

SET 2

1.PRINCIPLE: A plaintiff is not disabled from recovering by reason of being himself a wrongdoer, unless some unlawful act or conduct on his own part is connected with the harm suffered by him as part of the same transaction. This is called the principle of plaintiff the wrongdoer.

FACTS: Kim and Sheela are next door neighbours. However they cannot stand each other and have frequent quarrels which often turn nasty. In the dead of night Kim steals into Sheela's property claiming she wanted to take a walk in the latter's gardens. Sheela had a pet dog called Yumi who jumped at Kim. Kim files a suit claiming damages from Sheela. Will she succeed in the case? Decide.

- A. Kim will succeed because Sheela forgot to tie her dog.
- B. Kim will succeed because she just wanted to take a walk and not commit any wrong.
- C. Kim will not succeed because she trespassed into Sheela's garden and it was her own conduct that the dog jumped at her.
- D. Kim will not succeed because she irritated the dog by coming into the dead of the night.

Answer: (C) is the correct option. Sheela can take the plea of 'plaintiff the wrongdoer' as Kim herself had first trespassed onto her property and thus could not claim a suit having committed a wrong herself in the first place. According to the principle, A and B are incorrect. Option D is incorrect as it gives a very frivolous reasoning. We might as well infer from it that if Kim had come at some other time of the day and not in the dead of the night, then the dog would not have bitten her.

2.PRINCIPLE: An inevitable accident or unavoidable accident is that which could not possibly be prevented by the exercise of ordinary care, caution and skill.

FACTS: Sandy and Shayak went to the Sunderbans to shoot pheasants. Sandy's bullet skidded off the bark of a tree and hit Shayak while he was talking on the phone. Shayak was injured and sued his friend for compensation. Decide.

- A. Sandy is liable because it was his bullet that hit Shayak.
- B. Sandy is liable because he was shooting pheasants which is an illegal act.
- C. Sandy will not be liable because it was unforeseeable that the bullet would hit Shayak.
- D. Sandy will not be liable because Shayak is at fault for roaming nearby when Sandy was shooting.

Answer: Option (C) is correct. This case is based on the case of Stanley vs Powell.

The defence of inevitable accident can herein be rightfully claimed by Sandy. He had taken due care and could not have foreseen the bullet skidding off the bark. Therefore he had exercised due care and cannot be held liable. The first two options are wrong because firstly he never acted in a negligent way so as to hit Shayak and secondly, the principle never talked about legality or illegality. Follow the cardinal rule.

3.PRINCIPLE: Mistake of fact is an excuse but mistake of law is not.

FACTS: Rupa runs an auction shop on the Marina beach. Yashika is an entrepreneur who asks her friend Rupa to auction off some ill gotten goods that the former has smuggled in from Bangladesh. Rupa ran all the usual checks on the goods and was reasonably confident that the goods were genuine. She auctioned off the goods and then the anomaly was detected and the new owners sued Rupa.

- A. Rupa is liable because she auctioned off smuggled goods.
- B. Rupa is liable because she should have checked in a better way and not cheated her customers.
- C. Rupa is not liable because she had performed all the checks and was reasonable in her approach.
- D. Rupa is not liable because she sold off the goods under a genuine mistake.

Answer: Option (D) is correct. Herein Rupali can claim the defence of 'mistake'. Option (c) is also correct but (D) is closer to the principle and therefore more correct.

4.PRINCIPLE: A person's individual welfare shall in cases of necessity yield to that of the community and that his property, liberty and life shall under certain circumstances be placed in jeopardy or even sacrificed for the public good.

FACTS: Anita and Sumita are neighbours. Sumita's house was on fire so she trespassed onto Anita's property to draw water from the latter's well to douse the fire .

- A. Sumita is liable because she trespassed into Anita's property.
- B. Sumita is liable because she did not call the fire brigade and straightaway jumped into Anita's property.
- C. Sumita is not liable because there was a necessity. She is protected under this defence.
- D. Sumita is not liable because she did not intend to cause any harm to Anita's property and just took water from the well.

Answer: Option (C) is correct. She is covered under the defence of necessity. Hence no liability.

5.PRINCIPLE: (a) Manufacturer is liable for the latent defects in the goods manufactured by him.

(b) A seller is relieved of any liability for the defects in goods sold by him, if the purchaser chooses his goods by trade name and not by relying upon the judgment and skill of the seller.

FACTS: Krish went to Gupta Stores and asked the Mr Gupta to give him a good bread. Mr Gupta replied: "People normally buy Gomti Bread from me". Krish bought a packet of Gomti Bread. It so happened that there was a stone embedded in one of the bread slices and it broke Krish's teeth, while eating the bread. Krish seeks compensation from Gupta Stores and Gomti Bread Company. Decide.

- (A) Gomti Bread Company alone will be liable.
- (B) Gupta stores alone liable
- (C) Both are liable
- (D) None of the above.

Answer: Option (A) is correct. Gomti Bread Company alone will be liable. Gomti Bread is liable for the stone in the bread as they are the manufacturers. The seller is not liable here because Krish himself chose the bread he took.

6.PRINCIPLES: 1. Master is liable for the wrongful acts committed by servants, in the course of their employment if third parties suffer damages in consequences.

2. However the master is not liable if the wrongful act committed by the servant has no connection whatsoever with the servant's contract of employment.

3. If a person by an act lowers the reputation of another in the eye of right thinking people, then the person who suffered loss of reputation can sue for damages.

FACTS: Bunty is a servant of Debu. On his way to Debu's house to report for duty, he goes to have a cup of coffee. There he sees Singh and accuses Mr. Singh of being a dishonest person. Mr. Singh wants to sue Bunty.

- A. Singh can Bunty as Bunty is Debu's servant.
- B. Debu is not liable as the defamation was not in the course of Bunty's employment with Debu.
- C. Debu is liable even though the defamation was not in the course of employment.
- D. None of the above answers is correct

Answer: Option (B) is correct.

7.PRINCIPLE : The owner of a property, who allows its use by another person, becomes liable for the damage caused by its use, by the latter.

FACTS : Babloo takes' his car to the garage for servicing. Since his office is a couple of kilometers away from the garage, he requests the owner of the garage to get him dropped to his

office in his car by one of the latter's assistants. The owner of the garage asks Jaggu an employee, to do the needful. On the way of dropping Babloo, the car collides with a motor cycle owing to negligent driving by Jaggu and injures its rider. The motor cyclist brings a legal action against Babloo seeking monetary relief. Decide the liability.

- (A) Motor cyclist will fail in his action, as he should have brought an action against the garage owner, in whose employment was Jaggu.
- (B) Motor cyclist will not succeed as Jaggu, who is not the agent of Babloo, is driving the vehicle.
- (C) Motor cyclist will succeed as the car was driven by Jaggu with the consent of Babloo.
- (D) None of these.

Answer: Option (A) is the correct.

8.PRINCIPLE : A careless person becomes liable for his negligence when he owed a duty of care to others.

FACTS : As the bus was leaving the platform, Choksi rushed and boarded the bus keeping the door open. Dhakkan, who was standing at the edge of the platform, was hit by the door of the moving bus and injured. Dhakkan takes Choksi to court demanding monetary compensation. Decide.

- (A) Choksi is liable to Dhakkan for not having taken care to close the door of the moving bus.
- (B) Choksi is not liable to Dhakkan, as it was the duty of the conductor of the bus to close the door.
- (C) Choksi is not liable to Dhakkan, as it was the duty of the latter to take sufficient care, while standing on the platform, as not 'to expose oneself to such accidental harm.
- (D) None of these.

Answer: Option (A) is correct.

9.PRINCIPLE: 'A' commits a tort if, without lawful justification, he persuades 'B' to breach his contract with 'C'. Strike is breach of contract of employment.

FACTS: Mr. Mehta who is a workman in National Steel Company persuades Mr. Jose to join the strike along with others demanding the reinstatement of a convicted worker of the National Steel Company. Mr. Jose joins the strike.

- (A) Mr. Mehta is right in doing so.
- (B) Strike is a workers' right, so there is nothing wrong in going on strike.
- (C) Mr. Mehta has committed a tort.
- (D) Mr. Jose has committed a tort.

Answer: Option (C) is correct. Mr Mehta has persuaded Mr Jose to join the strike.

10.PRINCIPLE: A person who commits an unlawful act towards another which can be imputed to him, must repair the damage which the other person suffers as a consequence thereof.

FACTS: Mr. Singh was riding his scooter on the right side of the road which is illegal as per the Traffic Rules. Mr. Chawla was driving his car in the opposite direction. The two vehicles collided and resulted in loss of Rs. 20,000 to Mr. Singh. This includes his medical expenses and damage to the scooter. In this accident there is no fault on the part of Mr. Chawla.

- (A) Mr. Singh will not get any amount as damages.
- (B) Mr. Singh will get full compensation.
- (C) Mr. Singh will get part of compensation.
- (D) Both will have to share the damages.

Answer: Option (C) is correct. He will get just a part of the compensation. This is a case of contributory negligence.
