

SET 4

1. **PRINCIPLE:** The wrong of defamation is committed either by way of writing, or its equivalent, or by way of speech. The defamatory statement should be published so that a third party knows about it. A defamatory statement is a statement is one which lowers a persons reputation in the eyes of the right minded people of the society.

FACTS: Priya wrote a letter to Anvita calling her a girl of bad character. When Anvita read the letter, she felt very disgusted and filed a case of defamation against Priya. Will she succeed? Decide.

- A. Anvita will succeed because Priya tried to defame her by writing a letter.
- B. Anvita will succeed because Priya what Priya wrote, lowers her reputation in the society.
- C. Anvita will not succeed because it is a matter between friends and the law does not take care of trifles.
- D. Anvita will not succeed because there was no publication.

Answer- Option (D) is correct. There was no publication of defamatory material so no defamation has happened here. C is incorrect because in tort law, the moment a tort is committed, everyone can sue everyone except for husband and wife (they can sue in any other relationship/capacity)

2. **PRINCIPLE:** Same as above.

FACTS: In addition to the given facts, say Anvita reads the letter and feels very offended. The next day she shows it to a friend and later brings up a case. Decide.

- A. Anvita will succeed because Priya tried to defame her by writing a letter.
- B. Anvita will succeed because Priya what Priya wrote, lowers her reputation in the society.
- C. Anvita will not succeed because there was no publication done by Priya. She herself showed the letter to the other friend.
- D. Anvita will not succeed because it is a matter between friends and the law does not take care of trifles.

Answer- Option (C) is correct. This is because for defamation, many things are required. But in our question, publication has never been done. The letter was published by Anvita herself and therefore Priya should not be held responsible for the same.

3. **PRINCIPLE:** Same as above.

FACTS: Priya wrote a letter to her friend Anvita in Spanish in which she called her a woman of bad character. Priya did not know that Anvita did not know Spanish. Anvita went to one of her friends who knew the language and asked her to translate it for her. When she came to know about the contents of the letter, she felt very humiliated and filed a case against Priya for defamation. Decide.

- A. Anvita will succeed because Priya tried to defame her.
- B. Anvita will succeed because the contents of the letter were published.
- C. Anvita will not succeed because Priya was unaware of the fact that Anvita did not know Spanish.
- D. Anvita will not succeed because she is Priya's friend.

Answer- Option (C) is the correct answer. Self explanatory. Priya did not publish it and because she was unaware of the fact that Anvita did not know Spanish, she cannot be held accountable. She intended the letter to be read only by Anvita.

4. **PRINCIPLE:** Same as above.

FACTS: If in the above case, Priya knew this that Anvita did not know Spanish and that is why she wrote the letter in Spanish, then decide the outcome of the case.

- A. Anvita will succeed because Priya knew that she did not know Spanish.
- B. Anvita will succeed because Priya called her a woman of bad character.
- C. Anvita will not succeed because she herself published the letter.
- D. Anvita will not succeed because she and Priya are friends.

Answer- Option (A) is correct. Self explanatory.

5. **PRINCIPLE:** An act of god is a type of inevitable accident where the factors affecting the accident are natural causes.

FACTS: Pratap created a series of artificial lakes and built embankments to contain them. One day due to extremely heavy rainfall, the heaviest in human memory, the embankments broke and the water washed away four bridges which were owned by Shivam. Shivam suffered a very heavy loss and filed a suit to recover damages. Decide.

- A. Pratap is liable because it is an unnatural use of his land to build embankments and artificial lakes on one's land.
- B. Pratap is liable because he caused a lot of damage to Shivam.
- C. Pratap is not liable because it was an act of God that caused so much damage.
- D. Pratap is not liable because the rainfall was very heavy and the bridges broke because of it.

Answer- Option (C) is the correct answer. Pratap is not liable because it was a type of inevitable accident with a natural cause. It was something beyond control. It was also the heaviest in human memory so that means that it was unexpected and therefore no precautions could have been taken. Option (A) is incorrect because creating artificial lakes is not unnatural and embankments were there in place which shows us that reasonable care had been taken. Option (B) is a very general answer without proper reasons. Such options which do not have a proper reasoning should not be marked if better options are available. Option (D) is correct but it can have the meaning that any heavy rainfall means no liability which is wrong. So (c) is correct.

6. **PRINCIPLE:** The law gives a person his right to protect his property and his person from any attack with the use of a reasonable amount of force. Private defence is not justified as a pre-emptive attack and is also not justified when the attack is already over. Disproportionate force must not be used in private defence.

FACTS: Baboo had placed a live wire running across his land. When Babloo passed through Baboo's land to go to his own house; he came in contact with the wire and was seriously injured. Later he brought a case for damages against Baboo. Decide if he will succeed or not.

- A. Babloo will win the case because he had a right to pass over Baboo's property to reach his own house.
- B. Babloo will win the case because Baboo used unreasonable force to protect his property and it was unnecessary force.
- C. Baboo will win in this case because it was his property and Babloo was a trespasser.
- D. Baboo will win the case because Babloo should have taken due care and caution while walking on the land.

Answer- Option (B) is correct. Going by the cardinal rule, Baboo had a right to protect his land but he should have used some reasonable amount of current in the wire. It was disproportionate and unjustified as there was no warning sign put up. Baboo cannot therefore

win this case by any means. Therefore options (C) and (D) are incorrect. Now, option (A) be correct if there is no other way to reach the house. But that is not our concern here. Following the cardinal rule, Option (B) is the closest to the principle. Unreasonable and excessive force cannot be used in cases of private defence.

7. **PRINCIPLE:** The law gives a person his right to protect his property and his person from any attack with the use of a reasonable amount of force. Private defence is not justified as a pre-emptive attack and is also not justified when the attack is already over. Disproportionate force must not be used in private defence.

FACTS: Rahul trespassed into Sonia's property and was trying to nail something onto the wall of her house. He was on a ladder doing this and when Sonia, saw this, she shook the ladder and Rahul fell onto the ground sustaining severe injuries. Rahul incurred heavy expenses in the hospital for treatment. Later, he filed a case for damages and to recover the money incurred in the hospital. Decide.

- A. Sonia is not liable because Rahul trespassed into her land.
- B. Sonia is not liable because Rahul trespassed into her property.
- C. Sonia is liable because she used unreasonable force. It was a pre-emptive attack and was disproportionate.
- D. Sonia is liable because she did something very wrong by pulling the ladder.

Answer- Option (C) is the correct answer. Options (A) and (B) are incorrect because even if a person trespasses on someone's property or land, disproportionate force cannot be used against him. Option (D) is wrong because it is very preachy in nature. Such options should never be picked. (c) I scorrect because she responded to trespass with excessive force.

8. **PRINCIPLE:** The defence of necessity arises when a person is forced to cause harm to prevent a greater harm from taking place.

FACTS: Golu's house catches fire. He tries to douse it but when he fails to do so, he enters Aman's house in order to put out the fire so that it won't spread to the other houses. Aman being the strict and no-nonsense person that he is, he brings a case of trespass against Golu. Decide the liability of Golu.

- A. Golu is liable because he cannot randomly jump into Aman's property without his permission.
- B. Golu is liable because he could have taken help from the fire brigade instead of jumping into Aman's property.
- C. Golu is not liable because he can take the defense of necessity.
- D. Golu is not liable because he was doing a public good by trying to prevent the fire from spreading into the houses of other people.

Answer- Option (C) is the correct answer. Here Golu is protected by the defense of necessity. He would not have trespassed if there had been no necessity. The logic used in such cases is that the good of the society is put before the good of the individual. Option (D) is incorrect because say if the fire brigade was already present there to douse the fire, then Golu would have jumped to Aman's house to perform a Samaritan task to douse the fire, in this case, even though it is in public good, he is not protected by the defence of necessity and it is no excuse. (A) is incorrect because it is a case of necessity. (B) is incorrect as Golu cannot wait in such an emergency case till the fire brigade arrives.

9. **PRINCIPLE:** The defence of necessity arises when a person is forced to cause harm to prevent a greater harm from taking place.

FACTS: Anne Hazarika was an activist who was arrested for inciting people. But the arrest could not deter her and she went on a hunger strike until her demands were met. Mr Madhok was the warden of the jail. He tried to convince her to eat but she refused to do so. Therefore he had to force feed her in order to save her life. This was not taken very nicely by Ms. Hazarika and she filed a suit of battery against Mr. Madhok. Decide if Mr. Madhok is liable for battery.

- A. Yes. Mr. Madhok is liable for battery because he forced her to eat inspite of her will.
- B. Yes. Mr. Madhok is liable for battery because he it was committed against her body and she did not approve of it.
- C. No. Mr. Madhok is not liable for battery because he did the act out of necessity to protect her life.
- D. No. Mr. Madhok is not liable for battery because he just did his duty as the warden of the jail.

Answer- Option (c) is correct. He is protected by the defense of necessity. Battery or for that matter any tort can be committed if it is done to prevent greater harm.

10. **PRINCIPLE:** Statutory authority is the authority derived from a statute or legislation. When legislation is passed, empowering a person to commit a certain act, that authority granted by the statute is a defence against liability for torts.

FACTS: The Amyland rail company laid down tracks over the land of Ambrish. One day, the sparks from the train set fire to the woods belonging to Ambrish. This caused a great loss to Ambrish because his land was taken away and his woods were also destroyed. He filed a case against the railway company for damages and to get compensation for his loss.

- A. Amyland rail company will have to pay for the damages caused to Ambrish.
- B. Amyland rail company will not have to pay for the damages caused to Ambrish as they are protected by the defense of statutory authority.
- C. Amyland Rail company will not have to pay damages because there was no negligence on there part.
- D. Both (B) and (C) .

Answer- Option (D) is the correct answer. No negligence can be proved on part of the rail company. The spark caused the fire as it reached the woods causing loss. Moreover, the rail company is protected by the defense of statutory authority.
