

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.

Nov 209164 1 Answers

L Cohen



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