to a standard of conduct for protection of the plaintiff against an unreasonable risk of injury. The duty of care will be determined by the applicable standard of care and several factors can heighten the standard of care depending upon the relationship between the parties, whether the plaintiff was foreseeable, the profession of the defendant, etc. For example, the Red Cross has a duty, when supplying blood donations to hospitals, to make its best efforts to ensure blood supplied is not tainted with any transferable viruses or diseases, such as an undetectable rare strain of HIV. A breach of the duty of care occurs when the defendant's actions do not meet the required level of applicable standard of care due to the plaintiff. Whether a breach of the duty of the applicable standard of care occurs is a

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Question: Which of the following is an example of Contributory negligence?

- A) A while driving and using his mobile meets with an accident with a small kid
- B) A while driving a car and using his mobile meets with an accident with a another driver who is driving on wrong side
- C) A while driving car using his mobile crashes into a house without injuring anybody
- D) A while driving car using his mobile crashes into a tree which falls on another person's car

Q81. Read the passage and answer the question that follow.

Going by the principle laid in the case of *Rylands v Fletcher*, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes, then such person will be answerable for the damaged caused. The person from whose property such substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his

premises. The liability is imposed on him not because there is any negligence on his part but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorize a liability under the head of strict liability. There are some exceptions to the rule of strict liability as Plaintiff's fault, Act of God, Act of the third party, Consent of Plaintiff (Violenti non fit injuria).

According to the rule of absolute liability, if any person is engaged in an inherently dangerous or hazardous activity, and if any harm is caused to any person due to any accident which occurred while carrying out such inherently dangerous and hazardous activity, then the person who is carrying out such activity will be held absolutely liable. The exception to the strict liability rule also wouldn't be considered. The rule laid down in the case of MC Mehta v UOI was also followed by the Supreme Court while deciding the case of Bhopal Gas Tragedy case. To ensure that victims of such accidents get quick relief through insurance, the Indian Legislature passed the Public Liability Insurance Act in the year 1991.

Question: X used to keep a lion as his pet animal. One day, thea lion escaped his premises and entered the premises of Y and killed the son of Y. Discuss the liability of X.

- A) X will be absolutely liable for his act.
- B) X will be strictly liable for his act.
- C) X will be vicariously liable for his act.
- D) X will not be liable because it was mere accident.

Q82. Read the passage and answer the question that follow.

Going by the principle laid in the case of Rylands v Fletcher, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes, then such person will be answerable for the damaged caused. The person from whose property such substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorize a liability under the head of strict liability. There are some exceptions to the rule of strict liability as Plaintiff's fault, Act of God, Act of the third party, Consent of Plaintiff (Violenti non fit injuria).

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Question: X is a guest of Y. X came to Y place for a night stay and in the midnight phone of Y blastedblast on the bed, which caused grievous hurt to X. Discuss the liability of Y.

- A) Y will be strictly liable.
- B) Y will be absolutely liable.
- C) There will be no liability of Y.
- D) Y will be liable for inviting X.

Q83. Read the passage and answer the question that follow.

Going by the principle laid in the case of *Rylands v Fletcher*, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes, then such person will be answerable for the damaged caused. The person from whose property such substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorize a liability under the head of strict liability. There are some exceptions to the rule of strict liability as Plaintiff's fault, Act of God, Act of the third party, Consent of Plaintiff (*Volenti non fit injuria*).

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the case of Bhopal Gas Tragedy case. To ensure that victims of such accidents get quick relief through insurance, the Indian Legislature passed the Public Liability Insurance Act in the year 1991.

Question: If Amit and Bejal are neighbours and share the same water source which is on Amit's land. If the water leaks and causes damage to Bejal, what will be the liability of Amit?

- A) Bejal can claim damage from Amit.
- B) Amit will be strictly liable.
- C) Amit will be absolutely liable.
- D) Bejal cannot claim any damages as Amit would not be liable for any damage.

Q84. Read the passage and answer the question that follow.

Going by the principle laid in the case of Rylands v Fletcher, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes, then such person will be answerable for the damaged caused. The person from whose property such substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorize a liability under the head of strict liability. There are some exceptions to the rule of strict liability as Plaintiff's fault, Act of God, Act of the third party, Consent of Plaintiff (Violenti non fit injuria).

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Question: Rohan's horse died after entering Sohan's property and eating some poisonous leaves. Discuss the liability of Sohan.

- A) Rohan can claim damages from Sohan as leaves were poisonous in the premises of Rohan.
- B) Rohan cannot claim damages from Sohan as it was Rohan's fault.
- C) Rohan can claim damages from Sohan because dangerous things are not allowed to keep.
- D) Rohan can claim damages because his horse died.

Q85. Read the passage and answer the question that follow.

Going by the principle laid in the case of Rylands v Fletcher, it can be said that if a person brings on his land and keeps some dangerous thing, and such a thing is likely to cause some damage if it escapes, then such person will be answerable for the damaged caused. The person from whose property such substance escaped will be held accountable even when he hasn't been negligent in keeping the substance in his premises. The liability is imposed on him not because there is any negligence on his part but the substance kept on his premises is hazardous and dangerous. Based on this judicial pronouncement, the concept of strict liability came into being. There are some essential conditions that should be fulfilled to categorize a liability under the head of strict liability. There are some exceptions to the rule of strict liability as Plaintiff's fault, Act of God, Act of the third party, Consent of Plaintiff (Violenti non fit injuria).

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Question: There was a leakage of poisonous gas from a factory, which resulted the death of several people. What will be the liability of factory's owner?

- A) He will not be liable because it happens by mistake.
- B) He will not be liable because it was an act of God.
- C) He will be absolutely liable.

D) He will be strictly liable.

Q86. Read the following passage and answer the questions.

Liability law, an important component of the legal architecture, seeks to hold persons or entities liable for the harm or damage they cause to others. The terms 'strict liability' and 'absolute liability' are the key concepts of the law.

Strict responsibility is a legal principle that holds an individual or entity liable for damages caused by their acts or activities, regardless of measures taken or intentions. The plaintiff does not need to prove carelessness or blame; all that is required is that the defendant's actions caused the damage. For example, if a pet tiger owned by an individual escapes and injures someone, the owner may be held accountable under strict responsibility, even though all reasonable steps were taken to avoid the escape.

However, strict responsibility is not without defences. Defendants may argue that the plaintiff freely embraced the risk or that the plaintiff's fault contributed to the loss, potentially absolving them from the obligation.

Absolute liability, on the other hand, is a tougher form of culpability in which the defendant is held accountable for the damage they do, regardless of safeguards taken or defences raised. This principle refers to inherently harmful activities or substances where the risk of injury is so great that those involved are expected to bear full responsibility for any damages if any escape.

Following the Bhopal Gas Tragedy, the concept of absolute culpability evolved in India. The Supreme Court of India created the notion of absolute liability in its historic judgement (M.C. Mehta versus Union of India), holding the firm involved accountable for the disastrous repercussions of the gas leak, regardless of the safeguards they claim to have taken.

Question: Strict liability applies to which of the following?

- A) Only intentional torts.
- B) Only negligent torts.
- C) Inherently dangerous activities.
- D) Only activities regulated by the government.

Q87. Read the following passage and answer the questions.

Liability law, an important component of the legal architecture, seeks to hold persons or entities liable for the harm or damage they cause to others. The terms 'strict liability' and 'absolute liability' are the key concepts of the law.

Strict responsibility is a legal principle that holds an individual or entity liable for damages caused by their acts or activities, regardless of measures taken or intentions. The plaintiff does not need to prove carelessness or blame; all that is required is that the defendant's actions caused the damage. For example, if a pet tiger owned by an individual escapes and injures someone, the owner may be held accountable under strict responsibility, even though all reasonable steps were taken to avoid the escape.

However, strict responsibility is not without defences. Defendants may argue that the plaintiff freely embraced the risk or that the plaintiff's fault contributed to the loss, potentially absolving them from the obligation.

Absolute liability, on the other hand, is a tougher form of culpability in which the defendant is held accountable for the damage they do, regardless of safeguards taken or defences raised. This principle refers to inherently harmful activities or substances where the risk of injury is so great that those involved are expected to bear full responsibility for any damages if any escape.

Following the Bhopal Gas Tragedy, the concept of absolute culpability evolved in India. The Supreme Court of India created the notion of absolute liability in its historic judgement (M.C. Mehta versus Union of India), holding the firm involved accountable for the disastrous repercussions of the gas leak, regardless of the safeguards they claim to have taken.

Question: Mr. Johnson owns a pet leopard, which he keeps in a well-secured enclosure. Despite the security, the leopard escapes one day and injures a passerby. In this case:

- A) Mr. Johnson is not liable as he took all possible precautions.
- B) Mr. Johnson is liable only if he intentionally let the leopard escape.
- C) Mr. Johnson is liable because his leopard caused harm.
- D) Mr. Johnson is not liable unless he was aware that the leopard might escape.

Q88. Read the following passage and answer the questions.

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Question: A construction company is conducting blasting operations in a populated area. Despite following all safety guidelines and precautions, a flying rock from the blasting zone damages a nearby car. In this case:

- A) The construction company is not liable because it followed all safety guidelines.
- B) The construction company is liable only if it knew the damage could occur.
- C) The construction company is liable because its operations caused damage.
- D) The construction company is not liable because the car owner should have moved his car.

Q89. Read the following passage and answer the questions.

Liability law, an important component of the legal architecture, seeks to hold persons or entities liable for the harm or damage they cause to others. The terms 'strict liability' and 'absolute liability' are the key concepts of the law.

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Question: A nuclear power plant, despite having top-tier safety measures, experiences a reactor meltdown due to an unforeseen natural calamity, causing radioactive pollution in the neighbouring areas. In this case:

- A) The nuclear power plant is not liable because the meltdown was due to a natural calamity.
- B) The nuclear power plant is liable only if it knew a natural calamity could cause a meltdown.
- C) The nuclear power plant is liable because its operations caused harm
- D) The nuclear power plant is not liable because it had all safety measures in place.

Q90. Read the following passage and answer the questions.

Liability law, an important component of the legal architecture, seeks to hold persons or entities liable for the harm or damage they cause to others. The terms 'strict liability' and 'absolute liability' are the key concepts of the law.

Strict responsibility is a legal principle that holds an individual or entity liable for damages caused by their acts or activities, regardless of measures taken or intentions. The plaintiff does not need to prove carelessness or blame; all that is required is that the defendant's actions caused the damage. For example, if a pet tiger owned by an individual escapes and injures someone, the owner may be held accountable under strict responsibility, even though all reasonable steps were taken to avoid the escape.

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Question: A chemical factory, following all safety guidelines and regulations, suffers an unexpected explosion due to a malfunctioning valve, leading to a toxic gas leak. The leak causes severe health issues among the local residents. In this case:

- A) The chemical factory is not liable as it followed all safety guidelines and regulations.
- B) The chemical factory is liable only if it intentionally caused the malfunction.
- C) The chemical factory is liable because its operations caused harm.
- D) The chemical factory is not liable unless it was aware of the faulty valve.

Q91. Read the following passage and answer the question.

This legal principle denotes that an individual or entity can be held accountable for the actions of another person, typically within the scope of a relationship where one party has the right, ability or duty to control the activities of the other. A common instance of vicarious liability is in an employer-employee relationship. If an employee causes harm to another while carrying out their duties, the employer could potentially be held liable. This is because the employer has control over the employee's activities during work and thus, indirectly, the consequences of those activities. For example, if a delivery driver negligently crashes into another car while on a delivery, the company could be held vicariously liable for the damage. The rationale behind vicarious liability lies in balancing the scales of justice and promoting safety. By holding employers accountable for their employees' actions, vicarious liability encourages them to enforce stricter safety measures and supervise their employees' conduct more effectively. However, it's worth noting that not all actions of an employee give rise to vicarious liability.

The misconduct must occur within the 'course and scope' of employment. If the employee's actions were personal or outside the range of their duties, the employer may not be held responsible. Vicarious liability is not limited to employer-employee relationships; it can also arise in other contexts where one party has the right to control the conduct of another. These can include relationships between principals and agents, partners in a partnership, and even parents and their minor children in some jurisdictions. Vicarious liability, therefore, serves as a reminder that the ability to control another's conduct comes with a potential legal responsibility for their actions, encouraging all to exercise this power with care and diligence.

Question : During working hours, Mr. Smith, a pizza delivery driver for Pizzalicious, accidentally hits a pedestrian while he is rushing to deliver a pizza. In this case:

- A) Pizzalicious is not liable because Mr. Smith was driving.
- B) Pizzalicious is liable because it employed Mr. Smith.
- C) Pizzalicious is liable only if it instructed Mr. Smith to rush.
- D) Pizzalicious is not liable because Mr. Smith was negligent.

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Question : Ms. Johnson, a teacher at Sunny Day School, is involved in a car accident on her way home after school. In this case:

- A) Sunny Day School is liable because Ms. Johnson is their employee.
- B) Sunny Day School is not liable because the accident occurred outside school hours.
- C) Sunny Day School is liable only if it owns the car.
- D) Sunny Day School is not liable because Ms. Johnson was not performing her duties at the time of the accident.

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Question : A babysitter hired by the Smith family accidentally spills hot coffee on a visitor. In this case

- A) The Smith family is liable because they hired the babysitter.
- B) The Smith family is not liable because the babysitter is an independent contractor.
- C) The Smith family is liable only if they provided the coffee.
- D) The Smith family is not liable because the visitor should have been careful.

Q94. Read the following passage and answer the question.

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Question : At a school picnic, a teacher negligently leaves a gate open, and a child wanders off and gets injured. In this case

- A) The school is not liable because the teacher was negligent.
- B) The school is liable because the teacher was performing her duties at the time of the incident.
- C) The school is not liable because the incident happened outside school grounds.
- D) The school is liable because the teacher was appointed by the school and the picnic was organised by school.

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another's conduct comes with a potential legal responsibility for their actions, encouraging all to exercise this power with care and diligence.

Question : A barista at The Cozy Cup, a local café, spills hot coffee on a customer causing burns. The barista was rushing because the café was extremely busy. In this case:

- A) The Cozy Cup is not liable because the barista was negligent.
- B) The Cozy Cup is liable because the barista was performing her duties at the time of the incident.
- C) The Cozy Cup is not liable because the customer should have been careful.
- D) The Cozy Cup is liable only if it owns the coffee machine.

Q96. Read the given passage and answer the following question.

This legal principle denotes that an individual or entity can be held accountable for the actions of another person, typically within the scope of a relationship where one party has the right, ability and duty to control the activities of other.

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- D) Pizzalicious is not liable because Mr. Smith was negligent.

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Question : Miss Johnson a teacher at sunny day school is involved in a car accident on away home after school. In this case,

- A) Sunny Day School is liable because Ms. Johnson is their employee.
- B) Sunny Day School is not liable because the accident occurred outside school hours.
- C) Sunny Day School is liable only if it owned the car.
- D) Sunny Day School is not liable because Ms. Johnson was not performing her duties at the time of the accident.

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C) The Smith family is liable only if they provided the coffee.

D) The Smith family is not liable because the visitor should have been careful.

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Question : At a school picnic a teacher negligently lets a gate open and a child wanders off and gets injured. In this case,

A) The school is not liable because the teacher was negligent.

B) The school is liable because the teacher was performing her duties at the time of the incident.

C) The school is not liable because the incident happened outside the school grounds.

D) The school is liable only if it owns the picnic location.

Q100. Read the given passage and answer the following question.

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Question : A barista at The Cozy Cup, a local café, spills hot coffee on a customer causing burns. The barista was rushing because the café was extremely busy. In this case,

- A) The Cozy Cup is not liable because the barista was negligent.
- B) The Cozy Cup is liable because the barista was performing her duties at the time of the incident.
- C) The Cozy Cup is not liable because the customer should have been careful.
- D) The Cozy Cup is liable only if it owns the coffee machine.

ANSWER KEY

1	2	3	4	5	6	7	8	9	10
(B)	(C)	(C)	(D)	(A)	(B)	(A)	(D)	(A)	(C)
11	12	13	14	15	16	17	18	19	20
(D)	(B)	(B)	(B)	(A)	(A)	(B)	(D)	(A)	(C)
21	22	23	24	25	26	27	28	29	30
(B)	(B)	(B)	(A)	(A)	(A)	(C)	(D)	(A)	(B)
31	32	33	34	35	36	37	38	39	40
(B)	(D)	(B)	(D)	(B)	(C)	(A)	(B)	(B)	(A)
41	42	43	44	45	46	47	48	49	50
(B)	(D)	(A)	(D)	(B)	(B)	(C)	(D)	(D)	(C)
51	52	53	54	55	56	57	58	59	60
(C)	(B)	(B)	(B)	(A)	(D)	(D)	(A)	(A)	(D)
61	62	63	64	65	66	67	68	69	70
(A)	(B)	(B)	(D)	(B)	(D)	(C)	(D)	(D)	(C)
71	72	73	74	75	76	77	78	79	80
(C)	(B)	(B)	(D)	(C)	(B)	(D)	(B)	(D)	(B)
81	82	83	84	85	86	87	88	89	90
(B)	(C)	(D)	(B)	(C)	(C)	(C)	(C)	(C)	(C)
91	92	93	94	95	96	97	98	99	100
(B)	(D)	(B)	(D)	(B)	(B)	(D)	(B)	(B)	(B)

SOLUTIONS

1-B

As per the law, if a person uses a dangerous substance which may be a natural use of land & if such substance escapes, he shall be held liable even though he has taken proper care. Further, the extent of damages depends on the magnitude and financial capability of the institute. Hence, Option (b) is correct

2-C

There is no escape of any poisonous substance from X's estate hence Rylands vs. Fletcher rule of strict liability is not applicable in this scenario. This eliminates 1) and 2). Option 4) is incorrect since the goat escaping is and entering X's land is not something that can be reasonably foreseen. Hence 3) is the correct answer.

Please refer to Ponting v. Noakes.

3-C

In this case, the scenario of Carstairs vs. Tylor would be applied. The rainwater harvesting unit was constructed with the consent of both, including the materials to be used. Further, both benefited from it. Hence 3) is the correct answer.

4-D

In this scenario, there is no liability on the factory since there was no leakage of any substance from the factory or from the waste disposal unit, also the waste was disposed of appropriately by X. Hence there is no liability of any sort on X or the factory. Hence 4) is the correct answer.

5-A

Everyone has a right to operate in a free market and no consent is needed before opening it. The point that the NGO is not for a noble cause and non-profit is irrelevant since there won't be any liability even if Y had wanted to open a pet shop. This is in coherence with the principle of "Damnum sine Injuria". Hence the correct answer is 1) Y is not liable for any damages since there is no legal right of X that he has infringed.

6-B

X had achieved the role rightfully and is part of the filming crew, this makes his safety the responsibility of the crew. Option 1) is incorrect as X signed to act not for a drone falling on him. Option 3) is incorrect since malfunctioning of a drone is something that is a plausible occurrence when shooting is in progress. Option 4) is incorrect since the crew would have been liable for any incident that happened during the normal course of the shooting. Hence 2) is the correct answer.

7-A

The law of malicious prosecution states that there has to make its way between two competing principles, -freedom of action that every man should have in bringing criminals to justice and the necessity for checking lying accusations of innocent people.

8-D

MUNISH only threatened but hasn't initiated malicious prosecution therefore JAGDISH cannot claim relief but he can get relief for intimidating and threatening him under other laws.

9-A

Plaintiff filed for relief against the defendant as the defendant initiated malicious prosecution therefore the first requirement will be false prosecution by the defendant against the plaintiff, not the other way round.

10-C

In the case of Padmavati v. Dugganaika, the driver of the jeep goes to fill the petrol in it. Two people ask for a lift. After some time, the jeep got toppled due to some issue with the right wheel. The two strangers who took the lift were thrown out of the jeep and they suffered some injuries leading to the death of one person.

Here, the Court held that the driver is not liable for any damages or offence because- It was a case of an accident and the strangers had voluntarily gotten into the vehicle. But, the principle of Volenti non fit injuria was not applicable here.

11-D

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation. The concept of malicious prosecution safeguards all three of them.

12-B

Malicious prosecution is a common law tort, which found its origin in the ancient English regime. The most important aspect of a person's life is his life, liberty, and reputation. The concept of malicious prosecution safeguards all three of them by effectively protecting the person from unwanted and maliciously instituted proceedings. The origin of this concept, in effect, came from the abuse of the judicial process.

13-B

If a person agrees to the publication of something about which he was aware of, then such person cannot sue him on grounds of defamation.

14-B

In *Lakshmi Rajan v. Malar Hospital*, a married woman aged forty noticed a lump in one of her breasts but this pain does not affect her uterus. After the operation, she saw that her uterus has been removed without any justification. The hospital authorities were made liable for the removal of her uterus as her consent was taken for the treatment of the lump and not for removing the uterus.

15-A

In the case of *Hegarty v. Shine*, Court observed that mere concealment of facts is not considered to be a fraud to vitiate consent. Hence, the action will fail because mere lack of disclosure of facts does not amount to fraud based on the principle *ex turpi causa non oritur actio* i.e. no action arises from an immoral cause.

16-A

In the case of *Smith v. Baker*, the plaintiff worked on a drill to cut rocks. Some stones were being conveyed using a crane over his head. Once a stone fell on his skull causing some injuries. The court held that the defendants were negligent as they did not inform him before. Mere knowledge of risk does not mean that the person has consented to risk. The maxim *volenti non fit injuria* has no application. But, if a person ignores the instructions given by the employer thereby suffering injury then this maxim applies.

17-B

Vishudh can be held liable for the tort of a nuisance but not trespass. There is a very thin line between tort of nuisance and trespass. Trespass is encroachment upon property whereas nuisance is interference upon another's right to enjoy his property. Here, branches did not encroach upon property but caused interference in freely enjoying one's property.

18-D

In *Homes V. Wilson*, the authorities had constructed a road/bridge. They erected buttresses on the plaintiff's land to support such infrastructure and had not removed them. The authorities were liable to pay full compensation and had further action in continuing trespass in which they were held liable. In continuing trespass, encroachment remains until such object or act is either removed or stopped.

19-A

In case of aerial trespass the object that enters the land aurally should be at such height that it violates the plaintiff's right to enjoy his property. In the present case, an aeroplane that is passing at a height over Raghav's land cannot for the act of trespass, because it does not violate the ordinary use of his land.

20-C

By application of the doctrine of prescriptive easements, the land owner loses the absolute right to exclude people from taking possession of his land when a non-owner has used that land openly, peaceably, continuously, and under a claim of right adverse to the owner for a specified time period.

21-B

In the case of *Sentini Cermica P. Ltd. Vs Kunchi Krishna Mohan and Ors* which cleared law related to Statutory Authority, Court held that Search and seizure on the property of the appellant do not constitute an act of trespass as the act is carried out with sufficient legal backing.

22-B

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23-B

In *Lakshmi Rajan v. Malar Hospital*, a married woman aged forty noticed a lump in one of her breasts but this pain does not affect her uterus. After the operation, she saw that her uterus has been removed without any justification. The hospital authorities were made liable for the removal of her uterus as her consent was taken for the treatment of the lump and not for removing the uterus.

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26-A

In this case, both the drivers were equally negligent. Damage was caused not by joint action but separate actions. Therefore, A is not entitled to claim damage from the bus driver, owner, or insurance company. Both drivers are not joint tortfeasors, and their liability was not joint and several.

27-C

The principle of joint liability is joint and not several. In this case, due to the rash and negligent Act of both P and Q, the woman sustained severe burns. Therefore, the woman has a choice to hold either P or Q or both of them liable for the Act. Each one of them can make full payment of compensation to the woman.

Hence c) is the right answer.

28-D

According to the principle of joint liability, the liability of the defendants is joint and several. Therefore, Y is entitled to hold either X or the editors and printers for publishing defamatory letters in the magazine.

Hence d) is the right answer.

29-A

The principle of joint liability is also applicable to the principal and agent. If any negligent act or wrong is done by the agent for which the plaintiff suffered loss or injury, both the principal as well as the agent are jointly and severally liable.

Hence a) is the right answer.

30-B

The principle of joint liability is applicable in the relationship of a master and servant. Where the master can be held liable for the wrongful Act of the servant, therefore, both the master as well as the servant is liable as a joint tortfeasor.

Hence b) is the right answer.

31-B

In order to prove the tort of negligence, it is necessary to prove that the person who committed negligence owed a duty of care that was breached by him, which resulted in injury to another person. However, it is not necessary to establish that the person knew that he owed a duty of care.

Hence b) is the right answer.

32-D

The Court, in the case of Palsgraf vs Long Island Railroad Co(1928), has held that the cause of the injury should be in direct relation with the Act; however, in this case, the railway employee was not aware that the bag contained fireworks. Therefore C would not be entitled to claim any damages for negligence.

Hence d) is the right answer.

33-B

The Supreme Court, in the case of Municipal Corporation Of Delhi vs Subhagwanti & Others reported as 1966 SCR (3) 649 in similar circumstances has held that the duty of care towards the public was of the Municipal Corporation to repair the building and therefore the Municipal Corporation would be liable to pay compensation in case someone gets injured due to the collapse of the building.

Hence b) is the right answer.

34-D

The Court, in the case of Nichols v. Marsland (1876), has held that a person cannot be held negligent in case of an injury caused due to an act of God, and in this scenario, the dam broke due to an unexpected act of God which was beyond the control of A. Therefore, he would not be liable for negligence.

Hence d) is the right answer.

35-B

Contributory negligence is a defence in tort law that reduces the liability of the defendant if the other person is also at fault. In this scenario, both the drivers are negligent and are at fault; therefore, nobody would be entitled to receive damages for negligence in this scenario.

Hence b) is the right answer.

36-C

Option c) is correct, as it is an important factor to publish the untrue and false statements and it has not happened and was true. As the publication was not false for the matter already happened.

37-C

According to Section 500 of IPC option A is the correct answer. As it was not only a true statement as given in option C but it was honestly criticised for public interest. As it is an exception provided under the act of defamation

38-A

As he published with intention to harm the reputation of the victim. Option A is not correct option as he was thinking that it would be funny if he circulate it among his friends.

39-B

As there is no proof that the statement was made is true or false to prove it in court for defamation. The matter needs to be proved in the court of law the

40-A

As it was not published among people. It was emailed to Rohit and cannot cause injury to his reputation.

41-B

This question is based on the facts of the case of Gloucester Grammar School In that case the court held that though there was damage, there was no legal injury because no one has a right to an unrestricted and protected market. Fair competition is natural, and there is no right to protect you from it.

42-D

A violation of a legal right, with or without damages, gives rise to tort.

43-A

The act is not something that was not supposed to be done. Every man is entitled to mow his lawn with a properly functioning electric lawn mower as long as he does not do it at some unearthly hour, thus waking up the entire neighbourhood. The damage, if any, to the neighbour, is not legal damage because though every person is entitled to peace and quiet within his property, this is subject to reasonableness.

44-D

No person can enforce a right that s/he has voluntarily waived. Hence, the defence of *volenti non fit injuria* is available to Mahendra.

45-B

The shot was fired at the pheasant in a reasonable manner, and therefore the person being hit by a bullet amounted to the inevitable accident.

46-B

In the given case the action of B is a Trespass and all the requirements for the same are being fulfilled. The plaintiff is having a lawful possession and a person entered there unlawfully. Option B is the correct answer. Option A is incorrect as a positive object cannot justify an act of Trespass. Option C is also incorrect as action B does not fall under an exception. Option D is incorrect as it is incorrect to presume the match was being conducted with only ball and retrieving the same was a necessity.

47-C

It can be noted that necessity is a defence of trespass. In the given case, had X not taken Y's crops indoors, they would have all been destroyed. Hence, X was acting under necessity and therefore option c) is the correct answer. Option A is incorrect as it states the action to be trespassing Option b) is not precise while option c) is. Option d) is incorrect.

48-D

It is given in the passage that in order for establishing a tort of trespass, there to have been a fault by the defendant. In essence, the interference must have been a voluntary act of the defendant without the consent or authorisation of the plaintiff in possession of the land. In the given case there was no fault of the defendant and hence the requirements are not fulfilled.

49-D

While taking the defence of consent, the onus is on the defendant. To prove that they entered the land with the consent of the plaintiff. Option d) states otherwise. Therefore, it is incorrect Rest of the options are clearly explained in the passage.

50-C

One of the exceptions to Trespass is necessity. In the said case, there was a necessity and King, believing it in all honesty, tried rescuing Ray and his family from shelling. Hence option C shall be the correct answer. Option a) is incorrect as King's interference was not unlawful.

51- C

The agreement is void due to a mutual mistake of fact essential to the contract. As clearly stated in maxim *ignorantia facti excusat ignorantia juris non excusat* here both the parties are under the mistake of fact as they were unaware of the death. This agreement is void.

52-B

No, the contract is invalid because there was a mistake regarding the identity of the person the company intended to contract with. As stated in the passage A mistake as to identity occurs when one of the parties represents himself to be some person other than he really is. Here Ram's twin brother is faking up another identity and others are under the mistake of fact thus the contract is void.

53-B

The contract is void because there was a mistake as to the identity of the artist. Here Aisha has posed as a famous painter and thus faked her identity. The buyer Jaya got influenced thinking that Aisha is a famous painter and was under a mistake thus the contract is void

54-B

No, the contract is not void because this was a mistake regarding the value, not a matter of fact. She bought the land with the thought that it'll have a gold mine but it didn't affect the value of the actual land. She bought the place with all her consciousness thus the buying of land is not a mistake.

55-A

The contract is void because both parties were mistaken about an essential fact of the agreement. When the subject matter of the contract is compromised or mistaken the contract doesn't exist and under the context of the mistake of both parties, the contract is void.

56-D

In accordance with the passage, any action that aids State machinery must be supported by legal authority. The claim of privacy breach claimed by W cannot be upheld because every step of the process was done in accordance with the usual terms and conditions. We rule out options A and B as a result. Since the justification offered by option C does not line up with the information in the passage, it is not the correct answer.

57-D

In accordance with the passage, In order to do such, there must be written legislation authorizing an investigating agency to perform an act of surveillance. A law of this nature must adhere to the requirements of the Constitution, specifically Part III of the Constitution. In addition to protecting the person's privacy, this would stop any arbitrary action. The whole passage is about state surveillance. As a result, we rule all options A, B and C.

58-A

An individual's right to privacy can be breached if their privacy is invaded in an unauthorized and illegal manner. It is clear from using common sense that P's right to privacy has not been harmed since he gave the police permission to access the CCTV.

We rule out option B as a result. Options c) and d) are ruled out since they both offer reasoning that is illogical, absurd, and lacking in any legal justification.

59-A

Justice Sundresh emphasizes the need for a codified law that empowers investigating agencies to undertake surveillance while preserving the privacy of individuals and preventing arbitrary actions. Option B is incorrect because although a clear demarcation is mentioned, it is not the key aspect emphasized by Justice Sundresh in relation to enabling surveillance. Option C is incorrect because although the doctrine of proportionality is mentioned, it is not the primary focus in the context of enabling surveillance. Option D is incorrect because although the larger interest of the public is mentioned, it does not capture the specific aspect highlighted by Justice Sundresh regarding the Constitutional mandate and the fundamental right to privacy.

60-D

The International Convention on the Elimination of All Forms of Racial Discrimination primarily focuses on the prohibition and elimination of racial discrimination rather than specifically addressing the right to privacy. On the other hand, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights explicitly recognize and protect the right to privacy as a fundamental human right.

61-A

It is the most appropriate answer, here as teh someone to claim the defence of mistake of fact it is important that the act is fought justified by means of the defence to be the legal first place. In the given fact, Ketaki, who was thought to be Ram was wanted as a criminal.

62-B

In the factual scenario, Anish reported the alleged smuggling of wheat to the police in good faith i.e. he genuinely believed that there was an illegal activity being carried out, his actions therefore, were a mistake of fact and not law.

63-B

For a person to claim the defence of accident it is imperative that the person does the alleged act without any criminal intent or knowledge. The injured caused must be the result of misfortune in the given factual scenario, Kamlesh cannot be said to have criminal intent to harm a human being, as had a good read to believe that the person

was an animal destroying his crop as they spotted frequently. Therefore option (b) is correct.

64-D

As per the passage the defence of an accident is to be successfully claimed, It is necessary that the act in addition to being done without criminal intent or knowledge be lawful and done in a lawful manner None of these ingredients are reflected in Awez's actions. Therefore option (d) is correct.

65-B

For the defence of accident to be successfully claimed it is necessary that the act in addition to being done without a criminal intent or knowledge be lawful and done in a lawful manner. In this scenario, Awez intended to drive away the dog from the fight scene and he cannot be said to have intended the death of the child. Hence option b is correct.

66-B

In this situation, the principle "A right of action cannot arise out of an illegal activity" is the decisive factor. There is no claim as driving a car that is stolen is itself an illegal activity.

67-D

The accident was inevitable since the bolts were unfastened unbeknownst to B. option b) is not the correct answer because of the concept of "remoteness of damage". Option a) is not the right answer as well, since while consenting to take the lift, there was no possibility of being aware of the unfastening bolts, or the risks involved.

68-C

A person residing in society owes a certain level of responsibility to his neighbours. In this scenario, he should have taken care of the bug-infested woodwork, since it could have harmed anyone on any day. He cannot claim the defence of "vis major". The second option is not right as Y was not aware of the infestation, and c) is not right since X's son not getting injured is something that happened because of pure luck.

69-D

The reason why option a) is not true is that there was no way for X to ensure that the ones who asked him to stop firing were indeed policemen. However, he might be liable

for causing hurt. Rest options b) and c) are true as use of force was not necessary when the robbers were outside the house, and X should have called the police immediately.

70-C

X is liable to pay damages since he has no right to provide medical help, as it requires permission from the right authorities. He is also liable for causing hurt, or grievous hurt depending upon the magnitude of infection. a) is not the right option since medical malpractice cannot be levied on someone with no medical licence. b) is not the right option since the consent was wrongfully obtained, and B was not in a condition to know whether X was a doctor or not. d) is not the right option since those people had no wrongful intent.

71-C

Exceptions to the Strict Liability Rule- Wrongful act of third party: When a third party to the two parties in question commits a wrong that brings about a set of circumstances that could damage a person or his property, it is called a wrongful act of third party and is a defence to the strict liability rule.

72-B

One of the exceptions to the rule of strict liability is when the plaintiff himself is at fault. When it is the fault of the plaintiff himself due to which his property or person has been damaged, he cannot claim damages from the defendant.

73-B

One of the exceptions against the rule of strict liability is when Work is maintained for the common benefit of the plaintiff and defendant, with the consent of the plaintiff. Then the plaintiff cannot claim damages. But here Y can claim damages because X never took his consent.

74-D

Here, in Dunne v. North West Gas Board case, the plaintiffs brought an action against the Board after the gas had escaped from a rupture in the water main leading to five different casualties. The defendant was not held liable as it was a consented act and the Board had not accumulated the substance for its own benefit but for the benefit of the residents.

75-C

If any entity provides services due to statutory obligation then in such case the entity cannot be held liable if there is no negligence on their part. This is an exception to the rule of strict liability.

76-B

In order to prove the tort of negligence it is necessary to prove that the person who committed negligence owed a duty of care which was breached by him which resulted in injury to other person. However it is not necessary to establish that the person knew that he owed a duty of care.

77-D

The Court in the case of *Palsgraf vs Long Island Railroad Co*(1928) has held that the cause of injury should be in direct relation with the act, however in this case the railway employee was not aware that the bag contained fireworks, therefore C would not be entitled to claim any damages for negligence.

78-B

The Supreme Court, in the case of *Municipal Corporation Of Delhi vs Subhagwanti & Others* reported as 1966 SCR (3) 649 in similar circumstances has held that the duty of care towards public was of the Municipal Corporation to repair the building and therefore the Municipal Corporation would be liable to pay compensation in case someone gets injured due to the collapse of the building.

79-D

The Court in the case of *Nichols v. Marsland* (1876) has held that a person cannot be held negligent in case of an injury caused due to an act of god and in this scenario the dam broke due to unexpected act of god which was beyond the control of A, therefore, he would not be liable for negligence.

80-B

Contributory negligence is a defense in tort law that reduces the liability of the defendant if the other person is also at fault. In this scenario both the drivers are negligent and are at fault, therefore nobody would be entitled to receive damages for negligence in this scenario.

81-B

Essential of Strict liability is: - Dangerous things which escape from the control and non-natural use of land. Here, in our case, the lion is considered as dangerous thingthings which escape from the premises, and X was in the use of non-natural use of land.

Hence, option (b) is correct answer.

82-C

Essential of Strict liability is: - Dangerous Things which escape from the control and non-natural use of land. Here, the first essential is not fulfilled. Phone cannot be considered as a dangerous item. Hence, no point of strict liability exists here. It is not connected to absolute liability as Y is not engaged in any hazardous activity.

Hence, option (C) is correct.

83-D

There are some exceptions to Strict liability. 'Consent of the Plaintiff' is one of the exceptions and it follows the principle of 'volenti non fit injuria'. In our case, consent of Bejal was there for the water source, and if it escaped from the scope of Amit, she can not claim any damages.

Hence, option (D) is correct.

84-B

If the plaintiff is at fault and damage is caused, the defendant would not be held liable since the plaintiff himself came into contact with the dangerous thing. This is one of the exceptions of Strict liability. Rohan's horse came in contact of dangerous leaves and died.

Hence, option (b) is correct.

85-C

If a person is engaged in an inherently hazardous or hazardous activity and harm is caused to a person as a result of an accident which occurred while engaged in such inherently hazardous and hazardous activity, then under the rule of absolute liability the person carrying out such activity shall be held fully liable. Here, Factory's owner will be liable as it fulfills all the condition of absolute liability.

Hence, option (C) is correct.

86-C

Strict liability applies to activities that are inherently dangerous, meaning they have an elevated risk of causing harm even when all possible precautions are taken. This does not mean that strict liability is limited to such activities, but it is commonly applied in these situations.

87-C

This scenario is an example of strict liability. The nature of the activity (keeping a wild animal) is inherently dangerous. Despite all precautions taken, if harm is caused, the owner is held liable. The liability arises from the fact that Mr. Johnson's leopard caused harm, irrespective of his intentions or the precautions he took.

88-C

This scenario illustrates the application of strict liability. The construction company is conducting a dangerous activity (blasting in a populated area), which, despite all precautions, has resulted in damage. The company is held liable under strict liability because its operations caused damage, irrespective of whether it followed all safety guidelines or knew the damage could occur. The car owner's actions (or lack thereof) do not absolve the company of its liability.

89-C

This is another scenario that demonstrates absolute liability. The nuclear power plant, despite all safety measures, is held liable because its operations (production of nuclear power, an inherently dangerous activity) led to harm. The principle of absolute liability disregards the defences such as act of God (natural calamity), precautions taken, or knowledge of the possible meltdown; the entity involved in hazardous activities is liable for any harm caused due to these activities.

90-C

The chemical factory is liable because its operations caused harm.

Explanation: this scenario is an example of absolute liability. Despite the fact that the factory was ignoring all safety regulations it is still held liable because its operations that involve storage and handling of hazardous chemicals lead to harm. The principle of absolute liability does not consider the precautions taken or whether the company was aware of the faulty valve, it only considers the fact that the factory's operations lead to leak of gas.

91-B

Under the principle of vicarious liability, an employer can be held responsible for the negligence of an employee that occurs during the course of employment. In this case, Mr. Smith was carrying out his duties (delivering a pizza) when the accident occurred, which may render Pizzalicious liable for the pedestrian's injuries, regardless of whether they instructed Mr. Smith to rush or not.

92-D

Vicarious liability applies when an employee is acting within the scope of their employment. In this scenario, Ms. Johnson was not performing her duties as a teacher when the accident occurred, but was rather commuting, which is a personal activity. Therefore, Sunny Day School would not typically be held vicariously liable for the accident.

93-B

Vicarious liability generally applies to relationships where one party has control over the conduct of the other, such as an employer-employee relationship.

However, independent contractors are typically not considered employees, and hence, those who hire them are usually not held vicariously liable for their actions.

94-D

According to the principal of vicarious liability the teacher that was appointed by the school is liable for negligence as he was appointed by the school and the picnic was taken under the authority and permission of school. Therefore the school is liable for the act under respondent superior.

95-B

Under the principle of vicarious liability, an employer can be held responsible for the negligent actions of an employee that occurs during the course of employment. In

this case, the barista was performing her duties (serving coffee) when the incident occurred, which may render The Cozy Cup liable for the customer's injuries, regardless of whether the

the coffee machine is owned by the café or not.

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99-B

In this scenario, the school could be held vicariously liable for the teacher's negligence as she was performing her duties (supervising children at a school picnic) when the incident occurred. The principle of vicarious liability would apply irrespective of the location of the picnic or the ownership of the picnic location.

100-B

Under the principle of vicarious liability, an employer can be held responsible for the negligent actions of an employee that occur during the course of employment. In this case, the barista was performing her duties (serving coffee) when the incident occurred, which may render The Cozy Cup liable for the customer's injuries, regardless of whether the coffee machine is owned by the café or not