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33
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3 SEM LLB 3 TCPL

(JULY)

**TORT AND CONSUMER
PROTECTION ACT**

Paper-303

Full Marks – 80

Pass Marks – 32

Time : Three hours

*The figures in the margin indicate full marks
of the questions.*

GROUP-A

Answer Question No. 1 and any two from the rest.

1. Briefly explain *any two* of the following : $5 \times 2 = 10$
 - (a) Trespass ab initio
 - (b) Absolute liability
 - (c) Molicious Prosecution
 - (d) Qui facit per alium facit per se.

2. "Tortious liability arises from the breach of duty primarily fixed by the law; such duty is towards persons generally and its breach is redressible by an action for unliquidated damages." Explain this definition of tort. 15
3. Distinguish between : 5+5+5
- (a) Absolute privilege and qualified privilege
 - (b) Damage and injury
 - (c) Tort and Crime
4. (a) Explain malice in fact and malice in law. 10
- (b) X intercepted by means of excavation on his own land the underground water which would otherwise have flowed into the adjoining reservoir of Y. Here X's sole motive in doing so was to coerce Y to buy his land at his own price. How far is X liable in an action brought by Y. 5
5. "A person who keeps an animal with knowledge of its tendency to do harm is strictly liable for damage that it does if it escapes; he is under an absolute duty to confine or control it so that it shall not do

injury to other's". Explain this statement and discuss the duty as to dangerous animals and domestic animals breach of which will make the keeper liable.

15

Or

Discuss the facts of the case and the decisions given in the following case.

Khagendra Nath Kalita

Vs.

Jadav Chandra Patgiri

(1976 LR 379)

GROUP-B

Answer Question No. 6 and any two from the rest.

6. Explain *any two* of the following : 5×2=10

(a) Goods

(b) Services 'free of charge'

(c) Complaint

(d) Appropriate Laboratory

7. (a) Explain with illustration what is meant by deficiency in service. 5
- (b) 'B', a gas company registered the name of 'A' for providing a gas connection as early as possible. But the assured gas connection could not be given by B within the expected time. Can A file a case under CPA against B for deficiency of service? 5
- (c) X purchased a TV set from Y, where a warranty was given to provide 'free service' with respect to the TV set supplied. But 'free service' as assured could not be provided. Is this a case of deficiency of service for which 'X' can take action under CPA? 5

8. Explain the following :

- (i) What is the time limit for filing an appeal against the order of the State Commission to the National Commission? Can an appeal lie to any Court against the order of any consumer Forum? 5
- (ii) What is the punishment to which either the complainant or the defendant is liable for their failure for not complying with the order made by Consumer Forum? 5

(iii) What are the qualifications necessary to be member of the District-Forum? Can a member of the District Forum be reelected for second time? 5

9. (a) Discuss the procedure for filing a complaint in the District Forum. 10+5

(b) Mention the ground on which a complaint can be rejected and within what time.

10. Discuss the composition, jurisdiction and the appellate powers of the national Commission. Can an appeal lie against the order made by the National Commission and to whom and where? 10+5