

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR – III (Online) - 2021

LAW OF DELICT

(Three Hours)

Total Number of Questions: **06**

Answer **THREE (03)** questions and **no more**.
(Candidates will be penalized for illegible handwriting.)

1. Though the concepts of ‘Duty of Care’ and ‘Unlawfulness’ have been originated and developed parallelly under different legal systems, the concept of ‘Unlawfulness’ is wider in scope compared to the ‘Duty of Care’.

Critically examine the above statement in light of relevant case law.

2. Sriyani is a 25 years old healthy, pregnant woman. She is oversensitive to inoculations and the procedure involved with it. Due to the Covid19 pandemic, and the rapid spreading of the same, she has no option but, taking the vaccine. Although she continuously refuses to take the vaccine, the doctor in charge of inoculations in her area instructed her of the importance of getting the vaccine, provided, she has no severe health risk. On the day of the inoculation, Sriyani was anxious and distressed thus, behaved differently. Noticing her unusual behavior and genuinely thinking that it is due to her fear of inoculations, the doctor sought to distract her. In distracting her for the inoculation, the doctor informed that, Sriyani’s husband was tested positive for Covid19 thus, admitted to the hospital. Immediately after hearing it, Sriyani fainted, and later discovered that, she had suffered a nervous shock, from which she had to ensue a miscarriage. Sriyani wishes to sue the doctor who administered the Covid19 vaccine to her. She claims that the doctor is responsible for the miscarriage resulted.

Critically analyze the situation and write your answer based on the relevant legal principles in Aquilian Action.

3. The law of negligence under Delict/ Tort revolves around balancing competing interests of the litigants within the boundaries. Over the years, the courts have devised unique approaches to achieve the same. The recent English Courts have shown a keen interest to extend the scope of negligence via foreseeability by covering incidents under the law of negligence which have been traditionally considered as torts arising under Rylands v Fletcher Rule or nuisance.

Comment on the above statement in light of relevant statutory and case law illustrations.

4. Due to the rapid spread of the Covid19 pandemic, the hospitals and other health care providing facilities were no more able to facilitate patients. To meet the ongoing urge of accommodating Covid19 patients, amongst other hotels, "Hotel Duncan" also opted to provide their services as a government approved, private quarantine and health care providing center. Although the West Wing of the hotel was under renovation, with the rapid surge of Covid19 infected patients, the hotel management decided to accommodate patients in it. The Chairman, who is also the owner of the Hotel informed the contractors to finish the renovations soon, as they have already passed the agreed deadline in finishing them. Despite the need for more time in finishing the work had the proper procedure being followed, the contractors managed to finish the required renovations. Once the renovations were completed, the Hotel housed many patients in the West Wing. One day, while several patients were receiving treatment, the main wall of the West Wing collapsed and directly fell onto the patients. As a result, 30 out of 35 people receiving treatment at the West Wing of the Hotel suffered severe injuries, while the remaining 05 were reported dead. The Chairman of the Hotel made statements to the media stating that, the 05 people who were reported dead lost their lives as a result of Covid19 thus, the Hotel is not responsible for their deaths. Further, the Chairman states that he cannot take the responsibility for the injuries caused to the other 30 people, as the renovations were done by the contractors.

You are required to analyze the law governing the above issue in your answer. Cite case law and legislative provisions where necessary.

5. Sharadha is the mother of Nila, who is ten-years-old. To celebrate Nila's birthday, Sharadha placed an order for 3kgs of cake via 'Salt and Pepper' food app from 'Lucky Bakers'. Lucky bakers have a three decades of market standing and is well renowned for bakery items in the town. Sharadha instructed the vendor to place an icing greeting of 'Happy Birthday Princess' on the cake. When the cake was delivered, Sharadha noticed that the icing greeting was missing. She immediately contacted the hotline of 'Salt and Pepper' to inquire about the same. The customer care executive informed that, they do not have a policy of accepting return food items, and thereby, advised Sharadha to lodge a complaint via the food app and, that it would be resolved within five working days. After lodging the complaint, Sharadha accepted the cake which was without the icing topping.

After the birthday celebration, Sharadha shared few pieces of the cake with Ravi and Sruthi, who are their neighbors. On the next day, Sharadha and Nila developed diarrhea and skin rashes thus, was admitted to the hospital for treatment. The doctors found out that, the cause for their ill health was due to rotten food they consumed on Nila's birthday. Sharadha got to know that Ravi and Sruthi too had mild discomforts.

Sharadha wishes to pursue legal action. She seeks your advice. You are expected to advise her in light of case law and relevant statutory authorities.

6. Mr. Sirinanada is a Politician who has been serving as cabinet minister for over 15 years. When he was heading the Ministry of Sustainable Environment as its Minister, an issue over deforestation in an area acclaimed for its biodiversity arose. Allegations posed against him were that, he has conspired to sell the said area to a foreign national in order to build a tourist hotel, and thereby, had been misusing of his powers as the Minister to Ministry of Sustainable Environment. He appeared on the television couple of times, to answer the queries made by several journalists, where he vehemently denied the said allegations against him. Nevertheless, after some time a documentary titled "Political corruption and

the Lost Hope of a Sustainable Environment” circulated in the national and international media. In the documentary, an animated caricature depicting a corrupted Politician, named “Siri” was displayed. The animated character was a grotesque figure and it partially represented the allegations against Minister Sirinanda. Mr. Sirinanda, now wishes to bring a suit against the “Peace of Earth” organization for creating the documentary, which he believes to be bearing a strong resemblance to him. He is concerned that, he would be identified by the public as responsible for such corrupted actions, for which in fact he is not, as those remain to be mere allegations.

Assume that you were retained by the “Peace of Earth” organization to appear in courts, representing them. Analyze the issue in light of the significant features of English Law and Roman Dutch Law, governing this area of Law. You are also required to cite case law where necessary.

(Each question will be marked out of 100)
