

NATIONAL LAW INSTITUTE UNIVERSITY, BHOPAL
B.A.LL.B. (Hons.)/B.Sc.LL.B. (Hons): I SEMESTER
END TERM EXAMINATION: NOV 2023

Time: 3 Hours

Maximum Marks: 50

Instructions:

1. Answer any five questions.
2. All questions carry equal marks.
3. Due credit will be given for brevity, coherence and style of presentation.
4. No request for clarification regarding the questions will be entertained during the examination.

MODEL ANSWERS

1. Material Facts through which the legal issues may be framed. The legal issues include: Whether the multi-specialty hospital committed the tort of negligence on X, the husband of the plaintiff? Whether the injury inflicted on X resulted in nervous shock? Whether the negligence of the D was the reason for the nervous shock suffered by the plaintiff? Whether the nervous shock suffered is an actionable wrong? Whether the trespass to person committed by the plaintiff on the staff of hospital Z is due to the psychiatric sufferings? Whether the D can be made liable for causing psychiatric sufferings to the Plaintiff and for the damage caused to the staff of hospital Z? in order to address these issues, explanation of the tort of negligence, psychiatric sufferings, trespass to person and the tests of legal causation will be essential. The psychiatric sufferings encompass all forms of mental illness, neurosis and personality change, that is how it is different from emotional distress or grief. Further that there could be no claim for emotional distress unless there is apposite psychiatric illness viz. the personality change, etc. The cases which are to be discussed include: *McLoughlin v O'Brian*, *Wilkinson v. Downton*, and *Meah v. Mc Creamer*, other cases which are to be briefly discussed include: *Donoghue v. Stevenson*, *SCM v. Whital*, *White v. Jones*, *Collins v. Wilcock*, *Fagan v. Metropolitan Police Commissioner*. The two theories for liability in psychiatric sufferings, i.e. impact theory and area of shock theory, *Hambrook v. Stokes Bros*, *Dulieu v. White & sons*, *King v. Philips*, *Bourhill v. Young*, *Chadwick v. British Railways Board*, *Alcock v. Chief Constable of West Yorkshire police*, *Achhutrao H Khodwa v. State of Maharashtra*, *Sunil v. Batra Hospital* etc.

2. The Defendants are the manufacturers of firecrackers. They are engaged in processing, handling and storage of explosive chemicals and inflammable materials at their plant site. They stored inherently dangerous and extraordinarily hazardous toxic materials in their premises. The material was stored in a manner that in case of any accident, the rescue team could not easily move in the store to prevent and control the damage. Also, the D used to dump their waste on the vacant portion of their factory site. Due to long persistent use of the land caused damage to the P's (Plaintiff) property. On one night, fire broke out in D's premises for unknown reasons. The fire resulted in explosion and leakage of harmful chemicals from their factory. By inhaling poisonous gas, a number of workers while at work in the factory sustained burn injuries and experienced breathing problem. 'P' along with other ailing residents have filed a suit claiming damages from D.

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Table of Contents Nov 209164 1 Answers

1. Understanding the eBook Nov 209164 1 Answers
 - The Rise of Digital Reading Nov 209164 1 Answers
 - Advantages of eBooks Over Traditional Books
2. Identifying Nov 209164 1 Answers
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Nov 209164 1 Answers
 - User-Friendly Interface
4. Exploring eBook Recommendations from Nov 209164 1 Answers
 - Personalized Recommendations
 - Nov 209164 1 Answers User Reviews and Ratings
 - Nov 209164 1 Answers and Bestseller Lists
5. Accessing Nov 209164 1 Answers Free and Paid eBooks
 - Nov 209164 1 Answers Public Domain eBooks
 - Nov 209164 1 Answers eBook Subscription Services
 - Nov 209164 1 Answers Budget-Friendly Options

6. Navigating Nov 209164 1 Answers eBook Formats
 - ePub, PDF, MOBI, and More
 - Nov 209164 1 Answers Compatibility with Devices
 - Nov 209164 1 Answers Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Nov 209164 1 Answers
 - Highlighting and Note-Taking Nov 209164 1 Answers
 - Interactive Elements Nov 209164 1 Answers
8. Staying Engaged with Nov 209164 1 Answers
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Nov 209164 1 Answers
9. Balancing eBooks and Physical Books Nov 209164 1 Answers
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Nov 209164 1 Answers
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Nov 209164 1 Answers
 - Setting Reading Goals Nov 209164 1 Answers
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Nov 209164 1 Answers
 - Fact-Checking eBook Content of Nov 209164 1 Answers
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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