

SET 5

1. **PRINCIPLE:** The mere fact that a man is injured by another's act gives in itself no cause of action; if the act is deliberate, the party injured will have no claim in law even though the injury caused is intentional, so long as the other party is exercising a legal right.

FACTS: Vishal dug a coal pit using which they intercepted water. This affected Vansh's well which had been dug some 15 years ago and was situated at a distance of about a mile from that place where these people had intercepted water. This caused a lot of problems and inconvenience to Vansh and he brought a case against Vishal. Decide the outcome of the case.

- A. Vishal will win the case because he can do anything over his property that he likes and his act should not be connected to a well one mile away.
- B. Vishal will win the case because there is the absence of a legal injury and he is acting well within his legal rights.
- C. Vansh will win the case because Vishal's act caused him damage.
- D. Vansh will win the case because the underground water is not the sole property of Vishal.

Answer- Option (B) is correct. Vishal being the owner of the surface has the right to dig therein and use all that is under it for his own purpose. And the fact that he drained off all the water and caused him inconvenience is not a ground for action and does not make him liable. (A) seems less correct because it gives no proper reason. (C) and (D) are incorrect as damage without injury means no compensation and the last option is just out of our scope.

2. **PRINCIPLE:** No man can enforce a right which he has voluntarily waived or abandoned.

FACTS: Tuba invited Sakshi to her house for coffee. They became good friends very soon. In the evening while they were watching a movie, Sakshi said that she did not like Punjabi people. Tuba had a Punjabi boyfriend and so she felt very bad. She asked Sakshi to get out of her house and later, she brought an action for trespass against Sakshi. Decide.

- A. Tuba will not succeed because she herself waived off her right to sue Sakshi for trespass by inviting her to her house.
- B. Tuba will not succeed because the law does not take care of trifles.
- C. Tuba will succeed because Sakshi was making a bad comment about her boyfriend. She should not make such comments because she is in Tuba's house.
- D. Tuba will succeed because she never waived off her right to throw Sakshi out of her house when she makes such a comment.

Answer- Option (A) is correct. She herself called Sakshi to her house. She can ask her to get out of the house when she wants but she cannot bring a case because she has waived off or given up her right to sue Sakshi for trespass since she herself permitted her to come over to her house so she cannot complain later.

3. **PRINCIPLE:** When a person consents to the infliction of some harm upon himself, he has no remedy for that in tort. Consent to suffer the harm may be express or implied.

FACTS: Rohit who was the driver of Mohan was going to the petrol pump to fill petrol in the tank of the jeep. Two strangers Ali and Wali were standing on the road. They took a lift from Rohit in the jeep. At first Rohit was reluctant but later he agreed to take them. On the way, suddenly one of the bolts fixing the left front wheel to the axle gave way and this toppled the jeep. Ali and Wali were thrown out and sustained several injuries. Later they brought a case against the Rohit and his master Mohan. Decide.

- A. Both of them are liable for the damage caused because the jeep belonged to them and they had a duty of care for the passengers in the jeep.
- B. Only Rohit is liable as he did not take care to find that there was a fault in the jeep's tyre.
- C. Only Mohan is liable because Rohit is his servant.
- D. None of them are liable because it was an sheer accident and moreover by taking a lift, they had given consent to any harm caused thereby.

Answer- Option (D) is the correct answer. When they took a lift in the jeep, they gave implied consent to any harm caused because of travelling in the jeep. Even if they did not clearly state it, consent was implied. If they themselves consented to trouble or harm, they cannot complain later if trouble comes by. The principle of volenti non fit injuria is applicable in this case.

4. **PRINCIPLE:** Where a person undertakes to do work which is intrinsically dangerous, notwithstanding that reasonable care has been taken to render it as little dangerous as possible, he no doubt voluntarily subjects himself to the risks inevitably accompanying it, and cannot complain if a wrong is done to him.

FACTS: Two brothers Sunil and Sudhir had been working in Randeep's quarry. They tried to test some detonators without taking requisite precautions and their act was in contravention of statutory provisions and also the orders of Randeep to both of them. One day this act resulted in an explosion causing injury to Sunil. He brought an action against Randeep saying that his brother was equally responsible for the accident and that Randeep being the employer was held vicariously liable for his brother's conduct. Decide.

- A. Randeep is liable by the principle of vicarious liability.
- B. Randeep is liable because there is a breach of statutory obligation.
- C. Randeep is not liable because he had warned them not to do the dangerous act.
- D. Randeep is not liable because he is protected by the defense of volenti non fit injuria.

Answer- Option (D) is the correct answer. If a workman ignores an employer's instructions and contravenes statutory provisions and causes damage to himself in the process, he can be met with the defense of volenti non fit injuria.

5. **PRINCIPLE:** When a person uses force without lawful justification, he commits battery.

FACTS: Madhav and Anil had an argument during a meeting. After the argument, Anil in order to humiliate Madhav pulls his chair when he is about to sit. As a result, Madhav falls down. He is not hurt but he still goes on to institute a case of battery against Anil. Decide.

- A. Anil is not liable because Madhav is not hurt.
- B. Anil is not liable because it did not require any force to pull the chair.
- C. Anil is not liable as their argument justified his action.
- D. Anil is liable because his action is not justified.

Answer- Option (D) is the correct answer. This is so because he has committed the tort of battery. He has no legitimate reason to pull the chair and make Madhav fall down and when he does it, he is answerable for the same. The rest of the options are wrong keeping in mind the fact that a tort has definitely been committed and there is a legal injury to the person of Madhav.

6. **PRINCIPLE:** Whenever any person dishonestly takes any movable property out of the possession of any other person without his consent, he is guilty of theft.

FACTS: X comes to Y's house and takes away a book with the intention to return it.

- A. X commits theft because the book has been taken away without Y's consent.
- B. X does not commit theft because he intends to return the book.
- C. X commits theft because he has taken a book which is movable property.
- D. X commits theft because he has moved the book from Y's house.

Answer- Option (B) is correct. Here clearly the dishonest intention is missing. Therefore it does not amount to theft.

7. **PRINCIPLE:** Same as above.

FACTS: Anuj finds a purse on the road and he keeps it. Decide if this act amounts to theft.

- A. Anuj has committed theft because the purse does not belong to him.
- B. Anuj has committed theft because he did not try to find the owner of the purse.
- C. Anuj is not guilty of theft because he did not take the purse from anybody's possession.
- D. Anuj has committed theft because he did not report to the police.

Option (C) is the correct answer. This is because for any act to qualify as theft, it should be taken out from someone's possession. But here, the owner himself is not aware of the place where his purse is, so there is no mental or physical possession of the purse by any person and logically no one can find out who owns it because it is difficult to trace the actual owner.

8. **PRINCIPLE:** Same as above.

FACTS: Perna finds a diamond ring lying on Manika's table. She picks up the ring with the intention to dishonestly keep it with her.

- A. Perna commits theft because she has moved the ring from Manika's table without her consent.
- B. Perna commits theft because she has still not left Manika's house.
- C. Perna does not commit theft because Manika is careless about her valuables.
- D. Perna commits theft the moment she picked up the ring and intended to dishonestly keep it.

Answer- Option (D) is correct. The answer is self explanatory.

9. **PRINCIPLE:** Same as above.

FACTS: Raju goes to Ram's house and sees his cellphone lying there on the table. He picks it up and hides it somewhere in the garden with the intention of coming back later and taking the cellphone away for selling it. Decide if Raju is guilty of theft.

- A. Yes.
- B. No, because he merely played a prank on his friend.
- C. Yes, because he did not inform his friend about the place where he has hidden the cellphone.
- D. Yes because he intended to take away the immovable property from Ram's possession and with the same intention he removed the property.

Answer- Option (A) is the correct answer. Clearly there is a dishonest intention and the property has been moved out of the mental possession of Ram.

10. **PRINCIPLE:** If there is an infringement of a legal right of a person, he can sue under torts for compensation even if he has not suffered any harm or the loss of a single penny.

FACTS: Mr. Sharma, a bank manager refuses to honour a cheque presented by Catrina, a customer. He knows that Catrina has sufficient funds in her account. Can she sue Mr. Sharma under torts and claim compensation?

- A. Mr. Sharma has violated the legal right of Catrina. He can be sued under torts and he will have to pay compensation.
- B. The entire money of Catrina is intact in her account. She has not suffered any damage and should therefore not get any compensation.
- C. Mr. Sharma can plead extraordinary situation in the bank at that point of time due to which he cannot honour the cheque.
- D. None of the above.

Answer- Option (A) is correct. This is a case of injuria sine damnum. And hence she will get damages.
