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LAW OF TORTS

NATURE & DEFINITION

1. "Law of torts is said to be a development of the maxim 'Ubi jus ibi remedium'." Discuss the statement.
2. "A tort is a specie of civil wrong." Examine this definition and add other features to make it comprehensive.
3. "Tort is concerned with the allocation and prevention of losses which are bound to occur in society." Discuss..
4. "Before a person can recover for loss which he suffered from another person's act, it must be shown that his case falls within the class of actionable wrongs." Discuss.
5. Distinguish between tortious liability and criminal liability.
6. "In tort the plaintiff wins his case only when he proves as to what particular tort the defendant has committed against him." Examine.
7. Which one of the following two expressions is correct and why? 'Law of Torts' or 'Law of Tort'.
8. "All torts are civil injuries but all civil injuries are not torts." Explain the above statement.
9. Distinguish between tortious liability and contractual liability.
10. "Whenever there is a breach of duty there is a cause of action in tort." Discuss.
11. Duties in tort exist by virtue of the law itself, and are not dependent upon the consent of the persons subjected to them". Examine.
12. "Law of tort is based upon a fundamental general principle that it is wrongful to cause harm to another person in the absence of some specific ground of justification or excuse?" Examine.
13. Under what conditions may an action in tort be maintained for a breach of a statutory duty?
14. 'It is inconsistent with the authorities to contend that the infliction of unjustifiable harm is always a tort'.
15. How is a tort different from other civil wrongs?
16. Some writers are of the view that there is no law of tort but only a law of torts. Explain the view. What is your view.
17. What, in your opinion, are the reasons for the slow development of the law of tort in India?



18. "Damnum sine injuria and injuria sine damnum are two different principles of law". Comment briefly.

LIABILITY BASED UPON FAULT AND STRICT LIABILITY

1. Explaining the concept of 'no liability', mention the Indian Acts in which this concept has been incorporated.
2. 'No fault liability rule has undergone a drastic change in the recent past.' Comment.
3. We must use our property so as not to cause discomfort to another's use of property. Yet a temporary discomfort is not actionable. Explain the law.
4. "If a person brings or accumulates on his land any thing which if it should escape may cause damages to his neighbours, he does so at his peril." Discuss the above statement by referring the Judicial Pronouncements along with the exceptions there to.
5. Discuss the rule of strict liability with the help of relevant case law. Is there any difference between strict liability and absolute liability?
6. There was a leakage of oleum gas from one of the units of Mr. X's Textile Industry, situated in the city of Mumbai, on the 4th and 5th October. 1995. It resulted in the death of an advocate practicing in a court and all the ill effects of same to various persons. Mr. Y, a public spirited individual filed a writ petition under Art. 32 of the Constitution before the Supreme Court of India claiming compensation. Decide the liability-of the occupier.
7. What are the exceptions to the rule of strict liability? Briefly examine each of them.
8. Explain the nature, scope and extent of the liability of the polluter for environmental torts in the light of the "Polluter pays principle" as developed in recent Supreme Court decisions.
9. Discuss the legal principles, in the background of the recent changes in the law, applicable to the determination of liability for injury caused by "hazardous substances" and also the nature of the said liability. Refer to relevant case law.
10. Discuss the rule in *Rylands Vs Fletcher*. Examine whether this rule is applicable in case of physical injuries caused to innocent persons by discharge of noxious fumes from industrial plants.
11. Critically examine the modern position of the rule in *Rylands u Fletcher*. D has placed on his parking ground a disused coach from the which petrol had been drained and a cap screwed on entrance pipe. Some unknown person removed the cap. Shortly thereafter, one of the two boys, who hurried away as P approached the parking ground, threw a lighted match in the entrance pipe of the tank. The petrol fumes in the tank caught fire and the consequent explosion injured P. Can P sue D ?



12. What is the importance of the case *Rylands Vs. Fletcher*, (1868) L. R. 3 H. L. 330, in the law of torts?

VICARIOUS LIABILITY

1. When is principal not liable for the torts committed by his servant? Discuss.
2. "State liability in Torts has undergone an acute transformation in recent times." Discuss in the light of latest judicial pronouncements.
3. 'A master is not responsible for a wrongful act unless it is done in the course of employment'. Comment and explain the circumstances when wrongful acts are deemed to be done "in the course of employment." Refer to decided cases.
4. "State has to answer for every wrong committed by its erring servant." Comment.
5. A car driver in the course of his employment leaves the ignition keys in the car and leaves the car on a crowded road. During his absence a trespasser gets into the car and drives it causing an accident resulting into injuries to the plaintiff. The plaintiff sues the car owner in tort. Decide.
6. Even if the master cannot actually control the way in which the servant does his work because the servant is a skilled professional who knows his job and will carry it out in his own way, the master nevertheless remains liable for the negligence of the servant. Comment.
7. "A wrong falls within the course of employment of the servant. If it is necessarily, incidental to something which the servant is employed to do." Explain.
8. Discuss the rules regarding Vicarious Liability. Examine also the liability of the State in India for the torts of its servants.
9. Discuss the liability of the government of India, for the tortuous acts of its servants.
10. The State Government constructed an irrigation canal about seven feet deep which passed through the orchard of the plaintiff. Within one year of the water being let out in the canal the level of the sub-soil water in the plaintiff's orchard rose appreciably and as a result, due to excessive absorption of water by the roots of fruit trees growing in the orchard, about 300 fruit trees wilted and withered. The plaintiff sues the State claiming Rs. 60,000 as damages for the loss of fruit trees contending that had the canal been cemented or lined at the floor no damage would have been caused to him. The State denies liability on the ground that the canal had been constructed in exercise of sovereign power of the State and as per specification prescribed for irrigation canals.
11. A was a milk rounds man employed by X Co. There were several notices up X Co's depot making it quite clear that the rounds men were not allowed to take children on the vehicles. Both employer and the trade union tried their utmost to stop but in spite of these efforts the practice of engaging children to assist rounds men still persisted. A



also engaged B, a boy who just over 13, to assist him in the course of his rounds and paid him Rs. 4 per day. One day after delivering milk at one house, B jumped on to the milk vehicle. He sat there with one foot dangling down so as to be able to jump off quickly. At that time, A drove the vehicle carelessly and it went too close to the keep with the result that as the vehicle went round the corner, the wheel caught B's leg and his foot was broken. B, by his father as his next friend, brings an action for damages against X Co.

12. B, a store keeper employed by the need to return a fork-lift truck to the warehouse found his way blocked by a large lorry belonging to a third party. Although there was no urgency, B without first inquiring from the driver of lorry, attempted to move the lorry himself and by his negligence in doing so caused an injury to C who sued him for damages.
13. Who is a servant for the purposes of vicarious liability? When is he said to be acting in the course of employment?
P was waiting for a bus at a bus stop when D's truck carrying stones and driven by his servant, K stopped there. P who knew D sought a lift which K allowed. In the course of journey the truck met with an accident on account of negligent driving by K resulting in serious injuries to P. P sues D for damages.
will he succeed?
14. A young man takes out his father's car, when his father is out of town, and goes to a hotel on the seaside with a girl friend. While returning home late in the evening, he knocks down a boy due to rash driving, causing him serious injuries. Can the boy sue the father for damages?
15. A, the owner of a car, had employed B as driver, to ply the car on hire as a taxi. B had engaged C as the cleaner of the vehicle. B handed over the car to C for the purpose of taking a driving test to obtain a licence. C, when driving the car during the test, drove negligently and caused injuries to X, a pedestrian on the road. B was not present in the car at the time of the accident but was present when the car was handed to C for the driving test and had allowed C to drive the car for the test, X, the injured person, claims damages from A, the owner of the Car. Decide giving reasons whether he can succeed.

NUISANCE

1. "Public nuisance is a crime whereas private nuisance is a civil wrong." Explain.
2. "Nuisance as a tort means an unlawful interference with a person's use or enjoyment of land or some right over or in connection with it." Comment.



3. "It is possible to support an action for nuisance as well as of negligence on the same set of facts, however, there are certain points of distinction between the two." Discuss.
4. "In order to constitute a public nuisance there must be an act or an illegal omission, and it is not necessary that the act should be illegal." Explain the offence of public nuisance with the help of decided cases.
5. "Acts done with the intention of annoying a neighbour and actually causing annoyance will be nuisance. Comment.
'A', a music teacher, gives music lessons at his residence. B, the neighbour, resides in the adjoining house. Maliciously causes discomfort to A, by hammering against the party wall, beating the trays, whistling and shrieking. A prays for an injunction against B, should he succeed?
6. The defendant establishes a flourmill in the heart of a city adjacent to the plaintiff's house in a residential area. Running of the mill causes vibrations to the house and unpleasant noise. The plaintiff sues the defendant and claims damages and injunction. The defendant argues that he has a freedom to establish his trade and business and that his flour mill is also beneficial to a large number of residents in the area. Decide.
7. Distinguish between Public nuisance and Private nuisance.
8. "The mere fact that a process is useful to persons generally, in spite of its annoyance to the plaintiff is no defence to an action for the tort of nuisance". Examine.
9. Examine the tortious liability of A in following :
 - (a) A pretends to lock the plaintiff in a room by purporting to turn key of the door from outside and taking it away. The fact is that the door, though shut, is not locked. The plaintiff remains in the room for two hours under the belief that he has been locked inside.
 - (b) Branches of tree grown on B's land overhang on the side of A, his neighbour. A repeatedly requests B to cut off these overhanging branches so that A is able to enjoy sunlight. B does not pay heed to these requests. A goes on to the side of B and cuts off those branches.
10. "Under the tort of nuisance a person cannot increase the liabilities of his neighbour by applying his own property to special uses, whether for business or pleasure." Examine.
11. Study very carefully the following two situations: Situation A: The defendant, a deeply religious man and owner of a house in the heart of a city, set it apart free of rent for those who wished to use the same for religious purposes. As a result the house remained occupied most of the time. The music played through the loudspeakers during religious ceremonies caused constant noise and inconvenience to the neighbours:



Situation B: The defendant established a flour mill in a residential area in the heart of a city adjacent to the plaintiffs house. Continuous running of the mill for long hours everyday caused unpleasant noise as well as continuous vibrations in the house of the plaintiff.

Compare the tortious liability of the defendants in the above mentioned situations. Give reasons and cite case-law.

12. Explain the elements of the tort of private nuisance.
13. "The essence of the tort of nuisance is interference with the enjoyment of land".
14. What elements are necessary to constitute the tort of 'Nuisance'. Cite decided cases.

NEGLIGENCE

1. When, under the law of torts even using reasonable care, is a person liable for the tort of negligence? Discuss.
2. "Direct evidence of negligence, however, is not always necessary and the same may be inferred from the circumstances of the case." Elucidate with cases.
3. Discuss with the help of decided cases where the Court while deciding cases on contributory negligence keeps in mind the negligence on the part of plaintiff and defendant both.
4. W, wife of A was diagnosed to be suffering from toxic Epidermal Necrolysis. Doctor D was consulted who prescribed a long acting Cortico steroid 'Depomedrol injection at a dose of 80 mg twice daily. Despite administration of this medicine her condition deteriorated rapidly and she died within a week. On expert opinion, it was found that the line of treatment followed by D is not supported by any school of medical thought and is in sheer ignorance of basic hazard relating to use of steroids. A files a complaint in Consumer Forum claiming Rupees 75 lakhs as damages for death of his wife W. D objects to the jurisdiction of the Consumer Forum and also pleads lack of negligence on his part. Decide.
5. Mr. X himself was driving a car and when he was passing through a railway level crossing, his car was hit by a mail train. The car was smashed and Mr. X was seriously injured, and died in hospital. In an action by the widow against the Union of India, as owner of the Railway, it was contended that the level crossing was unmanned and the gates were open. This constituted negligence on the part of the Railway. Further it was contended that there was no contributory negligence on the part of Mr. X, the deceased, as he could not have a look at the railway line from a distance as his view was obstructed by some trees, etc., nor could he hear the sound of the coming mail train while he was in the car with the engine running and the windscreen closed. Decide the case giving your reasons.



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6. The defendant had been carrying cargo in a lorry for the plaintiff. On the way, there was heavy rainfall. The cargo was damaged by seepage due to rainwater rising from below, while it had been securely protected by the defendant by tarpaulin from above. The flash flood on the highway had stranded hundreds of lorries including that of the defendant, and the water level on the highway rose above, tyres and up to the level of the platform which resulted in the seepage. However, the plaintiff claimed heavy damages from the defendant on the ground of negligence for want of due care. Discuss whether the defendant can have any defence in this case.
7. "The principle of *res ipsa loquitur*' is an exception to the rule that it is for the plaintiff to prove negligence of the defendant." Discuss with reference to some cases.
8. "The defendant must not only owe the plaintiff a duty of care, he must be in breach of it." In the light of the above statement examine as to how would the court find out as to whether there is a breach of a duty on the part of the defendant or not. Refer to case law.
9. Discuss the principle of *Res-ipsa-Loquitur*. Refer to recent cases.
10. The doctrine of "alternative danger" is the extension of doctrine of "contributory negligence". Discuss.
11. "When a plaintiff acts as a reasonable and prudent man, he is entitled to damages even though he selects the more dangerous alternative when confronted by the defendant's negligence." Discuss.
12. "In the tort of negligence the question as to whether the defendant has acted as a reasonable man or not depends on many factors". Discuss.
13. Explain the occupier's liability in respect of structures.
14. Examine how and when a duty of care arises, breach of which on the part of the defendant makes him liable in an action for negligence. What is the liability, if any, for negligent mis-statement which causes financial loss to the plaintiff?
15. Study very carefully the following two situations: Situation A: While playing on a cricket ground owned by the defendant, a batsman hit the ball so hard that it went over the boundary wall and hit the plaintiff walking on an adjoining street. In the history of the eighty year old ground the ball had been so hit out five or six times. Situation B: Trespassing children used to play football in an open area belonging to the defendant adjoining a busy road. In the absence of a high boundary wall, the ball used to go on the road frequently and children used to go there to fetch the ball back. One day the ball was shot out on to the road where it hit a scooter driver causing him to fall and suffer injuries.
Compare the tortious liability of the defendants in above mentioned situations. Give reasons and cite case-law.



16. "The facts must support the implication from occupier's conduct that he has permitted entry, not merely tolerated it, for knowledge is not tantamount to consent." Discuss with reference to the liability of the occupier towards a licensee.
Is it in any way different towards a trespasser? Explain.
17. Employees of the telecommunications department opened a manhole in a street near a children's park and in the evening left the open manhole covered by a canvas tent unattended and surrounded by warning paraffin lamps. The plaintiff, a boy aged , eight, attracted by lamps and the tent entered into the tent. While peeping into the manhole he stumbled over a lamp. The lamp fell into the manhole and in a violent explosion that followed plaintiff sustained burn injuries. In an action in tort, the department pleads remoteness of damage. Decide.
18. A, the owner of a house, allows the branches of a tree in his compound to overhang the adjoining highway. B a driver of the city bus corporation, drives a bus negligently very close to the overhanging branches so that the branches injure a passenger in the bus through a window, and he loses his eyes. From whom can the passenger recover damages for the loss of the amenity, from B, the city bus corporation, or A, or from all the three?
19. Explain the common law doctrine of contributory negligence and the illogicality involved in it that paved the way for its modification.
20. What are the conditions of application of the maxim *res ipsa loquitur*? How does it effect the burden of proof in cases of negligence?
21. Under what conditions may an action in tort be maintained for a breach of a statutory duty?
22. "While no action can be maintained by a person who suffers mental pain in consequence of the act of another person, the position is different as regards nervous shock". Examine and explain when an action can be maintained for causing nervous shock.
23. "It is essential to grasp at the outset that it is not the law that a person suffering damage as a result of careless conduct can sue in tort; careless acts do not necessarily constitute the tort of negligence".
24. Raj, sitting on the verandah of his house, saw a blind man, Shyam passing alone on the road. Raj found that there was a ditch in the road a few yards ahead but he kept quiet. Shyam asked for help but Raj did not speak. Shyam walked forward, fell into the ditch and sustained a fracture. Can Shyam recover damages from Raj? Would the answer be different if there was previous enmity between Raj and Shyam?
25. X, a fisherman, had just alighted from the tram car and when the driver was, helping her to put her basket on her back, Y, a motor cyclist, passed the tram car at excessive speed and owing to his own negligence collided with a motor car and was killed. X did



not see Y or the accident which occurred about fifteen yards off her view being obstructed by the tram but she approached the spot and saw blood on the road. In consequence, she sustained nervous shock and gave birth to a stillborn child of which she was eight months pregnant. She sues the personal representatives of Y for Y's negligence.

How will you decide?

26. Explain the following with the help of examples:

(i) Res ipsa loquitur.

27. The decision in 'Donoghue Vs. Stevenson' has got rid of the law of the contract fallacy and provided authority for the proposition that a notional duty is owed independently of contract by a manufacturer to the ultimate consumer of his product.

Discuss the above advertising to Lord Atkin's formulation of the "Neighbour Principle".

28. Distinguish: (i) Nuisance from negligence

29. Trivedi, a Deputy Secretary of the Welfare Department of the Bengal Government, travelled in a government jeep, driven by a government driver, to supervise famine relief in an outlying district of Bengal. After about 40 kilometers, the jeep suddenly caught fire in the engine. In an attempt to escape the fire Trivedi jumped off the jeep and died in the attempt. Trivedi's wife and children have given notice of a claim of one lakh of rupees as damages for negligence against the government.

As the advocate-general you are asked to advise the government. Please write down you advice taking into consideration all aspects of the cases.

30. "The crude view that the law takes cognisance, only of physical injury resulting from actual impact has been discarded and it is now well recognized that an action will lie for injury by shock sustained through the medium of the eye or the ear without direct contact".

Discuss this statement with the help of decided cases.

31. S, a workman in the defendant's factory had only one eye. The work in the factory involved some risk of eye injury, but the likelihood of injury was not sufficient to require defendants to provide protective eye goggles to normal two eyed workmen and so they did not provide goggles to any of their workmen. In the course of this work, a piece of metal flew off and injured S in his one eye and he became totally blind.

S claims damages from his employers on the ground that they broke their duty to take reasonable care for his safety. Discuss the chances of his success.

FALSE IMPRISONMENT & MALICIOUS PROSECUTION



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1. "Every confinement of the person is an imprisonment, whether it be in a common prison or in a private house or in the stocks or even by forcibly detaining one in the public streets." Explain with the help of case law
2. "Malice is not to be inferred merely from the acquittal of the plaintiff. The plaintiff must prove independently of the acquittal that his prosecution was malicious and without reasonable and probable cause." Comment.
3. "Total restraint on the liberty of movement of a person, however short its duration may be, will amount to false imprisonment." Discuss with the help of relevant case law.
4. Explain the essentials of malicious prosecution. What are the grounds on which plaintiff can claim damages?
5. "It is an actionable wrong to institute, maliciously and without reasonable and probable cause, criminal proceedings which may injure person's reputation, personal freedom or property." Elucidate.
6. "In tort of malicious prosecution the plaintiff must prove among other things, that the defendant was the person who was actively instrumental in putting " the law in force." Discuss.
7. Distinguish the following two incidents and point out regarding wrong, if any, which has been committed in these incidents. Distinguish in the context of the nature and composition of these wrong:
 - (i) The Municipality permitted a political party to hold a meeting in a public park blocking a busy road. X wanted to go to Y's house crossing the road but was not allowed. There was no other way to go to Y's house.
 - (ii) A customer was suspected of having committed a theft in the departmental store by the staff. She was detained by the Manager for 2 days in a store-room.
8. Distinguish between Malicious prosecution and false imprisonment.
9. How do you distinguish between wrongful imprisonment and wrongful restraint? Explain with illustrations.
10. 'Every unsuccessful prosecution does not expose the complainant to a civil action for malicious prosecution.' Explain the circumstances under which an action lies for malicious prosecution.
11. An assistant sup-inspector A and a head constable, B barged into the house of C, a businessman where he (C) was playing cards along with his six friends. A and B directed the cards players to take out their wallets, threatening to take them to the police station. Apprehending registration of a case under the Gambling Act, all of them parted with R\$. 10,500/- in all. What offence have A and B committed?

ASSAULT AND BATTERY



1. Assault is an act of the defendant which causes to the Plaintiff reasonable apprehension of the infliction of a battery on him by the defendant." Comment and distinguish between assault and battery.
2. Distinguish the wrong committed in the following:
 - (a) The defendant told the plaintiff to leave the premises in occupation of the plaintiff.. When the plaintiff refused, the defendant collected some of his workman who mustered round the plaintiff, tucking up their sleeves and aprons and threatened to break the plaintiff's neck if he did not leave. The plaintiff then left the place.
 - (b) A.takes B by the Collar and pushes him down the hill.
3. "It would be rational to say that the tort of battery protects not merely the interest in freedom from bodily harm, but also that in freedom from insult'.

DEFAMATION

1. Mention the defences of tort of defamation and also discuss whether exceptions given under the Indian penal Code, 1860 for the offence of defamation may be claimed as additional grounds by the defendant.
2. "It is immaterial whether the defendant intended the defamatory statement to apply to the plaintiff or knew of the plaintiffs existence if the statement might reasonably be understood by those who knew the plaintiff, to refer to him." Elucidate with case law.
3. Discuss with the help of judicial pronouncements the situations in which plaintiff may prove apparently non-defamatory statements as defamatory.
4. It is not necessary that in all cases of tort of defamation there must be a loss of reputation of the plaintiff." Explain and illustrate.
5. The editor of a weekly published a series of articles directed against the business of the plaintiff alleging how the wealth of the vast empire was built up by having recourse to the unlawful and questionable means involving tax-evasion, import-export rackets, foreign exchange violation and how the investigation into the operation of the organisation were bogged down. In an action for defemation, the put up the defence of air comment on a matter of I public interest. The plaintiff brought evidence to show that the defendant had to tender an apology to the plaintiff in an earlier defamation case and that the present publication was motivated by malice. Discuss the defence of fair comment in the light of the facts of the case.
6. Explain the ingredients of "Innuendo". What is the plaintiff required to prove in order to sustain the plea of Innuendo?
7. 'A statement made in performance of duty is privileged'. In the light of this statement critically examine the tort of defamation.



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X, the famous writer and art critic que while criticising the paintings of Y the famous painter, wrote in the newspaper as follows:

'Mr. Y's paintings are pots of paint hurled in the eyes of the public'. He afterwards wrote to Y saying that whatever he had written had been said by him in the course of his duty and hoped that he would not allow this to interfere with their friendship. Y replied and said 'Next time I meet you, I shall punch your nose damn hard. I hope you will not allow this to interfere with out friendship'. What torts, if any, have they committed and what defences are available to them?

8. What is meant by 'innuendo'? What are the facts, the Plaintiff must prove or establish in order to sustain a plea of innuendo?
9. "Absence of knowledge that a matter is defamatory or absence of intention to injure the plaintiff is, by itself, no excuse for the defendantfin tort". Discuss.
10. Distinguish the wrong committed in the following two incidents and also give decisions:
 - (i) X circulated a handbill to his neighbours alleging that Y became the Chairman of the Village Panchayat by paying money to the members of the Panchyat.
 - (ii) X goes on informing his community members in many families that Ms Y is not chaste as many people have seen her in the company of different people at various places.
11. Distinguish between the following:
 - (i) Libel and Slander
12. How do you distinguish the following ? What reasons can be attributed for the difference?
 - (i) A Solicitor, acting on behalf of his client, dictated a letter to the plaintiff stating therein that she (plaintiff) bears immoral character. The letter then was posted to the plaintiff.
 - (ii) X told Z that Y is suffering from AIDS though the statement is not true.
13. The defendant newspaper company Publishes the photographs of Mr. A and Ms. B along with caption that they were getting married on that day. They published this only after Mr. A himself had confirmed to their correspondent that the news was true the fact however, was that Mr. A was already married but his wife was residing in another city because their relations were strained. The wife, Mrs. A files a defamation suit against the defendant. Decide.
14. A, ajournalist, writes an article against B, a public servant, alleging that B has misappropriated a sum of Rs. 2 lakhs from the public fund under his control. In an action in tort for defamation by B against him, A takes the defence of fair comment. Discuss with reasons.
15. What is meant by 'innuendo'? What are the facts which the plaintiff must prove or establish in order to sustain a plea of innuendo?



16. Explain the defence of 'fair comment' to a civil action for defamation.
17. The defendant, publisher of a newspaper, published an account and photograph of the "curly-headed wife" of a named boxer. The plaintiff, another woman, in fact the boxer's wife- files a suit against the defendant claiming damages for defamation and produces witnesses who give evidence that had read the statements to mean that the plaintiff was not the wife of the boxer but they were not misled into thinking that she was not the wife, nor is any person misled produced as witness.
18. Examine the scope of the defence of truth in an action for defamation.
19. In this connection, what is the significance of the statement that "the greater the truth, the greater the libel"?
20. How is this defence different from fair comment?
21. Distinguish: (i) Fair comment from qualified privilege.
22. T was a literary critic employed by a newspaper concern. In one of his reviews in the newspaper of the week's films, T had strongly criticized a film produced by X Co. Thereupon the film company wrote a letter to the newspaper concern stating that in their opinion T was unqualified to express any criticism of films as he was acquainted with the tastes of the picture- going public and that he should be prevented from harming the film industry by his reviews. T sues X Co. for Defamation. Advice X Co. as to the possible defences they can plead.

GENERAL DEFENCE

1. Explain 'necessary' as a defence for the liability of tort and also mention the classes of necessity.
2. "Harm suffered voluntarily does not constitute a legal injury and is not actionable." Elaborate along with its limitations.
3. "The maxim is 'volenti non fit injuria' and not 'scienti non fit injuria'." Explain.
4. Defence of 'Volenti-non-fit injuria' is not available when the rescuer is injured in an act rescuing." Discuss.
5. 'Volenti non fit injuria is a defence for liability in tort.' Illustrate your answer with decided cases.
6. "Statutory right affords no protection if negligence, unreasonable conduct, want of jurisdiction or irregularity is proved."

REMEDIES AND DAMAGES



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1. "The defendant must not only owe the plaintiff a duty of care, he must be in breach of it" In the light of above statement examine as to how would the court find out as to whether there is a breach of a duty on the part of the defendant or not. Refer case law.
2. What are liquidated damages and when are they awarded?
3. It is the task of the law of tort to determine when the law will and will not grant redress for damage suffered." Discuss.
4. "Whenever damages cannot be precisely calculated in terms of money, the court may take into account the motives and conduct of the defendant, and where these aggravate the plaintiff's injury the damage will be correspondingly increased." Discuss.
5. When do the courts award exemplary damages in an action for tort?
6. 'The basic principle for the measure of damages in tort as well as in contract is that there should be restitution in integrum'. Explain and comment.
7. What are 'Unliquidated damages'? When are they awarded?
8. A person was running a sawmill. He allowed young boys in the locality to come and watch the working of the machine from a distance. One day, unnoticed by anybody, a young boy of eight years went very near the machine and put his hand in it. The hand was severed and the boy was permanently maimed. The boy represented b/ 'his father as next friend, instituted a suit for damages. Will he succeed?
9. B was the owner of a multi-storeyed building and A was a tenant in respect of one flat on the first floor of the said building. After sometime A purchased a car and started parking his car in the compound of the said building without B's permission. Since other tenants of the said building were parking their vehicles in the same compound but with B's permission, B asked A not to park his car in the said compound but A neither stopped parking his car nor sought the permission to park his car there. B sues A for trespass and seeks an injunction restraining from parking his car in the said compound.
10. "In assessing damages, the law takes an account of certain consequences but considers only proximate consequences." State the test by which the remoteness of consequences is determined by the courts for this purpose. Refer to judicial pronouncements.

JOINT TORT FEASORS

1. "Liability of joint tort feasons in Law of Tort is Joint and Several." Discuss.
2. The liability of I Dint tort-feasons is 'joint and several'. In the light of this statement discuss who are joint tort-feasons and their liability with the help of illustrations and case law.