

**SCHOOL OF LAW**  
**HAMDARD INSTITUTE OF LEGAL STUDIES & RESEARCH (HILSR)**  
**JAMIA HAMDARD, NEW DELHI**  
**End Semester Theory Examination, May/June 2024**  
**B.A.L.L.B. II<sup>nd</sup> Semester**  
**Law of Torts & M.V. Act (B.A.L.L.B -206)**

Time: 3 Hours

Maximum Marks-60

**Instructions**

- I. Write your Roll Number on the top immediately on receipt of this question paper.
- II. Attempt five questions selecting one from each Unit. All questions carry equal marks.

**Unit -I****(12 marks)**

1. Explain the significance of the Ashby v. White (1703) 92 ER 126 in tort law. Discuss the legal principles established by the court regarding violation of an absolute right, even in the absence of actual physical damage. Highlight the maxims 'Injuria sine damnum' and 'Ubi jus ibi remedium' in your answer.

**OR**

2. Define and discuss the word "Tort" in detail. A tort is different from Contract and crime. How?

**Unit-II****(12 marks)**

3. Negligence is an Omission in the performance of the legal duty. Explain it with the help of relevant case laws.

**OR**

4. In the case of Smith v. Charles Baker & Sons (1891) AC 325, the Claimant sued his employers for injuries sustained while working in their employment. He was employed to hold a drill in position while two other workers took turns hitting the drill with a hammer. Next to where he was working, another set of workers were engaged in taking out stones and putting them into a steam crane which swung over the place where the Claimant was working. The Claimant was injured when a stone fell out of the crane and struck him on the head. The Defendant raised the defence of volenti non fit injuria. The Claimant knew it was a dangerous practice

and had complained about it being dangerous but continued working nonetheless. Discuss whether the Claimant was precluded from recovering damages based on the defence of volenti non fit injuria. What was the House of Lords' decision in this case? Explain the reasoning behind their decision.

**Unit- III****(12 marks)**

5. Elaborate the concept of Nervous shock as discussed in the case of Wilkinson Vs. Downtown. Who will be the primary and secondary victims in case of nervous shock.

**OR**

6. Mr. A, a careless driver, collided with Ms. B's car at an intersection. As a result of the collision, Ms. B's car suffered minor damage, but she decided to drive it to the repair shop. On her way to the repair shop, Ms. B lost control of the car due to a mechanical failure unrelated to the collision, resulting in a serious accident that caused significant injuries. Analyze whether Mr. A can be held liable for the injuries suffered by Ms. B. Discuss the application of the "but for" test and the concept of novus actus interveniens in determining liability for the harm caused.

**Unit-IV****(12 marks)**

7. "Rule of absolute liability has been expounded by the apex court in MC Mehta Vs. Union of India". How far it is a reform over the rule of strict liability? Comment.

**OR**

8. Under what circumstances can the State be held vicariously liable for the tortious acts of its employees? Discuss with reference to the State of Rajasthan v. Vidyawati case.

**Unit-V****(12 marks)**

9. X sends an e-mail to Y containing defamatory matters against him. The e-mail is received by Y who deletes it after reading. Is X liable for publication? Refer to relevant case law.

**OR**

10. (a) Describe the defence of privilege in the context of defamation. When and how can a defendant use privilege as a defence?  
 (b) Discuss the defense of fair and bona fide comment. What elements must be satisfied for this defense to apply?