

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW
MASTER OF LAWS DEGREE PROGRAMME 2022/24
REPEAT EXAMINATION– TRIMESTER I, II, III & IV
(LAW OF DELICT) – (LLM 1144)

(Three Hours)

Total number of questions: 04

Answer any **Three** questions
(Candidates will be penalized for illegible handwriting)

Question 01

Sarath is a hotelier. Sarath employed Kamal, a building contractor to build a bungalow at Nuwara Eliya in 2013. As per the request of Sarath, Kumar, the Architect of the project designed a fireplace to be used in the sitting area of the bungalow. Kumar issued drawings and instructions to build a fireplace in the bungalow using J Cox firebox (a company that produces fireboxes) suitable for an open fire. It was notified that combustible materials should not be fitted within 450 mm above the firebox unless adequate provision is made to insulate such materials. There was a railway sleeper which had been made up with bitumen fitted over the fireplace. The fireplace was continuously ignited during the cold season. After one year of its construction, the whole building caught fire in one night. Sarath was shocked to witness the ruined building and complained that he lost his income from tourism for six months until the building was renovated.

Later, it was revealed that the fireplace had been built by the contractor ignoring J Cox installation guidelines.

Advise Sarath. You are required to support your opinion with relevant legal authorities. Discuss the possibility of applying any defences to the defendants.

(100 Marks)

Question 02

‘There is nothing particularly novel about the suggestion that the rule in Rylands v Fletcher is a sub-species of nuisance.’

Do you agree with this statement? Give reasons for your answer referring to the case law developed so far in English law. Does it have any relevance to the Sri Lankan delict law?

(100 Marks)

Question 03

Vicarious liability is where one person is held liable for the torts of another, even though that person did not commit the act itself.

Critically assess how the concept of vicarious liability has been evolved in the Sri Lankan delict law referring to **selected three** cases.

(Marks 100)

Question 04

Perera is a member of the Police Services with the rank of Assistant Superintendent of Police (ASP) in Negambo. One day, an email came to his attention from the office of the Provincial Commissioner in Gampaha. The sender is identified as Lal, also a police officer. It is Bernard, a senior police officer who informed Perera that there is a complaint against him which had been found in a portal for public complaints. Bernard delegated SI Naidu to investigate these allegations against Perera. The investigations revealed that Lal's wife, who is also a police officer, had been having telephone communications with a person whose name she did not reveal but she had been referring to that person as "ASP". Naidu told Perera that the message between "ASP" and Lal's wife was of a sexual nature. Perera noticed that some young police officers no longer respected him. He is aggrieved as he is a father of two young daughters and his wife is also a senior police officer.

Advise Perera on whether he deserves any delictual remedy for impairment of personality through common law. Support your arguments with relevant legal provisions and case law.

(100 Marks)